

religious order, The Salesians of St. John Bosco. But this is only a matter of degree: even now, I spend an overwhelming amount of energy in listening to and counseling the youth of East Timor, who urgently need such help because of their history. This is my special obligation, and one which I welcome.

Thus I must press on, aware of all the task that are far from complete. St. John Bosco once said that we will have the chance to rest in the hereafter, not in this world. And my life in the past thirteen years since I took up the post in East Timor illustrates the accuracy of Don Bosco's judgment in this regard among others. But my own hard work forms only a small part of what is necessary; the participation of others is vital. I extend the hand of friendship and goodwill to all those who provide genuine assistance or moral support in the vital struggle for peace in East Timor, throughout Asia, Africa, in the western hemisphere, throughout Europe, in Bosnia and elsewhere in the Balkans. Everywhere.

I must also praise the United Nations for its painstaking efforts on the question of East Timor, which have been of central importance in keeping the issue alive over many long years. In the face of great obstacles, in spite of all the difficulties, the United Nations have continued to persevere in the interest of generating dialogue that might one day create a lasting structure of peace in East Timor, and in many other places throughout the world.

There is no institution that can take the place of the United Nations, especially in the light of the history and credibility of the world organization. We can not overlook the fact that the United Nations played an important role from its earliest days in the 1940's in assisting the struggle of Indonesia's nationalist movement. The young Indonesian Republic fought alone, with supreme courage, against the brute force of colonialism and its allies, ultimately receiving the indispensable moral backing that the new world association alone was able to provide. In the face of the moral weight of the United Nations, the Dutch and their allies could not carry on military operations with impunity, as other colonial powers did before the UN was formed in 1945. This must never be forgotten. Thus, the world must do whatever possible to strengthen the United Nations in the months and years ahead, in the deepest interests of all the peoples of the world.

Let it be stated clearly that to make peace a reality, we must be flexible as well as wise. We must truly recognize our own faults and move to change ourselves in the interest of making peace. I am no exception to this rule! Let us banish anger and hostility, vengeance and other dark emotions, and transform ourselves into humble instruments of peace.

People in East Timor are not uncompromising. They are not unwilling to forgive and overcome their bitterness. On the contrary, they yearn for peace, peace within their community and peace in their region. They wish to build bridges with their Indonesian brothers and sisters to find ways of creating harmony and tolerance.

Mutual respect is the basis of compromise. Let us start by making a sincere effort to change the very serious human rights situation in East Timor. The Church has played its part. We have formed a Justice and Peace Commission that is always ready to cooperate with the authorities to address problems.

Independent human rights officials have repeatedly visited East Timor and have recommended what needs to be done. As a first step, the release of East Timor political prisoners has to be given urgent attention, in accordance with the section on Humanitarianism in Panca Sila, The Five Principles of Indonesia's State Ideology. Such a step

would help create an important opening on the road to peace.

Ladies and Gentlemen, taking the liberty to remind, in this assembly, my predecessor's appeal, Israel's former Prime Minister, the late Mr. Itzaak Rabin, speaking in New York, when the first historical meeting with President Arafat took place, he said: "Stop bloodshed."

Making mine this same appeal, I say: "Stop bloodshed." And I add: Stop oppression. Stop violence. Stop conflict. Let us sit down around a table and understand each other, because we can not tolerate extending for a long time the suffering of the people of East Timor. I think this is the fundamental intention of the Nobel Committee in awarding to us the prize, expressed on behalf of its president, Mr. Francis Sejersted.

Ladies and gentlemen, East Timor was given the possibility to be heard through the voice of her two sons resounding throughout the world through this solemn assembly; but I would like that this attention shown by the world to East Timor be given the same intensity concerning the many other problems distressing other people.

There are similar situations, throughout the world, where people live under horrible conditions as Timor, but they have no possibility to be heard.

Daily, we get in our home, news and images of suffering, pain, destruction caused by war. "War, this monster," as Father Antonio Vieira states, "what it is doing, even God is not secure in the altar."

I appeal to all men of goodwill and particularly those holding power to find out solutions for these numberless conflicts. Solutions based on justice and solidarity, in order that the fundamental rights would be respected.

I appeal, as well, to all professionals of the information media, charged with this great mission, that they regulate communication between all latitudes of the globe, doing it with a sense of truth and immunity for building up a society more humane and more just, without tendentious manipulations.

I would like, before I finish, to address one word to the youth around the world, particularly to the youth of my dear Timor: "Society is a succession of interwoven rings in which each generation has the duty to the next generation in order to live in the world peacefully fraternally. Under your shoulders, dear young people of the entire world, weigh the responsibility to transform tomorrow's world into a society where peace, harmony and fraternity reign."

Dear youth, I quote from memory the great Indian poet Rabindranat Tagore: "Youth, as a Lotus flower, flourish just once in life." Do not let it wither through the way.

Finally, an event is never a lonely action. The awarding of the Nobel Peace Prize to these two sons of Timor, Dr. Jose Ramos and myself has come about because many people groups and institutions have worked hard so that this event be a reality.

In this moment I would like, in the first place, to thank Her Majesty the Royalty of Norway, for being susceptible with the suffering of the people of East Timor, and for the generous presence in this solemn assembly.

My thanks goes to the Nobel Peace Prize Committee for their kind attention and courageous dedication on behalf of the plight of the East Timorese.

To the government and members of the Norwegian Parliament I thank you for the decision to honor us with the Nobel Peace Prize

I emphasize a little to thank Portugal and other friendly nations, as well as distinguished personalities who have proposed our

names as candidates for the Nobel Peace Prize.

To the Timorese, here and abroad. I convey my indescribable gratitude and my communion and silent solidarity with you.

To His Holiness, Pope John Paul II, who has been persistent and attentive in following the situation and the suffering of the people and the Church in East Timor, I submit my filial devotion and the promise of unending fidelity and in union with Christ.

To the Pontifical Commission of Justice and Peace, particularly in the person of its President, His Eminence Cardinal Roger Etchegaray, who had the opportunity to be in direct contact with the Church of Timor, I submit my deep gratitude.

I can not forget the contribution of friends from other religions who, with discretion and fearless activity have made it possible that the Nobel Peace Prize for 1996 be attributed to the Catholic Church in East Timor.

It would be unjust to forget, although I am aware that it is difficult to count the various Non Government Organizations, Humanitarian Groups, Church related Groups and individuals who have worked hard, in silence and without much publicity, so that the Timorese can receive assistance and that the Timorese issue would not be buried under the dust of oblivion. With them, I share my happiness.

And finally, my sincere thanks to all the members of the social communication industry from all over the world. They had lent their voice in making known to the world the anguish and the suffering of the Timorese. I would like to pay my tribute to those giving information about Timor, risking their life and some of them falling down in East Timor soil.

"The Creator and Father of everything and all peoples will reward all of us and will give us strength, wisdom and courage to struggle for our fellow human beings because each one is the image and the likeness of God."—Gen. 1, 26.

#### INTRODUCTION OF SHORT AGAINST THE BOX LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mrs. KENNELLY. Mr. Speaker, I rise today to introduce legislation to curb the use of innovative tax avoidance techniques that have enabled some investors to indefinitely defer, and in some circumstances completely avoid, capital gains taxes. Under current law, capital gains are subject to tax only when there is a sale or exchange of the property. In this respect, our tax laws have fallen far behind the financial markets. The financial markets have succeeded in creating transactions and instruments that are equivalent to sales in an economic sense but avoid the tax that would be required in the case of a sale. I must agree with Robert Willens, a managing director at Lehman Brothers, who was quoted recently in the New York Times as stating, "old fashioned notions of sale are totally inappropriate for the world we live in today." My bill redefines the concept of when there is a sale for tax purposes in order to take into account the economic substance of these new transactions.

There is a growing perception that the capital gains tax has become voluntary for large investors. There is evidence that capital gain recognitions by large investors have stagnated

in recent years even as the stock market has soared. Typically, average middle-income families have invested through mutual funds whereas relatively wealthier investors also hold direct investment in the stock market and in real estate. Taxable capital gains reported by investors who hold only mutual funds have soared in recent years whereas taxable capital gains reported by investors with direct stock and real estate investments have remained below the level reported in 1988. The availability of these avoidance techniques may have played a role in this decline.

Many of the transactions affected by my bill are not available to the ordinary investor because of their cost. Bankers Trust, a company specializing in equity swap transactions, will do an equity swap only when the investor has a block of stock valued in excess of \$2 million. Also, it should be emphasized that these transactions would not be done except for the tax avoidance potential. In an economic sense they are equivalent to an outright sale, but their costs are substantially greater than those involved in a simple sale.

We rely on voluntary compliance to collect our income taxes. In fact, our current high level of voluntary compliance is the envy of the rest of the world. That high level of voluntary compliance is threatened by the existence of tax avoidance techniques that are only available to the wealthy in our society. The current law capital gains tax applies to all Americans. If the capital gains tax should be reduced it should be done legislatively for all taxpayers, not by Wall Street for the select few.

The bill I am introducing today includes two provisions. The first provision would provide for recognition of gains in the case of transactions, like equity swaps and "short against the box" transactions, that are equivalent to sales. This provision is based on a proposal recommended by the President in his recent budget submission. I have modified the President's proposal to address concerns that it would adversely impact legitimate hedging transactions. My bill contains simplified accounting rules for securities traders and would trigger recognition of gain only when there is deferral of tax over year-end. However, I have retained the effective date recommended by the President since my bill is basically a modified version of his proposal.

The other provision of my bill addresses another abuse, the so-called swap fund, that Congress thought it eliminated almost 30 years ago. In a swap fund transaction, an investor wishing to diversify his investment exchanges his holding of a specific stock for an interest in a diversified investment pool. The current version of this device involves having the fund hold at least 20 percent of its assets in investments that are not readily marketable. My bill eliminates that simple avoidance technique.

I urge the support of my colleagues.

TECHNICAL DESCRIPTION: SHORT AGAINST THE BOX LEGISLATION

#### CONSTRUCTIVE SALES TREATMENT

The Kennelly bill would require a taxpayer to recognize gain upon entering into a constructive sale of any appreciated position in either stock, a debt instrument, or a partnership interest. The taxpayer would recognize gain as if the position were sold and immediately repurchased.

The bill would define a constructive sale as any of the following transactions (and any

other transaction having substantially the same effect as a transaction described below):

- (1) a short sale of the same or substantially identical property;
- (2) entering into an offsetting notional principal contract with respect to the same or substantially identical property. For this purpose, an offsetting notional principal contract is a contract to pay the investment yield on the property for a specified period in exchange for the right to be reimbursed for decline in the value of the property and other consideration;
- (3) entering into a futures or forward contract to deliver the same or substantially identical property;
- (4) an acquisition of the underlying property where the taxpayer holds an appreciated short position described in subparagraphs (1), (2), or (3).

The bill would not trigger gain in circumstances where the underlying property is sold in a taxable transaction during the year or where the constructive sale is closed during the taxable year (and if closed in the last month of the year, is not reestablished in 30 days).

If the taxpayer makes a constructive sale of less than all of his property, the determination of which property is involved in the constructive sale would be made under the principles applicable to outright sales. Under current law, this would permit specific identification.

The bill would not apply to any contract for the sale of any stock, debt instrument or partnership interest that is not a marketable security (as defined under the rules that apply to installment sales) if the sale is reasonably expected to occur within one year of the date the contract is entered into. Nor would the proposal generally treat a sales contract subject to normal terms and conditions as a constructive sale. In addition, the proposal would not treat a transaction as a constructive sale if the taxpayer is required to mark the market the appreciated financial position under Section 475 (mark to market for securities dealers) or Section 1256 (mark to market for futures contracts, options and currency contracts). The bill would permit securities traders to elect mark to market treatment under Section 475.

Like the proposal included in the President's budget, the bill would be effective for constructive sales entered into after the date of enactment. In addition, the bill would apply to constructive sales entered into after January 12, 1996, and before the date of enactment if the transaction resulting in the constructive sale remains open after 30 days after the date of enactment. The bill would apply to those pre-enactment transactions as if the constructive sales occurred on the date that is 30 days after the date of enactment.

A special rule would apply to constructive sale entered into on or before the date of enactment by decedents dying after the date of enactment. If the constructive sale remains open on the date before the date of death and gain has not been recognized under the bill, the appreciated financial position would be treated as property constituting rights to receive income in respect to a decedent under Section 691.

#### SWAP FUND PROVISIONS

Under current law, gain is recognized on the contribution of property to a corporation or partnership that is an investment company. The Code defines an investment company as any corporation or partnership where more than 80% of its assets by value consist of stocks or securities that are readily marketable. The bill provides that all stocks and securities, including those not readily marketable, are taken into account under the 80% test.

#### SEMINAR ON GOALS 2000

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 26, 1997

Mr. HYDE. Mr. Speaker, on February 12, 1997, a day long seminar on education with particular emphasis on the pernicious effects of Goals 2000, school to work and careers legislation was held in the Rayburn Building. The participants were greeted by Phyllis Schlafly, who was responsible for the event—along with many other organizations and individuals—and heard from experts and several State legislators and Congressmen from many States, including California, Oregon, Alabama, Pennsylvania, Florida, South Carolina, Illinois, Arizona, Michigan, Texas, Kentucky, and Arkansas.

Mr. Robert Holland of Richmond, VA, an editor for the Richmond Times Dispatch not only delivered one of the best presentations but contributed the following editorial which appeared in the Washington Times, Sunday, February 23, 1997, which I am pleased to share with my colleagues.

[From the Washington Times, Feb. 23, 1997]

BENEATH THE SEAMLESS MODEL'S HOOD

(By Robert Holland)

The hearing room of the House Judiciary Committee looked like a busy "show and tell" classroom for scholars bearing large stacks of homework Feb. 1-2. Chairman Henry Hyde had convened an unusual grassroots conference on the spreading, entangling "Seamless web" of collectivized education, health and social services, and work-force preparation.

Citizen-activists joined members of Congress and legislators from five states in talking about what their research had yielded, and they brought much of it with them as Exhibits R through Z: thousands of pages of fine print illuminating the complex scheme to make schools the central instrument for transforming American society into one that takes its lead entirely from government technocrats certifying "skills" and dispensing "care."

Such documentation is essential because merely to criticize the seamless web is to risk being branded a conspiracy theorist. The extensive paper trail belies the existence of any conspiracy. It shows, instead, that a slumbering mainstream media—or mediacrats who cheerlead for collectivization—are the problem. The proof exists for anyone willing to risk the eyestrain to read the fine print.

Nor do the leading citizen-activists spurn facts in favor of imagined plots. Consider one of the featured presenters at the Hyde conference: Virginia Miller, a former women's basketball star at Penn State, and Rhodes Scholar candidate who spent 10 years as a systems consultant to U.S. Steel, Mellon Bank, Blue Cross, and Westinghouse.

Now the acting director of the Pittsburgh-based Public Education Network, Ms. Miller provided voluminous supporting documents to show how the Human Resources Development Plan devised by Hillary Clinton's sidekick, Marc Tucker, is coming to fruition through the multifarious works of the National Center on Education and the Economy.

For instance, one sentence penned by Mr. Tucker in a Labor Department-commissioned paper on organizing the work of the National Skill Standards Board (to which Mr. Clinton—surprise, surprise—has appointed Mr. Tucker) fairly jumps off the