

lawsuits while protecting and strengthening the ability of defrauded investors to sue.

I believe that Americans can be justifiably proud of the substantial benefits we enjoy from the fact that we have the best securities markets in the world. Our stock and bond markets have expanded tremendously over the last several years. This has helped to finance the birth and growth of promising new industries such as telecommunications, computer software, and other high technology companies that create better jobs and promote economic growth.

One of the most critical factors supporting the successful growth of America's market-based capital formation system is the high level of trust and confidence investors have in the fundamental integrity and fairness of our securities markets. Our Federal securities laws help assure stock or bond prices efficiently reflect the values of the companies that have issued them. This is achieved through a system of full disclosure of all material information about public companies, which empowers Americans so that they can make informed investment decisions about which company's stocks or bonds they want to purchase. But disclosure cannot effectively serve the needs of the investing public unless backed up by strong enforcement mechanisms that assure that those who lie, cheat, and steal will be caught and punished.

Over the last decade, we have witnessed horrendous financial frauds involving hundreds of billions of dollars—including Lincoln Savings & Loan, Drexel, Centrust, Phar-Mor, Miniscribe, and ZZZ Best. The "rogues gallery" of financial miscreants and malfactors that were responsible for these crimes were brought to justice through the combined efforts of Federal regulators and individual investors who filed private lawsuits. Such private lawsuits perform functions that Federal bureaucrats cannot accomplish. They provide compensation to investors who have been defrauded and they supplement the SEC's enforcement activities by helping to deter companies that may be contemplating actions that would mislead their investors.

The securities litigation provisions of the GOP Contract With America would give white collar criminals, stock swindlers, and financial con artists a license to rip-off the investing public. Make no mistake about it: H.R. 10, the so-called Common Sense Legal Reform Act, is special interest legislation at its worst. While it purports to take aim against abuses by attorneys, in reality the principal beneficiaries of this legislation will be huge corporations, wealthy Wall Street investment bankers, Big Six Accounting firms, and well-heeled corporate lawyers. Who will lose out? The defrauded investors, pension funds, and State and local governments who are victimized by financial fraud, and every honest business in America which can't get capital to build because a competitor is checking the system.

Individual investors—such as those here today who have suffered financial losses as the result of the Orange County bankruptcy—will face nearly insurmountable new procedural and substantive obstacles in bringing their cases to court. Proposals such as adoption of the English rule on fee shifting, establishment of heightened intent requirements that would eliminate recklessness as a cause of action in securities fraud cases, enhanced pleading requirements, elimination of cases

based on a fraud on the market, and other proposed changes would effectively end securities class action litigation in this country. This would deprive potentially defrauded investors from being able to seek recovery of their lost savings.

Unlike the Republican bill, the legislation I am introducing today would target the real problems and abuses that can occur in the existing litigation process without impairing the ability of defrauded investors to sue wealthy corporations, and the accountants or attorneys who knowingly or recklessly assisted them in perpetrating financial frauds. My bill contains reforms which would:

Ban or restrict a range of abusive practices engaged in by plaintiffs' or defendants' attorneys;

Streamline the securities litigation process by providing for an early evaluation process aimed at weeding out frivolous cases;

Require the SEC to issue new rules to strengthen the safe harbor provided for companies to issue forward-looking statements;

Limit the potential financial risk faced by defendants in securities fraud litigation cases by providing defendants with a right to obtain contribution from their codefendants based on proportionate responsibility;

Assure that the interests of plaintiffs' attorneys are more closely aligned with the interests of their clients by mandating that fees be calculated on the percentage of lost funds recovered, rather than on how many billable hours the lawyers have generated;

Overturn the Supreme Court's Central Bank of Denver decision by fully restoring liability to those who knowingly or recklessly aid or abet securities fraud;

Overturn the Supreme Court's Lampf decision by establishing a statute of limitations for securities fraud cases of 5 years after occurrence or 3 years after the violation was actually discovered;

Strengthen the role of auditors in detecting and reporting evidence of financial fraud; and finally,

Mandate an SEC study on the effectiveness of private enforcement of compliance with the federal securities laws.

This package of reforms represents a balanced alternative to the special interest smorgasbord set forth in H.R. 10. Over the next few days and weeks, I intend to seek cosponsors to my bill and I fully expect to offer this legislation, or amendments derived from it, to H.R. 10 when it is marked up in our subcommittee. While the specifics of this bill may undergo further refinement during the course of discussions with my House colleagues, and some additional or related provisions may be introduced later, the fundamental principles of fairness to investors that this bill embodies will not be altered.

In conclusion, I am proud, as a Democrat, to have supported the evolution of a market system that provides investors with the right to obtain full disclosure of critical investment information. I believe that investors who are defrauded by false or misleading financial statements, or inflated puffery about a corporation's earnings, products or prospects, or the value of its securities, should have a right to sue for recovery. The bill I am introducing today would preserve that right, while eliminating certain abusive or problematic practices that unduly burden the overwhelming majority of compa-

nies who are seeking in good faith to play by the rules and comply with the law.

PERSONAL EXPLANATION

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 18, 1995

Mr. McINNIS. Mr. Speaker, due to travel delays, I was not present to vote for S. 2. As a cosponsor of the Congressional Accountability Act in this session, as well as the 103d, I would have clearly voted in support of this legislation, as I did with H.R. 1, on January 5, 1995.

IN HONOR OF MONO SEN, DISTINGUISHED INDIAN COMMUNITY LEADER

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, January 18, 1995

Mr. MENENDEZ. Mr. Speaker, I rise today to pay tribute to Mono Sen, an Indian community leader. Mr. Sen has made many positive contributions to the Indian community in the 13th Congressional District. He has dedicated himself to helping others, no matter how difficult the task. He has spent his entire career creating opportunities for hundreds of people of all races, creeds and ethnicities.

Mr. Sen came to the United States in 1971 and lived in New York until June of 1974. While living in New York, he dedicated himself to helping senior citizens. He served as the management consultant at the William Hudson Center in the South Bronx and as director of Caring Community Center in New York, which provided quality services mostly to the Jewish and Italian communities.

Mr. Sen has provided jobs for many Indian E.S.L. teachers in Jersey City and is responsible for the hiring of many Indians as income maintenance technicians in the Hudson County Welfare Department. In 1977, Mr. Sen fought for Federal money to help Vietnamese refugees resettle in Hudson County. Mr. Sen is a community leader in the best sense of the word. People come to him with their problems, whether they are financial or personal, and Mr. Sen tries to help them with their problems.

Mr. Sen has expressed great interest in uniting the Asian-American community. He founded the United Ethnic Congress in America in 1980. The purpose of this organization was to promote the election and appointments of Asians to the U.S. Government, so that they could contribute politically. Mr. Sen also joined the American Association and began generating interest among Indians in the community in becoming involved in politics. In addition, he was one of the main speakers of the first Convention of Indians in New York. Also, in 1991, Mr. Sen spoke for almost 2 hours before the U.S. Civil Rights Commission on police abuses on behalf of 9 million Asian people.

Many people in the community depend on Mr. Sen for help in such matters as seeking help from the city, county or State, as well as