on Science and Technology and was also a fellow of the American Association for the Advancement of Science; president of the 18th International Geological Congress, held in Washington in 1993; a president of the Geological Society of America and of the American Geophysical Union, and a member of committees of the National Academy of Sciences, the National Research Council and the National Advisory Committee on Oceans and Atmosphere.

At both Columbia University and Dartmouth, Drake became chairman of his department. While at Columbia, where he spent 16 years before joining the Dartmouth faculty in 1969, he conducted pioneering research on the geologic evolution of the continental margin of the Eastern United States.

Since 1970, he had conducted research at the reservoir at Lake Powell in Utah on the ecological effects of man's efforts to impound the otherwise wild Colorado River and manage water resources in an arid area.

The dinosaur dispute between the volcano theorists and the meteorite-impact theorists raged through the late 1970s and the 1980s, with the meteorite side led by Nobel laureate physicist Luis W. Alvarez; his son, Walter, a geologist, and their colleagues at the University of California at Berkeley.

Then, in 1994, a new theory combining the conflicting ideas was proposed: antipodal volcanism. In this theory, a speeding rock from outer space, exploding on impact with the force of millions of hydrogen bombs, would have blasted enormous shock waves through the earth. These shock waves would have coalesced at the antipode, the side of the planet opposite the impact crater, to fracture the ground, heat it and bring on volcanic outpourings.

In the new theory, then, both the meteorite and its volcanic repercussions in the opposite hemisphere would have contributed to the decline of the dinosaurs. But Drake never embraced that notion, his colleague Officer said Wednesday.

Charles Lum Drake was born on July 13, 1924, in Ridgewood, N.J. He received a bachelor's degree in geologic engineering from Princeton in 1948 and a doctorate in geology from Columbia in 1958. He began his teaching career in 1953 as a lecturer at Columbia, where he became a professor and, in 1967, chairman of the department of geology.

In 1969, he went to Dartmouth as a professor of geology. There he served at various times as chairman of the department, dean of graduate studies and associate dean of the faculty for sciences. He retied in 1994.

He is survived by his wife of 46 years, the former Martha Churchill; three daughters, Mary Layton, also of Norwich; Pace Mehling of Corinth, Vt., and Susannah Culhane of Manhattan; a brother, Thayer, of Avon, Conn., and four grandchildren.

AMERICA'S VETERANS URGE RESTRAINT

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 11, 1997

Mr. EVANS. Mr. Speaker, the Veterans' Affairs Committee held a hearing this week on S. 923 and H.R. 2040, measures which would deny certain veterans' benefits to veterans convicted of certain capital crimes. Seven of the major veterans' service organizations testified as one voice, and I urge my colleagues to review their excellent statement which thoughtfully examines a very difficult and complex issue. Their testimony follows:

STATEMENT OF RICK SURRATT, DISABLED AMERICAN VETERANS BEFORE THE COMMITTEE ON VETERANS' AFFAIRS, JULY 9, 1997

I am pleased to present the collective views of the American Legion, AMVETS, the Blinded Veterans Association (BVA), the Disabled American Veterans (DAV), the Jewish War Veterans of the USA, the Paralyzed Veterans of America (PVA), the Veterans of Foreign Wars of the United States (VFW), and the Vietnam Veterans of America (VVA) on two bills to amend the law pertaining to benefits eligibility in the case of veterans committing capital crimes. The national veterans organizations comprising this group, which for the sake of convenience I will refer to as the ''veterans group,'' have come together to speak as one, united voice because of the views and concerns they hold in common on the subject matter of these bills.

The veterans group appreciates your invitation to explain its position on whether and to what extent the commission of capital offenses by veterans should affect their, or their dependents,' benefit eligibility status. Without question, this raises a serious public policy question for our Nation's citizens. It is also certainly appropriate that the millions of veterans the group represents have a voice on this issue because, after all, these veterans are some of America's most patriotic and civic-mined citizens, and these matters, of course, also involve highly valued and honored rights veterans earned by virtue of their reviewed service to the Nation. On the other hand, because veterans are among our most responsible citizens, they must not and will not view their interests as veterans as separate from or in conflict with the greater interests of the Nation as a whole. However, as appropriate with many such difficult issues, they counsel a balancing between the immediate human desire for and the attractiveness of societal retribution for crimes and the countervailing rational concerns about the maintenance of stable measured, and equitable principles of law—and thus the best interests of our society as a whole—over the long-term. It is that sense of prudence and equity that guides the veterans group in their position of these bills.

The veterans group has no quarrel with a view that veterans are without privilege to disobey society's rules, and that, absent special circumstances, the consequences for crimes should be the same for veterans and nonveterans. fairness dictates that veterans be treated the same as other citizens on matters unrelated to their status as veterans per se, however. Thus, the veteran should not suffer greater or harsher penalties merely because he or she is a veteran than a similarly situated nonveteran. To impose greater punishment on the veteran goes beyond punishment on account of a crime to punishment on account of being a veteran. That is not to argue that we should continue to hold veterans who commit crimes in the same high esteem that we do veterans who conduct themselves properly. Thus, we do not have to bestow the same honors upon veterans who bring dishonor to themselves as we would upon veterans who continue to conduct themselves in an upright manner during their civilian lives following completion of military service.

Of concern to the veterans group here, however, is the treatment to be accorded veteran status once earned through satisfactory fulfillment of service to the Nation. Veteran status is a legal status which, as a practical matter, is realized through the special rights created for veterans to enjoy as a restitution for the sacrifices of military service. Almost without exception, this status, once accrued, is considered indefeasible. It is conferred by the completion and honorable character of the recipient's military service and is not conditioned upon subsequent conduct in civilian life. Logically, that is as it should be. Just as a former servicemember without honorable service should not be awarded veterans' rights on the basis of post-service accomplishments, no matter how commendable, conversely, veteran status should not be exposed to rescission as a result of civilian conduct following, or for other reasons unrelated to, the performance of military service. Veterans should be secure in the knowledge that their veteran status is vested and will not be held hostage to irrelevant, post-service factors. If veterans' rights are intended to remunerate for disabilities incurred, opportunities lost, extraordinary rigors suffered, or contributions made in connection with and during the time of military service, such rights should, like wages earned, not be withheld or recalled because of subsequent performance or unconnected actions or events, even when such actions or events are of a character that evoke very negative public sentiments. The special value of service to one's country and the integrity of veteran status would be defeated by departure from that tradition. Fidelity to this principle admits exceptions for only the most highly exceptional circumstances.

Currently, the law provides for forfeiture of veterans' rights only under circumstances of crimes against the government which jeopardize or seriously threaten our national security. Section 6104 of title 38, United States Code, provides that veterans shown to be guilty of mutiny, treason, or sabotage forfeit all future VA benefits, and section 6105 of title 38 similarly provides that veterans convicted of a variety of subversive activities forfeit VA benefits, including eligibility for burial in a national cemetery. These circumstances justify nullification of veterans' entitlements because individuals should not receive support from a government they actively seek to destroy.

This Committee now has before it S. 923 which the Senate passed recently. This bill would essentially void the veteran status of any veteran convicted of a Federal capital offense. Forfeiture would result from the commission of any Federal offense punishable by death (regardless of whether the death penalty was deemed warranted or actually imposed). Obviously, that would go well beyond the nature of the offenses which are now deemed to justify voidance of veteran status. While the veterans of this Nation understand and, indeed, share in the public indignation at such detestable acts, they believe that persons committing such crimes should be punished as criminals, not veterans. As noted previously, when the laws impose the criminal penalty and also void veteran status, they punish veterans both for the crime and because they are veterans. Unquestionably, persons committing capital offenses, as well as many lesser but also repulsive or unsavory crimes such as child molestation or even drunken driving, are justifiably not viewed very sympathetically by the public, but emotions should not obscure or overcome the more judicious considerations appropriate in these matters. An integral part of our national values and the qualities that set us apart from other nations is our refusal to compromise justice and fairness even for the most reprehensible within our society.

Therefore, in addition to opposing S. 923 because it operates to impose greater punishment on veterans merely because they are veterans, the veterans group also opposes it

as a matter of principle inasmuch as it diminishes the intrinsic value of veteran status. This would be but one step in undermining the fortification of veteran status against the capricious overreactions of those who would revoke it in the name of any popular cause or crusade or would find it a convenient target against which they could direct their frustration. If enacted into law, this will make veterans more vulnerable to oblique attacks or indirect punishment for unrelated matters. Again, once veteran status is earned, it should be a protected and an irrevocable right, not to be taken away because of subsequent unrelated events, except for serious crimes against the nation. Preservation of the high esteem of veteran status promotes patriotic ideals and national unity, and is in the best interest of the Nation as a whole.

H.R. 2040, introduced by Committee Chairman Stump on behalf of himself, Mr. Evans, Mr. Skelton, Mr. Bachus, Mr. Everett, Mr. Filner, Mr. Quinn, Mr. Clyburn, and Mr. Stearns, would preclude burial in a federally funded cemetery for persons guilty of first-degree murder of certain Federal officials and law enforcement personnel in conjunction with the commission of certain other Federal crimes. This bill does not have the objectionable effects of S. 923.

H.R. 2040 would impose this bar by amending section 2402 of title 38, United States Code, to exclude from eligibility for burial in federally funded cemeteries those who have been convicted of, or are shown to have committed, the crimes specified. In addition to first-degree murder of Federal officers or employees as provided in section 1114 of title 18, United States Code, the persons excluded must have committed one of the following crimes: damage or destruction or attempted damage or destruction by fire or an explosive of Federal property, as provided under section 844(f) of title 18, United States Code; use of a weapon of mass destruction, as prohibited under section 2332a of title 18, United States Code; acts of terrorism, as prohibited under section 2332b of title 18, United States Code; use of chemical weapons, as prohibited under section 2332c of title 18, United States Code; providing material support to terrorists within the United States, as prohibited under section 2339A of title 18, United States Code; or providing material support or resources to foreign terrorists, as prohibited under section 2339B of title 18, United States Code. Such persons would be ineligible for burial in Arlington National Cemetery, any cemetery of the National Cemetery System, or any state cemetery for which a grant has been approved or provided under section 2408 of title 18, United States Code. This prohibition would apply to applications for burial or interment made on or after the date of enactment of the legislation.

While we do not wish to understate the gravity of capital offenses, the disqualifying crimes are of a character and magnitude to be distinguishable from the other numerous capital offenses generally. Moreover, the question of who should be permitted to be buried in our national cemeteries is different from the question of who should have rights as veterans generally. There are valid reasons to prevent persons committing these crimes from being buried in the places of honor set aside for our Nation's most gallant and beloved sons and daughters. First, such persons are themselves unworthy of the honor of burial in these hallowed shrines. Second, to permit persons of such depravity to be buried in the midst of those who fully deserve the honor and tribute, belittles that honor, mocks that tribute, and defeats the special purpose of these places of dignity and sanctity. The national and other federally funded veterans cemeteries serve as a lasting testimonial to this Nation's gratitude for the sacrifices of its veterans. Being an enduring symbol of the special honor our Nation reserves for its veterans to memorialize their bravery, patriotic deeds, and glory, the renown of these sanctuaries resides in the character of those buried there. It is therefore unfair to our other noble veterans to permit persons who have acted so dishonorably through the commission of such heinous crimes to be buried alongside of them.

H.R. 2040 appropriately responds to concerns that our veterans' cemeteries not be degraded by interment of persons who wear a badge of infamy. The class of persons barred by H.R. 2040 is very carefully tailored to exclude from eligibility those who commit the type of crimes warranting such action, and this bill does not include more reactive provisions and sweeping forfeiture that has inappropriate implications and disturbs the integrity of veterans status itself.

The veterans group does have some questions of a purely technical nature about H.R. 2040, however. To bar those who have not been convicted by a court due to unavailability for trial but who are nonetheless shown to have committed disqualifying crimes, H.R. 2040 provides for an administrative determination of ineligibility. Subparagraph (B) of the new subsection (b) excludes burial eligibility for ''a person shown to the appropriate Secretary by clear and convincing evidence, after an opportunity for a hearing in such manner as such Secretary may prescribe, to have committed a crime described in both clauses (i) and (ii) of subparagraph (A) but has not been convicted of such crimes by reason of such person not being available for trial due to death, flight to avoid prosecution, or determination of insanity.''

Although it presents no serious concern, the practical effect of subparagraph (B) in the case of unavailability for trial due to death or flight to avoid prosecution is questionable. If the person has not been tried due to death, he or she would either already be interred or inurned in a nongovernment cemetery or mausoleum, would already be interred or inurned in a federally funded cemetery covered by this bill, or might be in a mortuary. In the first instance, the question of interment in a veterans' cemetery would seem an unlikely one. In the second instance, if the person's crimes were not learned until after burial in a veterans' cemetery, for example, would disqualification under this section require disinterment, and if so, who would bear the costs of such disinterment? In the third instance, where the person was killed at the time of the crime and the body is awaiting burial, for example, the requirement of an administrative hearing might effectively bar burial regardless of the proper disposition of the issue if the bureaucracy moves at its usual speed. It is also unclear how the issue of eligibility would arise if the person is a live fugitive, unless this provision is to be interpreted as requiring a preemptive administrative determination, which would seem unnecessary given the possible eventualities that there may never be a request for burial of such person in a federally funded cemetery; that the person will be apprehended and tried, making this subparagraph inapplicable; or that the issue will arise upon the person's death, which of course then returns us to the questions about implementation in the case of a deceased person. (Recognizing that, in their proceedings, administrative tribunals do not apply the standard of proof beyond a reasonable doubt. The American Legion is nonetheless also concerned that the presumption of innocence is rebutted by less conclusive proof in the administrative proceedings under subparagraph (B) than in criminal trials.)

As written, subparagraph (B) applies to those who have not been ''convicted'' because of ''not being available for trial.'' Thus, it would not, and should not, apply to persons tried and found not guilty by reason of insanity. For simple clarity and to ensure this causes no hesitation or possibility of misinterpretation by administrative personnel, the veterans group suggests that ''determination of incompetence to stand trial'' or language of similar import might be more appropriate.

It appears that there would be a right of appeal on any adverse determination with respect to burial in a national cemetery under section 2402. Under section 7104 of title 38, United States Code, the Board of Veterans' Appeals has jurisdiction to review any decision of the Secretary of Veterans Affairs on the provision of benefits in accordance with the Secretary's authority under section 511 of title 38. H.R. 2040 appears to leave unanswered the collateral question of the right of and process for administrative or judicial appeal from adverse determinations of the Secretary of the Army regarding Arlington National Cemetery, however. The Committee may wish to amend H.R. 2040 to resolve this question.

Other than these minor technical matters, H.R. 2040 appears to be carefully crafted to accomplish its goal of maintaining the stature of our veterans' cemeteries. The veterans group is especially appreciative of the sponsors' careful, wise, and thoughtful approach to this sensitive issue and urges this Committee to take the same approach and favor this bill over S. 923. The veterans group is also especially grateful for the Chairman's leadership on this matter and the advice he has given sponsors of other related bills.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1998

SPEECH OF

HON. ELIJAH E. CUMMINGS

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 11, 1997

Mr. CUMMINGS. Mr. Speaker, I rise today in opposition to the rule and to advocate on behalf of full funding for the National Endowment for the Arts [NEA]. In creating the NEA in 1965, this institution wisely noted:

An advanced civilization must not limit its efforts to science and technology alone but give full value and support to other great branches of scholarly and cultural activity in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.

Mr. Speaker, the arts are the heart of our Nation and the NEA is the heart of the arts. Today, there are those who would rip out the heart of the artistic community.

Current funding for the National Endowment for the Arts is certainly a modest effort. It accounts for less than one one-hundredth of 1 percent of our Federal budget. We should already be embarrassed at the amount of public support for the arts. Each year Americans pay just 38 cents of their taxes to support the arts. In Canada and France, per capita support for the arts is $32.

But the impact of this small program is immeasurable. Today, more Americans have access to the arts than ever before. The NEA funds projects in small cities and rural areas where corporate and foundation dollars never