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ROBERT F. KENNEDY, JR., ON AMERICA'S ANTITORTURE TRADITION

• Mr. KENNEDY. Mr. President, the Los Angeles Times of December 17, carried an important op-ed article, "American's anti-torture tradition," by my nephew, Robert F. Kennedy, Jr.

Bobby is senior attorney for the Natural Resource Defense Council, and is also chief prosecuting attorney for Hudson Riverkeeper and president of the Waterkeeper Alliance. In addition, he is clinical professor and supervising attorney at the Environmental Litigation Clinic at Pace University Law School in White Plains, NY.

In the article, Bobby recounts the story of GEN George Washington's courageous decision during the Revolutionary War to insist that his soldier's treat British forces and prisoners humanely, even though American civilians and prisoners were treated brutally by the British. Indeed, as a British officer wrote at the time, "Wherever our armies have marched, wherever they have encamped, every species of barbarity has been executed. We planted an irrevocable hatred wherever we went, which neither time nor measure will be able to eradicate."

Our early leaders understood that our values are our greatest asset, and our own generation must never forget that fundamental principle.

I believe that Bobby's article will be of interest to all of us in Congress who care about this basic issue, and I ask that it be printed in the RECORD.

The article follows:

[From the Los Angeles Times, Dec. 17, 2005]

AMERICA'S ANTI-TORTURE TRADITION

(By Robert F. Kennedy, Jr.)

It is nice that the Bush administration has finally been pressured into backing a ban on cruel and inhumane treatment of prisoners. But what remains shocking about this embarrassing and distasteful national debate is that we had to have it at all. This administration's newfound enthusiasm for torture has not only damaged our international rep-

utation, it has shattered one of our proudest American traditions.

Every schoolchild knows that Gen. George Washington made extraordinary efforts to protect America's civilian population from the ravages of war. Fewer Americans know that Revolutionary War leaders, including Washington and the Continental Congress, considered the decent treatment of enemy combatants to be one of the principal strategic preoccupations of the American Revolution.

"In 1776," wrote historian David Hackett Fischer in "Washington's Crossing," "American leaders believed it was not enough to win the war. They also had to win in a way that was consistent with the values of their society and the principles of their cause. One of their greatest achievements . . . was to manage the war in a manner that was true to the expanding humanitarian ideals of the American Revolution."

The fact that the patriots refused to abandon these principles, even in the dark times when the war seemed lost, when the enemy controlled our cities and our ragged army was barefoot and starving, credits the character of Washington and the founding fathers and puts to shame the conduct of America's present leadership.

Fischer writes that leaders in both the Continental Congress and the Continental Army resolved that the War of Independence would be conducted with a respect for human rights. This was all the more extraordinary because these courtesies were not reciprocated by King George's armies. Indeed, the British conducted a deliberate campaign of atrocities against American soldiers and civilians. While Americans extended quarter to combatants as a matter of right and treated their prisoners with humanity, British regulars and German mercenaries were threatened by their own officers with severe punishment if they showed mercy to a surrendering American soldier. Captured Americans were tortured, starved and cruelly maltreated aboard prison ships.

Washington decided to behave differently. After capturing 1,000 Hessians in the Battle of Trenton, he ordered that enemy prisoners be treated with the same rights for which our young nation was fighting. In an order covering prisoners taken in the Battle of Princeton, Washington wrote: "Treat them with humanity, and let them have no reason to complain of our Copying the brutal example of the British Army in their treatment of our unfortunate brethren. . . . Provide everything necessary for them on the road."

John Adams argued that humane treatment of prisoners and deep concern for civilian populations not only reflected the American Revolution's highest ideals, they were a moral and strategic requirement. His thoughts on the subject, expressed in a 1777 letter to his wife, might make a profitable read for Dick Cheney and Donald Rumsfeld as we endeavor to win hearts and minds in Iraq. Adams wrote: "I know of no policy, God is my witness, but this—Piety, Humanity and Honesty are the best Policy. Blasphemy, Cruelty and Villainy have prevailed and may again. But they won't prevail against America, in this Contest, because I find the more of them are employed, the less they succeed."

Even British military leaders involved in the atrocities recognized their negative effects on the overall war effort. In 1778, Col. Charles Stuart wrote to his father, the Earl of Bute: "Wherever our armies have marched, wherever they have encamped, every species of barbarity has been executed. We planted an irrevocable hatred wherever we went, which neither time nor measure will be able to eradicate."

In the end, our founding fathers not only protected our national values, they defeated a militarily superior enemy. Indeed, it was their disciplined adherence to those values that helped them win a hopeless struggle against the best soldiers in Europe.

In accordance with this proud American tradition, President Lincoln instituted the first formal code of conduct for the humane treatment of prisoners of war in 1863. Lincoln's order forbade any form of torture or cruelty, and it became the model for the 1929 Geneva Convention. Dwight Eisenhower made a point to guarantee exemplary treatment to German POWs in World War II, and Gen. Douglas McArthur ordered application of the Geneva Convention during the Korean War, even though the U.S. was not yet a signatory. In the Vietnam War, the United States extended the convention's protection to Viet Cong prisoners even though the law did not technically require it.

Today, our president is again challenged to align the conduct of a war with the values of our nation. America's treatment of its prisoners is a test of our faith in our country and the character of our leaders.●

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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