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U.S. House of Representatives, you have served your country for more than 50 years; and

Whereas, your wise counsel, your friendship, and your example of fighting for the principles in which you believe, have been of immeasurable benefit to your colleagues and the committee; therefore, be it

Resolved, That we, the Members of the Committee on Armed Services, offer our commendation to you for a career of public service unique in the annals of our country; and be further

Resolved, That the committee thanks you for your leadership and your friendship. We wish you and your family well.

MAZAK COUNTERFEITS BUY AMERICA

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, according to a presentation on TV's "60 Minutes" tonight, a whistleblower, Fred Petticone, and his lawyer, deserve our thanks for not giving up in their fight with Mazak Machine Tools when the company was accused of violating American law.

They allege that Mazak, a Japanese company based in Kentucky, knowingly and by design, cheated on Defense contracts, by recrating machines to make them appear they were made in America though they were manufactured in Japan. Three of Mazak's employees questioned the practice of recrating machines, but were told to be quiet if they valued their jobs.

The 60 minutes story said Fred Petticone took his story to a lawyer and together they fought their way through the Federal Government which did nothing for 4 years. Commerce, Treasury, DOD, and the Department of Justice remained mum on this important issue. Mr. Speaker, when the United States loses machine tool production, we lose our manufacturing base and ability to be competitive in international trade.

I hope more whistleblowers will come forward anytime a company cheats to violate the Buy American Act. This time a private lawyer and her client won one for all of us.

□ 2210

The SPEAKER pro tempore (Mr. ESPY). Under a previous order of the House, the gentleman from Ohio [Mr. MILLER] is recognized for 5 minutes.

[Mr. MILLER of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio [Ms. KAPTUR] is recognized for 5 minutes.

[Ms. KAPTUR addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

OPPOSE THE BROOKS BILL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. JAMES] is recognized for 5 minutes.

Mr. JAMES. Mr. Speaker, if H.R. 5096 comes to the floor in the closing days of this Congress, I ask my colleagues to oppose it.

I oppose H.R. 5096 because it violates the Constitution. When I was sworn in as a Member of Congress, I vowed to uphold the Constitution. I cannot in good conscience, vote for a bill which offends the Constitution.

I want to make it clear that I think Congress is responsible to produce legislation that will guide telecommunications policy. Such legislation, however, should encompass the entire telecommunications industry. There is no reason for Congress to embrace a bill that shapes the future of telecommunications, but applies only to seven companies bearing the name "Bell."

This bill violates the Constitution in two respects. First, It violates the Constitution in two respect. First, it violates the principle of separation of powers. Second, it is a bill of attainder. As noted in Nixon versus Administrator of General Services, the bill of attainder clause is a significant element of the separation of powers doctrine. Nixon cites *United States* v. *Brown*, 381 U.S. 437, 445 for the critical proposition that the Legislative Branch is not so well suited as politically independent judges and juries to the task of ruling upon the blameworthiness of, and levying appropriate punishment upon, specific persons.

As we can see by the enormous lobbying resources that have already been expended this year for H.R. 5096, the politics of this issue are extremely powerful. I do not believe that Members who are confronted on the one hand with their district newspaper and thousands of telephone company employees-constituents on the other hand will find it easy to deliberate these issues objectively.

First, H.R. 5096 offends the fundamental principle of separation of powers. Our Constitution requires that Congress make the laws, not adjudicate or execute them. By attempting to codify the modified final judgment [MFJ], the Judiciary Committee has crossed that line and attempts to fill the court's shoes.

The judge in the case involving AT&T and the Bell companies has already made decisions about the Bell's entry into various lines of business. This bill overturns those decisions and usurps the court's authority. It is not our function to intervene in a case the court has adjudicated since the 1984 breakup of AT&T.

Of course, there is nothing wrong with passing a law of general application that would apply to everyone or to a reasonable class.

However, this bill's only purpose is to change the rights of the specific parties in a specific legal action. Put another way, H.R. 5096 does nothing but change a final court ruling—and violate the separation of powers.

Proponents of H.R. 5096 have erroneously cited *Pennsylvania* v. *Wheeling & Belmont Bridge Co.*, 59 U.S. 421 (1855), for the proposition that Congress has the power to alter provisions of an outstanding decree. A closer reading of the case demonstrates that Congress can alter a decree involving public rights, but not private rights.

The case dealt with whether or not Congress could change a court ruling regarding a public bridge, which obviously deals with public rights. The case reads:

> But it is urged, that the act of congress cannot have the effect and operation to annul the judgment of the court already rendered, or the rights determined thereby in favor of the plaintiff. This as a general proposition, is certainly not to be denied, especially as it respects adjudication upon the private rights of parties. When they have passed into judgment the right becomes absolute, and it is the duty of the court to enforce it.
>
> The case before us, however, is distinguishable from this class of cases, so far as it respects that portion of the decree directing the abatement of the bridge. Its interference with the free navigation of the river constituted an obstruction of a public right secured by acts of congress.

This case clearly reinforces the principle that Congress may not annul a court's judgment, especially an adjudication of private rights. No one has suggested that the case between AT&T and the RBOC's is anything but an adjudication of private rights. So, while the case was cited for the exception to the rule for cases involving public rights, it is properly understood as a case that buttresses the time honored principle of separation of powers, as it applies to cases involving private rights.

Second, H.R. 5096 is a bill of attainder, forbidden by the Constitution. Article I of the Constitution, which established Congress's legislative authority, mandates that "no Bill of Attainder * * * shall be passed." A "bill of attainder" describes any law that legislatively inflicts punishment on named groups or on identifiable entity. Accordingly, legislation that singles out companies by name is an impermissible bill of attainder.

H.R. 5096, by naming the seven Bell companies, clearly violates the Constitution's prohibition of bills of attainder. The bill essentially exempts other similarly situated large local exchange carriers in a way that discriminates against only the Bell operating companies. As a result, while other similarly situated companies may enter into manufacturing, information services, and long distance, the seven Bell companies may not.

Proponents of H.R. 5096 have erroneously cited a case—Nixon v. Administrator of General Services—to argue that this bill is not a bill of attainder. A close reading of the case demonstrates that the court supported ar-

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guments against a bill of attainder, as shown in *United States* v. *Brown*, 381 U.S. 437. In Brown, the court held that a law making it a crime for a Communist Party member to serve as an officer of a labor union violated the bill of attainder prohibition. The type of law prohibited in Brown is the same kind of law as H.R. 5096. The law in Brown interfered with a select group's employment rights and opportunities. H.R. 5096 similarly interferes with a select group of corporations' rights to enter into certain businesses.

Brown is distinguished from Nixon, because the plaintiff in Nixon argued overbroadly that the Constitution is violated whenever a law imposes an undesirable impact on a class that is too narrowly defined. Nixon states that if a law is simply burdensome, that is not enough to make it a bill of attainder. Nixon was clearly a unique situation. It is absurd to cite this case to argue that a bill of attainder doesn't exist, because the court found the facts of the Nixon case to be at most subjectively burdensome. The court goes on at length in Nixon explaining the peculiarity of these facts.

Nixon can certainly not be cited to argue that specific companies do not have the right to enter into different businesses and it is clear that there is nothing subjective about the consequences of H.R. 5096. It is crystal clear that the direct, objective, and obvious consequences will be that the RBOC's will potentially lose millions of dollars, if H.R. 5096 is passed. No one has the audacity to even suggest otherwise. If H.R. 5096 were found to be constitutional, there would be absolutely nothing left of the Constitution to stop legislation from being passed to correct any court judgment in the land regardless of the private nature of the relief sought.

So while Nixon is cited by proponents of H.R. 5096, it is in fact a narrow exception to the bill of attainder prohibition. Brown gives the rule, which applies to H.R. 5096 and Nixon states an exception. Proponents of H.R. 5096 have tried to make the exception swallow the rule, when in fact the exception makes the rule stronger, and in effect, reaffirms the rule.

When the Judiciary subcommittee held hearings about the need for comprehensive legislation to curb monopoly abuses, I publicly expressed my concern about legislation that named specific corporate entities. I suggested that this was a violation of the Constitution, and recommended language which would apply to all telecommunication companies that could abuse their monopoly powers.

This bill violates the core principle of separation of powers, and is a bill of attainder. I am left with no other alternative than to vote against a bill I believe to be unconstitutional. Instead, I hope that Congress will address this critical public policy issue with legislation that applies fairly to everyone, not just companies bearing the Bell name.

□ 2220

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico [Mr. RICHARDSON] is recognized for 5 minutes.

[Mr. RICHARDSON addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. TAYLOR] is recognized for 5 minutes.

[Mr. TAYLOR of North Carolina addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 5 minutes.

[Mr. MOAKLEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

SPECIAL RECOGNITION TO GREAT ALLIES OF THE UNITED STATES: THE PEOPLE OF THE NETHERLANDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, as this session nears an end, I would like to take just a few minutes to commend one of our strongest allies and one that is not often recognized.

I would like to pay tribute to a small country that was a big friend to the United States during the Persian Gulf war—The Netherlands.

During the gulf war The Netherlands provided the U.S. military with the use of their ports in Rotterdam and Amsterdam to ship hundreds of thousands of tanks, armored personnel carriers, attack helicopters, Patriot missiles, and ammunition to the gulf.

In fact, this mission became the largest sealift in U.S. military history, larger than even the invasion of Normandy during World War II.

Dutch military personnel and stevedores worked day and night alongside American soldiers to accomplish this mission, despite arctic cold weather, high winds, rain, and snow.

The Dutch provided around the clock armed security at the port of Rotterdam against constant terrorist threats, as well as food, shelter, and medical care to our soldiers as if they were their own sons and daughters.

On Christmas Eve 1990, when it looked like a bleak Christmas for U.S. soldiers at the port of Rotterdam, the Dutch military surprised our GI's with an American-style ham and turkey Christmas dinner, Christmas carols and words of thanks to the American people for standing up to dictators such as Saddam Hussein.

The Dutch military general in charge of this event refused to accept a thank you because as he said:

> The American people will never owe the Dutch people a thank you because it was America who sent her soldiers to drive the Nazi's out of Holland after five years of brutal occupation.
>
> An occupation which saw many Dutch men, women and even children taken to the sand dunes along the North Sea and killed for being resistors or taken to Nazi concentration camps and executed.
>
> America will always deserve our thanks for saving our country.

A member of my staff, Jim Easton who served in The Netherlands and Saudi Arabia during the Gulf war, has told me what an emotional experience it was for him to walk the same path where the Nazi's forced innocent Dutch men, women, and young children to walk to their death by firing squads in the sand dunes of the North Sea, near The Hague.

Jim tells me every American would have a greater sense of patriotism by visiting this site, memorialized by three simple wooden crosses and a replica of our Liberty Bell.

Mr. Speaker, we do owe the Dutch people a thank you.

The Dutch not only supported America at ports in Holland but also voluntarily sent fighting ships, minehunting vessels, air defense squadrons, medical teams, as well as other units to Saudi Arabia and the gulf region in support of our effort to remove Saddam Hussein from Kuwait.

As if this was not enough for a small country to give, the Dutch also provided $65 million in financial aid along with $6 million to assist refugees from Iraq and Kuwait.

Every year on May 4 at 8 p.m., a bell rings in Holland which calls for a moment of silence by the Dutch people in memory of their fellow citizens who were executed there by the Nazi's.

The next day, May 5, the Dutch annually celebrate the liberation of their country by American soldiers.

In a world where many countries take our money with one hand and slap us with the other, it is nice to know that the Dutch stand as a shining example that friendship is based on helping each other when the cause is right, such as standing up to dictators who invade small countries whether it is The Netherlands or Kuwait.

I say thank you to the Dutch people for your friendship and the risks your military shared with our soldiers to achieve an overwhelming victory in the gulf war.

I simply wanted to do a brief special order to give special recognition to great allies of the United States, the people of The Netherlands.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. KENNEDY], is recognized for 5 minutes.

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