Based on this negligent behavior by the Navy psychologist, the O'Neills filed suit seeking damages for the injury and death of their daughter under the Federal Tort Claims Act. Their case was dismissed pursuant to the Feres doctrine, based on the reasoning that because at the time of her death Kerry O'Neill was in her military quarters and was on active duty status, her injuries and death were ''incident to military service.''

In the 1950 case of Feres v. United States, the Supreme Court created a broad exception to the federal government's general liability under the Federal Tort Claims Act, where the service member's injury arises out of or is ''in the course of activity incident to service.'' Since this initial ruling, the Court has departed from the original justifications for its holding and has expanded the ruling based on vague and broad policy justifications, not intended by Congress when it enacted the Federal Tort Claims Act. In passing the Federal Tort Claims Act, Congress intended to prohibit tort claims against the federal government by a military member or his or her family only when the injuries arise ''out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.'' Kerry O'Neill's death was the result of a social relationship and the negligent failure of a Navy civilian psychiatrist to further evaluate Ensign Smith, not due to her involvement in combat, and in actuality, not incident to her service.

Congress wrote the statute to prohibit claims for injuries ''arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war,'' because we do not want to allow soldiers or their families to be able to sue the government in a combat situation, when countless decisions are made that ultimately result in the death or injury of the service member. In order to protect the integrity of military command decisions, we cannot have any and all instances of death or injury brought and questioned by juries.

Such considerations, however, do not necessitate that military personnel lose their ability to recover for clearly negligent behavior by the federal government, just as every other individual in this country is allowed to do. Unfortunately, the individuals hurt most by the Feres doctrine are those men and women who commit their lives to the service of their country. These individuals should be protected by our laws, not punished. As case after case has demonstrated, the consequences of this doctrine are unjust. Private Charles A. Richards, Jr., who was off-duty, was killed by an Army truck, whose driver had run a red light. He was driving home from work at Fort Knox to care for his then-pregnant wife. His wife was unable to recover damages. Another service woman, who had given birth to twins, discovered one of her twins suffered bodily injury and the other died due to the negligent prenatal care at a military hospital. She was unable to recover damages. Such unjust outcomes were clearly not the intention of Congress.

The Feres doctrine has been the subject of harsh criticism. In dissenting from the denial of rehearing en banc in Richards v. United States, four judges of the Third Circuit, including Chief Judge Becker, called the Feres doctrine a ''travesty'' and urged the Supreme Court to consider the case. Numerous law review articles have also been written on the case, decrying the doctrine. Additionally, Feres's critics have included at least three current Justices of the Supreme Court, who have argued that Feres was wrong when decided.

My legislation, like the companion bill introduced by the senior Senator from the Commonwealth of Pennsylvania, simply seeks to overturn the judicially created Feres doctrine, while leaving in place the original intention of Congress to prohibit tort claims arising out of combatant activities during times of war. The legislation amends the Federal Tort Claims Act to specifically provide that the Act applies to military personnel on active duty to the same as it applies to anyone else. There is no reason to deny our military men and women the just compensation they deserve when they are injured or killed as a result of the negligent actions of the Federal government or its agents outside the heat of combat.

Mr. Speaker, the legislation will not bring back Kerryn O'Neill, or the other two service members, who were harmed by their government in this one instance. Nor will this legislation bring compensation to their families. But hopefully, this legislation will right this unjust doctrine, and help to prevent similar tragedies in the future. We need to address this situation as quickly as possible and I urge my colleagues to support this bill.

HONORING CARYN BART OF RIVER EDGE, NEW JERSEY

HON. STEVEN R. ROTHMAN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 27, 2000

Mr. ROTHMAN. Mr. Speaker, today I pay tribute to Caryn Bart of River Edge, New Jersey, a nurse who works at Holy Name Hospital in Teaneck, who went far beyond the call of duty to help a family with their struggle through a horrible tragedy.

Armando and Erika Herrera, from Garfield, New Jersey, who both work at Holy Name Hospital, recently suffered the tragic loss of their seven-year-old son, Daniel. On June 9, 2000, mother and son traveled to visit relatives in Hungary. Two days later, while Mrs. Herrera lay down flowers at her mother's grave, an elevated headstone tipped over, fell, and fractured Daniel's skull.

As Mr. and Mrs. Herrera were naturally stunned and dazed by these events, not knowing what to do, Caryn Bart took it upon herself to help the Herrera's in their time of need. Ms. Bart, who has four children and is married to Steve Bart, became a registered nurse in 1997 after graduating from Bergen Community College.

Through Ms. Bart's facilitation, the Herreras received calls from doctors in London, Helsinki and New York. A special flight was arranged to take them to a children's hospital in London. All that could have been done was done. Unfortunately, Daniel died of his injuries a few days later.

Although nothing can help Armando and Erika Herrera through this terrible loss, the efforts of Ms. Bart must be acknowledged. She is truly a great American and worthy of much praise and thanks. What Ms. Bart did is a wonderful example of the gift of loving kindness. She is an inspiration and an example of what compassion generosity are for all of us. Angels walk among us and many of the nurses of America, like Caryn Bart, are these angels.

FINANCIAL INSTITUTIONS SHOULD PROVIDE LENDING CAPITAL FOR ENVIRONMENTALLY RESPONSIBLE DRY AND WET CLEANING SMALL BUSINESSES

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 27, 2000

Mr. MANZULLO. Mr. Speaker, today, I am introducing a Sense of the Congress Resolution that would urge financial institutions to promote environmentally responsible dry and wet cleaning processes and to work with business enterprises to provide streams of capital to protect the environment.

I am offering this important resolution to help bring to light the situation that our nation's small dry and wet cleaning businesses face with regard to the cleaning process that most of the small cleaning establishments utilize—namely, percholoroethelyne (perc) and petroleum based solvents. Perc and petroleum based solvents are known pollutants; they contaminate the air, land and groundwater. However, there are other options available to small dry and wet cleaning businesses.

On Thursday, July 20, 2000, the Small Business Subcommittee on Tax, Finance and Exports, which I chair, held an extraordinarily important hearing on H.R. 1303, the Environmental Dry Cleaning Tax Credit Act. This bipartisan bill, introduced jointly by Representatives DAVE CAMP and DAVID PRICE, is an incentive-based approach to resolving the complex environmental problems the dry cleaning industry faces as a result of its use of perc, a hazardous waste when it is emitted into the air and groundwater. There are nearly 35,000 dry cleaners across the country. Most employ only a handful of workers. They are truly small businesses.

H.R. 1303 provides a 20 percent tax credit toward the purchase of new equipment that uses non-hazardous waste producing wet and dry cleaning technology. Recent technological developments utilize carbon dioxide—the same chemical compound found in sodas (or pop, depending on what part of the nation you represent). Carbon dioxide is obviously not harmful to the environment, since we consume it and our vegetation thrives on it.

Like all new ideas on the market, this technology is expensive. That is exactly why the tax credit is necessary. While there are costs associated with H.R. 1303, they are far outweighed, in our view, by the expenses associated with cleaning up the dry cleaning solvents that have been used for decades. For example, in North Carolina, it is estimated that once the assessment and remediation for sites contaminated from the use of perc, costs using the state's own ''cost-per-site'' estimates could approach $72 million to $90 million annually. The State of Florida has estimated that it has 2,700 contaminated dry cleaning sites that are requiring almost $1.5 billion needed for clean-up. The numbers are staggering for nationwide clean up costs, which could approach nearly $20 billion—far outweighing the costs estimated for H.R. 1303.