## REGARDING CONCURRENT RESOLUTION ON SCHOOL VIOLENCE

### HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 5, 1998*

Mr. FORD. Mr. Speaker, today, I will introduce a sense of the Congress resolution in the House calling on the President to use the imposing power of his office to make the issue of school violence a top priority in the United States.

In the last year alone, at least a dozen students and teachers have been killed, and many more wounded, by young people who have come to school with guns rather than books. And until recently, few if any Americans, ever could have imagined or expected that such shootings would become common place. The incidents in the last year demonstrate that school violence is not an isolated problem—confined only to poor schools or forgotten neighborhoods. In fact these communities have struggled with this problem for years. It is a problem that is plaguing urban, rural and suburban communities alike. It is an American problem.

Nor is this a manufactured crisis as some have claimed. According to the National School Safety Center, the number of persons who have died in school violence incidents has increased 30% over last year. As a public policy maker, I wish that new laws and regulations alone could bring an end to these tragedies. Rather the solution, like the problem runs much deeper.

My resolution simply calls upon the President to use his bully pulpit to bring together those who can make a difference on this issue. First, it urges the President to initiate a series of town meetings with school superintendents, principals, students and parents to explore solutions to the problem. Second, I am asking the President to call upon States and local communities to improve communication between law enforcement officials and students, parents, and teachers by establishing violence prevention hotlines to inform law enforcement officials when threats of violence are made at schools.

A phone call from one student who heard Kip Kinkel's threats may have saved lives. The same is true for every other fatal shooting that has occurred over the past year. If a school violence hotline saves one life, then these hotlines will be worth the time, effort and expense. Currently the resolution has 6 original cosponsors. I am also pleased that the International Brotherhood of Police Officers, the largest union in the AFL–CIO has endorsed this resolution and I look forward to working with other national school advocacy organizations on this issue.

The President has eloquently expressed his sympathy and concern over the recent shootings in Springfield, Oregon, and I believe his leadership on this issue would serve to galvanize communities to establish this and other effective violence prevention programs in our nation's schools.

## TRIBUTE TO BENNETT HERMAN

### HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 5, 1998*

Mr. PAYNE. Mr. Speaker, I would like to ask my colleagues here in the United States House of Representatives to join me in honoring a very special person who has given over 65 years of dedicated service to his community, Mr. Bennett Herman. Mr. Herman has channeled his many talents and boundless energy into improving the quality of life for his fellow citizens in the city of Orange, New Jersey. This weekend, the Orange Rotary Club is recognizing his remarkable achievements at a special dinner in his honor.

Bennett Herman truly stands out as a leader who was always there for those around him, eager to take up new challenges to enhance the well-being of the community. He is a member and officer of the Orange Rotary Club; a founder, the first Executive Secretary and President of the Orange Chamber of Commerce; a member of the Economic Development Corps of the City of Orange, the first president of the Oranges and Maplewood Meals on Wheels Program; an organizer of the first Child Care Center in Orange; a member of the Board of the Orange Public Library; former vice president of the Orange Evening Community School; past president Social Welfare Council of the Oranges and Maplewood; recipient of the Community Service Award from the Neighborhood Development Corp.; Outstanding Citizen award from the American Legion; VFW Award; Marine Corps League Award and numerous other community and state honors. He also brought the first, and only, State American Legion Convention to Orange. In addition, he took the lead in honoring the teachers of the Orange community in a highly successful tribute.

Mr. Speaker, I know my colleagues join me in extending warmest congratulations and appreciation to Mr. Bennett Herman for his tireless work and his outstanding contributions to his community. We are very proud of him and we wish him all the best in the years ahead.

## PERSONAL EXPLANATION

### HON. JOHN LEWIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 5, 1998*

Mr. LEWIS. Mr. Speaker, had I been present for rollcall vote 200, I would have voted no.

## FINANCIAL SERVICES COMPETITION ACT OF 1997

SPEECH OF

### HON. TOM BLILEY

OF VIRGINIA

### HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 13, 1998*

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 10) to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers, and for other purposes:

Mr. BLILEY. Mr. Chairman, my colleague, Mr. DINGELL, and I strongly support H.R. 10, The Financial Services Act of 1998, which will create new opportunities for all financial services providers, make our nation's financial services businesses more competitive both domestically and internationally, and benefit consumers by providing for fair competition, investor protection, and the protection of American taxpayers. Several important aspects of this historic legislation merit further emphasis, which we provide below.

A. H.R. 10 PROTECTS AMERICAN TAXPAYERS AND PROVIDES FOR FAIR COMPETITION

H.R. 10 permits bank operating subsidiaries to engage in all financial agency activities. The bill protects American taxpayers and ensures that all financial services providers will be able to fairly compete with one another. The legislation specifically repudiates any interpretation of the Comptroller of the Currency of the National Bank Act as authorizing bank operating subsidiaries to engage in principal activities that a bank could not conduct directly, such as insurance or securities underwriting.

Banks, unlike other forms of business organizations, benefit from access to the federal safety net—which refers to FDIC deposit insurance and access to the Federal Reserve's discount window and payment system. Because of their access to the federal safety net, banks can raise funds at a lower cost than other nonbank entities. Allowing banks to establish and fund operating subsidiaries engaged in activities prohibited for the bank (including speculative securities activities), as the amendments offered by Messrs. LAFALCE and VENTO and Mr. BAKER would have done, to different degrees, would directly extend the subsidy inherent in the federal safety net to cover a variety of activities that Congress has decided should not be protected by governmental guarantees. It would do so by permitting national banks to establish operating subsidiaries with equity capital raised at subsidized rates through the bank's access to the federal safety net. Because each of those amendments was defeated, the LaFalce/Vento amendment by a vote of 115 to 306 and the Baker amendment by a vote of 140 to 281, the bill ensures that banks will not be able to use the subsidy provided by the federal safety net to fund a wide range of activities that a bank cannot engage in directly.

The Treasury Department's contention that H.R. 10 would ''harm consumers'' by limiting the benefits of improved services and lower costs is incorrect. H.R. 10 will dramatically help consumers by achieving these benefits through the full affiliation of banks, insurance companies, securities firms and other financial service providers through a holding company. There is no greater benefit to be achieved from allowing these new activities to be conducted through an operating subsidiary of a bank unless Congress desires to permit the operating subsidiary to fund these activities with subsidized funds raised through the parent bank's access to the federal safety net—and in that case, the benefit would be to the bank, not financial services consumers, and certainly not American taxpayers. Such subsidization would undermine the benefits that consumers reap through vigorous industry competition by unfairly discriminating against securities, insurance and other financial service providers that do not have access to such subsidies,

and would pose financial risks to the federal safety net and American taxpayers.

Furthermore, the bill would not ''force innovation out of banks.'' The bill does not scale back any power that national banks currently have to conduct banking activities, or require any national bank to terminate any of its existing activities. National bank subsidiaries are currently not authorized to engage in any ineligible securities or insurance underwriting activities (other than limited credit life underwriting). The bill would simply limit the ability of the Comptroller to authorize a subsidiary of a national bank to engage in new activities as principal that Congress has determined are beyond the scope of activities permissible for the parent national bank. To put it plainly, the bill prevents national banks from doing indirectly what Congress has determined to be imprudent for banks to do directly. This limit is necessary and appropriate to protect banks, the federal safety net and the taxpayer, as well as to ensure fair competition among all financial service providers.

We note that proponents of expanding the powers of bank operating subsidiaries have argued that a national bank is equally exposed to its subsidiaries and to its affiliates because a national bank can issue dividends to its holding company and thereby indirectly fund a nonbank affiliate engaged in activities that are not permissible for the bank to engage in directly. The federal banking laws, however, limit the ability of a national bank to pay dividends where the payment would impair the bank's capital. This arrangement also ignores the requirements of GAPP, which mandates that the entire loss incurred by a subsidiary be reflected in the financial statements of the parent bank. There is no similar requirement applicable to its affiliates. Thus, a parent bank's financial statements must reflect all the losses experienced by a subsidiary, even when those losses far exceed the capital of the parent bank, while a bank's financial statements do not need to reflect losses incurred by an affiliate (beyond any limited amount that the bank may have lent to the affiliate in accordance with federal law). Because losses incurred by a holding company subsidiary do not directly impact the financial condition of an affiliated bank, the bank may face less pressure to support a subsidiary of a holding company than a subsidiary of the bank.

B. FEDERAL RESERVE BOARD REGULATION OF FINANCIAL HOLDING COMPANIES

Title I of the bill addresses the establishment of capital requirements for financial holding companies by the Federal Reserve Board. It is our intention that, in establishing capital adequacy guidelines or requirements, the Board take into account that certain holding companies predominantly engaged in nonbanking financial activities have been organized in non-corporate structures, and should treat as common equity such interests as limited company memberships and partnership interests where such interests are accepted in the marketplace as equity available to absorb losses.

In addition, Section 116 of the bill forbids the Board to take any action under or pursuant to the Bank Holding Company Act or Section 8 of the Federal Deposit Insurance Act against or with respect to a regulated subsidiary of a bank holding company except in two circumstances: where action is necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty that poses a material risk to the financial safety, soundness, or stability of an affiliated depository institution or the domestic or international payment system, or where the action is appropriate to enforce compliance with federal law that the Board has specific jurisdiction to enforce. Section 10A prohibits the Board from taking any action under the specified statutes where the purpose or effect of doing so would be to override a determination that an activity is financial in nature and thereby exclude regulated subsidiaries from a line of business that is financial in nature or prevent regulated subsidiaries from offering a product or services that is financial in nature. None of the above would prevent the board from taking action in an individual case where the manner in which an activity is conducted renders action necessary to prevent or redress an unsafe or unsound practice or breach of fiduciary duty by a regulated subsidiary that poses a material risk to the financial safety and soundness or stability of an affiliated depository institution or to the domestic or international payment system.

In determining whether or not it is reasonably possible to effectively protect against the material risk at issue through action directed at or against the affiliated depository institution or against depository institutions generally, the Board must consider the full scope of any statutory authority it and the other federal banking agencies may have over any type of depository institution, including national banks and state nonmember banks, under any statute which the Board and the other federal banking agencies are authorized to administer. In this regard, we expect the Board, if necessary and possible, to request other federal banking agencies to exercise their authority in order to protect against any feared risk, and we expect the other agencies to coordinate with and accommodate requests for action by the Board.

C. H.R. 10 PROVIDES FOR FAIR COMPETITION AND INVESTOR PROTECTION THROUGH FUNCTIONAL REGULATION

H.R. 10 recognizes that blanket exceptions from securities regulation are no longer appropriate for banks that are actively participating in securities activities. It reflects our belief that functional regulation is necessary to ensure that all entities engaged in securities activities, and all securities professionals, are regulated by the functional regulator with over 60 years of expertise focused specifically on these activities—the SEC. We recognize, however, that certain limited existing bank securities activities may remain excepted from SEC regulation without creating significant opportunities for regulatory arbitrage. We believe these exceptions are appropriate, based on the limited nature of some activities and the existing scheme of regulation of other activities. For instance, the way that banking regulators oversee bank trust activities—including those involving securities products—may more closely approximate the scheme of regulation embodied in the federal securities laws than the banking regulations applicable to other parts of a bank.

H.R. 10 eliminates the blanket exceptions for banks from the definitions of ''broker'' and ''dealer,'' and, instead, includes limited exceptions from these definitions available to banks.

1. TRUST AND FIDUCIARY ACTIVITIES EXCEPTION

H.R. 10 permits banks to effect transactions in a trustee or fiduciary capacity without being considered to be broker-dealers under the securities laws. Banks would be permitted to effect such transactions so long as the department in which they are conducting the activities is regularly examined by bank regulators for compliance with fiduciary principles. It is our intent that such examinations be specifically focused on these activities and rigorous in nature. Banks that use this exception may also be primarily compensated by an annual fee, a percentage of assets under management, or a flat or capped per-order processing fee, or any combination of such fees, and may not receive brokerage commissions exceeding the banks' execution costs. Such fees must not be structured in such a way that they give rise to the sales incentives inherent in brokerage commissions.

2. EMPLOYEE AND SHAREHOLDER BENEFIT PLANS EXCEPTION

Under H.R. 10, a bank will not be considered a ''broker'' when, acting in its transfer agent capacity, it conducts brokerage transactions for: (1) employee benefit plans; (2) dividend reinvestment plans; and (3) open enrollment plans.

In connection with all three types of plans, banks may not solicit transactions or provide investment advice concerning the purchase or sale of securities. In addition, banks using this exception may only receive compensation consisting of administrative fees, flat or capped per order processing fees, or both, and may not receive brokerage commissions exceeding the banks' execution costs. As to both dividend reinvestment plans and open enrollment plans, the substitute bill clarifies that banks also may not net shareholders' buy and sell orders except for odd-lot holders or plans registered with the SEC.

3. DEFINITION OF ''BANKING PRODUCT''

The bill attempts to preserve the ability of the SEC to determine what is a ''security'' under the federal securities laws, and when new bank products are ''securities,'' by putting the definition of ''traditional banking product'' into a stand-alone statute—not in the federal securities laws or the banking laws. As in the bill reported by the Commerce Committee, this bill's definition of traditional banking product includes such things as deposit accounts, letters or credit, credit card debit accounts, certain loan participations, and certain derivative instruments that traditionally have not been regulated as securities. If banks sell products within the scope of this definition, they are not required to register as a broker or a dealer.

We have also expanded the types of derivative products that come within the definition of traditional banking product. In addition to derivatives involving or relating to foreign currencies, under the substitute bill, banks may also sell as traditional banking products derivatives involving or relating to interest rates, commodities, other rates, indices or other assets, except instruments (i) that are based on a security or a group or index of securities, (ii) that provide for the delivery of one or more securities, or (iii) that trade on a national securities exchange. However, if a derivative other than an interest rate swap or a foreign currency swap is a security, it would not qualify as a traditional banking product unless it were based on a government security, commercial paper, banker's acceptance or commercial bill of a group of index of one or more of these products.

H.R. 10 includes a new provision that establishes a process by which the SEC shall decide whether banks that sell ''new banking products'' that are securities must register with the SEC as brokers, dealers, or both. Specifically, the SEC must engage in a rulemaking proceeding and must determine (1) that the new product is a security and (2) that imposing a registration requirement on a bank to sell the new product is necessary or appropriate in the public interest and for the protection of investors. In addition, during the rulemaking process, when considering whether an action is for the protection investors, the SEC also must consider whether the action will promote efficiency, competition and capital formation as set forth in

Section 3(f) of the Exchange Act. Under this provision, during the rulemaking process, the SEC is also required to consult with and consider the views of the appropriate banking agencies concerning the proposed rules and the impact of those rules on the banking industry.

H.R. 10 is clear that the classification of a product as a traditional banking product does not imply that such product (i) is or is not a security for purposes of the securities laws, or (ii) is or is not an account, agreement, contract, or transaction for purposes of the Commodity Exchange Act.

## RELIGIOUS FREEDOM AMENDMENT

### HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

*Friday, June 5, 1998*

Mr. ISTOOK. Mr. Speaker, please enter the enclosed materials into the RECORD.

SOUTHERN BAPTIST CONVENTION,
*Nashville, TN, June 2, 1998.*

DEAR MEMBER OF CONGRESS: I am writing to re-iterate our support for the Religious Freedom Amendment, which is soon to be voted upon. Passage of the Religious Freedom Amendment is essential to restoring the original intent of our First Amendment. Restoring the original intent of the First Amendment is essential to fully restoring religious liberty. Therefore, I urge your support of this historic effort to further secure our inalienable right to the free exercise of religion.

If we may be of assistance to you in your deliberation, please feel free to contact Will Dodson in our Washington office at (202) 547–8105. thank you for your consideration of this issue of critical importance to the welfare of our nation.

Sincerely,

DR. RICHARD D. LAND,
*President,*
*Ethics & Religious Liberty Commission.*

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CHRISTIAN VOICE,
*Alexandria, VA, May 8, 1997.*

Hon. ERNEST JIM ISTOOK,
*U.S. House of Representatives.*

DEAR ERNEST: Please accept our most heartfelt thanks and congratulations on the introduction of the Religious Freedom Amendment which Christian Voice fully supports.

As you may know, Christian Voice has been a strong advocate of returning voluntary prayer in public schools since our founding in 1978. We were instrumental in the introduction of and spearheaded the lobbying effort for President Reagan's Constitutional Amendment to restore voluntary prayer in 1983.

We look forward to working with you in this vital battle to restore religious freedom in our society in order to truly make America one nation under God. Please do not hesitate to call on us if there is anything we can do to help you advance this critically important initiative.

Thanking you again for your outstanding leadership in defending the religious freedom rights of all America, and wishing you God's richest blessings, I remain

Yours sincerely,

GARY L. JARMIN,
*Legislative Director.*

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AMERICAN FAMILY ASSOCIATION,
*Washington, D.C., May 28, 1998.*

DEAR MEMBER OF CONGRESS: On behalf of our president Donald Wildmon and our hundreds of thousands of supporters, I am writing to indicate our support for the Religious Freedom Amendment sponsored by Representative Ernest Istook of Oklahoma. We are deeply concerned about the restrictions that the United States Supreme Court has placed on our right to religious expression. Americans' desire to keep God, our Creator, in all aspects of our lives. This is a desire, which conforms to that of our Founding Fathers and is our right as Americans. We believe that the Religious Freedom Amendment will restore the original intentions of our Founding Fathers.

We strongly urge you to vote in favor of the Religious Freedom Amendment.

Sincerely,

PATRICK A. TRUEMAN,
*Director of Governmental Affairs.*

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CHRISTIAN ACTION NETWORK,
*May 28, 1998.*

Hon. ERNEST ISTOOK,
*U.S. House of Representatives, Washington, DC.*

DEAR CONGRESSMAN ISTOOK: On behalf of Christian Action Network and its 250,000 supporters, I heartily endorse the passage of the Religious Freedom Amendment (H.J. Res. 78) in the U.S. House of Representatives.

The Religious Freedom Amendment (RFA) will protect people of faith throughout the country. The American people have again and again expressed their support for voluntary prayer in the schools. Religious symbols and observances should not be stripped from our public life. The Ten Commandments have been banished from courthouses and public Christmas displays are often cleansed of their original religious significance.

However, the right of free speech has been expanded in almost every area except religious freedom. The premise of your amendment is simple: To secure the people's right to acknowledge God according to the dictates of conscience.

Last June, the Supreme Court overturned the Religious Freedom Restoration Act, which provided some basic protections for people of faith. This decision shows that passage of the Religious Freedom Amendment is even more important.

You have Christian Action Network's full support in this effort. Thank you for all of your hard work.

Sincerely,

MARTIN MAWYER,
*President.*

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CHRISTIAN COALITION,
*Capitol Hill Office, May 28, 1998.*

PROTECT RELIGIOUS FREEDOM—VOTE FOR THE RELIGIOUS FREEDOM AMENDMENT

DEAR REPRESENTATIVE: On Thursday, June 4th, the House will hold a truly historic vote. For the first time in 27 years, you will consider an amendment to the United States Constitution concerning the fundamental right of an American citizen to publicly acknowledge his or her religious faith. This constitutional amendment will guarantee the same First Amendment protection to religious speech as for non-religious speech, including *voluntary school prayer.* In a nation that was founded on the principle of religious liberty, we must take steps to restore the rights that our Founding Fathers intended to protect. And in a recent poll in which voters were asked about moral issues confronting the nation, almost 70% agreed that America needed a Religious Freedom Amendment that would allow voluntary school prayer. The Christian Coalition strongly urge you to vote for the Religious Freedom Amendment (H.J. Res. 78).

The most dramatic example of a religious freedom that has been whittled away is the right to religious speech. The right to free speech is one of the most highly revered and protected rights in our Constitution. Yet, a series of Supreme Court rulings over the past 35 years have misinterpreted the Constitution to ban and censor free speech when that speech is religious in nature. Specifically, the Supreme Court has censored free speech in only three areas: inciting violence and insurrection, obscenity, and religious speech. It is absurd for the Supreme Court to equate the act of expressing one's faith in God with expressions of insurrection or obscenity.

This amendment would protect the right of school children to organize prayer during the school day, while explicitly reigning in the influence and participation of the government in such activities. The government, represented by either a teacher or a school administrator, would be prohibited from requiring, writing or forbidding prayer.

With the protection of the Religious Freedom Amendment, courts would no longer issue rulings such as the one in which the judge upheld a teacher's decision to give a young Tennessee student an ''F'' on a research paper simply because the student decided to write her paper about Jesus. (*Settle v. Dickson County School Board*). And the highest court in our land would be required to enforce the right of a rabbi to offer a nonsectarian prayer at a middle school graduation.

Enactment of the Religious Freedom Amendment is the only effective means to truly restore our religious freedom. On behalf of the Christian Coalition, I strongly urge you to vote yes for final passage on Thursday, June 4th.

Sincerely,

RANDY TATE,
*Executive Director.*

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CONCERNED WOMEN FOR AMERICA,
*March 21, 1997.*

The Hon. Ernest Istook,
*U.S. House of Representatives,*
*Washington, DC.*

DEAR REPRESENTATIVE ISTOOK: Concerned Women for America (CWA), as the largest pro-family women's organization in America, is pleased to support your efforts to bring forward a constitutional amendment that will safeguard religious expression. Our over 500,000 members have continued to remind us that their First Amendment rights to free religious expression are routinely trampled. It's time for those who seek to persecute religious people to stop hiding behind the robes of the Supreme Court. It is time for a Religious Freedom Amendment.

America's religious heritage can be traced to the Declaration of Independence, our founding document, which reminded the world that mankind has been endowed by the Creator with certain inalienable rights. And our Constitution further elaborated the fundamental rights that Americans hold dear. CWA favors protection for: Religious symbols (i.e. the cross, creche, menorah, etc.), voluntary, student-initiated and student-led prayer in all schools, and Free and secure religious expression.

Now is the time to permanently codify the rights of all Americans—rights that have been ignored by many in the judicial system for the last 30 years. Rep. Istook, CWA appreciates your tireless efforts on behalf of America's families, and we look forward to working with you and other members of Congress in the months ahead.

Sincerely,

BEVERLY LAHAYE,
*Chairman & Founder.*