HOUSE OF REPRESENTATIVES—*Monday, October 26, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We earnestly pray, O God, that out of the competing voices in our world, we will hear Your voice calling us to a unity of spirit and of mind. As we represent a diversity of ideas, so may we also share the bond of integrity and trust that is the mark of Your people. As truth is spoken through personality keep us ever aware of those values and goals that are our heritage. In Your name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 1366. An act to provide for the transfer of certain lands in the State of Arizona, and for other purposes.

The message also announced that the Senate had passed bills, a joint resolution, and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1397. An act to recognize the organization known as the Non Commissioned Officers Association of the United States of America;

S. 1748. An act to prohibit the import into the United States of all products of Iran;

S.J. Res. 194. Joint resolution to require a comprehensive review of United States policy and commitments in the Persian Gulf region; and

S. Con. Res. 84. Concurrent resolution relating to the transfer of Silkworm missiles by the People's Republic of China to Iran.

THE 1987 WORLD BASEBALL CHAMPIONS

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, they are dancing in the streets of St. Paul and Minneapolis, in fact, all over Minnesota and beyond, as the Twins blew the lid off the Hubert H. Humphrey dome in the great World Series of 1987.

Certainly, we Members of Congress from Minnesota and beyond want to offer our hearty congratulations to a great team, a team of history, led by Coach Tom Kelly, and certainly the wonderful fans, and what a gang they were.

The St. Louis Cardinals did their best. They made us sweat. But out came those homer hankies and they did the rest. We cheered them on and they met the challenge, and today we hail the Minnesota Twins as the world champions. At this time, I would like to share with my colleagues two odes to the Minnesota Twins:

THE STORY OF THE TWINS

There once was a team,
Well-known at home;
Men who played baseball
In a place called "Humphrey dome";
There they were, all fit and ready;
Baylor, Straker, and Smalley,
Hrbek and Gaetti;
Playing to win and playing for fun,
Knocked out Detroit, now Cardinals were on the run;
Deserving respect and looking for their share,
Puckett and Gladden in outfield, pitcher: Juan Berenguer;
Working hard winning the best of seven,
Viola, Reardon, and Laudner, Gagne and Blyleven;
Off to a fast start by the end of game one,
The score was Twins 10, St. Louis 1;
Making the grade and earning their fame,
End of the second game, the winners: the same;
The Cardinals fought back hoping the Twins were done,
But back in Minnesota, it was the Birds on the run;
There was no doubt the games were high stakes,
But St. Louis met its match,
In the "Land of 10,000 Lakes."

MINNESOTA VICTORY RAP

Well Kelly's men have won the games
Boogie, Juan, Boogie
The Twins scored more, there's none the same
Pitch it, Frankie, Pitch it
We watched the homer hankies wave
Grand Slam, Kent and Dan!
The Whistling Wives deserve to rave
So slide, Timmie, Slide
The fans—they broke the richter scale
Steal, Randy, Steal
and if the Cardinals' ball did sail
Say catch it, Bruno, catch it
The Terminator and the G-Men stomp upon the field of Red
As Kirby, Roy and Neuman romp
We saw the Bird was dead
And Sassy Bert dint let them run
say, Reach, Lombo, Reach!
And Humphrey saw us number one
We're not Twinkies anymore!
We've proved that we can score
Not Twinkies anymore
Better than Bunyan lore
Not Twinkies anymore!

THE TRAUMA CARE AND EMERGENCY MEDICAL SERVICES PLANNING AND DEVELOPMENT ACT OF 1987

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, on August 5, 1987, with Congressman HENRY WAXMAN as principal cosponsor, I introduced H.R. 3133, the Trauma Care and Emergency Medical Services Planning and Development Act of 1987.

Millions of dollars are wasted each year because accident victims do not receive the proper medical care. Medical complications and prolonged hospital treatment caused by inadequate trauma care constitute a major drain on our Nation's medical resources. Poor coordination, planning, and communication are the primary obstacles preventing injured Americans from receiving proper medical attention.

In my own district in San Diego County, trauma care centers were established 3 years ago. Since then thousands of lives have been saved due to the immediate attention that patients have received at these centers. H.R. 3133 represents a significant step toward the creation of effective, coordinated trauma care centers across the Nation.

I urge my colleagues to support this measure and make trauma care available to all Americans.

MR. GORBACHEV, STOP PLAYING GAMES

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, General Secretary Gorbachev's decision to link SDI and space defense once again with the INF Treaty is deeply disappointing. The entire world was ready for a summit and the signing of the INF Treaty but Gorbachev is stalling.

Did Gorbachev raise up the ante simply because he is lying about his true intentions? Does he think he can get more out of the United States because of President Reagan's recent troubles?

If anything, he has been playing games.

These and other questions will be answered in the next few days. Nonetheless, this about-face will undoubtedly be costly to the General Secretary's image as a peacemaker and a golden boy on the international scene.

A majority of the European Continent already mesmerized by Gorbachev will be undoubtedly less trusting of his intentions. What he has done is united critics of the President, like myself, and Europeans who have been suspicious of his intentions with a view that each initiative of his must be viewed with caution.

Mr. Gorbachev, do you want arms control or do you want to play games? You have made a major miscalculation and it is best for the entire world that you correct it.

CONTINENTAL ILLINOIS NATIONAL BANK AND TRUST CO. IS BACK IN THE NEWS

(Mr. ST GERMAIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ST GERMAIN. Mr. Speaker, Continental Illinois Corp.—the bank holding company for Continental Illinois National Bank & Trust Co.—is back in the news.

News reports suggest that the holding company has pumped millions of dollars into a subsidiary—First Options of Chicago, Inc.—that is a leading lender to stock options traders. The reports indicate the subsidiary may have lost substantial sums in the wake of last week's massive drops in stock markets.

The Banking, Finance and Urban Affairs Committee conducted extensive hearings into the multibillion-dollar Federal rescue of Continental Illinois in 1984. The Federal Government, as the result of that bailout, still owns 60 percent of the Continental stock.

Now we learn that this federally assisted corporation is off to new adventures in the options market—with disastrous results.

Mr. Speaker, this incident reminds us once again of the volatility of the stock markets, the difficulty of maintaining solid walls between subsidiaries in a holding company, and the ultimate role of the Federal Government in picking up the pieces.

Mr. Speaker, the regulators have a responsibility to protect the Federal Government's stake in Continental Illinois. We intend to find out what the rationale is for allowing the holding company to leap off into these risky uncharted waters.

TRADE DEFICIT: ONE OF THE CAUSES OF THE STOCK MARKET CRASH

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks, and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, Minnesota is not the only team that has twin hitters. Washington does as well, the twin hitters of the budget deficit and the trade deficit.

I hope in your meeting today with the President that discussion is focused upon the trade deficit as well as the budget deficit. A national energy policy could address both. A national energy policy where America becomes energy independent would save our Nation about $40 billion annually in imported oil costs. It would save about $12 billion in Federal budget deficit costs that are now paid for farm price support payments, and for storage on farm products that are in surplus. That surplus could be converted into energy, thus creating a new market for farmers and simultaneously reducing the budget deficit.

Mr. Speaker, thank you for your leadership, and I look forward to hearing a report of your meeting at the economic summit with the President.

□ 1210

CONGRATULATIONS TO THE MINNESOTA TWINS

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, less than 2 weeks ago I came to the House floor and predicted that the Twins would make believers of fans all across the country. They did.

The Minnesota Twins met the odds. Just 6 months ago the odds were 150 to 1 against the Twins winning the World Series. Just 2 weeks ago the Detroit Tigers were favored to win the American League pennant, and in besting the St. Louis Cardinals, the Twins again beat the odds to become the only team ever to win the world title with four victories at home.

The Twins did what many said could not be done. We congratulate them and we thank them.

Minnesotans are not used to winning the big ones. In sports and in politics we have been close, we have been contenders, we have played well, but the big win has always eluded us.

The Minnesota Twins are now baseball's world champions. Thanks, Twins, we needed that.

REPORT ON H.R. 3545, OMNIBUS BUDGET RECONCILIATION ACT OF 1987

Mr. FOLEY, from the Committee on the Budget, submitted a privileged report (Rept. No. 100-391) on the bill (H.R. 3545) to provide for reconciliation pursuant to section 4 of the first concurrent resolution on the budget for fiscal year 1988, which was referred to the Union Calendar and ordered to be printed.

CONGRATULATIONS TO THE MINNESOTA TWINS (WASHINGTON SENATORS)

(Mr. RHODES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, my two colleagues from Minnesota have spoken to us about the success of the Minnesota Twins last night in winning the World Series and ending the longest drought in baseball history between World Series victories.

I think it is important to note for the record that in fact the baseball team that won the World Series last night was the Washington Senators, thereby ending really the longest drought.

And as I, a lifelong fan, Mr. Speaker, of the Chicago Cubs, the team which now owns the longest drought between World Series victories, I am looking forward to 1988 and to the opportunity to stand here in the well of the House 1 year from now and to congratulate the Chicago Cubs upon their victory.

But I do join in congratulating the Washington Senators, sometimes known as the Minnesota Twins, for their great victory last night.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON GOVERNMENT OPERATIONS

The SPEAKER pro tempore (Mr. RICHARDSON) laid before the House the following communication from the chairman of the Committee on Government Operations:

COMMITTEE ON
GOVERNMENT OPERATIONS,
Washington, DC, October 20, 1987.

Hon. JIM WRIGHT,
The Speaker, The House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have previously notified you of the receipt of a subpoena issued by the United States District Court for the Western District of Missouri. The subpoena calls for testimony and the production of documents relating to the nonpublic investigatory activities of the Subcommittee on Environment, Energy, and Natural Resources of the Committee on Government Operations.

After consultation with the General Counsel to the Clerk, pursuant to Rule

L(50) of the rules of the House of Representatives, I have determined that compliance with the subpoena would not be consistent with the privileges and precedents of the House. I, therefore, request that the General Counsel to the Clerk be authorized to seek judicial relief from the subpoena.

Sincerely,

JACK BROOKS,
Chairman.

CREDIT CARD INTEREST RATE CAP AMENDMENT

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

Mr. ANNUNZIO. Mr. Speaker, on Wednesday the Members of this body will have an opportunity to vote on my credit card interest rate cap amendment to H.R. 515.

This amendment will cap credit card interest rates at 8 percentage points above the yield on 1 year Treasury securities. The rate would be adjusted quarterly. If it were in effect today, the rate would be 15.03 percent. This amendment gives Members a chance to do something about high credit card interest rates. Consumers are paying tens of millions of dollars in excess interest charges as banks seek to make consumers pay for bank lending follies in the commercial and foreign markets.

While other interest rates have fallen, credit card interest rates remain high. Indeed, credit card interest rates in many cases are more than double the prime rate.

It is time to bring credit card interest rates down to a level where banks can profit, not profiteer. My amendment will do so.

American consumers overwhelmingly support a credit card interest rate cap. An NBC news poll showed that by an almost 4-to-1 margin, consumers want a credit card interest rate cap.

My amendment is supported by all major U.S. consumer interest groups: Consumer Federation of America, Consumers Union, U.S. Public Interest Research Group, Public Citizen's Congress Watch, and the American Association of Retired Persons.

Since this amendment is so important, I want to be sure all Members have a chance to examine it before the vote on Wednesday.

AMENDMENT TO H.R. 515, AS REPORTED, OFFERED BY MR. ANNUNZIO OF ILLINOIS

Page 10, after line 21, add the following new section:

SEC. 3. CREDIT CARD INTEREST RATE CEILING.

(a) IN GENERAL.—Chapter 1 of the Truth in Lending Act (15 U.S.C. 1601 et seq.) is amended by inserting after section 109 the following new section:

"SEC. 110. LIMITATIONS ON CREDIT CARD INTEREST RATES.

"(a) IN GENERAL.—During any calendar quarter, no creditor may impose a finance charge under any open end credit plan involving a credit card which results in an annual percentage rate greater than 8 percentage points over the yield on 1-year securities in the Treasury constant maturity series for the second month of the preceding calendar quarter.

"(b) CERTAIN PROVISIONS OF STATE NOTICE LAW SUPERSEDED.—Notwithstanding any State law which requires a creditor to provide notice to any person to whom credit has been extended before the creditor may increase the rate used to compute the finance charge imposed on such credit, a creditor may increase such rate for any calendar quarter by the amount by which the maximum allowable rate determined for such calendar quarter under subsection (a) exceeds the rate in the preceding calendar quarter.

"(c) STATE CEILINGS NOT SUPERSEDED.—Except as provided in subsection (b), this section shall not permit the imposition of any finance charges in excess of any limitation on finance charges determined under applicable State law.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 1 of the Truth in Lending Act is amended by inserting after the item relating to section 109 the following new item:

"110. Limitations on credit card interest rates.".

STRATEGY AND MILITARY EDUCATION: CONCERNS, TRENDS, AND UNANSWERED QUESTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. SKELTON] is recognized for 30 minutes.

Mr. SKELTON. Mr. Speaker, the frustrating experience of Vietnam probably affected the American military more than any other institution in our society. The United States committed its prestige, its resources, and its sons to a struggle for freedom in Southeast Asia that was ultimately lost. The strange fact about that tragic war was that the Americans who saw action in Vietnam won every battle they fought—from the Ia Drang Valley in 1965, to the Tet offensive in 1968, to the Easter offensive of 1972. And yet, the war was lost; American strategists struck out.

One of the fundamental causes of United States failure of Vietnam was the lack of strategic thinking on the part of United States military leaders that took place at the end of World War II. Simply put, strategic thinking atrophied after 1945. In many ways the legacy of Hiroshima and Nagasaki had convinced many leaders, both military and civilian, that the nuclear age had rendered obsolete the ideas and thoughts associated with classical military strategy. Sun-Tzu, Clausewitz, Mahan, and Mackinder had little to offer in the era of missiles and megatons, or so it was thought. Consequently the study of military history and military studies went into decline in the professional military schools of the United States—the Army, Navy, and Air War Colleges and the National War College. The bitter experience of Vietnam sent American military men back to the books. Complacency gave way to introspection and concern.

MILITARY EDUCATIONAL SYSTEM

Before describing some of the changes that have taken place at the war colleges since Vietnam, let me provide an outline of the military educational system as it stands today. The military services provide officers the opportunity to go back to school at various points during their careers.

At the first tier are those schools that provide junior officers further opportunity to refine the combat arms skills that they have practiced in operational units at home and overseas. For the Marine Corps it is the Amphibious Warfare School; for the Army, the various branch schools; for the Air Force, Squadrons Officers School; and for the Navy, the schools for submarine, surface, or aviation.

The second tier schools consist of the various command and staff colleagues that provide field grade officers the skills to work as staff officers. Each of the four services has its own command and staff college. They properly emphasize tactics, doctrine, and logistic support. A fifth school, the Armed Forces Staff College located at Norfolk, VA, prepares officers from each of the four services to work as staff officers on joint staffs, those staffs that include elements from more than one service.

The five war colleges—the National War College, the Industrial College of the Armed Forces, and the Navy War College, the Air War College, and the Navy War College—are the crown jewels of the military educational system. Their purpose is embedded in their name: They exist to study war. For 1 year, around the 20-year point in their military careers, the best of our senior officers are supposed to attend one of these senior service schools. It is here that we should expect to find the profound military thinkers of today and tomorrow.

All five colleges prepare students to participate in national security affairs. Four of the five, however, are specialized. Only the National War College, under the jurisdiction of the Chairman of the Joint Chiefs of Staff as part of the National Defense University, stresses "joint and combined high-level policy, command, and staff functions in the planning and implementation of national strategy." The Industrial College of the Armed Forces emphasizes "the management of resources." The other three war colleges stress service-specific themes in conformance with missions—either land warfare, naval strategy and operations, or air power.

Basic topics cover organization, roles and missions, doctrine, strategy, tactics, and logistics. Recent emphasis over the past few years has included joint operations and what is called operational art, that area of military operations between national strategy at one level and tactics at the other.

WAR COLLEGES CRITICIZED

Even before the end of the American involvement in Vietnam, dissatisfaction with the performance of the war

colleges was evident. Adm. Stansfield Turner, president of the Naval War College from 1972-74, instituted a far-reaching transformation of that institution. In a speech he gave shortly after arriving at the institution in July 1972, Admiral Turner charged the war colleges with "creeping intellectual divitalization." He believed that the schools overemphasized current events which would soon be outdated, offered too many lectures on too wide a range of subjects, failed to study any subject in depth, and needed a qualified faculty that taught. In effect he aimed to return the study of war, strategy, and operations to the heart of the institutions curriculum.

This is what he had to say about what a war college should aim to achieve:

War colleges are places to educate the senior officer corps in the large strategic and military issues that confront America in the late 20th century. They should educate these officers by a demanding intellectual curriculum. * * * Above all the war colleges should broaden the intellectual and military horizons of the officers who attend, so that they have a conception of the larger strategic and operational issues that confront our military and our Nation.

Elsewhere, Deputy Secretary of Defense William Clements formed the Department of Defense Committee on Excellence in Education in 1973. In addition to Secretary Clements the committee included the three service secretaries and the Assistant Secretary of Defense for Manpower and Reserve Affairs. Their charter was to look at the performance of the senior service colleges. A lengthy memo issued 2 years later repeated many of the same criticisms that Admiral Turner had enunciated when he took over the Naval War College.

In its final report the Clements committee directed the three war colleges to refocus two thirds of their curriculum to the study of warfare—land warfare by the Army War College, naval warfare by the Naval War College, and air warfare by the Air War College. The committee also advised the schools to improve the quality of the facility—by upgrading the career status of military faculty members, by reducing faculty turnover, and by hiring qualified civilian professors.

RECENT DEVELOPMENTS

Since the Turner "revolution" of 1972 and the work of the Clements committee in 1975, matters on the education front at the war colleges have not been quiet. To a greater or lesser extent all the war colleges have put the study of war and military history back into the war college curricula. Whether they form the heart of the curricula is another matter. Williamson Murray, an Ohio State University military history professor who has taught at the Naval War College, West Point, and the Air War College, contends that the colleges have too many courses in international relations, management, and the social sciences. In his opinion, war tends to be crowded out of the curriculum. This is less true of the Naval War College and more so, in varying degrees, of the others.

The enactment of the Goldwater-Nichols Department of Defense Reorganization Act in 1986 has spurred greater interest in military education. Title IV of the act, which deals with Joint Officer Personnel Policy, places greater emphasis on professional military education. The schools of professional military education, especially the command and staff colleges and the war colleges, are envisioned by the bill as playing a crucial part in promoting the concept of jointness—the integrated employment of land, sea, and air forces in military operations.

In response to the enactment of the reorganization act the Department of Defense has taken a number of actions dealing with the issue of professional military education. Retired Air Force Gen. Russell Dougherty, a former commander of the Strategic Air Command, chaired a panel to look at the matter of professional military education in joint matters. The panel submitted its recommendations in early May. The key recommendation calls for making the five war colleges and four service command and staff colleges joint schools by revamping their curricula and strengthening faculty.

Another effort concerns the teaching of strategy and foreign policy at the senior war colleges. Eugene Rostow, former head of the Arms Control and Disarmament Agency, and Dr. John Endicott, Director of the Institute for National Strategic Studies at the National Defense University were asked to look into this important topic by Dr. Fred Ikle, the Undersecretary of Defense for Policy, late last year. They submitted their joint report in June. They recommended that only probable candidates for promotion to general or admiral be selected to attend the war colleges, that faculties be strengthened, and that the war colleges give greater emphasis to the study of "grand strategy."

And just last month Lt. Gen. Bradley Hosmer, President of the National Defense University, submitted a lengthy memorandum to the Vice Chairman of the Joint Chiefs of Staff. In it, he set out in detail a proposed educational program to prepare officers for joint duty and the joint specialty as defined by the Goldwater-Nichols legislation. General Hosmer's effort, in essence, fleshed out the details of the general recommendations made by the Dougherty panel.

PAST AS PROLOGUE

Not too long ago the war colleges had to contend with institutional inertia, a nonintellectual tradition, and indifference among senior military leaders. The war colleges were a wasted resource. Such is not the case today. These various efforts—at the war colleges themselves, within the Pentagon, and on Capitol Hill—indicate that the matter of professional military education has taken a higher profile in the deliberations of policymakers.

Attention to such issues as faculty quality, course offerings, academic evaluation, student selection, length of study are just some of the topics military leaders are examining as a result of the Goldwater-Nichols legislation. These matters need to be addressed in such a way as to ensure the formation of military leaders steeped in the knowledge of strategy and military history.

Teaching, similar to any other skilled job, requires both knowledge and experience. Here are some questions that need to be looked at during this period of examination. First, is the present policy at some of our war colleges to appoint military instructors for a 2-year period enough time? If not, what are the consequences of increasing the time from 2 years to 3 or 4 years? Second, which is better for the development of the well-rounded senior officer, the Naval War College's emphasis on a few core subjects or the philosophy of some of the other war colleges to emphasize a broader range of subjects—for example, in economics, politics, and international relations? Third, what should the war colleges devote more effort to, matters to be learned or ways to think? And fourth, in this era of greater attention to joint operations, do we want all five war colleges to produce joint specialists or is it sufficient to produce officers from the three service war colleges having just a greater awareness of joint issues? These are just some of the difficult questions that need to be examined, questions that will require tough choices in the near future.

Admiral Nimitz once remarked that the Pacific campaigns of World War II were won in the gaming studies of the Naval War College in the 1930's. There can be no doubt that the future of our country's role in the world, and the military-political policies that we formulate, will be decisively influenced by the educational programs of our senior war colleges.

This return to fundamentals cannot succeed, however, unless there is strong support from the Department of Defense, the Joint Chiefs of Staff, and the individual services. Congressional interest is important, and thus, Congress has an important role in promoting support for proper military education. Both civilian leaders and military leaders working together will determine the future caliber of our military educational system, which is the basis for future strategic thinking.

This concludes the second of five speeches I will give on the topic of strategy and military education.

□ 1225

FINAL REPORT ON THE DEFENSE OF THE PRIVILEGES AND IMMUNITIES OF THE HOUSE AND OF MY OWN INTEGRITY AND HONOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise by way of summing up and wrapping up what I have called my final report on the defense of the privileges and immunities of the House and of my own integrity and honor.

Previously, in the months of July and August, I had spoken about the fact that being accused, and I can say by way of parenthesis to my colleagues that there is no worse or more awesome experience than to be falsely accused; it is not the first time this has happened to me as I have ventured into politics and have held politically elective office since 1953 and, in fact, it was in my second year as a member of the city council of San Antonio that an abominable attempt was made to, in the words of the city attorney at that time, to "scare that little Mexican off the city council"; and inclusion with one of the powerful daily newspapers at that time would have succeeded for I was alone, relatively powerless; the only member of Mexican descent on the city council at that time was a breakthrough so to speak and the attempt might have succeeded for frankly I had never envisioned happening what did happen as I assumed that office on May 1, 1953.

And, of course, the following 2 years were, in the words of a local political historian, the most turbulent, the most disorderly, the most passionate in the 20th century of municipal history of the city of San Antonio. And that is saying a lot, because San Antonio has a most colorful history. But it so happened that what it did was anger me to think that my name, which is all I have ever had and have now for after 35 years, almost, in public elected office I have no more, no less, wealth than I had when I started out. I am not richer, I am not poorer.

And literally by standards accepted today, I am poor.

But I never had any confusion in that respect. So the only thing I have been so sensitive, as in the defense of my country, I am willing to die in defense of my honor because that is all I really have. And I made up my mind when, not having planned it, I entered into politics that that was one thing I would never accept as a price for political office-holding or, for that matter, any other type of office, private or public.

So that when last year on December 4, as was my custom, in fact, that was the fifth morning in a row that I had had a breakfast meeting with constituents at a very prominent, very historic restaurant which I have been patronizing for over 40 years, Earl Abel's, and having as my guest a veteran retired Army sergeant major who had served heroically in Korea and in Vietnam, who had retired on October 16 last year at a retirement ceremony at Fort Sam Houston, which is in the middle of my district, but since we were closing out the 99th Congress, I had to be here and I could not attend there.

So I finally arranged to have breakfast with him so I could present to him a memento from his Congressman as testimony to his heroic, his loyal, his outstanding service as a really heroic serviceman in the service of the U.S. Army.

He was with his brother who happens to be a staff member on my San Antonio staff, a young attorney, by the way.

We got there at 8 a.m. in the morning. At about 9:30 the conversation had been so interesting and I listened to what he had to say, the sergeant major, that is, that before we realized it was 9:30 and the dining hall was empty. When at 9:30, exactly three individuals walked in from the other side of the dining room and out of 20 tables picked the one right next to the table we were sitting at. Immediately I heard some mention of my name, "Henry B." and I heard the word "communist." But two waitresses had come up and had diverted my attention by asking for advice. One had a very serious problem. Her mother had just been determined to have Alzheimer's disease. The nursing home was wanting to kick her out. She and her husband, who are really submarginally employed, had just been handed a $10,000 bill by the doctor and they needed help.

□ 1240

However, we were discussing it there and found that she did not live in my district, so I gave her all the information as to my next-door neighbor's office and how to get hold of his assistants in San Antonio, and over that conversation I heard this, but naturally I was not aware that it was being directed to me at that point. However, my aide did, and I heard him say, "Look, mister, you're all wrong."

But again the second waitress came up and asked me another question relative to her son, having to do with a case that I had been dealing with her on for more than 3 years.

So to make a long story short, because to a certain extent when I got up, this was the first time and only time there was discussion on this, and this came out after the judge in whose court the case had been filed—and unbelievably, it was on the county level, a district attorney case, and there is not a case of this nature that ever gets to that range. These cases go to municipal or police court or to a justice of the peace at the worst.

However, it seems to me that even then it was difficult to believe and it was strange that at 9:30, out of 20 tables to pick from, three men would seek to be seated right next to our table. But the thought did not occur to me in a serious vein until the next day when the newspapers reported the incident.

Now, I think the main thing to point out is that the newspaper account was from the individual who was involved in this altercation. It was his account because he is the one that went to the newspapers. But it was not until 3 days after that account that the story that he initially gave was changed somewhat.

Mr. Speaker, I am going to place into the RECORD a story that appeared in the press. This was 3 days after the event was placed on the wire by UPI and circulated outside of San Antonio and printed in the New York Times on December 7, because it is a very good example of the outright distortion and falsification of the event that was never, never corrected by the newspapers, either locally or outside, with the exception of one which is not a daily newspaper but a weekly newspaper and published outside of San Antonio, TX. So at this point I would like for the RECORD to show how distorted this report was, and that it never was corrected.

The newspaper account is as follows:

[From the New York Times, Dec. 7, 1986]

CONGRESSMAN, 70, RESPONDS TO A BAR CRITIC WITH HIS FIST

SAN ANTONIO, December 7.—Representative Henry B. Gonzalez, a Texas Democrat who is 70 years old, responded in a bar to a man who called him a Communist by punching him, and the man said later that he was too shocked to do anything but sit there.

"If I wanted to cold-cock him, I could have," said Mr. Gonzalez, admitting he had "clipped" Bill Allen, 40, in a San Antonio restaurant at 9:30 A.M. Thursday. Mr. Gonzalez added that he had placed second in boxing at the University of Texas in 1937.

Mr. Allen, who had a black eye and a cut over his eyebrow, said Friday he planned to file charges.

He said Mr. Gonzalez approached his table after a conversation between Mr. Allen and two friends apparently was overheard.

"He said, 'Did you say I was a Communist?'" Mr. Allen said, "and I just looked him right in the eye, and said, "Yeah, in my opinion, you're a Communist.' He just went to shaking."

He said that then as Mr. Gonzalez drew back, "I knew it was coming, but I didn't believe it."

Mr. Allen said he was "absolutely shocked" by Mr. Gonzalez's response, and

remained seated. "The way I was raised, there's two things you don't do," he said. "You don't hit a woman, and you don't hit an old man."

Mr. Speaker, if I had known at the time who it was that had directed these men to that table, I would have known immediately that it was a setup, because in the employment there at Earl Abel's there are several employees who have been very hostile because they have belonged to some of the local extreme groups, some of them having an association with the so-called Aryan Brotherhood, which incidentally has been holding maneuvers of a military type in an adjacent county, and the accuser in this case, the one who actually made the remarks, is actually involved actively with that kind of group, including that of an acquaintance with the police officer, Smith, who was killed by another police officer, Tucker, in San Antonio, giving rise to one of the most publicized cases in the whole country, if not internationally, and which incidentally resulted in the accused officer having been absolved. But the officer who was killed was involved with some of these groups. When the police went to his household, they discovered a literal armament.

Now, in our part of the country that has been going on for some years. We have had groups that have paramilitary practices, going back as far as 1961, in which they have even used machineguns and automatic rifles, in one case the recoilless 90-millimeter rifles. This is heavy equipment, this means heavy business, and this is a paramilitary group that identifies with what some people call the extreme right wing but which actually gives us examples of the thinking of groups that we have always had in our society, as our history will show.

In any event, nobody seemed to think that it was much, even by this accuser's account, because his first version was: "Well, the old man can't hit. I was surprised he would strike me." He kept saying these things, and he changed his story later on to say that I had left the restaurant and had reentered, which, of course, is a base lie. However, the newspapers to this day and the columnists in San Antonio will still write as if that was a fact.

I must point out that the reason this version came out was that this man was the one who went to the newspapers to report it. What actually happened was that when I got up, realizing that it was almost 10 a.m. and I had to be in the office because I had an appointment, I heard loud and plain the charge, "This is the No. 1 leading damned Communist around here." At that time my two guests had reached a point that they were 3 yards across the entrance leading to a little passageway leading to the cashier. So I went up to them and said, "I'll pay the check in a minute."

I had picked up the car keys and the bill was in my left hand. So certainly if I had had any intention of striking anybody, I certainly would not have gone about it in that condition.

So I thought I would ask this group, "What brings this up? Why are you yelling in such a manner? Why are you obviously attempting to create some disorder?"

Two of the men shook their heads negatively and said, "We didn't," and this one, Clint Eastwood style, looking down and holding on to the table's edge, not eating, said, "I did, because you are the No. 1 damned leading Communist."

So with that I said, "Look, get up and look me in the eye."

Then I noticed that he had a hunting knife in his scabbard. Under Texas statutes, it is a felony to carry that type of a knife in a public place. It was what we used to call a deer-gutting knife. When my brothers used to go deer hunting, they would have one. And this was in excess of 9 inches.

However, as I approached him and got closer, I noticed in his left pocket he had one of these new dangerous, deadly so-called plastic guns. Now, when I say, "plastic," I do not mean a toy gun. The plastic that is being developed nowadays is the kind of plastic that is being used to build automobiles. It is as hard as steel. It is dangerous, it is murderous, and I saw it.

When I said, "Stand up and look me in the eye," he pushed back again Clint Eastwood style, like you see in the movies when you see the quick draw and all of a sudden he has gunned down eight people. He dropped his hand to the scabbard and his left arm to the pocket. I then hit him on the right cheek. I did not punch; I pulled my punch because I did not want to hit him at any other than that which would cause him to restrain that movement of moving toward that knife. But at that same moment, as he started to continue, the sergeant major came up and grabbed me by the shoulder and said, "Congressman, you don't need any of this."

When this man saw the two friends coming up, he then stayed sitting. But I am sure that if he had not been there, I would have had to have proceeded further in defense of my own personal safety.

I have been exposed to dangers. I have been fired at; I have had knives pulled on me. I was chief juvenile probationary officer for Bexar County after the war, exactly 40 years ago, 43 years ago, 41 years ago, and I have had experiences and have had exposures to violence. I have had men killed right 3 yards from where I was at one of the nicest dances and social events anybody could have ever thought of. So violence is part and parcel of our day and time. When you are so inured to our public life, you know that the unexpected is the thing that you can expect.

But in this case it was not any other thing than the fact that he made the draw that led me to punch him on the right cheek. There was no way I could have hit his left eye because I came up on his right side. He never looked up at me.

Second, there was no way I could have cut his face, for I wear no rings. Yet to my astonishment the newspapers printed—and this was 4 days later—that he had been given a black eye that nobody has ever seen. There was no witness to the fact that he had a black eye because he hid out for 10 days. But in the meanwhile two very, very loud radio talk shows that are extremist to say the least picked him up and decided to push his case.

Also in the meanwhile nobody was calling me to find out the exact sequence of events, even though one of the reporters had talked to the two witnesses who were with me, and both had said that the man had this kind of a weapon on him, that is, the knife, because actually it was not until I was right by him that I noticed the gun. But the knife was obviously visible to anybody who was in that room.

So the fact was that it was early in the time that I could see the contentiousness of this. The two witnesses that came in with the accuser never uttered a word. The newspaper never, never mentioned their names. On the other hand, they repeatedly printed the names of the two guests I had with me. They even quoted the accuser as having referred to them as "goons."

So we will go into more of that as we go into the future, because they are private individuals. They are not public officials, and both the radio stations, as well as the press, might have to face something there in the way of accountability. What I am saying is that there was no question that it was a setup.

What could not be understood, even in the beginning month of January and then in February, when the new district attorney took office, was why there was any question about it, and in the meanwhile it was not until after March 5, which is when I introduced the impeachment resolution of President Reagan, that there was any kind of a pattern in the newspaper reports emanating from and quoting sources from the district attorney's office, mostly sustaining either the statements of the first assistant or one of the subalterns, one of the assistants. Now, who would conceive that anybody speaking in that capacity would not have been speaking with the direct consent and instruction of the chief himself, the district attorney?

Then the district attorney in April decided that he would call some friends, and then he would call my son, who is an attorney, and would say, "Look, I'm under terrible pressure by the newspaper to do something about this case.

"Give me something that I can hang my hat on." This was his quoted expression with three different individuals, including my son, that he spoke with.

So in the meanwhile here I am wondering why it was that there was no contact either from the police or from the district attorney's office contacting me to get a written statement. So finally, the second time that district attorney called my son, I asked my son, I said, "Look, I think the point has been reached where we ought to have counsel. We have got to have somebody that is going to have to be prepared here. I don't want to get sandbagged."

□ 1255

After all, I have been sandbagged and attempted to be sandbagged all through the years I have served in public office from the San Antonio area.

I do not know how different it is in San Antonio from any other jurisdiction. All I know is that I have always had my guard up.

There have been repeated attempts to try to find something on me, as one former mayor said, "What can we get on him?"

They have delegated the chief of detectives on one occasion, and that was the second year in the county I spoke of.

They had four different detective agencies through the course of the years working on that. In each case there was no question about it because first I was born and have lived in San Antonio all along, and I have never been arrested for anything even though I grew up in a very, very troubled and difficult area where every one of my playmates that I started out with ended up having a record of some kind or another.

I might say that I was the only one in a 3-mile radius of there that ended up in finishing high school in the 1930's. I had to fight even then because one cannot stick out like a sore thumb too much in anything, and I think my colleagues here are quick to realize the significance of that statement.

To make a long story short, the district attorney filed charges almost 6 months after the incident. He filed what we define in Texas as a class A misdemeanor because that is the only basis upon which he could hold jurisdiction on a county level.

In order to do that they would have to strain quite a bit. They would have to allege actual physical harm.

The individual said he had been hit in the eye, which was not true. That was lie No. 1.

Lie No. 2, 1 month after the event he tells one of the reporters on the phone, because no other witness ever saw him when he had a black eye, even after 10 days when he finally went to file charges which in themselves was unusual.

It started with the police who took the charges. Let me say that never, by their own admission have they handled that kind of a case that way, by their very own admission, the very police officer that took that complaint told me that he saw nothing on his face.

This was 10 days after the affair. Exactly 10 days.

Yet when I said that if the police are going to take the complaint, I want to file a complaint also for his carrying a prohibited weapon, which is a felony in Texas.

The police officer said, "Oh, no, I cannot do that."

I said, "Why not?"

He said, "Well, too much time has gone by."

On the other hand, it was the same transaction, it was the same day, the same event.

So that actually there was no question that it was a setup.

When I took the floor under these orders, though I could have done it on a point of personal privilege, since when the case was filed it was filed in one of the few, and one of the newest, Republican judge's courts. That is the way he defined himself. He never said that he is just a judge, he is one of what he calls Republican judges. He had on prior occasions when he worked for the district attorney himself in years past manifested bias and prejudice against me as a public official even then.

So what a coincidence that the case would be filed there. The district attorney by his admission said that he was goaded into filing because I had called him a coward, a moral and political coward.

Why did I do that? Because that is exactly what he was revealing himself to be to everybody that he discussed the case with.

He himself intervened and dealt with the accuser, and not one time did he even have his assistants or investigators talk to me. Yet, he had his investigators going out publically saying that if anybody wants that Congressman brought in handcuffed, dead or alive, I am the man to do it.

Now, that never has been explained or clarified for me. I think that is pretty bloodthirsty language and I think coming from that source and from a superior who is saying that he is handling the case objectively, that it calls for accountability. But then in April, that began what turned out to be a steady drumbeat of reports emanating from the reporters in the courthouse, with pictures and all, saying that this is a serious case, we are looking into it still, and so on. However, we have all the makings of a serious case and it looks bad, and so on.

But in the meanwhile, nobody had gotten our side. Nobody had called. Nobody had requested us to respond to questions.

Finally, one of the assistant district attorneys who was a personal friend of my son, called my son and said, "Why not get sworn affidavits from your father and the two men who were with him and bring them to me?"

My son did that. Yet, when the district attorney filed charges, he said, and he was quoted in the newspaper as saying, "I never heard from Gonzalez."

Given that scenario, should it be any wonder that the judge then begins to have press conferences saying that this looks like a case that is going to require a bigger chamber than the one I preside over so I am making arrangements to borrow a hearing room from one of the district judges that will be going on vacation this summer.

Now, why that?

Then the next thing, 2 days after the filing he announces a gag order. It is unprecedented anywhere that we could find by our research, in Texas or American Corpus of Precedents and Jurisprudence that such an order has been issued on a misdemeanor level.

This was ironic, since the most publicized, the most passionately discussed case had just been completed and that was the homicide involving police officer Tucker who killed police officer Smith in what he said was self-defense but which was enshrouded in all kinds of mystery, and it was publicized and nobody was suggesting, the judge or anybody else, that there be a change of venue because of undue publicity.

Suddenly, here is this judge, Timothy Johnson, saying "I am going to move this trial, and in the meanwhile I am issuing a gag order prohibiting the parties involved from speaking."

In the meanwhile, the judge forgot that in effect he was invading the constitutional prerogatives of the U.S. House of Representatives. That is when I took the House floor.

Now, my colleagues, I think that I would be remiss if I were to take the time and the privilege of what we call special orders and not do it under personal privilege which I could have done today, I could have done that easily. Still I was criticized. I was venomously attacked through cartoons, editorials, columnists in both newspapers in San Antonio for having taken special orders. They pictured it as defiance of the gag order.

It was no such thing. It was merely saying the judge has not read the Con-

stitution, he is overreaching his judicial power, he is invading the prerogatives and immunities of the U.S. House of Representatives as reflected in article I, section 6 of the U.S. Constitution, and I am not going to let him set a precedent.

How important was that? My colleague, the gentleman from Tennessee [Mr. FORD] was under charges in his home State and he had said that the political forces of the Republican administration in his State were trying to get at him.

The judge in his case, was a Federal district judge. The charges were felonious in nature. In his case the judge issued a gag order.

□ 1305

It was our pleadings that we drew up later that set the precedents that led to the appellate court, the appellate jurisdiction in Tennessee to absolve that order, using almost the same language that we did in what we called our recusal motion, which incidentally I was pleased in having two of the most exceptional, fine gentlemen lawyers in the whole United States or in any jurisdiction, Mr. Pat Maloney, Sr., and Mr. Jack Paul Leon, great individuals.

Mr. Speaker, I include in the RECORD this motion for recusal, because it is historical, it is ironic that in this year we are celebrating the writing of the U.S. Constitution I should have been put and singled out to defend that which only the Constitution has been able to give us.

The document referred to follows:

THE STATE OF TEXAS v. HENRY B. GONZALEZ, SR.

[In the County Court at Law No. 5, Bexar County, TX, No. 389448]

MOTION FOR RECUSAL OF TRIAL JUDGE

To the Judge of Said Court: Comes now Henry B. Gonzalez, Sr., Defendant in the above styled and numbered cause, and respectfully moves Timothy F. Johnson, the Judge of said Court, to recuse himself from further proceedings in this cause, and to permit the parties to attempt to agree upon a special Judge to try and to hear all pending matters in this cause in accordance with the provisions of Article 30.03, Texas Code of Criminal Procedure. In support of this motion, the Defendant, Henry B. Gonzalez, Sr., would show the Court that the said Timothy F. Johnson has a personal bias and prejudice as against the Defendant, such that his impartiality might reasonably be questioned. More specifically, the Defendant would show the Court as follows:

1. The Defendant is a prominent member of the community in San Antonio and is a member of the United States House of Representatives, where he has served for approximately twenty-six years. In addition to lengthy and faithful service on behalf of his constituents, Henry B. Gonzalez, Sr., has not been afraid to take a stand, regardless of whether that stand was popular or unpopular with regard to the party in power. He is a life-long Democrat, and as such, has been frequently at odds with the present Ronald Reagan Republican administration, as well as with prior Republican administrations.

2. Judge Timothy F. Johnson is a Republican. He was elected as a Republican in the general election of 1986 in a county-wide election. In that election, his primary support came from the northern portions of Bexar County, which are predominantly Anglo. Congressman Gonzalez, however, represents a district which encompasses only a portion of Bexar County, and is populated primarily by persons of Mexican descent. Congressman Gonzalez is himself of Mexican descent. Judge Timothy F. Johnson is Anglo, and though elected to a county-wide office, can fairly be said to have received the major portion of his support other than from the area of Bexar County comprising Congressman Gonzalez' district.

3. While Congressman Gonzalez is well thought of within his district, and has consistently been re-elected every two years in the general election, he has fierce critics, both in Bexar County and nationally, with such critics being primarily members of the present national Ronald Reagan Republican administration, as well as fierce critics within the local, Bexar County Republican party and within the northern portions of Bexar County, from which Judge Timothy F. Johnson drew his primary support in the general election of 1986.

4. Heretofore, Judge Timothy F. Johnson has attempted to prevent Congressman Gonzalez from carrying out his duty to his constituents, and to explain the nature of the present cause, which is surely a matter of relevance and importance about which his constituents should be informed, and about which he should be entitled, as a public figure, to comment, in order to counter-act the falsehoods and misinformation which has been disseminated in the local Bexar County media, and by the Bexar County Republican establishment, by ordering Congressman Gonzalez not to comment publicly upon the case. As a consequence, Congressman Gonzalez has been faced with false accusations in the media to which he cannot respond, and thus, his constituents have been forced to rely upon false and misleading media reports, and as such, have been denied the right guaranteed to them under the First Amendment to the Constitution to receive information concerning their elected Representative, so that they may fairly determine whether his conduct is such that he merits their continued support.

Notwithstanding Judge Johnson's efforts to deprive Congressman Gonzalez' constituents of the truth concerning the incident giving rise to this cause, Congressman Gonzalez, in the exercise of his privilege to speak freely from the floor of the House of Representatives of the United States, has addressed the incident giving rise to this cause, and has spoken the truth concerning the matter, as was not only his right but his duty with respect to his constitutents, because his constituents have a right to be informed as to the actions of their elected Representatives in Congress. Notwithstanding Congressman Gonzelez's exercise of his right and of the right of his constituents to be informed, and notwithstanding the 200-year old provision in the Constitution permitting him to do so, the lawful exercise by Congressman Gonzalez of his right and the right of his constituents to be informed has infuriated and enraged Judge Timothy F. Johnson who, being a Republican and dependent upon a constituency primarily hostile to Congressman Gonzalez, has taken steps to deprive Congressman Gonzalez of a fair and impartial trial in the County in which he has resided during his entire life.

5. Specifically, Judge Timothy F. Johnson has entered an order, without hearing evidence, and without any semblance of due process, stating as fact (yet not based on any evidence, and without request either of the Defendant or of the State) that, "It appears to the court that a trial, alike fair and impartial to be accused and to the State, cannot be had in this county." (See Order of July 31, 1987). That such an order would or could have been entered without the slightest evidentiary basis and without motion made either by the State or by Congressman Gonzalez, in and of itself, demonstrates a bias, hostility and prejudice on the part of the Judge of this Court such as to require his recusal.

6. The Texas Court of Criminal Appeals sitting with all judges present, as is done for cases of special significant rather than in the usual panel of only three judges, has held that requiring a defendant to proceed to trial before a judge who has a bias or prejudice such that his impartiality could reasonably be questioned constitutes a violation of the right, not only of Congressman Gonzalez, but of all citizens of the State of Texas and of the United States, to due process of law such being guaranteed under the provision of the Fifth and Fourteenth Amendments to the Constitution of the United States and the provisions of Article 1, Section 19 of the Constitution of the State of Texas. See McClenan v. State, 661 S.W.2d 108 (Tex. Crim. App., 1983, en banc). The case before the Court is not merely one in which a Democrat is appearing before a Republican judge.

Congressman Gonzalez is no ordinary Congressman. Recognizing that President Ronald Reagan has enjoyed extreme popularity nationwide, and that President Reagan was elected in two landslides, Congressman Gonzalez has nevertheless had the courage to stand up and to attempt to tell the people of the United States that President Reagan is wrong, and showing the courage of his convictions, and willing to take an unpopular stand for what he perceives to be the best interest of the country which he loves so much, Congressman Gonzalez has even offered a resolution within the House of Representatives calling for the impeachment of President Ronald Reagan. As would be expected, taking on the power of the presidency and the power, might and money of the Republican party has not won the Congressman any friends in either the Reagan Administration or within the Republican party, and especially so in the Republican strongholds of northern Bexar County, Texas.

As such, he has become a target of right-wing extremists, the John Birch Society, and other hate groups who have embarked upon a "holy war" to remove him from office and to discredit him, by any means available to them. Given that Judge Timothy F. Johnson was and is dependent upon the same Republican party for his electoral as well as his financial support, his ability to be fair and impartial would naturally be called into question. But, more importantly, Judge Timothy F. Johnson has himself demonstrated that his actions in this case so far, although ostensibly done for the protection of the rights of the party to this case, have in fact been done with a view to, and have had the effect of prejudicing Congressman Gonzalez in the preparation and presentation of his defense.

Specifically, although Judge Johnson has attempted to gag Congressman Gonzalez and to prevent him from communicating with his constituents, the Judge himself has not felt himself bound by any such "gag order" and has commented freely upon this case to the media. Surely, if Judge Johnson were intent upon insuring a fair trial, he would not enter an order attempting to restrict Congressman Gonzalez from informing his constituents, and thus depriving his constituents of their right to information, but, at the same time, freely commenting upon this case in the media.

7. The pinnacle, however, is demonstrated by Judge Timothy F. Johnson's entry of an order finding without hearing any evidence, that the State and the Defendant could not receive a fair trial in Bexar County, without even being asked to do so by either the State or Congressman Gonzalez!

8. The right to a trial in one's home area (called in the law, the right to trial in the vicinage) is, like the privilege of free speech upon the floor of the House of Representatives, as old as the Constitution itself, which provides, in Article III, Section 2, that criminal trials shall take place in the State where the offense is alleged to have been committed, and in the Sixth Amendment to the Constitution which provides that all persons accused of criminal offenses have the right to a speedy and public trial by an impartial jury of the State and district wherein the crime is alleged to have occurred.

9. The Courts of Appeals for the United States have recognized that the right to trial in one's home area (or vicinage) is an important right of a defendant, and that "Venue requirements are imposed to prevent the government from choosing a favorable tribunal or one which may be unduly inconvenient for the defendant." United States v. Rivera, 388 F.2d 545, 548 (2nd Cir. 1968). The United States Court of Appeals for the Eleventh Circuit has recognized that the right to trial in the vicinage is intended to reduce the difficulties to a defendant that would be caused by trial at a distance from his home and friends as follows:

"The venue provisions also seek to avoid the prejudice to a defendant's case that might result from facing trial in a place where it would be difficult for him to obtain witnesses in preparation for trial. Lastly, since most crimes usually take place in the district where the defendant resides, the venue provisions try to reduce the difficulties to the defendant that would be caused by a trial at a distance from his home and friends." United States v. DiJames, 731 F.2d 758 at 762 (11th Cir. 1984).

Further, the United States Court of Appeals for the Second Circuit has recognized that the right of trial in the vicinage exists for the very purpose of guaranteeing to a defendant in a criminal case the right to be tried where he is known. In so holding, the Court stated: "One (purpose) although by no means the only purpose of the insistence on trial in the vicinage both in Article III, § 2 and in the Sixth Amendment must have been to entitle a defendant to trial where he is known * * *" United States v. McMann, 435 F.2d 813, at 817 (2nd Cir. 1970).

No fair and impartial judge would, without hearing evidence and without having been requested to do so by the State, unilaterally seek to deprive a defendant of his precious right to be tried in his home area. Yet, given the background of Judge Timothy F. Johnson as a Republican, and his rage and displeasure at Congressman Gonzalez' efforts to inform his constituents so that they can freely judge his conduct and intelligently exercise their right to vote, cannot fairly and impartially sit in judgment in this cause.

10. The First Amendment rights of free speech and free press protect not only the right of the citizen to speak and be heard, but just as importantly, protect the rights of the citizenry to receive information and ideas. e.g., Stanley vs. Georgia, 394 U.S. 557, 564, 22 L.Ed. 2d 542, 89 S.Ct. 1243 (1969); Griswold vs. Connecticut, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed. 2d 510 (1965). As the United States Supreme Court stated in Griswold vs. Connecticut, supra: "The right of freedom of speech and press includes not only the right to utter or print but the right to distribute, the right to receive, the right to read. . . ."

Thus, when Congressman Gonzalez is deprived of his right to inform his constituents and to explain to them his conduct, not only is his right of free speech abridged, but more importantly, the First Amendment right of his constituents (the 526,000 citizens of the Twentieth Congressional District of Texas of which 62% are of Mexican descent) to receive information has been abridged and denied. Thus, Judge Johnson's attempt to silence Congressman Gonzalez has had the effect of depriving each and everyone of the Congressman's constituents of their right to be fully informed as to the conduct of their elected representative. Ours is a representative democracy.

We elect from among ourselves representatives who as members of Congress pass laws which bind us all. The choosing of those who will represent all of us in Congress is not to be taken or made lightly. Members of Congress must be persons of the highest and utmost integrity; and their constituents must not and can not lawfully be deprived of information necessary to enable them to judge the character and integrity of those who serve as their elected representatives.

Yet, the actions taken in this cause by Judge Timothy F. Johnson, in attempting to gag Congressman Gonzalez have not only deprived his constitutents of the right to receive information so as to enable them to intelligently exercise their right of ballot, but more importantly, the Congressman's constituents have been provided with only one version of the facts, which has been presented from a slanted, biased, one-sided point of view, filled with falsehood and misinformation. That, in and of itself, coming from a partisan judge such as Judge Timothy F. Johnson, should, alone, warrant his recusal. However, when the Judge's attempt to silence Congressman Gonzalez is viewed together with an arbitrary and capricious finding and decision to move the trial to where Congressman Gonzalez must be judged by strangers, such a view warrants and compels but one conclusion and that is that Judge Johnson cannot judge fairly and impartially in this cause and in the interest of justice should recuse himself.

Wherefore, premises considered, the Defendant prays that the said Judge Timothy F. Johnson recuse himself from further proceedings in this cause.

Respectfully submitted,

PAT MALONEY, Sr.,
Law Offices of Pat Maloney, P.C.,
San Antonio, TX.
JACK PAUL LEON,
Leon & Bayless,
San Antonio, TX.
Attorneys for Defendant.
(By Jack Paul Leon).

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing was hand delivered to the office of Fred Rodriguez, Criminal District Attorney, Bexar County Courthouse, San Antonio, Bexar County, Texas 78205, on the 12th day of August, 1987, by delivering a copy addressed to Mr. John Wondra, Assistant Bexar County Criminal District Attorney, in the office of the Bexar County Courthouse.

JACK PAUL LEON.

THE STATE OF TEXAS v. HENRY B. GONZALEZ, SR.

[In the County Court at law No. 5, Bexar County, TX]

MOTION IN OPPOSITION TO UNILATERAL JUDICIAL ATTEMPTS TO CHANGE VENUE

To the Judge of Said Court: Comes now Henry B. Gonzalez, Sr., Defendant in the above styled and numbered cause, and respectfully files this his motion in opposition to the notice of the Court in his pre-trial order and in his public media pronouncements to the effect that the Court is considering a change of venue to some other county other than Bexar County, Texas, and files this his motion in opposition to such unilateral judicial attempts to deprive this Defendant of a fair trial by an impartial jury under the Federal and State Constitutions and the Code of Criminal Procedure of the State of Texas. In support of this motion, the Defendant will show the Court as follows:

I.

The minimal constitutional standard of fairness requires that a defendant have a panel of impartial, indifferent jurors and that the entire atmosphere in which the trial is conducted be impartial. Depriving the Defendant of this right to an impartial jury and trial violates this Defendant's right to due process as guaranteed to him by the Fourteenth Amendment of the Constitution of the United States of America.

An impartial jury is defined as one which does not favor a party or an individual because of the emotions of the human mind, heart, or affections. It means that the Defendant, the cause, and the issues involved in the cause must not be prejudiced. United States Constitution Amendment VI; Texas Constitution, Article 1, Section 10; Vernons Annotated Code of Criminal Procedure, Article 1.05.

II.

The Defendant has neither requested nor desires a change of venue in this cause. The Defendant demands that he be accorded his constitutional and historical right to a trial in one's home are (called in the law, the right to trial in the vicinage). This right to a trial in one's home area is as old as the Constitution itself which provides, in Article III, Section 2, that criminal trials shall take place in the State where the offense is alleged to have been committed, and in the Sixth Amendment to the Constitution which provides that all persons accused of criminal offenses have the right to a speedy and public trial by an impartial jury of the State and District wherein the crime is alleged to have occurred.

The Courts of Appeals for the United States have recognized that the right to trial in one's home area (or vicinage) is an important right of a defendant, and that "Venue requirements are imposed to prevent the government from choosing a favor-

able tribunal or one which may be unduly inconvenient for the defendant." United States v. Rivera, 388 F.2d 545, 548 (2nd Cir. 1968). The United States Court of Appeals for the Eleventh Circuit has recognized that the right to trial in the vicinage is intended to reduce the difficulties to a defendant that would be caused by trial at a distance from his home and friends as follows:

"The venue provisions also seek to avoid the prejudice to a defendant's case that might result from facing trial in a place where it would be difficult for him to obtain witnesses in preparation for trial. Lastly, since most crimes usually take place in the district where the defendant resides, the venue provisions try to reduce the difficulties to the defendant that would be caused by a trial at a distance from his home and friends." United States v. DiJames, 731 F.2d 758 at 762 (11th Cir. 1984).

Further, the United States Court of Appeals for the Second Circuit has recognized that the right of trial in the vicinage exists for the very purpose of guaranteeing to a defendant in a criminal case the right to be tried where he is known. In so holding, the Court stated: "One (purpose) although by no means the only purpose of the insistence on trial in the vicinage both in Article III, § 2 and in the Sixth Amendment must have been to entitle a defendant to trial where he is known . . ." United States v. McMann, 435 F.2d 813, at 817 (2nd Cir. 1970).

III.

The State has not sought nor does it claim that a fair trial cannot be accorded to the State or the Defendant in Bexar County, Texas. Absent such a request, this Court, on its own, unilaterally, and without being requested by either the State or the Defendant has asserted that he is considering a change of venue to another district even though such district is not the district where the crime allegedly occurred. Defendant hereby strenuously objects to such a change of venue to any district other than Bexar County, Texas. He hereby asserts his right to a fair trial be guaranteed by a jury of his peers, constituents and others who have the constitutional right to judge his conduct.

IV.

Historical case precedent has established those rare and unusual circumstances under which venue of a trial should be changed from the district where such alleged crime occurred. Defendant contends that none of those circumstances are present in the instant case. The Courts of this State and of the United States have historically opposed the movement of a case out of the county where the alleged crime occurred except in those rare circumstances where an absolute finding occurred that a fair and impartial trial could not be had in such county. There is no evidence of the existence of such a fact in the record in this case and Defendant contends that such evidence is not obtainable and cannot be produced to satisfy the heavy burden required by the Courts of the State of Texas and of the United States of America.

Pre-trial publicity alone does not establish prejudice or require a change of venue. See Dobbett v. Florida, 432 U.S. 282, 302-303, 53 L.Ed.2d 344 97 S.Ct. 2290 (1977). If the Defendant claimed that he was entitled to a change of venue, he would be charged with a "heavy burden" of proving that the likelihood of his obtaining a fair and impartial trial was doubtful. See James v. State, 546 S.W. 2d 306, 309 (Crim. App. 1977). This Court should also satisfy the same "heavy burden" before even considering such a change.

No attempts have been made to question or qualify a jury panel and until a jury panel has been empaneled and jury selection attempted and unsuccessful, should such a change be considered. This Defendant avers that in a county as large as Bexar County, Texas, the area from which the panel would be drawn, that six (6) fair and impartial jurors who can be alike fair and impartial both to the State and the Defendant can be chosen and that such an effort and attempt to select a jury will be successful in this case.

Publicity in this case has been minimal in comparison to such infamous and notorious trials where venue was not changed. Such examples are (and there are many others far too numerous to list here), the trial of Jack Ruby in Dallas; the trial by Mr. Fred Rodriguez, the present Bexar County District Attorney, of Karl Hammond in the early part of this year; and the more recent trial of police officer, Tucker, in Bexar County, Texas. Such trials, like many others too numerous to mention, have generated extensive publicity, locally, statewide and nationally.

V.

The Defendant objects to any proposed order of this Court changing venue from Bexar County to any other county. Such an attempt to change is politically motivated and is an attempt to deprive Congressman Henry B. Gonzalez, Sr., of a fair and impartial trial. In this connection, the Defendant would show the Court as follows:

1. The Defendant is a prominent member of the community in San Antonio and is a member of the United States House of Representatives, where he has served for approximately twenty-six years. In addition to lengthy and faithful service on behalf of his constituents, Henry B. Gonzalez, Sr., has not been afraid to take a stand, regardless of whether that stand was popular or unpopular with regard to the party in power. He is a life-long Democrat, and as such, has been frequently at odds with the present Ronald Reagan Republican administration, as well as with prior Republican administrations.

2. Judge Timothy F. Johnson is a Republican. He was elected as a Republican in the general election of 1986 in a county-wide election. In that election, his primary support came from the northern portions of Bexar County, which are predominantly Anglo. Congressman Gonzalez, however, represents a district which encompasses only a portion of Bexar County, and is populated primarily by persons of Mexican descent. Congressman Gonzalez is himself of Mexican descent. Judge Timothy F. Johnson is Anglo, and though elected to a county-wide office, can fairly be said to have received the major portion of his support other than from the area of Bexar County comprising Congressman Gonzalez' district.

3. While Congressman Gonzalez is well thought of within his district, and has consistently been re-elected every two years in the general election, he has fierce critics, both in Bexar County and nationally, with such critics being primarily members of the present national Ronald Reagan Republican administration, as well as fierce critics within the local, Bexar County Republican party and within the northern portions of Bexar County, from which Judge Timothy F. Johnson drew his primary support in the general election of 1986.

4. Heretofore, Judge Timothy F. Johnson has attempted to prevent Congressman Gonzalez from carrying out his duty to his constituents, and to explain the nature of the present cause, which is surely a matter of relevance and importance about which his constituents should be informed, and about which he should be entitled, as a public figure, to comment, in order to counteract the falsehoods and misinformation which has been disseminated in the local Bexar County media, and by the Bexar County Republican establishment, by ordering Congressman Gonzalez not to comment publicly upon the case. As a consequence, Congressman Gonzalez has been faced with false accusations in the media to which he cannot respond, and thus, his constituents have been forced to rely upon false and misleading media reports, and as such, have been denied the right guaranteed to them under the First Amendment to the Constitution to receive information concerning their elected Representative, so that they may fairly determine whether his conduct is such that he merits their continued support. The Defendent avers that this is the reason that Judge Johnson is attempting to change venue in this cause.

Notwithstanding Judge Johnson's efforts to deprive Congressman Gonzalez' constituents of the truth concerning the incident giving rise to this cause, Congressman Gonzalez, in the exercise of his privilege to speak freely from the floor of the House of Representatives of the United States, has addressed the incident giving rise to this cause, and has spoken the truth concerning the matter, as was not only his right but his duty with respect to his constituents, because his constituents have a right to be informed as to the actions of their elected Representative in Congress. Notwithstanding Congressman Gonzalez' exercise of his right and of the right of his constituents to be informed, and notwithstanding the 200-year old provision in the Constitution permitting him to do so, the lawful exercise by Congressman Gonzalez of his right and the right of his constituents to be informed has infuriated and enraged Judge Timothy F. Johnson who, being a Republican and dependent upon a constituency primarily hostile to Congressman Gonzalez, has taken steps to deprive Congressman Gonzalez of a fair and impartial trial in the County in which he has resided during his entire life.

5. Specifically, Judge Timothy F. Johnson has entered an order, without hearing evidence, and without any semblance of due process, stating as fact (yet not based on any evidence, and without request either of the Defendant or of the State) that, "It appears to the court that a trial, alike fair and impartial to the accused and to the State, cannot be had in this county." (See Order of July 31, 1987). That such an order would or could have been entered without the slightest evidentiary basis and without motion made either by the State or by Congressman Gonzalez, in and of itself, demonstrates a bias, hostility and prejudice on the part of the Judge of this Court such as to require his recusal.

6. The Texas Court of Criminal Appeals sitting with all judges present, as is done for cases of special significance rather than in the usual panel of only three judges, has held that requiring a defendant to proceed to trial before a judge who has a bias or prejudice such that his impartiality could reasonably be questioned constitutes a violation of the right, not only of Congressman Gonzalez, but of all citizens of the State of

Texas and of the United States, to due process of law, such being guaranteed under the provisions of the Fifth and Fourteenth Amendments to the Constitution of the United States and the provisions of Article 1, Section 19 of the Constitution of the State of Texas. See McClenan v. State, 661 S.W.2d 108 (Tex. Crim. Appl., 1983, en banc). The case before the Court is not merely one in which a Democrat is appearing before a Republican judge.

Congressman Gonzalez is no ordinary Congressman. Recognizing that President Ronald Reagan has enjoyed extreme popularity nationwide, and that President Reagan was elected in two landslides, Congressman Gonzalez has nevertheless had the courage to stand up and to attempt to tell the people of the United States that President Reagan is wrong, and showing the courage of his convictions, and willing to take an unpopular stand for what he perceives to be the best interest of the country which he loves so much, Congressman Gonzalez has even offered a resolution within the House of Representatives calling for the impeachment of President Ronald Reagan.

As would be expected, taking on the power of the Presidency and the power, might and money of the Republican party has not won the Congressman any friends in either the Reagan Administration or within the Republican party, and especially so in the Republican strongholds of northern Bexar County, Texas.

As such, he has become a target of right-wing extremists, the John Birch Society, and other hate groups who have embarked upon a "holy war" to remove him from office and to discredit him, by any means available to them.

Given that Judge Timothy F. Johnson was and is dependent upon the same Republican party for his electoral as well as his financial support, his ability to be fair and impartial would naturally be called into question.

But, more importantly, Judge Timothy F. Johnson has himself demonstrated that his actions in this case so far, although ostensibly done for the protection of the rights of the party to this case, have in fact been done with a view to, and have had the effect of prejudicing Congressman Gonzalez in the preparation and presentation of his defense.

Specifically, although Judge Johnson has attempted to gag Congressman Gonzalez and to prevent him from communicating with his constituents, the Judge himself has not felt himself bound by any such "gag order" and has commented freely upon this case to the media. Surely, if Judge Johnson were intent upon insuring a fair trial, he would not enter an order attempting to restrict Congressman Gonzalez from informing his constituents, and thus depriving his constituents of their right to information, but, at the same time, freely commenting upon this case in the media.

7. The pinnacle, however, is demonstrated by Judge Timothy F. Johnson's entry of an order finding without hearing any evidence, that the State and the Defendant would not receive a fair trial in Bexar County, without even being asked to do so by either the State or Congressman Gonzalez!

8. The right to a trial in one's home area (called in the law, the right to trial in the vicinage) is, like the privilege of free speech upon the floor of the House of Representatives, as old as the Constitution itself, which provides, in Article III, Section 2, that criminal trials shall take place in the State where the offense is alleged to have been committed, and in the Sixth Amendment to the Constitution which provides that all persons accused of criminal offenses have the right to a speedy and public trial by an impartial jury of the State and district wherein the crime is alleged to have occurred.

VI.

A change of venue in this cause would have the practical effect of depriving not only the Defendant, HENRY B. GONZALEZ, SR., but, more importantly, the citizens of Bexar County and of the Twentieth Congressional District of their right to a public trial. The right to a public trial is guaranteed both to the accused and to the citizenry in general. The United States Supreme Court has held that not only does the accused have the right to demand a public trial, but the public and the press also has a guaranteed constitutional right to attend public trials. Richmond Newspapers, Inc. v. Virginia, 448 U.S. 555, 580, 100 S.Ct. 2814, 2829, 65 L.Ed.2d 973 (1980).

In that case, Chief Justice Burger discussed the history of the right of the public to observe criminal trials, and found that the right of the public to attend criminal trials has been codified in American law as early as 1677 and traces its roots back to the days of the Norman conquest of England. Mr. Justice Burger quoting from an address to the inhabitants of the Canadian Province of Quebec by a committee approved by the First Continental Congress of the United States on October 26, 1774, which described the advantages of the then English constitutional form of government, in which the right of public trial was described as follows:

"[One] great right is that of trial by jury. This provides, that neither life, liberty nor property can be taken from the possessor, until twelve of his unexceptionable countrymen and *peers of his vicinage,* who from that neighbourhood may reasonably be supposed to be acquainted with his character, and the characters of the witnesses, upon a fair trial and full enquiry, face to face, *in open court,* before as many of the *people* as *choose to attend,* shall pass their sentence upon oath against him. . . ." (Quoted in *Richmond Newspapers, Inc.* vs. Virginia, supra at 448 U.S. 555, 568) (emphasis added).

Various commentators have passed upon the precious part of our heritage which is the right of the citizenry to a public trial. The following is but a sampling:

As was stated by Mr. Justice Hugo Black: "[W]e have been unable to find a single instance of a criminal trial conducted in camera in any federal, state, or municipal court during the history of this country. Nor have we found any record of even one such secret criminal trial in England since abolition of the Court of Star Chamber in 1641, and whether that court ever convicted people secretly is in dispute. . . .

This nation's accepted practice of guaranteeing a public trial to an accused has its roots in our English common law heritage. The exact date of its origin is obscure, but it likely evolved long before the settlement of our land as an accompaniment of the ancient institution of jury trial." *In re Oliver,* 333 U.S. 257, 266, 92 L.E. 682, S.Ct. 499 (1948) (Black, J.) (footnotes omitted)."

Justice Felix Frankfurter likewise recognized that the press and the public have an inherent and inalienable right to public access to the Courts:

"One of the demands of a democratic society is that the public should know what goes on in courts by being told by the press what happens there, to the end that the public may judge whether our system of criminal justice is fair and right." *Maryland* v. *Baltimore Radio Show, Inc.,* 338 U.S. 912, 920, 94 L.Ed. 562. 70 S.Ct. 252 (1950) (Frankfurter, J., dissenting from denial of certiorari)."

Mr. Justice Clark also recognized this valuable right of the public:

"It is true that the public has the right to be informed as to what occurs in its courts, . . . reporters of all media, including television, are always present if they wish to be and are plainly free to report whatever occurs in open court. . . ." *Estes* v. *Texas,* 381 U.S. 532, 541-542, 14 L.Ed.2d 543, 85 S.Ct. 1628 (1965) (Clark, J.)

The principle that justice cannot survive behind walls of silence has long been reflected in the 'Anglo-American distrust for secret trials.' *Sheppard* v. *Maxwell,* 384 U.S. 333, 349 16 L.Ed.2d 600, 86 S.Ct. 1507, (1966) (Clark, J.)."

Thus, imminent jurists, both of conservator and liberal persuasion have unanimously recognized the inherent value in a democratic society of the public to subject those who administer the criminal justice system to public scrutiny.

In any criminal case, there is a public interest in a public trial. However, in the case of the public figure, and especially one charged with the responsibility of representing his constituents with respect to the making of laws, the public's interest is even greater than in an ordinary criminal case. At issue in the trial of such a public figure is not only the simple question of guilt or innocence of the charges alleged, but also, at issue is the public's right to see, observe and form their independent opinions as to the validity or lack thereof of the issues litigated at trial. Yet, if a change of venue is granted in this cause, Congressman Gonzalez' constituents will effectively have been deprived of their right to be present and to observe that which is not merely the business of the Court but which is their business as citizens of Bexar County and of the Twentieth Congressional District.

Wherefore, premises considered, Defendant prays that this Court grant him his constitutional and statutory rights to be tried by a jury of his peers in his home county, Bexar County, Texas, and that venue stay and remain in Bexar County, State of Texas.

Respectfully submitted,

LEON & BAYLESS,

Attorneys at Law, San Antonio, TX.

Attorneys for Defendant.

(By) Jack Paul Leon.

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing was hand delivered to the office of Fred Rodriguez, Criminal District Attorney, Bexar County Courthouse, San Antonio, Bexar County, Texas 78205, on the 12th day of August, 1987.

JACK PAUL LEON.

Mr. Speaker, I ask my colleagues if you in your time will, and I hope never, but if you will also bear up with both of your strong, powerful, daily locals through cartoons ridiculing, saying that I was alleging a conspiracy, which incidentally came to full light after the recusal hearing where the local county Republican chairman had his picture taken with the accuser and said, oh, yes, we have been working together, and I have been getting

him all of the vote record of GONZALEZ, and of course, of course we have been working together.

Now, when I said that in the special order that I had, the first one in which I was raising the issue of the privileges and immunities of the House, what I got was ridicule, contumely, venomous, venomous slander, in effect, this from newspapers who themselves should be more restrained in their bitter rivalry. But why so? Why these allegations that we made in our recusal?

Incidentally, I insisted on a recusal motion. My two attorneys felt that it would be useful because no judge would be wanting to recuse another in this brotherhood or confraternity of judges, of judgedoms. It is true, there is the tendency for one, like doctors stick together and lawyers stick together, so do these judges. However, I felt I had more faith than that, and I felt that this judge had acted so far-reaching, had overreached his own bounds, had gone so far as to reveal his bias when he did another thing. He clearly indicated that at the preliminary hearing he was going to demand cause to show why he should not move the case out. What the press never covered was that he did not mean that he was going to change venue for the case to go to some other judge in an adjacent county. Under Texas law and procedure there were only four counties that he could go to in the immediate area surrounding San Antonio, but those four counties are all predominantly Republican, and they are all predominantly very conservative. I think I ought to know, and I think everybody else that knows knows. But the reason the judge was doing this is that in civilian practice, civil practice, when a plaintiff's attorney has a personal injury suit against a big corporation defending the rights to or attempting to have a poor Mexican-American or a poor black or a poor white, what the defense lawyers do is ask for a change of venue and take it out of Bexar County where these poor people will have at least a chance by being judged by a jury of their peers and move them to these counties. So this is where this judge got that notion.

But in this case he was not playing around with somebody who did not know his rights, and not only that, he was not playing around with an unprepared or an amateurish attorney. So we had our recusal motion.

Mr. Speaker, I ask that it be printed in the RECORD at this point because it is historical. One of these days, and I know that it was referred to, if I had not stood up and resisted this what would have been the outcome, because you would be surprised how the research attorneys look for every case of similar nature that has happened anywhere. And I think that this is historical. The two attorneys, and Mr. Leon in particular, did such an outstanding job, together with his associates, Mr. Bayless, in researching.

Now there is another more ancient, fundamental right going back to England and the 13th and the 12th centuries, and what is that right? It was that right that old King John had to concede in writing to those barons at Runnymede, the Magna Carta, and that is that an Englishman accused should have the right to be tried by his peers. What did the word "peers" mean? It meant fellow citizens of the voisinage, that is the historical word that I suggested and which was researched.

The folly and the bias and the prejudice and the hate-filled thoughts and actions of this Judge Johnson were revealed because he was unilaterally asking for a change. The State was not asking for a change of venue. He certainly would not.

So how could he, on unsupported evidence, he had no evidence, to indicate that he was justified in seeking to move it into one of these four counties where the record is plain as to what happens in civil cases with guys with last names like mine. And besides, if, as he alleged, it was because to avoid undue publicity, every one of these counties, each one of them is within the publicity impact range of San Antonio, TV, radio, newspapers, every one of them.

So the falsity of this idea was manifest to all who cared to scrutinize this thought and this notion.

But there was more than that, the desire of this judge as well as the district attorney, as reflected by his subordinate, this investigator, whose name I mentioned here on the floor at the time, and that was to humiliate, handcuff me, fingerprint me. And what a coincidence that the newspapers carried the story that the judge had said that he had recalled a warrant of arrest that had been mistakenly issued. That is a falsehood. The judge was lying in his teeth. The intention was to have me arrested, for the first attorney in this case called my wife—I was on my way to Washington—to advise her that if a police officer arrived to just not answer the door. Now what kind of nonsense is that? We are not living in a police state, though I think that we are near it, and in this case I shudder to think what the criminal justice system in Bexar County holds for some poor, impoverished, weak, helpless, friendless defendant. Once these men make up their minds they are going to have to make a case on it.

I was able to defend myself, but only after great exertion and after resisting the almost daily barrage through cartoons, through editorials, through columnists ridiculing me, holding me up to contempt, contumely, ridiculing the fact that I should think I was not guilty of anything for they had already found me guilty. If the name of this individual instead of being Bill Allen had been Pancho Gonzalez, there would not have been one of them who would not have believed that he had a knife on his person.

This is the absurd and unjust environment in which one develops his role as a public official. True, the district attorney may be also of the same descent, but I have been one of those who has never believed in other than the limits of ethnicity and racism in our country. I will fight those on all fronts, and they exist among all groups. Virtue does not reside in all one set of people. But the venom of the district attorney was revealed clearly after the uproar in the recusal hearing.

We go to the recusal hearing. This judge walks in. He has had three different—while he has had the gag order on everybody—he has three different press conferences, he has two different feature stories, the last one right immediately before the hearing on August 18, which shows where he has and wears a pistol, and there were four other judges that also said they were in the habit of carrying pistols on the bench. I cannot think of anything more antithetical to a judge, to a sober-minded judicious-minded individual pretending to be a judge than to be carrying a gun in the courtroom. Who is he going to shoot, the bailiff?

Yet, I did not see any editorials in these two great dailies taking this judge in particular, because on that particular morning of August 8, when he walked in, despite the fact that a subpoena had been issued, we issued a subpoena because the recusal hearing of a necessity was being presided over by another county court at law judge. He walked in, told the judge when he inquired that he had not actually been handed a subpoena, though he knew one was out, but that he was there on his own. He had a pistol under his coat.

In the meanwhile we were prepared to show him polls that had been taken, we had hired professional pollsters to show that the opinion in Bexar County was that a fair trial could be held in Bexar County. We were able to bring the mayor of the city, an outstanding personality known throughout the whole country, young, vibrant; one of the Supreme Court Justices and the Attorney General of Texas, all of whom had practiced law at one time or another, or handled cases in Bexar County, except the mayor, who was not an attorney. But all were there merely to testify that we could have a fair trial in Bexar County, but not under Judge Johnson, and that therefore we wanted him recused and we combined

the recusal motion with our motion against a change of venue.

That was before Judge Ferro, the independent judge selected by the district presiding judge of the Judicial District of Texas from Victoria, TX, who actually was the person who would select the judge to hear the recusal motion. And I will say this, that Judge Ferro, to his everlasting credit and glory, I am sure assumed it with no enthusiasm, none of the others wanted it, they were ducking it, but he handled it in an intelligent way and in a capacity clearly revealing that he is a competent judge.

But no sooner did we get started in that than Judge Johnson erupted in the middle of the courtroom shouting, pointing his finger at me, his coat is flapping and I am seeing the gun, wild-eyed in his looks, and he said, "I'm not going to stay here one minute longer, I'm leaving. I recuse myself."

At this point I insert for the RECORD the transcript from the court proceedings of that particular interim in the proceedings:

The document referred to follows:

TIMOTHY F. JOHNSON. Judge, I've got work to do. And I don't need this grief.

I'll recuse myself. And you can give it to whoever you want to.

THE COURT. Just a moment. Just a moment, Wait a minute. Wait a minute. Wait a minute.

Everybody sit down. Just a moment. Let me gather my thoughts on this now.

Judge Johnson, please step forward.

TIMOTHY F. JOHNSON. Your Honor, it has become apparent to me that this Defendant will use any means within his power to bend the law, to bend the procedure and——

PAT MALONEY, SR. Well, Judge, we object to this.

TIMOTHY F. JOHNSON. Mr. Maloney, I have a right——

PAT MALONEY, SR. This is terribly prejudicial and inflammatory——

THE COURT. This is before the Court, Mr. Maloney.

PAT MALONEY, SR. I know. But it's so unfair. And it's the kind of of comment we expected.

THE COURT. Let's go into chambers.

TIMOTHY F. JOHNSON. I refuse to go to chambers. I have a right to make a statement on the record. And I insist on that right at this time.

As I was saying, it's a shame that when someone in this position can attempt to bend the law and bend the procedures to his own will and attempt, through innuendo, through character assassination and whatever other means that they are going to use to pick the judge that they want to try this case.

Frankly I don't feel that our system should be perverted in this way. I don't feel that your court should be tied up, that my court should be tied up, and tied up to hear this particular matter.

I have nine prisoners sitting in a holding cell that are waiting for me to hear their cases. I'm sure that they would be happy to have me as a judge.

And since these gentlemen don't want me as a judge at this point in time I will recuse myself.

PAT MALONEY, SR. He could have done this weeks ago.

THE COURT. It is so ordered. The Court will stand in recess.

So with that, the presiding judge said, just a minute, let's withdraw to chambers, and he said, "I will not. This is nothing but a crock of crap."

What kind of judicial behavior is that? Yet the newspapers the next day reported it as if we had bent the law. And of course, they are so politically antagonistic both to myself as well as to the attorney general. They left the mayor alone. I notice they did not whack at him. They left the Supreme Court judge alone, but they whacked at the attorney general because politically they have been strongly against him.

This is the ridiculous nature of things that happen when passions fly high. I have selected today carefully because time has gone by, passions have subsided, and my story had yet to be told because at no time, in fact even after the event, but what happened after the recusal and the judge recusing himself was interesting in itself. All of a sudden the question was who can hear the case.

So the lawyers went around looking for precedents, and they found one precedent down in Brownsville, TX, where a judge had recused himself or had been recused. They found that the county commissioners could appoint somebody. They said no, that is not the precedent in point. There is a statute that says that in the cases somewhat like this that something else can happen.

So they were in the midst of that when my son, Stephen, who lives and works in the adjacent county from which incidentally this individual comes from, called me and said, "Dad, this fellow Allen just called me and he said that he fully understood, didn't blame you at all for hitting him, that he was sick and tired of this, that he had been pushed so far, that it had gotten out of control, and that he never thought it would go this far."

□ 1320

And that he wanted it all over with but that the district attorney had called him just that morning to say, "If you don't withdraw, if you don't withdraw we will push this to the end."

So my son said, "Look, I don't know what I can tell you except——," and he said, "Well, I will be glad to talk to your Dad and I want to drop everything. It is getting to the point where my friends won't talk to me and my family." Well, in the meantime we were also prepared to show a very, very bad record of violence in this man's past. I will not present this here now, even though I have the affidavits going all the way down to the former sheriff in Brazoria County and the incident there. But I did tell my son, I said, "There is only one thing to do. You give me a statement as to what transpired," and the witness to the fact that this was indeed this individual, the garage owner at which place my son was having his car repaired, that is a patrol car, when this man called.

So I would like to place into the RECORD at this point the statement made by my son, Stephen Gonzalez, with respect to this incident on August 19, that is the day after the recusal brouhaha which the papers could not hide the fact that the judge had made a fool of himself because TV cameras had pictured, him, and everything else. But they did know how to come out and show that, "Well, we were to blame too, because we were" what? Bending the law.

The statement referred to is as follows:

To the best of my knowledge, the following is a telephone conversation that I, Stephen Gonzalez, had with Bill Allen August 19, 1987 at about 4:00 P.M. at the APCO Communications Company off of Highway 97 just outside of Jourdanton, Texas.

On August 19, 1987 at about 4:00 P.M., I was at the APCO Communications Company getting my Sheriff's Department radio repaired. I was there for about ten minutes when the owner, Jim Davis, told me that there was someone on the telephone that wanted to talk to me.

I answered the phone and the subject on the telephone said, "Steve, this is Bill Allen and I want you to know that I'm very sorry about this mess with me and your father. I always thought a lot of you and think that you're a terrific cop. I'm real sorry that this has gotten as far as it has. I hope that there is no hard feelings with you toward me."

I answered, "Bill, he is my father and I'm also sorry that it has gotten this far. My father feels like he was in the right by taking up for himself in the way he did."

Bill then said, "Sure, I feel that he was in the right for hitting me for calling him what I did. I believe if someone is bad mouthing somebody, they should be hit. But, Steve, I wasn't screaming it out or hollering across the road, I was just talking in a low tone to the people at my table. Next thing I know, your dad walks up to us and says that one of his colleagues told him that someone at this table called him a Communist and then he asked which one of ya'll did. I told him that I did. The next thing I knows, he hit me. Steve, this thing got way out of hand. I don't blame your dad for getting mad at me for saying that, but he didn't have to say that about my mother. That made me so mad, I was just going to let it be, but I talked to the District Attorney and he said that he will take this case and go to the extreme if you tell me that you will not drop the charges. I told the District Attorney that if the Congressman apologizes to me about what he said about my mother, I will shake his hand and go my way. Steve, I don't blame him for not apologizing for hitting me but he should on what he said about my mother. I didn't say anything about his family. Steve, I'm telling you this has gotten way out of hand. I feel like an old country dog that's laying in the road. Some people throw rocks at him to go

away and some people just try to run over him. This has been very embarrassing for me too."

I said, "Bill, I feel this thing has got way out of hand but my dad feels that he is in the right and is ready to go to court."

Bill answered, "Well, I don't think it has to go out of town but I think that they ought to get a judge from out of town. Perhaps from somewhere up north."

I asked Bill, "Are you living back in Jourdanton or in the county?"

Bill said, "Steve, I don't know what your feelings are toward your ex-wife but I don't want to be anywhere close to that bitch of mine. I don't even want to see her riding around close to where I'm at. Anyway Steve, I want to apologize again and I tried to get a hold of you before but you don't have a home telephone so I'm glad that I made contact with you today. I think you're a hell of a good guy. Talk to Jim Davis for me down there and let me talk to him again please."

I handed Jim Davis the telephone and they talked for a few moments and then hung up.

When Jim got off the phone, Jim said to me, "You know Bill is a whole lot like your dad, just says what he wants to say. They remind me of two bulls butting heads and no one giving in."

I picked up my radio and finished at the radio shop and got back into my patrol car and told my partner, Dorothy Harris, "You wouldn't believe who I was talking to on the phone there, Bill Allen."

She said, "What did he want?"

I answered, "He wanted to say that I was a nice guy and that he was sorry about this whole mess and he didn't blame my dad for hitting him for what he said but doesn't think that my dad should have said those things about his mother."

Dorothy said, "Well, why is he taking him to court then?"

I answered, "He said that everything just got way out of hand."

To the best of my knowledge, the above conversation is true and correct.

STEPHEN GONZALEZ.

So then apparently the district attorney realized what he was up against. So he then asked to meet with one of our lawyers for the first time. After that it took a little time but finally they agreed. Remember that the thing that caused me to accuse that district attorney of being a political and moral coward was that he had proposed to the attorney then, if I offered a unilateral apology, he would drop the case, he would drop it, mind you. And that is when I lashed out.

So here now there is no talk of me apologizing to this man, but the district attorney was more interested in getting some kind of statement that I would kind of apologize for having called him a moral and political coward.

Well, I did not exactly do that and I did not apologize to the individual. Yet he moved to dismiss the case.

The newspapers carried it as if an apology had been made, on the headline, until you read the text of the article.

So I rise today, because after all this and 1 week after dismissal the newspaper, the San Antonio Express, carried a front page story in which they attempted to show that this man Allen finally breaks silence, and to have this story, which I ask to print in the RECORD because it reveals better than anything else the character of the individual involved.

The newspaper article referred to is as follows:

[From the San Antonio Express, Sept. 1, 1987]

ALLEN BREAKS SILENCE, RAPS HBG

(By James McCrory)

The voting record of U.S. Rep. Henry B. Gonzalez shows "an unwillingness to uphold the Constitution," Bill Allen asserted Monday.

Allen's statement came afer an assault charge he had brought against the veteran San Antonio congressman was dismissed by County Court-at-Law Judge Tony Ferro at 10:30 a.m. Monday, in what the judge considered routine business.

The dismissal came after attorneys for Gonzalez, 71, worked out a compromise with Allen, 40, in which Gonzalez apologized to his constituents for an incident at Earl Abel's Restaurant on Dec. 4, in which Gonzalez punched Allen in the left eye after learning Allen said Gonzalez "sounded like a communist."

GAG ORDER LIFTED

Allen had withheld comment to the news media because of a gag order issued earlier in the case. With the dismissal of the charge he brought, Allen considered the gag order dead.

Now that he is free to speak, Allen said, he would have preferred that all the facts in the case come out truthfully in court. But he explained that it appears all efforts to bring the case to trial would have resulted in increasing the already large expense to the taxpayers.

"Congressman Gonzalez has used his position and circus antics to distort and cover up the facts in this case," Allen complained.

Gonzalez was said to be on vacation and unavailable for comment on Allen's remarks.

However, Gonzalez's Washington office released a written statement Monday after Allen released a short, written statement to the media.

"This is Jacob's voice, but the hands are the hands of Esau; meaning the release is through the voice of poor ole Billy Wayne Allen, but the hand that wrote it is Knoxious (sic) Duncan's, frustrated Republicrat chairman," the Gonzalez statement said.

Knox Duncan is chairman of the Bexar County Republican Party.

In his Friday written apology, Gonzalez said, "no further discussion of this incident, on my part, will be forthcoming."

During a personal interview Monday. Allen explained what he said really happened at the restaurant.

Allen said he was sitting at a table with two associates near a table occupied by Gonzalez and two of his associates. He said he heard Gonzalez loudly refer to President Reagan as an SOB, which he considered obscene. He said he "commented" quietly to his associates that Gonzalez sounded like a communist.

He pointed out that Gonzalez never heard the comment, but it was related to him by one of his companions after they left the restaurant.

Gonzalez then returned and punched Allen in the eye. Allen said he suffered a cut over the left eye and was treated at a clinic.

While he has been called a "spikey right wing type." Allen said, in truth he believes in the Constitution and believes elected officials are sworn to uphold it. While he normally votes Republican, Allen said he considers himself an independent, voting for the best man, regardless of party.

"Whenever you deal with a figure such as Henry B. Gonzalez, recent events have shown that it's difficult to get into the courtroom to bring a case to trial," Allen said.

Allen produced the knife he carries in a leather case on his left hip, attached to his belt.

Gonzalez said he believed Allen was reaching for a knife when he punched him. The knife is three inches long, with two blades, one of which is a screw driver. The other blade is two and nineteen-twentieths inches long.

Allen is right-handed, 5 feet 8 inches tall, and weighs 190 pounds. He weighed 165 pounds at the time of the incident.

A former oil field man, Allen now "plays the stock market." He has lived here since August 1986, coming to the Alamo City from farther south in Texas. Divorced, Allen has two children.

Allen said he believes the working people, the producers, are tired and fed up to the teeth with "government's grand scheme of redistributing wealth."

"I believe it is patently wrong to take hard-earned money from people who produce and redistribute it to non-producers," he said. "If that makes me spikey, combative and a right wing type, then I plead guilty."

He said all he wants from government is to be left alone.

Observing that Gonzalez's record on welfare issues is renowned, Allen complained that the wagon pullers are getting tired while more and more people are jumping on the wagon to be pulled.

He said much good has come from the case, causing citizens from the 20th congressional district and around the state "to take a good hard look" at Gonzalez, a Democrat.

Allen thanked District Attorney Fred Rodriguez, assistant District Attorney Nelson Atwell and DA investigators Dan Garcia and Brian Price for their professionalism, efficiency, dedication and impartiality in connection with the case.

Also, the editorial of September 1, mind you, mind you here are the newspapers saying, "Oh, gee, at last it is over with," even though they should have seen that it made them look so ridiculous that no sober minded, fair minded, reasonably minded citizen—and after all, that is the only citizen I have ever appealed to and to whom I owe everything—would think anything else but that they had been manifestly out to conduct a judicial lynching in Bexar County.

Now please do not get me wrong, I do not like to denigrate my birthplace, but the sad tale is that in the past, Bexar County can blushingly and ashamedly show where you have had some judicial lynchings.

I had thought that since before the war and especially after the war that had not happened.

So I ask that the editorial of Tuesday, September 1 in the San Antonio Light entitled "Reflecting On Gonzalez" be placed in the RECORD so that my colleagues can get a better idea.

The editorial referred to is as follows:

REFLECTING ON GONZALEZ

The matter of the Henry B. Gonzalez misdemeanor assault charge mercifully has been laid to rest—nearly nine months after it should have been.

This is a tale which, at almost every branch in the road, required that the other path should have been taken.

It was not prudent for Bill Allen, a private citizen, to call the congressman a communist.

It was even less prudent for Henry B. to return to make the second-hand comment a matter of honor.

The district attorney was correct in treating the incident as he would have treated that involving any other citizen.

The matter then became blown out of proportion when if became the subject of nationally televised speeches and entries in the Congressional Record by Gonzalez this spring and summer.

The snowball kept rolling when Gonzalez said he could not get a fair trial from a Republican judge and when the Texas attorney general announced Gonzalez was legally justified in his actions because he had been called a communist.

It became obvious at this point that the citizens of this city had had enough.

Republicans, justifiably, loved it as their telephones rang with angry complaints.

Democrats did not love it when their telephones rang with the same complaints.

It isn't clear what brought this all to a halt, but we applaud whatever brought a streak of common sense to the situation.

Now we are left to ponder:

With the serious national problems to be dealt with in Washington, did the congressman serve us well this spring by devoting his time to this issue?

Are we well served by an attorney general who provides such off-the-cuff opinions on behalf of a political crony?

Has a serious precedent been set which will allow Democrats facing trial to pick a Democratic judge and Republicans, likewise, to pick a Republican judge?

In leisure, we reflect on the answers.

I will sum up by saying there is no question, the attempt was first to try to tear me down. I want to point out to the editor of the San Antonio Light who was saying, "We hope that all the time spent on this didn't detract from our duties," that my presence in the 100th Congress is 100 percent. I have not missed any votes. And in the 26 years that I have had the honor to serve in the House of Representatives, my presence is 99.9 percent. So that despite all the efforts made to humiliate me, mostly, mostly to give me a record that would make me vulnerable to lack of credibility for ever and a day, being that for 30 years nothing has been found, just when I think I made a fool of myself, the idea was they would picture me as an old, senile man losing control of himself, striking a man just because he called him a Communist. They even went back 25 years when I had an argument with a colleague but never struck, never struck, never hit. Yet I had to bear the humiliation and the embarrassment again, of false accusations.

And I very much want to remind my colleagues of what I said at the outset, that the most trying, the most difficult experience of any man is to be falsely accused. And given the fact that you can have combinations of powerful factors in our society, there can be grave injustices committed. And I repeat I feel for the impoverished, the helpless, the weak, the unprotected individuals.

I was fortunate I could get, mostly through the generosity of their hearts because with my limited financial means I could have been bankrupt, but thanks to these two great individuals, Jack Leon and Pat Maloney, Sr., I was able to find the defense that we take for granted in American justice. We have this great motto at the Supreme Court, "Equality before justice" but that is not true. Today you do not get justice if you do not have money and if you do not have powerful, powerful friends.

I hate to say that, but it is true. If you want any proof of that, my colleagues, just look at the list of those that have been executed in my State of Texas, which incidentally is either equal or runner up in the leading execution States, and see who it is; see who commit the same gravamen of offense but do not get executed and you will see those that are rich and powerful and can hire the able and the intrepid and the outstanding legal counsels of this country. I do not think that is good, I think it reflects ill on us. And I think that my record shows that I have been fighting against that since I was a juvenile probation officer in Bexar County. I was the one that chased out the coyotes that used to lurk in the courthouse, victimizing the poorest of the poor. I was the one that emptied the local correctional institution and the State correctional institution and yet could point to a reduction of 36.6 percent in the volume of cases reversed where police would refer 75 percent of the cases to the Bexar County juvenile court that by the time I got through it was 25 percent and we had 75 percent family, private, personal referrals which meant that we had gained the confidence of the people who needed some help somewhere but could not get it and are not getting it today.

I want to say that it is a horrible experience to see yourself falsely accused and in the paws of the punitive and malicious, for indeed this was a malicious prosecution, it was politically motivated and I thought with the advent of change after World War II that Bexar County would have ended. Before World War II there was one jurist, the only criminal court justice, Judge W.W. McCrury who, if he had the greatest virtue of all, it was that he would not allow a political case in his court. I remember he was judge and I remember him throwing out the district attorney time after time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SKELTON) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. OWENS of New York, for 5 minutes each day, on October 26, 27, 28, 29, and 30.

Mr. GAYDOS, for 60 minutes, on October 27.

The following Member (at the request of Mr. GONZALEZ) to revise and extend his remarks and include extraneous material:

Mr. HAWKINS, for 60 minutes, on November 2.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. RHODES) and to include extraneous matter:)

Mr. MADIGAN in two instances.

Mr. LENT.

Mr. BUECHNER in two instances.

Mr. LEWIS of California.

(The following Members (at the request of Mr. SKELTON) and to include extraneous matter:)

Mr. HALL of Ohio.

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. SKELTON in two instances.

Mr. TRAXLER in two instances.

Mr. BONIOR of Michigan.

Mr. MATSUI.

Mr. COLEMAN of Texas.

SENATE BILL, A JOINT RESOLUTION AND A CONCURRENT RESOLUTION REFERRED

A bill, a joint resolution, and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1397. An act to recognize the organization known at the Non Commissioned Officers Association of the United States of America; to the Committee on the Judiciary.

S. Con. Res. 84. Concurrent resolution relating to the transfer of Silkworm missiles by the People's Republic of China to Iran; to the Committee on Foreign Affairs.

S.J. Res. 194. Joint resolution to require a comprehensive review of United States policy and commitments in the Persian Gulf region; to the Committees on Foreign Affairs and Rules.

ENROLLED BILLS SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 799. An act to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes;

H.R. 2893. An act to reauthorize the Fishermen's Protective Act; and

H.R. 3325. An act to designate the segment of Corridor V in the State of Alabama as the Robert E. (Bob) Jones, Jr. Highway.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Tuesday, October 27, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2294. A letter from the Comptroller General of the United States, transmitting a review of the two revised deferrals reported in the President's sixth special impoundment message for fiscal year 1987, pursuant to 2 U.S.C. 685 (H. Doc. No. 100-121); to the Committee on Appropriations and ordered to be printed.

2295. A letter from the Secretary of Education, transmitting a copy of final regulations and final selection criteria for the student assistance general provisions, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

2296. A letter from the Secretary of Health and Human Services, transmitting the annual report for fiscal year 1986 of the activities and accomplishments of programs for persons with developmental disabilities, and for the first time, the Protection and Advocacy for Mentally Ill Individuals Program, pursuant to 42 U.S.C. 6006(c); to the Committee on Energy and Commerce.

2297. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2298. A letter from the Associate Deputy Chief, Forest Service, Department of Agriculture, transmitting notification that the legal description and maps of the Chugach National Forest boundary changes, as provided by the Alaska National Interest Lands Conservation Act, have been sent directly to the chairman of the House Committee on Interior and Insular Affairs, and notice of availability is being published in the Federal Register, pursuant to 16 U.S.C. 3103(b); to the Committee on Interior and Insular Affairs.

2299. A letter from the Deputy Secretary of Transportation, transmitting a draft of proposed legislation to improve the U.S.-flag merchant marine; to the Committee on Merchant Marine and Fisheries.

2300. A letter from the Comptroller General, General Accounting Office, transmitting a report on the examination of the Office of the Attending Physician's statement of accountability for appropriation and expenditures for the year ended September 30, 1986; including the report on internal accounting controls and compliance with laws and regulations, pursuant to Public Law 94-59, title III (89 Stat. 283); jointly, to the Committee on Government Operations and Appropriations.

2301. A letter from the Comptroller General, General Accounting Office, transmitting a report of the agency's qualified opinion on the Panama Canal Commission's financial statements for the years ended September 30, 1986 and 1985; separate reports on the commission's internal accounting controls and on its compliance with laws and regulations follow the opinion (GAO/AFMD-87-45; September 1987); jointly, to the Committees on Government Operations and Merchant Marine and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Pursuant to the order of the House on Oct. 22 1987, the following reports were filed on Oct. 23, 1987]

Mr. CONYERS: Committee on the Judiciary. H.R. 3483. A bill to amend title 18, United States Code, to improve certain provisions relating to imposition and collection of criminal fines, and for other purposes; with amendments (Rept. 100-390). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHEAT: Committee on Rules. House Resolution 291. Resolution providing for the consideration of H.R. 2224 a bill to authorize appropriations for fiscal year 1988 for the Panama Canal Commission to operate and maintain the Panama Canal, and for other purposes. (Rept. 100-389). Referred to the House Calendar.

[Submitted Oct. 26, 1987]

Mr. GRAY of Pennsylvania: Committee on the Budget. H.R. 3545. A bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988 (Rept. 100-391). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 17. A bill to identify, commemorate, and preserve the legacy of historic landscapes of Frederick Law Olmsted, and for other purposes; with an amendment (Rept. 100-392). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1223. A bill entitled the "Indian Self-Determination Amendments of 1987"; with an amendment (Rept. 100-393). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1839. A bill to amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System; with amendments (Rept. 100-394). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2952. A bill to increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park (Rept. 100-395). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 3337. A bill to amend the Food Stamp Act of 1977 to reform the Food Stamp Program, and for other purposes; with an amendment (Rept. 100-396). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GRAY of Pennsylvania:

H.R. 3545. A bill to provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

By Mr. LENT (for himself and Mr. DUNCAN) (both by request):

H.R. 3546. A bill to amend title XXI of the Public Health Service Act establishing the National Vaccine Injury Compensation Program, to amend the National Childhood Vaccine Injury Act of 1986, and for other purposes; to the Committee on Energy and Commerce.

By Mr. MADIGAN:

H.R. 3547. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the Secretary of Health and Human Service to impose fees under that act for the review of applications for marketing approval for new human drugs, antibiotics, medical devices, and biological products, and for other purposes; to the Committee on Energy and Commerce.

H.R. 3548. A bill to amend title XVIII of the Social Security Act to provide for expanded voluntary private alternative coverage for Medicare beneficiaries, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

[Submitted Oct. 26, 1987]

H.R. 537: Mr. HOCHBRUECKNER, Mr. UDALL, Mr. GILMAN, Mr. HAYES of Illinois, and Mr. GRAY of Illinois.

H.R. 633: Mr. HAMMERSCHMIDT.

H.R. 792: Mr. BARTON of Texas.

H.R. 1782: Mr. FOLEY, Mr. ORTIZ, Mrs. PATTERSON, Mrs. SAIKI, Mr. APPLEGATE, Mr. CRANE, Mr. ST GERMAIN, Mr. EMERSON, Mr. BRENNAN, Mr. KOSTMAYER, Mr. JACOBS, Mr.

DWYER of New Jersey, Mr. WILSON, Mr. JEFFORDS, and Mr. KANJORSKI.

H.R. 2667: Mr. MOAKLEY, Mr. DE LUGO, Mr. LAGOMARSINO, Mr. FAUNTROY, Mr. LIPINSKI, Mr. CONYERS, Mr. BENNETT, Ms. KAPTUR, Mr. FAWELL, Mr. CAMPBELL, and Mr. OWENS of Utah.

H.R. 2690: Mr. EDWARDS of Oklahoma.

H.R. 2934: Mr. ROBINSON.

H.R. 2950: Mr. SMITH of New Jersey.

H.R. 3159: Mr. MORRISON of Washington.

H.R. 3160: Mr. SABO and Mr. JEFFORDS.

H.R. 3171: Mr. ROBINSON, Mr. ACKERMAN, Mr. LIPINSKI, Mrs. JOHNSON of Connecticut, Mr. FORD of Michigan, Mr. WAXMAN, Mr. VANDER JAGT, Mr. DIXON, Mr. STUDDS, and Mr. BROWN of California.

H.R. 3250: Mr. LEHMAN of California and Mr. THOMAS of California.

H.R. 3291: Mr. LEWIS of Georgia, Mr. GRAY of Illinois, Mr. CLINGER, Mr. FROST, Mr. GONZALEZ, Mr. SAXTON, Mr. ROBINSON, Mr. BORSKI, Ms. SNOWE, Mr. ANNUNZIO, Mr. WOLPE, Mr. MRAZEK, Mr. EDWARDS of California, Mr. YATRON, Mr. ST GERMAIN, Mr. CROCKETT, Mr. JONES of North Carolina, Mr. MOAKLEY, Mr. GILMAN, and Mr. CAMPBELL.

H.R. 3312: Mr. PURSELL.

H.R. 3433: Mr. DOWNEY of New York, Mr. FAZIO, Mrs. BOXER, Mr. BATES, Mr. MARTINEZ, and Mr. FROST.

H.R. 3467: Mr. GALLO.

H.R. 3478: Mr. CARPER, Mr. REGULA, and Mr. NEAL.

H.R. 3501: Mr. LENT.

H.J. Res. 332: Mr. BEVILL, Mr. BOUCHER, Mr. CHANDLER, Mrs. COLLINS, Mr. COUGHLIN, Mr. DICKS, Mr. FAZIO, Mr. FEIGHAN, Mr. FRANK, Mr. GRADISON, Mr. LOWRY of Washington, Mr. MACKAY, Mr. MOAKLEY, Mr. SAXTON, Mr. SCHAEFER, Mr. WOLF, and Mr. YOUNG of Florida.

H.J. Res. 374: Mr. SMITH of Florida, Mr. HORTON, Mr. LAGOMARSINO, Mr. HUGHES, Mr. WILSON, Mr. FAZIO, Mr. DICKS, Mr. CONYERS, Mr. SOLARZ, Mr. BOUCHER, Mr. MILLER of Washington, Mr. WYDEN, Mr. KOSTMAYER, Mr. RODINO, Mr. MCDADE, Mr. DORNAN of California, Mr. DONNELLY, Mr. HAYES of Louisiana, Mr. COURTER, and Mr. HAYES of Illinois.

H. Con. Res. 68: Mr. HERTEL.

H. Con. Res. 192: Mr. EVANS, Mr. FORD of Michigan, Mr. HAYES of Illinois, and Mr. OWENS of New York.

H. Con. Res. 201: Mr. BUECHNER and Mr. STUMP.

H. Res. 114: Mr. YOUNG of Florida.

H. Res. 269: Mr. LANCASTER, Mr. KOLBE, Mr. BUSTAMANTE, Mr. BLAZ, and Mr. SWINDALL.

H. Res. 271: Mr. FRENZEL, Mr. STENHOLM, Mr. BALLENGER, Mr. STRATTON, Mr. EDWARDS of Oklahoma, Mrs. JOHNSON of Connecticut, Mr. ARMEY, Mr. PENNY, Mr. UPTON, Mr. BARTON of Texas, Mr. WELDON, Mr. BOEHLERT, Mr. WALKER, Mr. BOULTER, Mr. DENNY SMITH, Mr. SMITH of Texas, Mr. BUNNING, Mr. CHANDLER, Mr. SHAYS, Mr. COBLE, Mr. SAIKI, Mr. DANNEMEYER, Mr. SCHAEFER, Mr. DAVIS of Michigan, Mrs. ROUKEMA, Mr. DUNCAN, Mr. ROGERS, Mr. FAWELL, Mr. RHODES, Mr. HASTERT, Mr. RAVENEL, Mr. PURSELL, Mr. OXLEY, Mr. HEFLEY, Mrs. MORELLA, Mr. HOLLOWAY, Mr. INHOFE, Mr. MILLER of Ohio, Mr. MILLER of Washington, Mr. GALLEGLY, Mr. GILMAN, Mr. GRANDY, Mrs. MEYERS of Kansas, Mr. HERGER, Mr. DONALD E. LUKENS, Mr. LIGHTFOOT, Mr. KASICH, Mr. KONNYU, Mr. LATTA Mr. LENT, and Ms. SNOWE.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

86. By the SPEAKER: Petition of the Executive Committee, Florida Electric Power Coordinating Group, Inc., Tampa, FL, relative of Federal regulation of acid rain; to the Committee on Energy and Commerce.

87. Also, petition of the Ambassador, Embassy of Nicaragua, Washington, DC, relative to a copy of the first and second report of the Government of Nicaragua to the International Verification and Follow-up Commission on the implementation of the Esquipulas II accords; to the Committee on Foreign Affairs.

88. Also, petition of the Secretary General, North Atlantic Assembly, Brussels, Belgium, relative to the texts of the policy recommendations adopted at the 33d Annual Session of the Assembly, held in Oslo from 20 to 25 September 1987; to the Committee on Foreign Affairs.