

November 3, 1999

ANTITRUST TECHNICAL
CORRECTIONS ACT OF 1999

SPEECH OF

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 2, 1999

Mr. HYDE. Mr. Speaker, I rise in support of H.R. 1801, the Antitrust Technical Corrections Act of 1999, which I have introduced with Ranking Member CONYERS. H.R. 1801 makes four separate technical corrections to our antitrust laws. Three of these corrections repeal outdated provisions of the law: the requirement that depositions in antitrust cases brought by the government be taken in public; the prohibition on violators of the antitrust laws passing through the Panama Canal; and a redundant and rarely used jurisdiction and venue provision. The last one clarifies a long existing ambiguity regarding the application of Section 2 of the Sherman Act to the District of Columbia and the territories.

The Committee has informally consulted the antitrust enforcement agencies, the antitrust Division of the Department of Justice and the Bureau of Competition of the Federal Trade Commission, and the agencies have indicated that they do not object to any of these changes. In response to written questions following the Committee's November 5, 1997 oversight hearing on the antitrust enforcement agencies, the Department of Justice recommended two of the repeals and the clarification contained in this bill. The other repeal was recommended to the Committee by the House Legislative Counsel. In addition, the Antitrust Section of the American Bar Association supports the bill, and I ask unanimous consent to insert their comments in the RECORD.

First, H.R. 1801 repeals the Act of March 3, 1913. That act requires that all depositions taken in Sherman Act equity cases brought by the government be conducted in public. In the early days, the courts conducted such cases by deposition without any formal trial proceeding. Thus, Congress required that the depositions be open as a trial would be. Under the modern practice of broad discovery, depositions are generally taken in private and then made public if they are used at trial. Under our system, this act causes three problems: (1) it sets up a special rule for a narrow class of cases when the justification for that rule has disappeared; (2) it makes it hard for a court to protect proprietary information that may be at issue in an antitrust case; and (3) it can create a circus atmosphere in the deposition of a high profile figure. In a recent decision, the D.C. Circuit invited Congress to repeal this law.

Second, H.R. 1801 repeals the antitrust provision in the Panama Canal Act. Section 11 of the Panama Canal Act provides that no vessel owned by someone who is violating the antitrust laws may pass through the Panama Canal. The Committee has not been able to determine why this provision was added to the Act or whether it has ever been used. However, with the return of the Canal to Panamanian sovereignty at the end of 1999, it is appropriate to repeal this outdated provision. The

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Committee has consulted informally with the House Committee on Armed Services, which has jurisdiction over the Panama Canal Act. Chairman SPENCE has indicated that the Committee has no objection to this repeal, and the Committee has waived its secondary referral. I thank Chairman SPENCE for his cooperation.

Third, H.R. 1801 clarifies that Section 2 of the Sherman Act applies to the District and the territories. Two of the primary provisions of antitrust law are Section 1 and Section 2 of the Sherman Act. Section 1 prohibits conspiracies in restraint of trade, and Section 2 prohibits monopolization, attempts to monopolize, and conspiracies to monopolize. Section 3 of the Sherman Act was intended to apply these provisions to the District of Columbia and the various territories of the United States. Unfortunately, however, ambiguous drafting in Section 3 leaves it unclear whether Section 2 applies to those areas. The Committee is aware of at least one instance in which the Department of Justice declined to bring an otherwise meritorious Section 2 claim in a Virgin Island case because of this ambiguity. This bill clarifies that both Section 1 and Section 2 apply to the District and the Territories. All of the congressional representatives of the District and the Territories are cosponsors of the bill.

Finally, H.R. 1801 repeals a redundant antitrust jurisdictional provision in Section 77 of the Wilson Tariff Act. In 1955, Congress modernized the jurisdictional and venue provisions relating to antitrust suits by amending Section 4 of the Clayton Act. At that time, it repealed the redundant jurisdictional provision in Section 7 of the Sherman Act, but not the one contained in Section 77 of the Wilson Tariff Act. It appears that this was an oversight because Section 77 was never codified and has rarely been used. Repealing Section 77 will not diminish any jurisdictional or venue rights because Section 4 of the Clayton Act provides any potential plaintiff with the same jurisdiction and venue rights that Section 77 does and it also provides broader rights. Rather, the repeal simply rids the law of a confusing, redundant, and little used provision.

Since the Committee on the Judiciary ordered this bill reported, we discovered two drafting errors that we have corrected in the current managers' amendment that is before the House. One change corrects an incorrect reference to the United States Code. Secondly, we discovered that the language describing the scope of commerce covered by the territorial provision did not precisely parallel that in the existing section 3 of the Sherman Act, and we have changed that language so that the new subsection 3(b) will parallel the existing law.

In addition, we realized after reporting the bill that it would be helpful to clarify the effect of these changes on pending cases. Because the public deposition matter does not affect the litigants' substantive rights, we have made that change apply to pending cases. The other three changes could affect the substantive rights of litigants. For that reason, we have not made those changes apply to pending cases, although we believe that it is unlikely that there are any pending cases that are affected.

I believe that all of these provisions are non-controversial, and they will help to clean up some underbrush in the antitrust laws. I rec-

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ommend that the House suspend the rules and pass the bill as amended by the managers' amendment.

VETERANS DAY, 1999—HONORING
THE SERVICE OF VIETNAM AND
VIETNAM-ERA VETERANS

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1999

Mr. THOMPSON of California. Mr. Speaker, in a little more than a week, we will once again observe Veterans Day—the date a grateful Nation sets aside to honor the men and women who have served our nation as members of its military forces.

It is particularly poignant that we observe this occasion. First designated to commemorate Armistice Day and the restoration of peace, Veterans Day today is the occasion on which we appreciate the accomplishments and the sacrifices of untold scores of individuals. It is a day on which we acknowledge the role these individuals played in writing the history of the United States—a history that, in this century alone, has evolved from isolation to world leadership.

Underscoring its importance and the value of the ceremonies we observe today is the fact that a smaller percentage of Americans have now served in the Armed Forces of the United States that at any time in our recent history. This of course, reflects the unprecedented peace the United States has enjoyed. But, it also reminds us not to be lulled into complacency—into believing that future generations will not be called to arms.

Though we pray in our hearts they won't be called, we know in our heads that one day they may.

Like others before us, my generation was also called to arms. Most of us responded, notwithstanding the controversy and turmoil the war caused. The images of Vietnam are still vivid in our individual and collective memories. But, what's most surprising is the passage of time since the war and the fact that next year will mark the 25th anniversary of the departure of the last U.S. servicemen from Vietnam—a departure that closed the Vietnam-era and, for many of us, closed an important chapter in our lives.

Between 1961 and 1975, more than 2,590,000 Americans served in the Armed Forces in Vietnam. Untold thousands served in support roles elsewhere in Southeast Asia. At the same time, millions more protected U.S. national security interests in the other far regions of the world. And let us not forget the millions of civilians who also contributed to our nation's defense at a time tensions were growing between world superpowers.

Recently, the Commander's Council, the Allied Council, and the Administration and staff at the California Veterans Home in Yountville suggested to me that our nation celebrate this year's Veterans Day by marking the service of those who served in and during the Vietnam-era. On the eve of the 25th anniversary of that war's end, such a tribute is indeed appropriate and, as such, I would like to read the text of

a resolution the Yountville Veterans Home residents and staff suggested:

RESOLUTION ENCOURAGING THE AMERICAN PEOPLE TO COMMEMORATE AND RECOGNIZE THE SERVICE AND SACRIFICE OF THOSE WHO DURING THE VIETNAM ERA SERVED IN THE ARMED FORCES OR IN CIVILIAN CAPACITIES IN SUPPORT OF UNITED STATES MILITARY OPERATIONS IN SOUTHEAST ASIA AND ELSEWHERE IN THE WORLD

Whereas the United States Armed Forces conducted military operations in Southeast Asia during the period (known as the "Vietnam era") from February 28, 1961, to May 7, 1975;

Whereas during the Vietnam era more than 2,590,000 American military personnel served in the Republic of Vietnam or elsewhere in Southeast Asia in support of United States military operations in Vietnam, while millions more provided for the Nation's defense in other parts of the world;

Whereas during the Vietnam era untold numbers of civilian personnel also served in support of United States operations in Southeast Asia and elsewhere in the world;

Whereas May 7, 2000, marks the 25th anniversary of the closing of the period known as the Vietnam era;

Whereas citizens throughout the United States traditionally commemorate the service and sacrifice of the Nation's veterans on November 11th each year, the date designated by law as "Veterans Day"; and

Whereas Veterans Day, 1999 would be an appropriate occasion to begin a period for observance of that anniversary and to recognize and appreciate the individuals who served the Nation in Southeast Asia and elsewhere in the world during the Vietnam era: Now, therefore, be it

Resolved, That the American people are encouraged through appropriate ceremonies and activities, to recognize and appreciate the selfless sacrifice of the men and women, both military and civilian, who during the Vietnam era served the Nation in the Republic of Vietnam and elsewhere in Southeast Asia or otherwise served in support of United States operations in Vietnam and in support of United States interests throughout the world.

I commend the resolution to all Americans and thank the individuals at the California Veterans Home in Yountville for proposing it as part of this year's Veterans Day observance.

TRIBUTE TO DANIEL J. "DUKE"
MCVEY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1999

Mr. SKELTON. Mr. Speaker, today, I wish to recognize the outstanding achievements of Daniel J. "Duke" McVey, of Jefferson City, Missouri. McVey, who has been president of the Missouri AFL-CIO since 1982, will retire at the end of the year.

Duke McVey has been a truly outstanding civic leader for the AFL-CIO and for the State of Missouri. McVey has been a Member of Pipefitters Local 562, St. Louis, Missouri, since 1954. In 1978, he was elected Secretary-Treasury of the Missouri State Labor Council for the AFL-CIO, a position he served until 1982. McVey was then elected President of

the Missouri AFL-CIO in 1982. In the 17 years he has headed the Missouri AFL-CIO, he has raised the level of involvement by unions in governmental affairs.

In addition to his service in the AFL-CIO, McVey has been a leader in his community by serving on various councils and committees. He currently serves on the Missouri Training and Employment Council, and has been a member of Trustees of Blue Cross and Blue Shield of Missouri since 1992. McVey serves on the Missouri Business Council, the Missouri Task Force on Workers Compensation, the Commission on Management and Productivity, and the Missouri State Council on Vocational Education. Since 1994, McVey has served on Missourians for Equal Justice, the Governor's partnership on the Transition from School to Work, and Goals 2000 State Panel. McVey served as the Literacy Investment for Tomorrow (LIFT) Board President in 1995, and he is a member of the Missouri Global Partnership, the Children's Trust Fund, and the Commission on the Future of the South.

Duke McVey has been an extraordinary leader for labor, for his community, and for his State. I know the House will join me in paying tribute to this outstanding leader and wishing him and his family—his wife Arlene, and his children, grandchildren, and great grandchildren—all the best in the years ahead.

TRIBUTE TO KATHERINE L.
PHELPS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1999

Mr. McINNIS. Mr. Speaker, I would like to take a moment to recognize the career of one of Colorado's leading ladies, and distinguished member of the Bayfield School District Board of Education, Katherine L. Phelps. In doing so, I would like to honor this individual who, for many years, has exhibited dedication and experience in the education system of Bayfield, Colorado.

Throughout the course of her distinguished career, Katherine's dedication to our children has been unparalleled. She has consistently worked with the board, the district, and the community to make the Bayfield schools the best they could be.

Aside from her involvement in the school district, she also takes on an active role in the community. She is a member of the School Accountability Committee, the 4-H club, the booster club, and numerous sports programs.

Together with her husband, Arvin, she has five children: Sharla, Rick, Trent, Dion, and Wendy. She also has seven grandchildren and one on the way. Undoubtedly, these fine young people will carry the torch of dedication and leadership that their mother embraces so diligently.

It is with this, Mr. Speaker, that I say thank you to Katherine Phelps for her exceptional service on the Bayfield School District Board of Education. Because of Mrs. Phelps' dedicated service, it is clear that Colorado is a better place. For many years to come, her legacy of hard work and dedication will be remem-

bered. I wish her all the best in her well deserved retirement and in all future endeavors.

PERSONAL EXPLANATION

HON. J.C. WATTS, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1999

Mr. WATTS of Oklahoma. Mr. Speaker, I was unavoidably detained on personal family business on the evening of November 1, 1999, when the vote on the Lewis and Clark National Historic Trail Land Conveyance Act, H.R. 2737, was cast. Had I been present, I would have voted in favor of this measure.

In addition, I was unavoidably detained on personal family business on the evening of November 1, 1999, when the vote on the FEMA and Civil Defense Monument Act, H.R. 348, was cast. Had I been present, I would have voted in favor of this measure.

In addition, I was unavoidably detained on personal family business on the evening of November 1, 1999, when the vote on the Electronic Signatures in Global and National Commerce Act, H.R. 1714, was cast. Had I been present, I would have voted in favor of this measure.

U.S. POLICY TOWARD NORTH
KOREA

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 3, 1999

Mr. HALL of Ohio. Mr. Speaker, I rise today to express concern over some of the findings of the Republican task force formed to examine U.S. policy toward North Korea.

Most troubling to me is its assertion that there have been significant diversions of food aid we have donated in response to that country's famine. All evidence suggests that this is just not true. Moreover, it is clear—to me, to our military stationed in South Korea, to policymakers in Washington, Seoul and Tokyo, and to attentive observers—that U.S. food aid to North Koreans is thawing 50 years of icy hostility toward Americans. Our wheat and corn, and our aid workers, are putting the lie to decades of Pyongyang's propaganda about American intentions. We are proving by our presence to all who see us and our sacks of food that Americans are compassionate people who will not stand by while innocent Koreans starve and suffer.

As you know, I have visited North Korea five times—not out of any particular interest in the country, but because their people are suffering. It is a famine that, I believe, history will mark as one of this decade's worst.

In my trips, I always have brought my own translator as well as a member of our armed forces. Other members of my delegations have included a Marine who served in the Korean War—Congressional medal of honor winner General Ray Davis; a doctor from the Centers for Disease Control; reporters from USA Today and the Washington Post; an agriculture expert; and a Korean-American economist who specializes in humanitarian aid.