EXTENSIONS OF REMARKS

RECOGNIZING NATIONAL COURT REPORTING AND CAPTIONING WEEK

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 14, 2013

Mr. KIND. Mr. Speaker, today I rise to acknowledge the hard work of court reporters and broadcast captioners nationwide, as well as the recognition of the National Court Reporting and Captioning Week from February 17–23, 2013.

Court reporters and broadcast captioners have the unique skill of translating the spoken word into text to record history, preserve judicial proceedings, assist individuals who are deaf and hard-of-hearing with access to audio communications, and even capture the work of Congress in committees and on the floor of the House and Senate. They are truly the guardians of the record.

The profession of court reporting is thousands of years old; its roots can be traced back to 63 B.C., when Marcus Tullius Tiro created shorthand reporting to service the Roman philosopher, lawyer, and orator Cicero. Since the dawn of civilization, the desire to capture the spoken word and record our history has been the responsibility of the scribe, known today as the court reporter.

The scribe has been an essential part of history from times in Ancient Egypt, to the drafting of the Declaration of Independence, Bill of Rights, the Emancipation Proclamation and the recording of our entire American history.

Since the advent of shorthand machines, these scribes are now known as court reporters and have played a prominent and invaluable role in courtrooms, state legislatures, and in Congress preserving Members' words and actions.

Court reporters and captioners are also responsible for the closed captioning seen scrolling across television screens, at sporting stadiums and in other community and educational settings, bringing information to almost 40 million deaf and hard-of-hearing Americans every day.

Congress has continuously worked with the National Court Reporters Association to make increasing this access a reality and to ensure that every American has access to the spoken word.

Whether called the scribes of yesterday or the court reporters and captioners of today, the individuals who preserve our Nation's history are truly the guardians of our national record. They have a tough profession but continue to excel through their dedication and expertise. With that, it is my honor to acknowledge February 17–23 as National Court Reporting and Captioning Week across the country.

HONORING BENJAMIN JACKSON MATT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 14, 2013

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Benjamin Jackson Matt. Benjamin is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and earning the most prestigious award of Eagle Scout.

Benjamin has been very active with his troop, participating in many scout activities. Over the many years Benjamin has been involved with scouting, he has not only earned 32 merit badges, but also the respect of his family, peers, and community. Most notably, Benjamin has led his troop in various positions including Troop Guide, has earned the rank of Warrior in the Tribe of Mic–O–Say and is a Brotherhood Member in the Order of the Arrow. Benjamin has also contributed to his community through his Eagle Scout Project. Benjamin led a team of more than 30 people in designing and constructing a trail at Parkville Nature Sanctuary in Parkville, Missouri.

Mr. Speaker, I proudly ask you to join me in commending Benjamin Jackson Matt for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

FEDERAL DISASTER ASSISTANCE NONPROFIT FAIRNESS ACT OF 2013

SPEECH OF

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 13, 2013

Mr. SMITH of New Jersey. Madam Speaker, Superstorm Sandy inflicted unprecedented damage on communities in the Northeast including my district in New Jersey. Congress and the President have responded by providing $60 billion in emergency and recovery aid.

Today's debate and vote however isn't at all about whether or how much funding Congress appropriates to mitigate the impact of Sandy. We've had that vote.

Rather, it is about those who are being unfairly left out and left behind. It's about those who helped feed, comfort, clothe and shelter tens of thousands of victims now being told they are ineligible for a FEMA grant.

It is unconscionable that foundational pillars of our communities damaged by Sandy—synagogues, churches, mosques, temples and other houses of worship—have been categorically denied access to these otherwise generally-available relief funds. Current FEMA policy is patently unfair, unjustified and discriminatory and may even suggest hostility to religion.

FEMA has a policy in place to aid nonprofit facilities damaged in the storm, but the agency has excluded houses of worship from this support. That is wrong. And it's time Congress ensures fundamental fairness for these essential private nonprofits.

The bipartisan Federal Disaster Assistance Nonprofit Fairness Act of 2013—H.R. 592—will ensure that churches, synagogues, mosques, temples and other houses of worship are eligible for federal funds to effectuate repairs, restoration and replacement of damaged facilities.

Madam Speaker, it's worth noting here that FEMA's discriminatory policy of exclusion isn't prescribed by any law. Nothing in the Stafford Act or any other law including the Hurricane Sandy Disaster Relief Appropriations Act precludes funds to repair, restore or replace houses of worship. Indeed, congressional precedent favors enacting H.R. 592 as there are several pertinent examples of public funds bein allocated to houses of worship.

For example:

FEMA grants were explicitly authorized by Congress and provided to churches damaged in the Oklahoma City terrorist attack;

Homeland Security Department and UASI provides funding to houses of worship for security upgrades;

Interior Department provides funding for grants for historically significant properties including churches and synagogues;

It is important to note that a controlling Justice Department Office of Legal Counsel Memorandum explains in detail the legal principles which make H.R. 592 constitutional. In a September 25, 2002, written opinion, the Office of Legal Counsel concluded it was constitutional for Congress to provide disaster relief and reconstruction funds to a religious Jewish school, along with all sorts of other organizations, following a devastating earthquake.

The same principles apply to protect religious organizations following a devastating hurricane. As the Office of Legal Counsel memo concluded ''provision of disaster assistance to [religious organizations] cannot be materially distinguished from aid programs that are constitutional under longstanding Supreme Court precedent establishing that religious institutions are fully entitled to receive generally available government benefits and services, such as fire and police protection.''

The Supreme Court handed down its first modern Establishment Clause decision in Everson v. Board of Education, which involved a program in my own state of New Jersey. In that case the Court held that religious institutions are entitled to receive ''general government services'' made available on the basis of neutral criteria.

The Court held that the Establishment Clause does not bar students attending religious schools from receiving generally available school busing services provided by the government. In reaching its decision, the Court

explained that even if the evenhanded provision of busing services increased the likelihood that some parents would send their children to religious schools, the same could be said of other ''general state law benefits'' that were even more clearly constitutional because they were equally available to all citizens.

As examples, the Court cited ''such general government services as ordinary police and fire protection, connections for sewage disposal, public highways and sidewalks,'' concluding that ''cutting off church schools from these services . . . would make it far more difficult for the schools to operate. But such is obviously not the purpose of the First Amendment. That Amendment requires the state to be a neutral in its relations with groups of religious believers and non-believers; it does not require the state to be their adversary. State power is no more to be used so as to handicap religions, than it is to favor them.''

As Nathan J. Diament, Executive Director of Public Policy for the Union of Orthodox Jewish Congregations of America notes in his excellent legal analysis which I will include in the Record ''federal disaster relief is analogous to aid that qualifies as 'general government services' approved by the Court in Everson.

That same Supreme Court also held that ''[Government] cannot exclude individual Catholics, Lutherans, Mohammedans, Baptists, Jews, Methodists, Non-believers, Presbyterians, or the members of any other faith, because of their faith, or lack of it, from receiving the benefits of public welfare legislation . . . [W]e must be careful, in protecting the citizens of New Jersey against state-established churches, to be sure that we do not inadvertently prohibit New Jersey from extending its general state law benefits to all its citizens without regard to their religious belief.''

In Walz v. Tax Commission, the Court rejected an Establishment Clause challenge to a property tax exemption made available not only to churches, but to several other classes of nonprofit institutions, such as ''hospitals, libraries, playgrounds, scientific, professional, historical, and patriotic groups.'' As the Court stated in reference to Everson, if ''buses can be provided to carry and policemen to protect church school pupils, we fail to see how a broader range of police and fire protection given equally to all churches, along with nonprofit hospitals, art galleries, and libraries receiving the same tax exemption, is different for purposes of the Religion Clauses.''

The bill before us today simply makes clear and clarifies that federal disaster relief includes religious entities along with every other sort of entity. As the Court later stated in Widmar v. Vincent, ''[t]he provision of benefits to so broad a spectrum of groups is an important index of secular [that is, constitutional] effect.'' And as it stated more recently in Texas Monthly, Inc. v. Bullock, ''[i]nsofar as [a] subsidy is conferred upon a wide array of nonsectarian groups as well as religious organizations in pursuit of some legitimate secular end, the fact that religious groups benefit incidentally does not deprive the subsidy of the secular purpose and primary effect mandated by the Establishment Clause.''

Significantly, Madam Speaker, when three churches in Detroit received taxpayer funded grants to repair and spruce up their buildings prior to the 2006 Superbowl, American Atheists sued the City of Detroit and lost. In a sweeping decision authored by Judge Sutton, the U.S. Court of Appeals for the Sixth Circuit unanimously held that the direct assistance to the churches did not violate the Establishment Clause.

Judge Sutton said: ''Detroit sought to fix up its downtown, not to establish a religion. And as will generally be the case when a governmental program allocates generally available benefits on a neutral basis and without a hidden agenda, this program does not have the impermissible effect of advancing religion in general or any one faith in particular. By endorsing all qualifying applicants, the program has endorsed none of them, and accordingly it has not run afoul of the federal or state religion clauses . . . In the Establishment Clause context, that means evenhanded, neutral laws generally (though not invariably) will be upheld. So long as the government benefit is neutral and generally applicable on its face, it presumptively will satisfy the Establishment Clause.''

In sum, H.R. 592 exhibits no government preference for or against religion, or any particular religion, since it merely permits houses of worship to receive the same type of generally-available assistance in picking up the pieces after stunning devastation that many other similarly situated nonprofits receive. Thus, the bill not only passes the test of constitutionality, it passes the test of basic human decency.

Indeed, to do otherwise would be to single out churches for adverse treatment, which is itself constitutionally suspect. The Supreme Court held in Church of Lukumi Babalu Aye v. City of Hialeah, that ''[a]t a minimum, the protections of the Free Exercise Clause pertain if the law at issue discriminates against some or all religious beliefs.'' And in Employment Division v. Smith, the Court held that under the Free Exercise Clause, the state may not ''impose special disabilities on the basis of religious views or religious status.'' Similarly, in Rosenberger v. Rector and Visitors of the University of Virginia, the Court held that ''the government offends the First Amendment when it imposes financial burdens on certain speakers based on the content of their expression,'' including religious expression. To continue to single houses of worship out for discrimination does not express government neutrality, it expresses government hostility. And there is no place for government hostility toward religion under our constitution.

The constitution clearly allows, and arguably requires, that religious organizations be treated equally when it comes to Congress' providing for the well-being of Americans following the onslaught of Superstorm Sandy and other natural disasters.

The damage unleashed by Sandy has taken a huge toll on houses of worship. According to the N.J. Catholic Conference more than 145 churches suffered significant damage in my state alone. Another 125 churches in New York have been damaged and are seeking FEMA help with more to be counted as repairs and ongoing work are addressed and contracted out for completion.

Similarly, dozens of synagogues and temples in both states are now looking to see how they repair after spending months of providing goods and services—with no regard to religion—to those who needed it.

In testimony just last week before the New York City Council, Joseph Rosenberg of the Catholic Community Relations Council poignantly noted that when Sandy hit, the leaders of the churches, synagogues and other houses of worship did not first ask if their facilities would be eligible for federal assistance before providing food and shelter and relief to thousands of displaced persons.

Nor did these providers of assistance ask the religious affiliation of the victims. No, they went to work providing tangible, life-saving aid to all comers.

In his letter of support for H.R. 592, Harvard professor Alan Dershowitz concludes that ''religious institutions may receive government aid if it is in the context of a broadly available program with criteria that are neutral toward religion and pose no risks of religious favoritism.''

Professor Dershowitz notes further:

> Once FEMA has the policy in place to aid various nonprofit organizations with their building repairs, houses of worship should not be excluded from receiving this aid on the same terms. This is all the more appropriate given the neutral role we have witnessed houses of worship play, without regard to religion of those affected, in the wake of Sandy and countless previous disasters. Federal disaster relief aid is a form of social insurance and means of helping battered communities get back on their feet. Churches, synagogues, mosques and other houses of worship are an essential part of the recovery process.

Religious liberty scholar Professor Douglas Laycock of the University of Virginia School of Law wrote a letter endorsing H.R. 592 and said in part: ''Charitable contributions to places of worship are tax deductible, without significant controversy, even though the tax benefits to the donor are like a matching grant from the government. These deductions have been uncontroversial because they are included without discrimination in the much broader category of all not-for-profit organizations devoted to charitable, educational, religious, or scientific purposes. The neutral category here is equally broad. To include places of worship in disaster relief is neutral; to exclude them would be affirmatively hostile. There is no constitutional obstacle to including them.''

America's houses of worship are an integral, irreplaceable part of the contour and fabric of our communities. Like any other private nonprofit organization, their recovery is essential to the recovery of neighborhoods, towns and states. They should not be excluded from federal programs that ensure community recovery, especially since they selflessly provide assistance to all in need.

H.R. 592 has been endorsed by several organizations including the Union of Orthodox Jewish Congregations, the United States Conference of Catholic Bishops, the Council of Churches of the City of New York and the American Jewish Committee.

I would like to take this moment to submit one more additional letter of support for H.R. 592 from Carl H. Esbeck, Professor of Law, University of Missouri, and my full statement for the RECORD.

UNIVERSITY OF MISSOURI
SCHOOL OF LAW,
February 11, 2013.

Re Federal Disaster Assistance Nonprofit Fairness Act of 2013.

HON. CHRIS SMITH,
Rayburn HOB, Washington, DC.
HON. GRACE MENG,
1317 Longworth HOB, Washington, DC.

DEAR REPRESENTATIVES SMITH AND MENG: I have been asked to give an opinion concerning the constitutionality of the Federal

Disaster Assistance Nonprofit Fairness Act of 2013. The bill was introduced in the House of Representatives on Friday, February 8, 2013. It would amend Sections 102(10)(B) and 406(a)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(10)(B) and 5172(a)(3)), to clarify that houses of worship are eligible for disaster relief and emergency assistance on the same terms as other nonprofit facilities providing certain defined essential services to the public. Stated differently, houses of worship that are otherwise eligible for relief and assistance are not to be discriminated against because of their religious character.

FEMA's current policy is set forth in its memorandum captioned ''Houses of Worship—FEMA Public Assistance Eligibility.'' Concerning multiple-use facilities, FEMA denies relief and assistance to otherwise eligible houses of worship unless the primary use of the space in a facility is for essential services of a governmental nature. FEMA converts ''primary use'' into a simple fifty-percent (50%) rule, but it does not state the legal authority for the rule.

The matter of interest is compliance with the Establishment Clause in the First Amendment to the U.S. Constitution. The United States Supreme Court has formulated a neutrality principle to assess general programs of aid to the nongovernmental sector. The principle requires: (i) that the program have a secular purpose, and (ii) that the recipients of the aid be eligible without regard to religion. Under the above-referenced bill, Section 102(10)(B) defines an eligible private nonprofit (PNP) as a facility that provides: (a) essential services; (b) while not by government, of that ''nature;'' and (c) available to the public. The three-part definition is secular in purpose. True, the bill expressly mentions houses of worship as eligible. But that makes sense and is secular in purpose, because in the past they were sometimes excluded by FEMA. So Congress, in passing this amendment, is just bringing matters back from a discriminatory situation to one of religious neutrality.

A parenthetical in 102(10)(B) gives several examples of such eligible PNP facilities providing essential services. If a private ''museum'' is an essential service in the ''nature'' of ''governmental,'' the eligible recipients are not as narrowly limited as might at first appear. ''Community centers'' are expressly named as eligible, and this bill has ''houses of worship'' as a type of community center. The findings in Section 2(5) of the bill further help to define how houses of worship serve as a type of community center. The findings also help to explain how a community center provides ''essential services,'' namely activities central to community rebuilding and reconstruction after a natural disaster.

Several U.S. Supreme Court cases prepared the way for the neutrality principle as we presently recognize it. In *Bowen* v. *Kendrick*, 487 U.S. 589 (1988), the Court upheld a congressional program funding counseling centers targeting adolescent sexuality that was available to religious as well as secular providers. In *Zobrest* v. *Catalina Foothills Sch. Dist.*, 509 U.S. 1 (1993), the Court held that a public school district had to provide the same special education services to a student when he switched enrollment from a public to a religious high school. In *Witters* v. Washington Dep't of Servs. for the Blind, 474 U.S. 481 (1986), the Court upheld a state vocational rehabilitation program, available without regard to religion, even when it resulted in aid to a student to attend a seminary.

The neutrality principle became fully grounded with the Court's decision in *Agostini* v. *Felton*, 521 U.S. 203 (1997). Agostini involved the implementation of federal funding for K–12 special educational services in schools in the State of New York. The special educational services were rendered by special education teachers employed by the local public school district. For those special education students in religious schools, it was more effective and less costly to have the teachers travel to the religious school campus to deliver the services. But this had been barred by prior case law. In Agostini, the Court overruled its prior precedent and approved the delivery of services to all special needs students on a basis neutral as to religion. The services were secular, and there was no reason because of the Establishment Clause to discriminate against children enrolled in the religious schools.

The Agostini secular-purpose/religion-neutral analysis was carried forward by the Supreme Court in *Mitchell* v. *Helms*, 530 U.S. 793 (2000). The case involved a challenge to a part of the Primary and Secondary Education Act of 1965, which provide educational materials and services to all K–12 schools without regard to religion. The challengers wanted the aid denied to religious schools. The nature of the educational materials was secular. Accordingly, the Court upheld the practice of treating all schools neutrally. These religious schools were intensely religious, but that was no reason to discriminate against them. Care should be exercised so that no governmental aid is diverted from its intended secular purpose, in particular that the aid not be diverted to an explicitly religious purpose.

It is my opinion that the above-referenced proposed amendment to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is consistent with the Establishment Clause of the First Amendment to the U.S. Constitution.

Thank you for your kind consideration of this letter opinion.

Sincerely,

CARL H. ESBECK,
R.B. Price Professor of Law and Isabelle Wade & Paul C. Lyda Professor of Law, University of Missouri.

HONORING NATHAN CONRAD STAHL

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 14, 2013

Mr. GRAVES of Missouri. Mr. Speaker, I proudly pause to recognize Nathan Conrad Stahl. Nathan is a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 314, and earning the most prestigious award of Eagle Scout.

Nathan has been very active with his troop, participating in many scout activities. Over the many years Nathan has been involved with scouting, he has not only earned 31 merit badges, but also the respect of his family, peers, and community. Most notably, Nathan has led his troop in various positions including Troop Guide and has earned the rank of Warrior in the Tribe of Mic–O–Say. Nathan has also contributed to his community through his Eagle Scout Project. Nathan built a handrail along concrete steps in the parking lot at Hillcrest Transitional Housing in Kansas City, Missouri.

Mr. Speaker, I proudly ask you to join me in commending Nathan Conrad Stahl for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

RECOGNIZING TIME WARNER CABLE

HON. TOM REED

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 14, 2013

Mr. REED. Mr. Speaker, I rise today to recognize Time Warner Cable for its Connect a Million Minds (CAMM) initiative. This program is designed to inspire the next generation of problem solvers by connecting young people to the wonders of science, technology, engineering, and math (STEM) outside of the classroom.

This campaign includes original public service announcements and programming, grants to support nonprofit organizations that introduce students to STEM, and the creation of ''The Connectory,'' a one-of-a-kind resource that allows parents to find kid-centric STEM learning opportunities in their own backyards. The CAMM initiative also encourages Time Warner Cable employees to volunteer at science fairs, robotics competitions, and local Connect a Million Minds events.

The STEM fields have become increasingly important for the development of our country as the world continues to modernize at a rapid pace. The performance of U.S. students in STEM subjects has fallen behind their international peers. Today, more and more employers report having a difficult time finding qualified applicants for STEM jobs. This problem will continue to grow as it is estimated that the number of jobs in STEM fields will increase 17% by 2018. Given this figure, it is difficult to understate the importance of STEM education for both our nation's collective economic future and the future of our nation's students.

The CAMM program has focused resources across several Congressional Districts, including the 23rd District of New York. With increased attention and support from community and industry leaders that will someday hire students in STEM fields, programs like CAMM are critical to building a pool of future qualified employees. I commend Time Warner Cable for its CAMM initiative; and I want my colleagues to understand the importance of such initiatives and their positive impact on all of our communities.

REINTRODUCTION OF THE LENA HORNE RECOGNITION ACT

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, February 14, 2013

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to reintroduce the Lena Horne Recognition Act. This bill would award Lena Horne with a Congressional Gold Medal in recognition of her achievements and contributions to American culture and the Civil Rights Movement. A symbol of elegance and grace, Lena