

Court ruled that the diversity had academic value.

Now, I will argue that diversity of human experience may have academic value if it is a good and essential and positive experience that can be shared in a classroom. And it is good to interact with people of all ethnicities from all over the world, and the more of that experience you can get, the better your educational experience is.

But ethnicity does not have academic value. The Supreme Court ruled it did. They concurred with the University of Michigan and said, you reached that critical mass, you can be the sole determiner of that critical mass of diversity. Then, what we will do with this is, we are going to let you continue down this path, although you cannot have just a formula that spits something out of a spreadsheet, you have to have something that deals with each one of these individual students.

Well, okay, so it takes a little more attention to get the same result. But, in the end, the court suspended the 14th amendment, the equal protection clause that is established in our Constitution, suspended equal protection so we could have a critical mass of diversity as defined by the university, because that diversity, as indexed to skin color, had, in the minds of the court, academic value. And then the court, in its majority opinion, ruled that perhaps in 25 years, we can go back and we can revisit this subject matter of preferential treatment and affirmative action, revisit this subject matter and maybe, perhaps, this civilization, this culture, this American populace, will have moved forward into the new world far enough that we can then reestablish the 14th amendment equal protection clause, and maybe we do not need to have critical mass of diversity that we are going to declare to have academic value again.

□ 2115

Where does that come from, Justices? How do you believe that you can suspend the 14th amendment, for academic value on skin color and think we will be able to adhere back to our Constitution again? And if this Constitution does not mean what it says, if it can be suspended as simply myopic as this idea of critical mass of diversity, if that can happen, what meaning does the Constitution have whatsoever? Is it simply a document that happened to fall in our laps that the Founding Fathers stumbled across and stumbled into, and it happened to be a convenient thing that got us through the first 220 or so years of our existence?

Or is it something that means what it says? Is it something that has a provision for amendment for a reason that we are to adhere to the Constitution, the letter of the Constitution and the intent of the Constitution and not deviate from same unless we are willing to step forwards and amend it? That is what our Founding Fathers intended, but it is not what we see happening

here in the United States Supreme Court, and it is not what we see happening in the inferior courts that have been established by this Congress.

It is not the only example. And by the way, many of these examples are using foreign courts' opinions. Zimbabwe, Jamaica come to mind as places we can go to be further enlightened on how to better evaluate the original intent of the Constitution and the letter and the intent of our Federal law and our State laws and constitutions and legislation.

Foreign case law imposed upon United States of America? It is impossible to anticipate how the courts will rule given just U.S. court decisions let alone foreign, and some of these countries by the way do not let their people have freedom of speech, freedom of assembly or freedom of religion or they cannot go to the polls and elect a leader. So those decisions in the courts will not reflect the will and the character of the people. We need to redefine this line.

The Congress is also culpable; and I will hold them, in fact, more accountable because I think it is natural if you are a member of the executive branch of government, you are going to want to expand the authority of the executive branch. That is where you have got the most leverage, and that is where you have the most faith. And if you are a member of the legislative branch, as I am, I wanted to expand the power we have here because I think it reflects the voice of the people; and that voice of the people should be pre-eminent. And if you are a member of the judicial branch, I cannot image why human nature would not also apply there. And if you are a member of the judicial branch I would think you would want to then expand the power and leverage that you have in the judicial branch.

I do not blame them for that. But I will ask the courts, please rein it in because if you do not rein it in, sooner or later this Congress will. We do have the authority to do so; and if we exercise that will, that sets up a conflict between us. And I would rather see that be resolved in a peaceful way, a willing way with the best interests of the American people than I would want to have to impose that upon the courts. In fact, I am a little apprehensive that we cannot find the will in this Congress until it becomes a crisis.

Speaking of a crisis, the filibuster rules in the other body have set up another impending constitutional crisis. When we have a justice that is appointed to a Federal court and the Constitution requires that the President when he makes his nomination seek "the advice and consent of," and now I have to save the other body, that advice and consent clause that is in our Constitution is something that is very well established. We do not have any problem with the advice part. We get plenty of advice from those people over there and some of it is down right of-

fensive to the nominees. In fact, some of it is just plain out and out religious bias. It is character attacks. Declaring a nominee to be a Neanderthal is beyond the scope of what someone of that position ought to be in.

Madam Speaker, I appreciate your attention tonight and I will take this issue up at a later date.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. GINNY BROWN-WAITE of Florida). The Chair would remind Members not to make improper references to the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ABERCROMBIE (at the request of Ms. PELOSI) for today on account of a family medical emergency.

Mr. LUCAS of Kentucky (at the request of Ms. PELOSI) for today on account of a funeral in the district.

Mr. TANNER (at the request of Ms. PELOSI) for today after 3:00 p.m. on account of a family emergency.

Mr. PENCE (at the request of Mr. DELAY) for today until 5:00 p.m. on account of attending a funeral.

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 Ms. JACKSON-LEE of Texas) to revise and extend their remarks and include extraneous material:)

Mrs. MALONEY, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. FILNER, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

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

Mr. SHAYS, for 5 minutes, today.

Mr. OSBORNE, for 5 minutes, March 29.

Mr. DREIER, for 5 minutes, today.

Mr. OTTER, for 5 minutes, today.

Mr. PENCE, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1218. An act to provide for Presidential support and coordination of interagency ocean science programs and development and coordination of a comprehensive and integrated United States research and monitoring program; to the Committee on Science and in addition to the Committee on Energy and Commerce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 2231. An act to reauthorize the Temporary Assistance for Needy Families block grant program through June 30, 2004, and for other purposes; to the Committee on Ways and Means and in addition to the Committee on Energy and Commerce for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 254. An act to authorize the President of the United States to agree to certain amendments to the Agreement between the Government of the United States of America and the government of the United Mexican States concerning the establishment of a Border Environment Cooperation Commission and a North American Development Bank, and for other purposes.

ADJOURNMENT

Mr. KING of Iowa. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 20 minutes p.m.), under its previous order, the House adjourned until Monday, March 29, 2004, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

7262. A letter from the Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Foreign Futures and Options Transactions—received March 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7263. A letter from the Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—In the Matter of Intermarket Clearing Corporation—Request for Vacation From Designation as Derivatives Clearing Organization—received March 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7264. A letter from the Executive Director, Commodity Futures Trading Commission, transmitting the Commission's final rule—Investment of Customer Funds (RIN: 3038-AC01) received March 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7265. A letter from the Congressional Review Coordinator, APHIS, Department of Agriculture, transmitting the Department's

final rule—Plant Protection Act; Revisions to Authority Citations; Technical Amendment [Docket No. 00-063-3] received March 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

7266. A letter from the Architect of the Capitol, transmitting the report of expenditures of appropriations during the period April 1, 2003 through September 30, 2003, pursuant to 40 U.S.C. 162b; to the Committee on Appropriations.

7267. A letter from the Comptroller, Department of Defense, transmitting notification that the Defense Finance and Accounting Service (DFAS) has completed the assessment of desktop computer management services announced in the letter of June 24, 2002, and that DFAS has decided to procure these services from a commercial source, pursuant to 10 U.S.C. 2461; to the Committee on Armed Services.

7268. A letter from the Alternate OSD Federal Register Liaison Officer, Department of Defense, transmitting the Department's final rule—TRICARE; Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Appeals and Hearings Procedures, Formal Review (RIN: 0720-AA74) received March 8, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

7269. A letter from the Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Memorandum of Understanding—Sweden [DFARS Case 2003-D089] received March 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

7270. A letter from the Director, Office of Legacy Management, Department of Energy, transmitting notice of the establishment of the Office of Legacy Management within the Department of Energy, effective December 15, 2003; to the Committee on Energy and Commerce.

7271. A letter from the Director, International Cooperation, Department of Defense, transmitting a copy of Transmittal 02-04 informing of an intent to sign an Annex between the United States and the United Kingdom for Research, Development, Test and Evaluation of Ballistic Missile Defense Capabilities and Systems, pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

7272. A letter from the Federal Register Certifying Officer, Financial Management Service, Department of the Treasury, transmitting the Department's final rule—Federal Government Participation in the Automated Clearing House (RIN: 1510-AA93) received March 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7273. A letter from the General Counsel, National Credit Union Administration, transmitting the Administration's final rule—Freedom of Information Act; Implementation—received March 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7274. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Prevailing Rate Systems; Change in the Survey Month for the Bureau of Reclamation Mid-Pacific Region Survey (RIN: 3206-AK06) received March 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7275. A letter from the Director, Center for Employee and Family Support Policy/Insurance, Office of Personnel Management, transmitting the Office's final rule—Changes in Health Benefits Enrollment (RIN: 3206-

AK04) received March 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

7276. A letter from the Acting Staff Director, Office of Regulatory and Management Services, Department of Agriculture, transmitting the Department's final rule—Special Areas; Roadless Area Conservation; Applicability to the Tongass National Forest, Alaska (RIN: 0596-AC04) received December 31, 2003, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

7277. A letter from the Secretary, Department of Homeland Security, transmitting a report on the extent to which the Coast Guard regulations concerning oils, including animal fats and vegetable oils, carry out the intent of the Edible Oil Regulatory Reform Act (Pub. L. 104-55), pursuant to Public Law 104-324, section 1130; to the Committee on Transportation and Infrastructure.

7278. A letter from the Secretary, Department of Homeland Security, transmitting a report to Congress on the extent to which Coast Guard regulations concerning oils, including animal fats and vegetable oils, carry out the intent of the Edible Oil Regulatory Reform Act (Pub. L. 104-55), pursuant to Public Law 104-324, section 1130(b); to the Committee on Transportation and Infrastructure.

7279. A letter from the Secretary, Department of Homeland Security, transmitting a report to Congress on the extent to which the implementation by the United States Coast Guard of regulations issued or enforced, or interpretations or guidelines established, pursuant to Public Law 104-55, carry out the intent of Congress and recognize and provide for the differences in the physical, chemical, biological, and other properties, and in the environmental effects, of the classes of fats, oils, and greases described under that law, pursuant to Public Law 104-324, section 1130(b); to the Committee on Transportation and Infrastructure.

7280. A letter from the Attorney Advisor, FHWA, Department of Transportation, transmitting the Department's final rule—Commercial Vehicle Width Exclusive Devices [FHWA Docket No. FHWA-2001-10370] (RIN: 2125-AE90) received March 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7281. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Mitsubishi Heavy Industries, Ltd., MU-2B Series Airplanes [Docket No. 2003-CE-22-AD; Amendment 39-13504; AD 2003-22-07 R1] (RIN: 2120-AA64) received March 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7282. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Pratt & Whitney Canada JT15D-1, -1A, and -1B Turbofan Engines [Docket No. 2003-NE-41-AD; Amendment 39-13490; AD 2004-04-09] (RIN: 2120-AA64) received March 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7283. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule—Airworthiness Directives; Dassault Model Mystere-Falcon 50 Series Airplanes [Docket No. 2003-NM-30-AD; Amendment 39-13492; AD 2004-04-11] (RIN: 2120-AA64) received March 18, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

7284. A letter from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting the Administration's final rule—Government-Owned Contractor-Operated Vehicle