

EXTENSIONS OF REMARKS

TRIBUTE TO THE LATE ADMIRAL ALAN SHEPARD

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SENSENBRENNER. Mr. Speaker, we are saddened to learn of the passing of one of America's great pioneers, Rear Admiral Alan Shepard. Admiral Shepard leaves an enduring legacy of heroism, perseverance, and dedication to the exploration of space and service to his country.

Admiral Shepard served as a Navy fighter pilot and test pilot before being selected as one of the first group of astronauts in 1959. As the commander of Freedom 7, Admiral Shepard became the first American to venture into space.

Following his historic flight, Admiral Shepard was told he would never fly into space again. But he would not be deterred. Ten years later, he commanded Apollo 14 and was the fifth American—the fifth person—to walk on the Moon.

Those who have worked with Admiral Shepard in both the formulation of space policy and oversight of America's space program came to appreciate his wise counsel and fine wit as he educated us on the complex issues involved. I am confident that his contributions to America's space program will not be forgotten by his countrymen.

Admiral Shepard also served his country outside of the cockpit. Following his retirement from NASA and the U.S. Navy in 1974, he brought his determination and leadership to down-to-Earth goals, becoming a successful businessman and raising money for college scholarships so young Americans could grow up to become scientists and engineers. He was on the Board of Directors for both the Houston School for Deaf Children and the National Space Institute.

This afternoon, Admiral Shepard's spacecraft, "Freedom 7" will arrive at the National Air and Space Museum where it will be on display in remembrance of not only his historic first flight into space, but of the lasting contributions of this great American to his country.

And now, Admiral Shepard has joined his fellow crewman of Apollo 14—the late Stuart Roosa—and we wish him fair winds and following seas, and offer our condolences to his wife Louise, and his daughters Laura, Alice and Julie.

A TRIBUTE TO ALYCE LIVINGSTON

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to my constituent and dear friend, Mrs. Alyce J. Livingston of Decatur, Illinois

who has recently passed. She was a devoted citizen and my condolences and best wishes go to her family and all who will miss her.

Alyce was born on July 19, 1934 in Paducah, Kentucky. She was a dedicated student, and her scholastic excellence throughout her years at Lincoln High and West Kentucky Vocational School led her to my district during the 1950's, where she attended Millikin University.

Alyce recognized the importance of providing quality child care service to Decatur's next generation. As founder and director of the Tiny Tots Nursery, she inspired and shaped our young children. In addition, Alyce was also a lab technician for the A.E. Stanley Manufacturing Company, where she provided nearly thirty years of service.

As a faithful community leader, Alyce spent her time helping the city of Decatur and increasing momentum in the Civil Rights struggle. She was a long time member of the National Association for the Advancement of Colored People (NAACP), where she served as an advisor and member of the Joe Slaw Civil Rights Awards Committee. Her strong beliefs in equality fostered her persistent efforts to build unity in Decatur. Furthermore, Alyce was a Decatur Township Trustee who committed five years to the city and was a member of the St. Peter's African Methodist Episcopal Church. She is survived by her husband of 40 years, Mr. David C. Livingston, President of the Illinois NAACP, and her two sons, Malcolm and David.

Mr. Speaker, citizens such as Alyce Livingston exemplify the undying devotion critical to community involvement. I will miss her dedication, her persistence, and most of all, her friendship. Mr. Speaker, please join me in recognizing Mrs. Alyce J. Livingston whose dedication to her career, community, and her personal convictions had a profound impact on those who knew her, including myself. It has been an honor to have represented her in the United States Congress.

CONGRATULATING WILLIAM SCHIERBROCK

HON. GREG GANSKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. GANSKE. Mr. Speaker, I rise to speak of William Schierbrock of Council Bluffs, Iowa, who was honored on July 12, 1998 for his attainment of Eagle Scout.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in congratulating William Schierbrock for his commendable achievement. His parents Thomas and Jeanette Schierbrock can be proud of their son because it takes a great deal of tenacity and devotion to achieve such an illustrious ranking. This young man has a promising future ahead of him.

IN HONOR OF THE 50TH ANNIVERSARY OF THE STATE OF ISRAEL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the 50th Anniversary of the State of Israel. Over the course of its history, this democracy has built a thriving economic and political system and a unique culture, in spite of internal and external challenges and hardships. Today, Israel shares a common goal of advancing the cause of humanity, seeking a stable and genuine peace in the Middle East, and generously shares its collective gifts with the rest of the world.

Israel and the United States share a common background based on pioneering and a united people's determination for political independence. Both countries were built on democratic principles which have withstood the test of time, serving as beacons of freedom, hope and opportunity.

Although situated across an entire ocean, thousands of miles apart, Israel and the United States have many similarities. An open exchange of ideas has cultivated the special relationship between the two countries. Over its fifty years in existence, Israel has become a State that has achieved considerable advancements. In honor of the 50th Anniversary of the State of Israel's establishment, many organizations in the Cleveland area, such as the Jewish Community Federation of Cleveland, will host commemorative celebrations.

My fellow colleagues, please join me in recognizing this exciting and momentous occasion.

HONORING KAVANAGH'S FURNITURE FOR THEIR 125 YEARS OF BUSINESS

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. NEAL of Massachusetts. Mr. Speaker, I am privileged today to have the opportunity to acknowledge and honor Kavanagh Furniture of Springfield, MA, for its 125th year of business.

In 1873, Mr. Dennis Nelen opened his establishment as a "wholesaler and retailer in elegant furniture, hair and husk mattresses" and before 1900 he partnered with Mr. William Kavanagh. Today, Kavanagh's is the largest furniture store in Western Massachusetts and has three sister stores with a fourth on the way. It is Springfield's oldest family owned business still in existence and one of the oldest operating furniture stores in the entire United States.

In an era where retailers often sacrifice quality service for quantity sold, Kavanagh's

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

has remained a testament to the beauty of the family business. In their establishment, quality service is a trait passed down through the generations. Mr. Jack Nelen, who became Kavanagh's president in 1965 and is the grandson of the original founder, began making deliveries for the store when he was just a teenager. The success of a family business can be measured, in part, by the duration of its existence. Kavanagh Furniture has survived and flourished through two world wars, the Great Depression, and several other fluctuations in the economy. They were also able to last during the recession of the early 90s even though furniture was considered a luxury by many. Perhaps more impressive has been Kavanagh's ability to survive the local "big chain" competition, while located in an area not supported by mega-mall traffic. In this regard, the Nelen family business can be considered a huge success and a strong example for other family businesses.

Only 1 out of 30,000 retail stores makes it to be 100 years old, and Kavanagh's has now reached its 125th year in the business. Not only has Kavanagh's created lasting personal success for its owners and employees, it has been an enormous asset to the community and neighborhood as well. Its list of civil activities and commitments includes being a catalyst for and taking part in fund raisers for The Children's Miracle Network, Shriner's Hospital, the Red Cross, and the United Way. Kavanagh's once even held a free picnic for over 2,500 city kids.

The Kavanagh Furniture store is an anchor for the community. It has taken care of its customers and has been rewarded with 125 years of business. I wish the Nelen family and all of the folks at Kavanagh's success in continuing a great tradition of excellent service to their customers and the community at large as they embark on the 21st century and another 125 years.

STRUCTURED SETTLEMENT PROTECTION ACT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1998

Mr. SHAW. Mr. Speaker, today I rise along with my colleague Mr. STARK and a broad bipartisan group of our colleagues from the Ways and Means Committee to introduce the Structured Settlement Protection Act.

The Act addresses serious public policy concerns that are raised by transactions in which so-called factoring companies purchase recoveries under structured settlements from injured victims.

Recently there has been dramatic growth in these transactions in which injured victims are induced by factoring companies of sell off future structured settlement payments intended to cover ongoing living and medical needs in exchange for a sharply-discounted lump sum that then may be dissipated, placing the injured victim in the very predicament the structured settlement was intended to avoid.

As long-time supporters of structured settlements and the congressional policy underlying such settlements, we have grave concerns that these factoring transactions directly undermine the policy of the structured settlement

tax rules. The Treasury Department shares these concerns.

Because the purchase of structured settlement payments by factoring companies so directly thwarts the congressional policy underlying the structured settlement tax rules and raises such serious concerns for structured settlements and injured victims, it is appropriate to deal with these concerns in the tax context.

Accordingly, we are proposing legislation to impose a substantial excise tax on the factoring company that purchases the structured settlement payments from the injured victim. The excise tax would be subject to an exception for genuine court-approved hardship cases to protect the limited instances of true hardship.

The following is a detailed discussion of the Bill's provisions.

BACKGROUND

In acting to address the concerns over factoring companies that purchase structured settlement payments from injured victims, the Treasury Department noted that: "Congress enacted favorable tax rules intended to encourage the use of structured settlements—and conditioned such tax treatment on the injured person's inability to accelerate, defer, increase or decrease the periodic payments—because recipients of structured settlements are less likely than recipients of lump sum awards to consume their awards too quickly and require public assistance." (U.S. Department of the Treasury, General Explanations of the Administration's Revenue Proposals (Feb. 1998), p. 122).

Treasury then observed that by enticing injured victims to sell off their future structured settlement payments in exchange for a heavily discounted lump sum that may then be dissipated: "*These 'factoring transactions' directly undermine the Congressional objective to create an incentive for injured persons to receive periodic payments as settlements of personal injury claims.*" (Id. at p. 122 [emphasis added].)

The Joint Tax Committee's analysis of the issue echoes these concerns: "Transfer of the payment stream under a structured settlement arrangement arguably subverts the purpose of the Code to promote structured settlements for injured persons. (Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS-4-98), (February 24, 1998), p. 223).

The Treasury Department in the Administration's FY 1999 Budget has proposed a 20-percent excise tax on factoring companies that purchase structured settlement payments from injured victims. Under the Administration's proposal, "any person purchasing (or otherwise acquiring for consideration) a structured settlement payment stream would be subject to a 20 percent excise tax on the purchase price, unless such purchase is pursuant to a court order finding that the extraordinary and unanticipated needs of the original recipient render such a transaction desirable." (Treasury General Explanation, at p. 122.) The proposal would apply to transfers of structured settlement payments made after date of enactment.

DESCRIPTION OF THE ACT

1. Stringent Excise Tax on Persons Who Acquire Structured Settlement Payments in Factoring Transactions.

In its analysis of the Administration's proposal, the Joint Tax Committee notes the potential concern that in some cases the imposition of a 20-percent excise tax may result in the factoring company passing the tax along by reducing even further the already-

heavily discounted lump sum paid to the injured victim for his or her structured settlement payments. The Joint Committee notes that "[o]ne possible response to the concern relating to excessively discounted payments might be to raise the excise tax to a level that is certain to stop the transfers (perhaps 100 percent). . . ." (Joint Committee on Taxation, Description of Revenue Provisions Contained in the President's Fiscal Year 1999 Budget Proposal (JCS-4-98) (February 4, 1998), p. 223).

Factoring company purchases of structured settlement payments so directly subvert the Congressional policy underlying structured settlements and raise such serious concerns for structured settlements and the injured victims that it is appropriate to impose on the factoring company a more stringent excise tax rate applied against the amount of the discount reflected in the factoring transaction (subject to a limited exception described below for genuine court-approved hardships).

Accordingly, the Act would impose on the factoring company that acquires structured settlement payments directly or indirectly from the injured victim an excise tax equal to 50 percent of the difference between (i) the total amount of the structured settlement payments purchased by the factoring company, and (ii) the heavily-discounted lump sum paid by the factoring company to the injured victim.

Similar to the stiff excise taxes imposed on prohibited transactions in the private foundation and pension contexts—which can range as high as 100 to 200 percent—this stringent excise tax is necessary to address the very serious public policy concerns raised by structured settlement factoring transactions.

Unlike the Administration's proposed tax imposed on the purchase price paid by the factoring company, the excise tax imposed on the factoring company under the Act would use a more stringent tax rate of 50 percent and would apply to the excess of the total amount of the structured settlement payments purchased by the factoring company over the heavily-discounted lump sum paid to the injured victim.

The excise tax under the Act would apply to the factoring of structured settlements in tort cases and in workers' compensation.

A structured settlement factoring transaction subject to the excise tax is broadly defined under the Act as a transfer of structured settlement payment rights (including portions of payments) made for consideration by means of sale, assignment, pledge, or other form of alienation or encumbrance for consideration.

2. Exception from Excise Tax for Genuine, Court-Approved Hardship

The stringent excise tax would be coupled with a limited exception for genuine, court-approved financial hardship situations. Drawing upon the hardship standard enunciated in the Treasury proposal, the excise tax would apply to factoring companies in all structured settlement factoring transactions except those in which the transfer of structured settlement payment rights (1) is otherwise permissible under applicable Federal and State law and (2) is undertaken pursuant to the order of a court (or where applicable, an administrative authority) finding that "the extraordinary, unanticipated, and imminent needs of the structured settlement recipient or his or her spouse or dependents render such a transfer appropriate."

The exception is intended to apply to the limited number of cases in which a genuinely "extraordinary, unanticipated, and imminent hardship" has actually arisen and been demonstrated to the satisfaction of a court