

Congress of the United States  
House of Representatives  
Washington, DC 20515-4304

STATEMENT OF  
REP. RALPH M. HALL

BEFORE THE  
SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE

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COMMITTEE ON  
ENERGY AND COMMERCE  
SUBCOMMITTEES:  
ENERGY AND POWER  
HEALTH AND THE ENVIRONMENT  
TELECOMMUNICATIONS AND FINANCE  
COMMITTEE ON  
SCIENCE, SPACE, AND TECHNOLOGY  
SUBCOMMITTEES:  
SPACE CHAIRMAN  
SCIENCE

Mr. Chairman:

Well, here we are once again. We have a new Congress and a new Chairman of this Subcommittee, but the issues and arguments remain the same.

I notice that the title of the bill we are discussing today is the "Common Sense Legal Reforms Act." You know, Voltaire once said that "Common sense isn't very common," and the state of affairs with regard to securities fraud litigation certainly proves he was correct. If most Americans were to listen to what Mr. Kimsey has to say, they would agree that the current system goes well beyond the original intent to curb securities fraud. Under the present regime, fishing expeditions are encouraged, legal shakedowns are rewarded, and the interests of the plaintiffs are often subordinate to the interests of counsel. When the Securities Exchange Act was written in the 1930s, I'm sure no one envisioned the kind of perverse reward system which is now in place.

This Congress needs to get Section 10 of the Securities Act back to its original intent -- to curb the use of deceptive devices or contrivances in the nation's securities markets. We all want to punish fraud where it exists. Unfortunately, the term "securities fraud" has become synonymous with losing money in the market. Losing money in the stock market is not a pleasant experience, but I don't believe, in the absence of genuine fraud, it should be against the law.

One thing that concerns me most of all is the fact that high-tech companies seem to bear a disproportionate share of 10b-5 suits. Why is that? Are these companies more likely to defraud investors than other companies, or is it simply easier to build a securities fraud case against a company which is involved in higher-risk markets such as computers and communications equipment? I suspect the latter to be the case, and if so, then I think we need to examine whether such a situation is really in the best interest of our national economy and investors. To put it simply, we ought to be looking at ways to encourage growth and capital formation for our high technology industries, rather than saddling them with lawsuits of a questionable nature.

Now, I'm a former trial attorney myself, and I recognize that investors need to have the option of a private right of action lawsuit if they feel they are the victims of fraud. It has been argued in the past that the Securities and Exchange Commission could not possibly police such a vast amount of transactions all by itself, even under the capable leadership of Arthur Levitt. I agree. But I think Congress needs to set some clear rules and procedures for 10b-5 suits so that meritorious suits can be separated from the frivolous. The bill introduced in the last Congress by Billy Tauzin laid the groundwork for a discussion, and I'm glad to see many of his ideas incorporated into H.R. 10.

In closing Mr. Chairman, I want to recognize the hard work of Billy Tauzin in pressing this issue for so long. I think we can discourage frivolous lawsuits and still protect -- if not enhance -- the interests of investors. Thank you Mr. Chairman.