

that you responded you were Amicus Briefs Committee chair (1997-98)." I then rephrased the question I asked her at the hearing. In her written response, Judge Wardlaw apologized, "if my response to your question at the hearing was narrower in any way than the scope of your intended question"—she then explained she thought my question and "ensuing colloquy" only referred to the years 1993 and 1994 that she was president of the Women's Lawyers Association of Los Angeles, and not to the year she served as the Amicus Briefs cochair from September 1977 to 1988.

Mr. President, I believe her written response was sincere. I do, however, think that she could have been more forthcoming in this response. I believe she could have been more forthcoming in her response during the hearing in order to clarify that she had, in fact, served as one of the chairs of the Amicus Briefs Committee during another point of her entire membership of the WLALA, which by the way, began in 1983.

Mr. President, further, in Judge Wardlaw's 1995 responses to the Judiciary Committee's questionnaire for her nomination to be U.S. district court judge, she noted she was a member of the California Leadership Council for the NOW Legal Defense and Education Fund, California Leadership Council. However, she omitted this information from her 1998 questionnaire.

When recently asked orally to explain this omission, she noted that the NOW Legal Defense and Education Fund's California Leadership Council "was not an organization"—it "was not an organization." So she said that she should not have even noted her affiliation with the organization in her original district court nomination questionnaire.

Mr. President, I think, again, this, in my view at least, reflects a reluctance to be totally forthcoming with the committee. It is required of a nominee to include all information that is requested in the committee's questionnaire. And it is up to each committee member to weigh the importance, then, of the nominee's responses. Let me make it clear, Mr. President, people can make mistakes on questionnaires. I believe, however, the evidence shows—the totality of the evidence shows she has not been as forthcoming to this committee as, frankly, we should expect.

This nominee has a 12-year affiliation—12-year affiliation—with the Women's Lawyers Association of Los Angeles. She has not only been a member, but has served as an officer. She has served as Amicus Briefs Committee chair and as vice president. She was elected as president of the organization, and served as chair of the Nominations Committee, which selects the officers of the organization.

During the time she served in a leadership capacity, this organization filed amicus briefs in the Supreme Court in

cases such as William Webster v. Reproductive Health Services, the case of Rust v. Sullivan, and Planned Parenthood of Southeastern Pennsylvania v. Casey.

I only cite these cases as further examples of her position as a leader of an organization that, in fact, took public stands on issues that were contrary to what the Supreme Court ultimately decided. For me, this serves as evidence that Judge Wardlaw would not help move the circuit more to the mainstream. This is not simply a matter of this nominee being a mere member of an organization that took these positions. Rather, this is a matter of her being a recognized leader of this organization who states, however, that she was not aware of the legal positions taken by this organization.

In response to Senator THURMOND's written questions, Judge Wardlaw stated that "Once a position was voted upon . . . it was the position of the organization as a whole, not necessarily the view of any individual member." That may be, Mr. President, but she did not offer to the Judiciary Committee any details on the role she may or may not have played in the development of these positions.

Judge Wardlaw also stated that she "would not have publicly opposed a position taken by the organization." I believe anyone who voluntarily holds numerous leadership positions in an organization—leadership positions ranging from president to secretary to chair of various committees—I believe that person adopts, helps shape, or at the very least condones the positions taken by that organization.

After all, our committee asked all nominees if they belong to any organization that discriminates on the basis of race, sex or religion; and if so, we ask what the nominee has done to try to change these policies. These are not exactly comparable, but the point simply is, when we ask the questions about membership, we asked it for a reason. It does not mean we hold someone accountable for everything, every position that a committee or organization took that they belong to. No. We weigh the totality of the circumstances, and we try to be fair. But the evidence is overwhelming of her leadership positions.

Frankly, quite candidly, this is not the first nominee who has come before our committee who has been involved with amicus briefs, who has been in an organization that files these briefs, who has held a leadership position, and who then says, "Oh, no, really, I didn't have anything to do with the formulation of those briefs or the decision about filing them." That is a troubling position. And it is a position that we keep hearing from nominee after nominee.

Let me put future nominees on notice that, at least for this U.S. Senator, that type of response is not acceptable.

Mr. President, considering all of these factors, I oppose this nomination.

I recognize the reality that this nominee would have been approved if a vote had been taken on the floor. One of the things we learn to do in this business, Mr. President, is to count. And I can count. Therefore, I do not want to put my colleagues, as we begin to leave for the August recess, through the necessity of a rollcall which would slow this process down or inconvenience them. But I felt I had to come to the floor this morning and state my position.

Mr. President, before we consider future ninth circuit nominees, I urge my colleagues to take a close look at the evidence—evidence that shows that we have a judicial circuit that each year moves farther and farther from the mainstream and more and more in a confrontational role with the U.S. Supreme Court and with Supreme Court precedents.

For that reason, Mr. President, I intend in the future to seek rollcall votes on all nominees for the ninth circuit. Until we reverse this disturbing trend, I believe the Senate needs to be on the record as either part of the problem or part of the solution.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

POSTAL EMPLOYEES SAFETY ENHANCEMENT ACT

Mr. ENZI. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 501, S. 2112.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

A bill (S. 2112) to make Occupational Safety and Health Act of 1970 applicable to the United States Postal Service in the same manner as any other employer.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. I ask unanimous consent the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be placed at the appropriate place in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 2112) was considered read a third time and passed, as follows:

S. 2112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Postal Employees Safety Enhancement Act".

SEC. 2. APPLICATION OF ACT.

(a) DEFINITION.—Section 3(5) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5)) is amended by inserting after "the United States" the following: "(not including the United States Postal Service)".

(b) FEDERAL PROGRAMS.—

(1) OCCUPATIONAL SAFETY AND HEALTH.—Section 19(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668(a)) is amended by inserting after “each Federal Agency” the following: “(not including the United States Postal Service)”.

(2) OTHER SAFETY PROGRAMS.—Section 7902(a)(2) of title 5, United States Code, is amended by inserting after “Government of the United States” the following: “(not including the United States Postal Service)”.

SEC. 3. CLOSING OR CONSOLIDATION OF OFFICES NOT BASED ON OSHA COMPLIANCE.

Section 404(b)(2) of title 39, United States Code, is amended to read as follows:

“(2) The Postal Service, in making a determination whether or not to close or consolidate a post office—

“(A) shall consider—

“(i) the effect of such closing or consolidation on the community served by such post office;

“(ii) the effect of such closing or consolidation on employees of the Postal Service employed at such office;

“(iii) whether such closing or consolidation is consistent with the policy of the Government, as stated in section 101(b) of this title, that the Postal Service shall provide a maximum degree of effective and regular postal services to rural areas, communities, and small towns where post offices are not self-sustaining;

“(iv) the economic savings to the Postal Service resulting from such closing or consolidation; and

“(v) such other factors as the Postal Service determines are necessary; and

“(B) may not consider compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).”.

SEC. 4. PROHIBITION ON RESTRICTION OR ELIMINATION OF SERVICES.

(a) IN GENERAL.—Chapter 4 of title 39, United States Code, is amended by adding after section 414 the following:

“§415. Prohibition on restriction or elimination of services

“The Postal Service may not restrict, eliminate, or adversely affect any service provided by the Postal Service as a result of the payment of any penalty imposed under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end the following:

“415. Prohibition on restriction or elimination of services.”.

SEC. 5. LIMITATIONS ON RAISE IN RATES.

Section 3622 of title 39, United States Code, is amended by adding at the end the following:

“(c) Compliance with any provision of the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.) shall not be considered by the Commission in determining whether to increase rates and shall not otherwise affect the service of the Postal Service.”.

Mr. ENZI. Mr. President, this bill that was just passed by the Senate will dramatically improve workplace safety and health for more than 800,000 U.S. Postal Service employees. Senate bill 2112, the Postal Employees Safety Enhancement Act, will bring the Postal Service under the full jurisdiction of the Occupational Safety and Health Administration. It is my firm belief that government must play by its own rules, that all Federal agencies must comply with the 1970 occupational safety and health statute. They are not re-

quired to pay penalties issued to them by OSHA. They will be under this bill. The lack of any enforcement tool renders compliance requirements for the subsector ineffective, at best.

My first look at this occurred when I noticed that Yellowstone National Park had been cited for over 600 violations. Ninety of them were serious. One of them was failure to report a death.

It occurred to me, though, that they may not be the worst violators, so I checked on the Federal Government and found that the agency that we needed to start with was the U.S. Postal Service.

What is most troubling about the Postal Service's safety record is its annual workers' compensation payments. From 1992 to 1997, the Postal Service paid an average of \$505 million in workers' compensation costs, placing them once again at the top of the Federal Government's list. Moreover, the Postal Service's annual contribution to workers' compensation amounts to almost one-third of the Federal Government's \$1.8 billion price tag.

In 1970, Congress passed the Postal Reorganization Act, eliminating the old Postal Department status as a Cabinet office. Twelve years later, the Postal Service became fiscally self-sufficient and is to be congratulated on that.

After carefully listening to the perspectives of the Post Office and the unions representing its employees, I have concluded that the Postal Employees Safety Enhancement Act is necessary legislation. S. 2112 addresses specialized problems in a specialized business by permitting OSHA to fully regulate the Postal Service the way it does private businesses. In addition, the bill would prevent the Postal Service from closing or consolidating rural post offices or services simply because it is required to comply with OSHA. Service to all areas in the Nation, rural or urban, was made a part of the Postal Service's mission by the 1970 Postal Reorganization Act. The quality of service it provides should not decrease because of efforts to protect and ensure employee safety and health.

Along this same premise, the bill would prevent the Postal Rate Commission from raising the price of stamps to help the Postal Service pay for potential OSHA fines. Rather, the Postal Service should offset the potential for the fines by improving the workplace conditions. That is what we have been trying to do on all OSHA work that we have done—to get more safety and health in the workplace. That would decrease the Postal Service annual \$505 million expenditure on workers' comp claims, and, more importantly, it would keep those employees safe. That is why the money won't have to be spent.

I do not believe that this incremental bill should be looked on as an expansion of regulatory enforcement. For years OSHA has been inspecting the Federal work sites and issuing cita-

tions to those who are not in compliance. This will continue, whether this bill is signed into law or not. S. 2112 would simply require the Postal Service to pay any fine issued by OSHA to the General Treasury, expediting abatement of safety and health hazard.

Abating occupational safety and health hazards should be a top priority of any employer. Now, the U.S. Postal Service recently announced a \$100 million program to entice kids to collect stamps. I don't question the validity of such a program or the benefit it would have on the Nation's kids. However, I do question whether this program should be a priority while workers' compensation claims and injuries, illness, lost time, and fatality rates remain so high.

We must ensure the safety and health of all employees because they are the most important asset of any business. The success or failure of any business, including the Post Office, rests on their ability to provide efficient care and service to their customers.

In my capacity as a Senator, I have committed much of my time to the advancement of workplace safety and health by advocating commonsense, incremental legislation. While it is important for OSHA to retain its ability to enforce the law and respond to employee complaints in a timely fashion, the agency must also begin to broaden its preventive initiatives in an effort to bring more workplaces into compliance before accidents and fatalities occur.

I want to extend my sincere thanks to Senator BINGAMAN for coauthoring the Postal Employees Safety Enhancement Act. I believe all stakeholder meetings have paid off—producing a balanced, incremental piece of legislation. Chairman JEFFORDS of the Senate Labor Committee and ranking member, Senator KENNEDY, are to be commended for their steady commitment to advancing occupational safety and health. I also thank their staffs for all of the time that they spent on it. I particularly congratulate and express my appreciation to Chris Spear of my staff, and the other people on my team in the office who have been helping on a day-by-day, grind-it-out basis to work on all occupational safety and health. I am thankful for all the time that everyone has spent discussing this important issue with me.

I also want to thank all of the co-sponsors. This is a very bipartisan bill. Their support is greatly appreciated.

Finally, I want to thank Congressman GREENWOOD for authoring the House version and subcommittee chairmen BALLENGER and MCHUGH for their careful consideration in their respective subcommittees. Their work has helped to make this a real team effort.

Mr. KENNEDY. Mr. President, I am proud to join Senator ENZI and the other original cosponsors of this bill, Senator JEFFORDS, Senator BINGAMAN, and Senator BROWNBACK, in celebrating the final passage of the Postal Employees Safety Enhancement Act. I especially want to commend Senator ENZI

for his leadership on this bill. His tireless devotion to the safety and health of the nation's workers has resulted today in passage of significant improvements for employees of the United States Postal Service. I am pleased to have worked with him on the passage of this important legislation, which will extend coverage of the Occupational Safety and Health Act to employees of the United States Postal Service. The bill has broad bipartisan support, and it is supported by the Administration as well.

Few issues are more important to working families than health and safety on the job. For the past 28 years, OSHA has performed a critical role—protecting American workers from on-the-job injuries and illnesses.

In carrying out this mission, OSHA has made an extraordinary difference in people's lives. Death rates from on-the-job accidents have dropped by over 60% since 1970—much faster than before the law was enacted. More than 140,000 lives have been saved.

Occupational illnesses and injuries have dropped by one-third since OSHA's enactment—to a record low rate of 7.4 per 100 workers in 1996.

These numbers are still unacceptably high, but they demonstrate that OSHA is a success by any reasonable measure.

Even more lives have been saved in the past two places where OSHA has concentrated its efforts. Death rates have fallen by 61% in construction and 67% in manufacturing. Injury rates have dropped by half in construction, and nearly one-third in manufacturing. Clearly, OSHA works best where it works hardest.

Unfortunately, these efforts do not apply to federal agencies. The original OSHA statute required only that federal agencies provide "safe and healthful places and conditions of employment" to their employees. Specific OSHA safety and health rules did not apply.

In 1980, President Carter issued an Executive Order that solved this problem in part. It directed federal agencies to comply with all OSHA safety standards, and it authorized OSHA to inspect workplaces and issue citations for violations.

President Carter's action was an important step, but more needs to be done. When OSHA inspects a federal workplace and finds a safety violation, OSHA can direct the agency to eliminate the hazard. But OSHA has no authority to seek enforcement of its order in court, and it cannot assess a financial penalty on the agency to obtain compliance.

The situation is especially serious in the Postal Service. Postal employees suffer one of the highest injury rates in the federal government. In 1996 alone, 78,761 postal employees were injured on the job—more than nine injuries and illnesses for every hundred workers. The total injury and illness rate among Postal Service workers represents almost half of the rate for the entire fed-

eral government, even though less than one-third of all federal workers are employed by the Postal Service. Fourteen postal employees were killed on the job in 1996—one-sixth of the federal total. Workers' compensation charges at the Postal Service are also high—\$538 million in 1997.

This legislation will bring down these unacceptably high rates. It permits OSHA to issue citations for safety hazards, and back them up with penalties. This credible enforcement threat will encourage the Postal Service to comply with the law. It will save taxpayer dollars currently spent on workers' compensation costs.

Most important, it will reduce the extraordinarily high rate of injuries among postal employees. Every worker deserves a safe and healthy place to work, and this bill will help achieve that goal for the 860,000 employees of the Postal Service. They deserve it, and I am pleased to join my colleagues in providing it.

ROBERT C. WEAVER FEDERAL BUILDING

Mr. ENZI. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 486, S. 1700.

The ACTING PRESIDENT pro tempore. The clerk will report.

The bill clerk read as follows:

A bill (S. 1700) to designate the headquarters of the Department of Housing and Urban Development in Washington, the District of Columbia, as the "Robert C. Weaver Federal Building."

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, I rise to speak in favor of the unanimous passage of S. 1700, a bill to designate the headquarters of the Department of Housing and Urban Development, located at 451 Seventh Street, SW, as the "Robert C. Weaver Federal Building." I am proud to offer my tribute to a brilliant and committed public servant the late Dr. Robert C. Weaver, advisor to three Presidents, director of the NAACP, and the first African-American Cabinet Secretary. He was also a dear friend, dating back some 40 years.

A native Washingtonian, Bob Weaver spent his entire life broadening opportunities for minorities in America and working to dismantle America's deeply entrenched system of racial segregation. He first made his mark as a member of President Roosevelt's "Black Cabinet," an informal advisory group promoting educational and economic opportunities for blacks.

I first met Bob in the 1950s when we worked for Governor Averell Harriman. He served as Deputy Commissioner of Housing for New York State in 1955, and later became State Rent Commissioner with full Cabinet rank. Our friendship and collaboration would

continue through the Kennedy and Johnson Administrations. By 1960, Bob was serving as President of the NAACP. President Kennedy, impressed with Bob's insights and advice, soon appointed him to head the Housing and Home Finance Agency in 1961—the highest Federal post ever occupied by an African-American.

When President Johnson succeeded in elevating HHFA to Cabinet level status in 1966, he didn't need to look far for the right man to head the new Department of Housing and Urban Development—Bob Weaver became the nation's first African-American Cabinet Secretary. Later, he and I served together on the Pennsylvania Avenue Commission.

Following his government service, Dr. Weaver was, among various other academic pursuits, a professor at Hunter College, a member of the School of Urban and Public Affairs at Carnegie-Mellon, a visiting professor at Columbia Teacher's College and New York University's School of Education, and the president of Baruch College in Manhattan. When I became director of the Joint Center for Urban Studies at MIT and Harvard, he generously agreed to be a member of the Board of Directors.

Dr. Weaver had earned his undergraduate, master's, and doctoral degrees in economics from Harvard; he wrote four books on urban affairs; and he was one of the original directors of the Municipal Assistance Corporation, which designed the plan to rescue New York City during its tumultuous financial crisis in the 1970s.

After a long and remarkable career, Bob passed away last July at his home in New York City. The nation has lost one of its innovators, one of its creators, one of its true leaders. For Bob led not only with his words but with his deeds. I was privileged to know him as a friend. I think it is a fitting tribute to name the HUD Building after this great man.

Mr. ENZI. Mr. President, I ask unanimous consent that the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill appear at this point in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill (S. 1700) was considered read the third time and passed, as follows:

S. 1700

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ROBERT C. WEAVER FEDERAL BUILDING.

In honor of the first Secretary of Housing and Urban Development, the headquarters building of the Department of Housing and Urban Development located at 451 Seventh Street, SW., in Washington, District of Columbia, shall be known and designated as the "Robert C. Weaver Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the