

1341 would expand these efforts through Federal-State partnerships. Local agencies, non-profits and community groups currently provide family caregivers with training, counseling, referrals and crucial respite care. H.R. 1341 would reward outstanding, innovative programs and identify those of national significance.

1999 is the International Year of Older Persons. In recognition of this important milestone, I encourage my colleagues to demonstrate their commitment to securing the dignity and health of older Americans and their families by cosponsoring H.R. 1434, "The National Family Caregiver Support Act of 1999."

IN RECOGNITION OF CHILDREN'S  
MEMORIAL DAY

**HON. FORTNEY PETE STARK**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 22, 1999*

Mr. STARK. Mr. Speaker, I rise today to introduce a House Resolution supporting the establishment of the fourth Friday in April as "Children's Memorial Day."

We are all saddened by the tragic shootings at Columbine High School in Littleton, Colorado. Unfortunately, violent acts against children are occurring with increasing frequency—destroying innocent lives and devastating families and communities. In the United States each day, five infants and children die from abuse and neglect, and seven teens are murdered. In fact, more children lose their lives to criminal violence in the United States than in any of the 26 industrialized nations of the world. This is unacceptable.

In Alameda County, California, which I represent, the County Board with the hard work and strong dedication of Alameda County Supervisor Gail Steele, adopted in 1996 the Children's Memorial Flag Project and established a National Children's Memorial Day on the fourth Friday in the month of April to remember all of the children who have died by violence in our country. The Child Welfare League of America has adopted Alameda County's Children's Memorial Flag and promotes it nationally. This year we anticipate 20 State Capitol Buildings will fly the flag at half-mast, with 13 others memorializing these children by other means this Friday, April 23rd.

We have lost far too many children in violent, preventable deaths, through gun violence, fire, automobile accidents, suicide, and physical abuse and neglect. From this moment forward, let us approach our work in Congress with renewed resolve. It is our responsibility and the responsibility of adults everywhere to protect children and to ensure that they have a full opportunity to become healthy and productive adults. Even one child lost is one child too many.

I urge my colleagues to cosponsor this resolution and to honor the memory of children lost to violence in this country. Let us condemn acts of violence committed against the children of our communities and pledge to safeguard the welfare of the children in our nation.

AGENTS WHO SERVED AMERICA  
SHOULD HAVE THEIR DAY IN  
COURT

**HON. JAMES A. TRAFICANT, JR.**

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 22, 1999*

Mr. TRAFICANT. Mr. Speaker, today I am introducing legislation to mandate the establishment of a special federal judicial panel to determine whether cases involving breach of contract disputes between the U.S. Government and U.S. intelligence operatives should go to trial. The bill is identical to legislation I introduced in the last Congress.

The legislation directs the Chief Justice of the U.S. Supreme Court to assign three federal circuit court judges, senior federal judges, or retired justices to a division of the U.S. Court of Appeals for the District of Columbia for the purpose of determining whether an action brought by a person, including a foreign national, in an appropriate U.S. court for compensation for services performed for the U.S. pursuant to a secret government contract may be tried in court. The bill provides that the panel may not determine that the case cannot be heard solely on the basis of the nature of the services provided under the contract.

Currently, the Totten doctrine bars these types of cases from even going to trial. The Totten doctrine is based on the 1876 Supreme Court case of *Totten* versus *United States*. The case involved the estate of an individual who performed secret services for President Lincoln during the Civil War. The court dismissed the plaintiff's postwar suit for breach of contract, stating, in part:

The service stipulated by the contract was a secret service; the information sought was to be obtained clandestinely, and was to be communicated privately; the employment and the service were to be equally concealed. Both the employer and agent must have understood that the lips of the other were to be for ever sealed respecting the relation of either to the matter . . . It may be stated as a general principle, that public policy forbids the maintenance of any suit in a court of justice, the trial of which would inevitably lead to the disclosure of matters which the law itself regards as confidential, and respecting which it will not allow the confidence to be violated.

Other court rulings over the past 120 years have affirmed the Totten doctrine as it applies to breach of contract disputes arising from espionage services performed pursuant to a secret contract. Mr. Speaker, as a matter of policy, the Totten doctrine is unfair, unjust and un-American.

For the most part, U.S. intelligence agencies do a good job of fulfilling commitments made to U.S. intelligence operatives. However, there have been some disturbing lapses.

During the Vietnam War the Pentagon and the CIA jointly ran an operation over a seven-year period in which some 450 South Vietnamese commandos were sent into North Vietnam on various espionage and spy missions. The CIA promised each commando that, in the event they were captured, they would be rescued and their families would receive lifetime stipends. Due to intelligence penetrations by the North Vietnamese, most of the commandos were captured. No rescue attempts were ever made. Many of the com-

mandos were tortured and some were killed by the North Vietnamese. Beginning in 1962, CIA officers began crossing the names of captured commandos off the pay rosters and telling their family members that they were dead. Many of the commandos survived the war. After varying periods of time they were set free by the Vietnamese government. Two hundred of the commandos now living in the U.S. filed a lawsuit last year asking that all living commandos be paid \$2,000 a year for every year they served in prison—an estimated \$11 million. In 1996 the CIA decided to provide compensation to the commandos. Unfortunately, even after this decision was made, the CIA continued to invoke the Totten doctrine to avoid payment.

I have encountered numerous cases in which the CIA has reneged on commitments CIA agents made to foreign nationals who put their lives on the line to provide valuable intelligence to the United States. Absent Congressional action, the Totten doctrine allows the CIA and other intelligence agencies to ignore legitimate cases, and have these cases summarily dismissed without a trial.

In a paper published in the Spring, 1990 issue of the *Suffolk Transnational Law Journal*, Theodore Francis Riordan noted that "when a court invokes Totten to dismiss a lawsuit, it is merely enforcing the contract's implied covenant of secrecy, rather than invoking some national security ground." The bottom line: the U.S. government can, and has, invoked the Totten doctrine to avoid solemn commitments made to U.S. intelligence operatives.

Existing federal statutes give the Director of Central Intelligence the authority to protect intelligence sources and methods from unauthorized disclosure. I understand the importance to national security of preventing unauthorized leaks of information that could compromise U.S. intelligence sources and methods. That is why my bill directs the special judicial panel to take into consideration whether the information that would be disclosed in adjudicating an action would do serious damage to national security or would compromise the safety and security of U.S. intelligence sources. In addition, the bill provides that if the panel determines that a particular case can go to trial, it may prescribe steps that the court in which the case is to be heard shall take to protect national security and intelligence sources and methods, including holding the proceedings "in camera."

Supporters of the U.S. intelligence community have criticized court involvement in intelligence cases by noting that most federal judges do not have the expertise, knowledge and background to effectively adjudicate intelligence cases. In fact, in the *United States* versus *Marchetti*, the Fourth Circuit took the position that judges are too ill-informed and inexpert to appraise the magnitude of national security harm that could occur should certain classified information be publicized. I must respectfully and strenuously disagree with this type of reasoning. Federal judges routinely adjudicate highly complex tax cases, as well as other tort cases involving highly technical issues, such as environmental damage caused by toxic chemicals. It's absurd to assert that judges can master the complexities of the tax code and environmental law, but somehow be unable to understand and rule on intelligence matters.

The U.S. intelligence community has become too insulated from the regulations and laws that apply to all other federal agencies. Mr. Speaker, the Totten doctrine has outlived its usefulness. There is no legitimate national security reason why U.S. intelligence operatives should not be able to file a claim for breach of contract, and have the claim objectively reviewed.

I urge all Members to support my legislation. It's the right thing to do; it's the American thing to do.

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HONORING FERNANDA BENNETT

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**HON. GARY L. ACKERMAN**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 22, 1999*

Mr. ACKERMAN. Mr. Speaker, I rise today to honor Fernanda Bennett, whose dedication and perseverance has made the fifth district Annual Congressional High School Art Competition a resounding success year after year. This year marked the sixth year that the Nassau County Museum of Art generously hosted this noteworthy event, displaying the pieces entered into competition. As the Assistant Director and Registrar, Ms. Bennett directs the smooth installation and public display of these works.

Her enormous contribution to the art competition is indicative of her successful career at the museum. Fernanda Bennett started as an intern in 1983, and has since worked her way up through the staff. Over the years, she has helped plan, organize, and install over fifty exhibitions, ranging from Tiffany lamps to Picasso canvases. As the Registrar, Ms. Bennett handles the details on insurance, transport, and display of numerous, invaluable pieces of art. She also helps maintain records of all borrowed items by collecting photos and documenting their exhibition histories.

As Assistant Director, Ms. Bennett oversees the day to day operations at the museum. She ensures that the building is kept clean and that the gallery environment is properly maintained. In addition, she inspects the artwork to ensure that it is cared for in a manner benefiting its valuable status. Because of its location on a 145 acre preserve, The Nassau County Museum of Art exhibits a collection of monumental outdoor sculptures. Ms. Bennett oversees the preparation of the sites for sculpture installation, handles the removal and placement of these magnificent pieces, and administers the care needed to display the works at their finest.

Her commitment to the museum and years of service to the community have enabled the fifth district art competition to be one of the biggest and best in the country. Six years ago, only fifty students participated in this event. Due largely to Ms. Bennett's extraordinary dedication, over one hundred students took part in this year's competition. Therefore, I ask all of my colleagues to join me in honoring this remarkable individual, Fernanda Bennett.

TREATMENT OF FOREIGN VISITORS

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**HON. CHRISTOPHER H. SMITH**

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

*Thursday, April 22, 1999*

Mr. SMITH of New Jersey. Mr. Speaker, I have been disturbed by the stories which have come to my attention from family and friends of constituents and from travelers from abroad, who have complained about the standard process for obtaining U.S. non-immigrant visas. I certainly understand the challenge faced by our consulates around the globe in considering and processing the immense number of visa applications, and I recognize that dedicated consular officers serve as the vanguard for orderly and legal transit across our borders. Coupled with the responsibilities of customs officers posted at ports of entry, these are the public servants who are often the first to offer words of welcome to foreign visitors. Some personal accounts that have been shared with me, as chairman of the Subcommittee on International Operations and Human Rights, paint a different picture. Rather than words of welcome, the messages are for some ones of harassment and seemingly prejudicial treatment.

One particular collection of incidents is that experienced by my friend and fellow parliamentarian, Romanian Member of Parliament Peter Dugulescu, who travels with a Diplomatic Passport. When we last met in person, I asked that he prepare a written explanation of the difficulties which he has faced. The track record of this one man's treatment at a combination of ports of entry represents a sad commentary on the soiled welcome mat which is sometimes laid out for our visitors. I would hope that greater attention would be given to treating our foreign visitors with respect and the dignity deserved by each.

For the record, I would ask that the recent appeal to the President made by the Honorable Peter Dugulescu be printed in the RECORD.

*To: Mr. William Jefferson Clinton—United States President, United States Congress, United States Department of State.*

*From: Petru Dugulescu, MP, Committee on Foreign Affairs.*

Honorable Ladies and Gentlemen, I am grateful for the opportunity I have been given to take part in the 1999 National Prayer Breakfast. My colleagues and I want to express our gratitude for the relations established between your country and ours, and for continuing to build on this foundation.

In the spirit that has made United States of America a model country for the world, for its democracy and for the opportunities it gives to its citizens and non-citizens living here, I come before you with my sincere appeal in matters that pertain to further advance the relationship between your country and ours, between your people and the people of Romania. Saddened by the situation, I kindly ask for your attention to this letter and take it in adequate consideration with measures that only you can decide to take as you may see fit.

Prior to the Romanian Revolution of 1989, because of my admiration for your country, for its social-political system and the religious freedom, for my religious and political beliefs, I have suffered persecution, mistreatment, and was subjected to mockery many times in Romania. Only God kept me and my

family alive through the hard times. (Aspects of my persecution have been made known in United States by reputable author Charles Colson in his book "The Body") Numerous leaders, such as US representatives; Frank Wolf (VA), Tony Hall (OH), Christopher Smith (NJ), have showed their support and intervened in different ways to the Romanian authorities. Former US Ambassador to Romania, Mr. David Funderburk, has visited our church and my family several times, and continuously showed his support, thus alleviating some of the pain.

Following the 1989 Romanian Revolution, I have been blessed with an invitation to take part in the 1990 National Prayer Breakfast, as a pastor, together with a Romanian delegation. I have been part of this magnificent event every year. Since 1990, I have visited the United States several times for meetings with diplomats and/or social-cultural and religious organizations. My colleagues are looking at me as at someone who truly supports relations with the United States by proven activity. However, I am saddened to say that not all of my visits have been pleasant. This last arrival in your country has been most uncomfortable, to say the least.

On January 7th 1999, I arrived in the United States with a Visitor's Visa and Diplomatic Passport, on board flight no. 120 (Route: Bucharest-Zurich-Atlanta) of Swissair, at Atlanta's International Airport, around 2:00 p.m. Upon the U.S. Immigration inspection service, I was asked by a female officer of the U.S. Customs if I was from Romania. As a result of my positive answer, she asked me to open my luggage and they started taking my personal belongings out in the open while laughing. When I saw the scene caused by this incident, I asked kindly to see what they were looking for. "Food", they replied. I told them I didn't have any. However, they continued to do the same thing. When they were done emptying my luggage, I started collecting my pajamas and other belongings attempting to pack as people were looking at me as to a criminal who just got caught smuggling something illegal into the United States. I can't explain my hurt and embarrassment caused by these officers who continued to joke. When they asked me what I was coming to the States for, I told them that I was invited to attend the National Prayer Breakfast with their President. They laughed again. I showed them the Diplomatic Passport and the invitation, which prompted them to laugh even harder and said: "Send our greetings to Bill Clinton from us, Tom & Jerry". . . I was shocked by their arrogance.

Of all the custom inspection services in the world, this should have been the most painless and most comfortable, especially since I did not break the law in any way. If a U.S. citizen travelling to Romania would be subjected to such humiliation and mockery, would probably say that Romanians are barbarians and the country is still communist. I honestly hope that you can imagine my frustration.

The fact is that this incident with the opening and emptying of luggages in customs was not a first. In September 1996, at the International Airport in Portland, Oregon, I had another similar experience. Other colleagues and acquaintances have told me their experiences as well, leading me to the conclusion that some measures must be taken.

What is the conception or the mentality of the U.S. Customs Officers pertaining to us Romanians who come in the United States as visitors? Why are we treated as 2nd class citizens (or even worse)? Why can't we feel welcomed into this great democratic country? Why are we Romanians different than other travellers? Or, if not considered different, then why are we treated differently?