

THE PRESIDENT'S CALL FOR INDISPENSABLE LEADERSHIP—
JANUARY 21, 1997

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. OWENS. Mr. Speaker, President Clinton's inaugural address was not a State of the Union speech obligated to provide substance for general proposals. Appropriately, the President used his second inaugural statement to set a tone for the next 4 years, the prelude to the 21st century. America is a great country blessed by God with wealth far surpassing any Nation on the face of the Earth now, or in the past. The Roman Empire was a beggar entity compared to the rich and powerful Americans. God has granted us an opportunity unparalleled in history. President Clinton called upon both leaders and ordinary citizens to measure up to this splendid moment. The President called upon all of us to abandon ancient hatreds and obsessions with trivial issues. For a brief moment in history we are the indispensable people. Other nations have occupied this position before and failed the world. The American colossus should break the historic pattern of empires devouring themselves. As we move into the 21st century we need indispensable leaders with global visions. We need profound decisions.

INDISPENSABLE NATION

Under God, The indispensable nation, Guardian of the pivotal generation, Most fortunate of all the lands, For a brief moment, The whole world we hold in our hands, Internet sorcery computer magic, Tiny spirits make opportunity tragic, We are the indispensable nation, Guardian of the pivotal generation, Millionaires must rise to see the need, Or smother beneath their splendid greed, Capitalism is King, With potential to be Pope, Banks hoard gold, That could fertilize universal hope, Jefferson Lincoln Roosevelt King, Make your star spangled legacy sting, Dispatch your ghosts, To bring us global visions, Indispensable leaders, Need profound decisions, Internet sorcery computer magic, Tiny spirits make opportunity tragic, We are the indispensable nation, Guardian of the pivotal generation, With liberty and justice for the world, Under God.

SUPPORT GREATER MEDICARE EQUITY AND FAIRNESS BY REFORMING THE AAPCC PAYMENT FORMULA

HON. JIM RAMSTAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. RAMSTAD. Mr. Speaker, I rise today to introduce legislation to respond to an issue of great importance to Medicare beneficiaries and health care providers in my district and throughout the country—reforming the payment for Medicare risk-based managed care plans.

Currently, Medicare payments to risk-based health care plans are calculated on the basis of Medicare spending in each county's fee-for-service section—medical care outside of managed care plans. The variation in the adjusted average per capita cost [AAPCC] formula re-

flects different utilization of health care services.

In 1996, Dr. John E. Wennberg, the director of the Center for the Evaluative Clinical Studies at Dartmouth Medical School, published "The Dartmouth Atlas of Health Care." The atlas shows that the rates of hospital beds and physicians per 1,000 residents determines how much care Medicare beneficiaries use. Revising the highly variable AAPCC payment formula will result in greater equity for Medicare beneficiaries regardless of where they live, allowing choices among plans and more equitable distribution of out-of-pocket costs and additional benefit packages.

Because of the need to correct the inequity in the AAPCC payment formula for millions of Medicare beneficiaries, I strongly supported changes to the formula during consideration last session of the Medicare Preservation Act. Regrettably, congressional efforts to reform the geographic disparity and inequities in the AAPCC formula were denied by the stroke of the President's veto pen.

The legislation I am introducing today narrows the AAPCC payment gap between rural and urban areas in a budget neutral fashion. At a minimum, a county would receive 80 percent of the national input-price-adjusted capitation rate. This change helps reflect the true cost of doing business, taking into consideration uncontrollable factors such as wage rates or supply costs. The language also implements a 3-year average for the baseline rather than 1 year. This change provides greater representation of historical health care costs for an area. This bill is based on the Physician Payment Review Commission's "1996 Annual Report to Congress."

When the Health Care Financing Administration [HCFA] released the 1997 payment rates for Medicare managed care plans, the agency told us that payments nationally to Medicare-managed care plans would increase an average of 5.9 percent as of January 1, 1997—significantly lower than the 1996 national average increase of 10.1 percent.

This is good news in terms of the solvency of the Medicare trust fund—we need to slow the rate of growth of Medicare spending to stave off its imminent bankruptcy. The bad news is that this average increase reflects wide variation in percentage increases from county to county. Four counties: Valencia, N.M.; and three New York State counties Bronx, Monroe and New York, actually will receive negative growth—real decreases. Because the actual dollar variations are also extreme, many low-payment areas get a double whammy—lower percentage increases off a lower base.

This situation continues a trend inherent in the flawed payment formula. The following table illustrates the vast variation between counties across the country. I believe it is important to point out that even though the 1996 AAPCC payment increased an average of 10.1 percent not all counties shared in the bounty of that increase. The same is also true for the 1997 AAPCC payments.

Counties that typically lost ground were those in efficient markets and rural counties with historically lower reimbursement rates. Because of these lower payment rates and lower annual increases, these regions will continue to lack the ability to attract managed care options to their area or offer enhanced health care benefits often found in higher payment communities.

MONTHLY PAYMENT RATES TO MEDICARE-MANAGED CARE PLANS

Area/county	1995 pay- ment	1995 per- cent in- crease	1996 pay- ment	1996 per- cent in- crease	1997 pay- ment	1997 per- cent in- crease
National average ...	\$400	5.9	\$440	10.1	\$466	5.9
Richmond, NY	668	6.2	758	13.4	767	1.1
Kern, CA	439	5.8	478	8.9	512	7
Hennepin, MN	359	2	386	7.6	405	4.8
Tulare, CA	333	2.9	360	7.9	390	8.4
Vernon, WI	209	6.6	237	13.2	250	5.5

The payment rates also illustrate the overall instability and unpredictability of AAPCC's—factors that discourage health plans from entering new markets and remaining in other markets.

If there is a silver lining to HCFA's release of the 1997 risk-based managed care payment rates, it was contained in Dr. Vladeck's remarks: "The formula used to set HMO payment rates is flawed. It shortchanges rural areas and markets where care is delivered more efficiently, and may limit beneficiary choice."

Dr. Vladeck's comments indicate HCFA's understanding of the inequity in the current AAPCC formula and the need for change if we are to offer all Medicare beneficiaries true choices in the type and form of health care they want to receive. I see this as a signal that in the months ahead we can work in a bipartisan, pragmatic way to improve the AAPCC payment formula.

Mr. Speaker, correcting the AAPCC payment formula is vital. The 105th Congress has the opportunity to make the formula more equitable. I look forward to working with you and my colleagues on the Committee on Ways and Means to make the needed changes to the AAPCC payment formula. The longer we continue to use the current formula, the longer efficient health care markets will be penalized and rural areas will lag behind, leaving many Medicare beneficiaries with fewer choices.

CURT FLOOD: AN UNCOMMON MAN

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, February 4, 1997

Mr. CONYERS. Mr. Speaker, 1 month ago, I introduced legislation repealing baseball's antitrust exemption. The bill was designated H.R. 21, in honor of Curt Flood's number when he played for the St. Louis Cardinals.

In an era when the terms hero and courage are used all too frequently, Curt Flood stands out as the genuine article, a true inspiration to all Americans who care about economic and social equality. I am attaching a letter from President Clinton and several articles written which describe his career and reiterate these very points.

Most of us are well aware of the courage Curt Flood displayed when he refused to accept being traded to the Philadelphia Phillies. His letter to then Commissioner Kuhn cut directly to the core of the issue:

After 12 years in the Major Leagues, I do not feel that I am a piece of property to be bought and sold irrespective of my wishes. I believe that any system which produces that result violates my basic rights as a citizen and is inconsistent with the laws of the United States and the several states.

Although Curt Flood lost his legal battle challenging baseball's antitrust exemption, the public recognized the moral validity of his arguments—he was not a piece of property. His case paved the way for free agency in all professional sports. A national poll taken in the wake of *Flood v. Kuhn* showed that fans opposed the reserve clause, which bound players to teams for life, by an 8 to 1 margin.

And while thousands of athletes have subsequently benefited from free agency, Curt Flood paid a heavy price for his decision to take on the baseball owners. The 3-time all-star and 7-time gold glove award winner played only 13 more games before being forced out of baseball.

Less well known is the fortitude Curt Flood displayed in fighting racial intolerance. At the same time Jackie Robinson was breaking the color barrier with the Brooklyn Dodgers, Curt Flood was facing the Jim Crow laws as the sole black man playing for the High Point, NC Hi-Toms.

He alone was barred from gas station rest rooms. Only Curt Flood was forced to eat at the kitchen door while his teammates were served in the dining room. And when he played a doubleheader, he experienced only greater humiliation. As he explained to Ken Burns:

After the end of the first game you take off your uniform and you throw it into a big pile. . . . [But the clubhouse manager] sent my uniform to the colored cleaners which was probably 20 minutes away and there I sat while all the other guys were on the field. [The crowd has] really been giving me hell all day long, and now I'm sitting there stark naked waiting for my uniform to come back from the cleaners and the other guys were out on the field. So finally they get my uniform back and I walk out on the field . . . boy you'd think that I had just burned the American Flag.

Curt Flood's talents and goodwill extended well beyond baseball. He ran a foundation to benefit inner-city youngsters. An accomplished painter, his portrait of Martin Luther King hangs today in Corretta King's living room.

In the end, we will remember Curt Flood for having the courage to tell America what should have been plain and obvious all along. Discrimination is wrong. People—even athletes—are not property. Baseball is a business and should be subject to the competition laws.

A few days before Curt Flood died, I wrote him, suggesting that if the legislation I introduced in his honor was to pass into law, he should come to the White House signing ceremony. That can't happen now, but I know his indomitable spirit will be with us as we continue his fight for equality and fairness. I know all Members—and indeed all professional athletes—join me in mourning this courageous man.

THE WHITE HOUSE,
Washington, DC, January 24, 1997.

Mrs. CURT FLOOD,
4139 Cloverdale Ave.,
Los Angeles, CA.

DEAR MRS. FLOOD: Hillary and I were saddened to learn of your husband's death, and we extend our deepest sympathy.

Curt Flood was a man of extraordinary ability, courage, and conviction. His achievements on the field were matched only by the strength of his character. While there are no words to ease the pain of your loss, I hope you can take comfort in the knowledge that Curt will be remembered by so many Americans as one of baseball's finest players and a

lasting influence on the sport he loved so much.

We hope that the loving concern and support of your family and friends will sustain you during this difficult time. You are in our thoughts and prayers.

Sincerely,

BILL CLINTON.

[From the Washington Post, Jan. 22, 1997]

QUITE SIMPLY, A HERO

(By Thomas Boswell)

Every few years, Curt Flood would reappear. Maybe that was so we could compare his fast-aging and haggard face with the laughing ballplayer's mug that he'd worn in the 1960s, before he took baseball to the Supreme Court.

We won't be able to read the cost of making history in that face any more. Flood died of throat cancer Monday at 59. It was Martin Luther King Jr. Day. Of all the figures in sports in the last generation, perhaps only Flood could die on the anniversary of a martyr's death and have it seem a fitting memorial.

For a few days perhaps we can remember the difference between a real rebel—one who takes risks for the sake of a genuine cause—and our phony, look-at-me rebels who only stand for the cover shoot of their next autobiography.

Rebellion that's worthy of the name isn't about attitude. The rebel to whom our respect and our heart goes out is the one, such as Flood, who never in this world wanted such a job. He just had the mixed fortune to see what was right and act on it, knowing the cost to himself.

"Baseball players have lost a true champion," said players union head Donald Fehr on Monday. "A man of quiet dignity, Curt Flood conducted his life in a way that set an example for all who had the privilege to know him. When it came time to take a stand at great personal risk and sacrifice, he stood firm for what he believed was right."

Flood had the brains and the sense of justice to understand that baseball's employment system was basically unfair. However, by temperament, he was completely unsuited to a public brawl that lasted for years. He was as distressed by conflict as Fehr is invigorated by it. And Flood's torment always showed.

When he arrived in Washington in 1971 after sitting out a season, he played only 13 games for the Senators. You couldn't tell if his Gold Glove, all-star skills were just fading fast or whether the Flood case was eating him inside. At RFK Stadium, some of us cheered. But enough booed to let Flood know that, for him, no place was home. On the road, he was vilified as a traitor who wanted to ruin the national pastime.

Back then, memories of Black Power salutes were in the air. So Flood, thoughtful but never extreme, was pigeon-holed as radical. All he said was that he was sick of being treated—and traded—"like a piece of meat." How could America sanction a system where a team owned a man for his whole career?

After batting .200 in 35 at-bats, Flood fled. Hard as it may be to believe these days, Flood didn't want fame. He flinched when talking about himself and even admitted that he loathed the thought that he might be hurting his sport.

For years, Flood disappeared from the public scene, often living in Europe. In 1972 *Flood v. Kuhn*, the Supreme Court upheld baseball's right to antitrust immunity. Flood had fought the law and, temporarily, the law won.

"You have to understand that if you do what I did to baseball, you are a hated, ugly, detestable person," he said, explaining his

self-imposed exile. This week, Hank Aaron said simply, "Flood was crucified for taking his stand."

By 1976, free agency had arrived and the justice of Flood's stand against the reserve clause was vindicated. But Flood stayed on the island of Majorca. Finally, two years later, he put his toe back into baseball gingerly, as a radio announcer for the Oakland A's for one season. He looked like a shy, hyper-sensitive ghost of himself. Though only 41, he seemed far older. His wounds were deep. His sense of isolation was almost palpable.

Many in the game respected Flood's pain, regarding him like a soldier who'd suffered shell shock in a necessary battle. Nobody, however, had a name for his fragile condition. He hadn't exactly become an eccentric. But whenever you saw him at a ballpark, he seemed raw-nerved and weighted down, like a man who'd seen something—seen it clearly and undeniably—and couldn't begin to get over it.

Finally, in 1994 Flood stood before the cameras again briefly during the players strike. Ostensibly, he was part of a possible new league called the United Baseball League.

Really, he took the stage to give modern players some backbone. The message was subliminal: This guy bucked the system for all of you. Maybe baseball put him on the rack and cracked him to a degree. So when an owner sneers about breaking the union, have a little guts. The money in your bank account came out of this guy's peace of mind.

Flood's legacy remains a tangled one. You could say he did the groundwork so athletes could make more money than anybody deserves. Flood laid the cornerstone of the Shaq Fu mansion, so to speak. Flood helped make a world where Brett Favre knows nobody will mock the Superman tattoo on his biceps; self-infatuation is so routine, nobody even notices anymore. Could Dennis Rodman be as "Bad As I Wanna Be" without his \$7 million salary? If you kick somebody, peel off a big stack of Grover Cleverlands. No problem. Thanks, Curt.

Cynics will say that Flood stood for something so that those who followed him could afford to stand for nothing.

That, however, is not Flood's fault. By helping athletes make market salaries for their services, he allows them to live on a bigger scale. We hear about the jerks. But the fools are still in the minority. More athletes are like Darrell Green of the Redskins, who was chosen this week as the NFL's Man of the Year for his charity and community work.

For some of us, Flood should be a daily tonic. Maybe he'll shame us into using the language more precisely when we describe our famous athletes.

When we use "courage" to describe a quarterback who takes a pain-killing shot, maybe we'll blush. When we call someone who makes a jump shot at the buzzer a "hero," maybe we'll be just a bit abashed. If that is heroism, what word have we reserved for people such as Flood?

And when we say losing the World Series is "tragic," perhaps we'll think of the last 28 years of Flood's life—and the price he paid for following his conscience. Then, our perspective sharpened, maybe we'll choose a better word.

[From the New York Times, Jan. 21, 1997]

REMEMBERING FLOOD, A MAN FOR ALL SEASONS

(By Murray Chass)

In a recent letter to Frank Slocum, executive director of the Baseball Assistance

Team (B.A.T.), Curt Flood wrote, "The 1996 holiday season brings mixed feelings of joy and sadness. Therefore, we'll take the advice that mother Laura gave to me when I was a kid. She'd say 'Start counting your blessings, Squirtis, by the time you've finished, you won't have time for anything else.'"

Flood, who was 59, died yesterday after a yearlong battle with throat cancer, and it is the players who came after him in the major leagues who should count their blessings for having had a man of his stature and dignity and courage precede them.

Professional athletes, for the most part, live for their time. They generally don't care what happened before them and, worse, they often don't know. Sadly, many baseball players wouldn't even be able to identify Flood, wouldn't even know that he was the forerunner of Andy Messersmith, another name they wouldn't recognize for the impact he had on their lives.

But that day in Atlanta in the last month of 1994, the players in the meeting room of the players association executive board knew about the man who was to speak to them. They saluted him with a standing ovation before he spoke.

"It almost made me forget what I was going to say," Flood said afterward. "It caught me a little short. I felt a lump in my throat."

Flood was in the room that day in his capacity as vice president of the United Baseball League, a venture that did not reach fruition. Twenty-five years earlier, in 1969, he appeared before another Players Association executive board seeking support for the task he was about to undertake. The St. Louis Cardinals, for whom he had played for 12 years, had traded him to the Philadelphia Phillies, and he didn't want to go.

Richard Moss, who was the union's general counsel at the time, recalled yesterday that Flood came to him and Marvin Miller, the head of the union, and told them he wanted to challenge the system that he said "treated people like they were pieces of property."

"Marvin and I weren't sure if he was serious, if he had some other agenda," Moss said. "We arranged for him to come to the board meeting in Puerto Rico. The idea was to let him talk to the board and convince them that he was for real, that he really believed this and he was sincere."

With the board's support, Flood took his challenge all the way to the United States Supreme Court. He lost, but his effort eventually emboldened other players, Messersmith in particular. Unfortunately, besides losing the case, Flood saw his career die. After sitting out the 1970 season, he played briefly for the Washington Senators in 1971.

He knew he wasn't the same player he had been, and he walked away from the only job he had known. A pariah in an owner-dominated business, Flood was not welcome to wear a baseball uniform. Instead, he drifted from country to country, first to Majorca, where he opened a bar and became an alcoholic, then back to the United States, then to Sweden, then back home again.

In recent years, Flood operated a youth center in Los Angeles. He enjoyed working with children. He would have enjoyed working with young professional baseball players, too, but he never had the opportunity. Nevertheless, he retained his dignity and, in the last year, his courage.

Yesterday, Joe Garagiola, president of B.A.T., recalled that he testified for baseball in Flood's lawsuit. "I thought if the reserve clause went, baseball was going," Garagiola said. "I was so wrong I can't begin to tell you. It took a lot of guts for him to do what he did."

Garagiola's organization had helped Flood in the last year, and Moss, whom Flood al-

ways identified as his lawyer, had planned to appear before the B.A.T. board tomorrow morning to express Flood's appreciation for the assistance. Instead, Moss made plans to return to Los Angeles.

In his letter to Slocum, Flood also wrote, "Say this: 'Curt accomplished every goal that he set for himself, and simply moved on.'"

He didn't gain a victory 25 years ago, and in his career he didn't achieve statistics that were good enough for the Hall of Fame. But when Flood's name first appeared on the Hall of Fame ballot, this voter marked an 'X' next to it in a symbolic gesture. No one was ever more worthy of such recognition.

[From the New York Times, Jan. 21, 1997]

CURT FLOOD IS DEAD AT 59; OUTFIELDER
DEFIED BASEBALL

(By Joseph Durso)

Curt Flood, the All-Star center fielder for the St. Louis Cardinals in the 1960's who became a pioneering figure in the legal attack on baseball's reserve clause that foreshadowed the era of free agents, died yesterday in Los Angeles. He was 59.

Flood died at the U.C.L.A. Medical Center, where he had been a patient in recent months, after developing pneumonia. He had been suffering from throat cancer since last spring.

At bat and especially on the field, Flood was an outstanding player for a dozen years with the St. Louis Cardinals, a center fielder who won the Gold Glove for fielding excellence seven years in a row in the 1960's and batted over .300 six times.

But it was his stiff resolve regarding the unfairness of baseball's virtually enslavement of players and his courage in challenging a system that perpetuated this condition that carried Flood beyond baseball.

It all crystallized when the Cardinals traded Flood to the Philadelphia Phillies after the 1969 season and Flood refused to go. Represented by Arthur J. Goldberg, former Associated Justice of the Supreme Court and United States Ambassador to the United Nations, Flood triggered a legal war that shook baseball.

Flood actually lost the battle in Federal District Court in New York when the judge suggested that the players and club owners negotiate the issue. But almost six years later, he won the war when other baseball players successfully sued and broke from the "reserve system," which for almost a century had bound a player to his team year after year.

As a result, before another generation had passed, salaries in all sports soared, teams sought salary caps to contain the damage to their payrolls and large cities were required to pay small cities millions in compensation.

The solitary figure who prompted this revolution, Curtis Charles Flood, was born in Houston on Jan. 18, 1938, but was raised in Oakland. He was short and skinny, but he signed his first professional contract while still a senior at Oakland Technical High School.

After two years in the minor leagues and briefly with the Cincinnati Reds, he was traded in 1958 to St. Louis, where he played for the next 12 seasons and three times played in the World Series—against the New York Yankees in 1964, the Boston Red Sox in 1967 and the Detroit Tigers in 1968.

His talents were unquestioned. During a career that lasted from 1956 to 1971, he batted .293, stole 85 bases, appeared in three World Series and reigned in center field for 12 years for the Cardinals.

During one span, he played in 226 consecutive games without committing an error and in 1966 went the entire season without com-

mitting an error and in 1966 went the entire season without making a misplay. He even became a portrait artist of some talent who was commissioned to paint August A. Busch Jr., the owner of the Cardinals, and his children in oils.

At the peak of his career, though, the man with the flawless glove misjudged a line drive, cost the Cardinals the 1968 World Series and supplied a regrettable footnote to the 1968 World Series against Detroit.

The Tigers and Cardinals were tied at three games apiece with Bob Gibson facing Mickey Lolich for the championship in St. Louis in Game 7. They were scoreless for six innings. Then in the Tiger seventh, Gibson retired the first two batters. But after two singles, Jim Northrup followed with the hard drive to center.

Flood lost sight of the ball momentarily, took a couple of steps in toward home plate, reversed direction and slipped while the ball carried over his head for a triple and two runs. The Tigers won, 4-1, and captured the Series.

After the game, Tim McCarver stood in the rubble of the Cardinals' locker-room regret and called out, "Curt Flood, you're beautiful."

But a year later, the Cardinals slid into fourth place and Busch cleaned house. In one blockbuster trade, he sent Flood, McCarver and Joe Hoerner to Philadelphia for Richie Allen, Cookie Rojas and Jerry Johnson. But Flood sued for his freedom from a system that "reserved" players to their teams and that had won exemption from the antitrust laws as far back as 1922.

The trial opened May 19, 1970 before Judge Irving Ben Cooper in the United States Court House in lower Manhattan. The defendants included Commissioner of Baseball Bowie Kuhn, the presidents of the National and American Leagues and the Chief executive of all 24 teams then in the big leagues. They were being challenged by a 32-year-old outfielder who was making \$90,000 a year but was determined not to be traded without his consent. When he was asked which team he wanted to play for, he testified, "The team that makes me the best offer."

The "reserve clause" in contracts was not toppled during the trial, but it came under sustained attack. Marvin Miller, executive director of the players association, described how baseball contracts tied the player to his club forever and said, "The player has no say whatsoever in terms of what conditions he plays under, always bearing in mind he has the one alternative: He may decide to find a different way to make a living."

The Trial consumed 10 weeks, 2,000 pages of transcript and 56 exhibits. Judge Cooper suggested that "reasonable men" could find a solution outside court and ruled: "We are convinced that the reserve clause can be fashioned so as to find acceptance by player and club."

Flood, who sat out the 1970 season, did not think so. He signed with the Washington Senators in 1971 for \$110,000, but after two months suddenly quit and flew to Europe.

When the case was appealed to the Supreme Court, the justices—in a 5-3 ruling—supported the District Court and the Court of Appeals and left the "reserve clause" undisturbed. But Curt Flood had set the stage for the revolution that followed in 1976, and generations of free agents poured through.

"Baseball players have lost a true champion," the players' union head, Donald Fehr, said yesterday. "When it came time to take a stand, at great personal risk and sacrifice, he proudly stood firm for what he believed was right."