

so. I encourage my colleagues to support this legislation and I look forward to assisting the chairman in any way possible to move this bill quickly through the Senate.

By Mr. THURMOND (for himself and Mr. CRAIG):

S. 1426. A bill to eliminate the requirement for unanimous verdicts in Federal court; to the Committee on the Judiciary.

FEDERAL COURT LEGISLATION

Mr. THURMOND. Mr. President, I rise today to introduce legislation on behalf of myself and Sen. LARRY CRAIG of Idaho to amend the Federal rules of criminal and civil procedure to allow convictions on a 10 to 2 jury vote.

It is my belief that this change to the Federal rules will bring about increased efficiency in our Nation's court system while maintaining the integrity of the pursuit of justice.

This legislation is consistent with the Supreme Court ruling concerning unanimity in jury verdicts, specifically in *Apodaca v. Oregon*, 406 U.S. 404. In that case, the Supreme Court ruled that the sixth amendment guarantee of a jury trial does not require that the jury's vote be unanimous. The Supreme Court affirmed an Oregon Court of Appeals decision which upheld a guilty verdict under an Oregon law that allowed a 10 to 2 conviction in criminal prosecutions.

Mr. President, clearly there is not a constitutional mandate for the current requirement under the Federal rules of criminal and civil procedure of a jury verdict by a unanimous vote. The origins of the unanimity rule are not easy to trace, although it may date back to the latter half of the 14th century. One theory proffered is that defendants had few other rules to ensure a fair trial and a unanimous jury vote for conviction compensated for other inadequacies at trial. Of course, today the entire trial process is heavily tilted toward the accused with many, many safeguards in place to ensure that the defendant receives a fair trial.

Although majority verdicts were permitted during 17th century America in South Carolina, North Carolina, Connecticut, and Pennsylvania, unanimous verdicts became an accepted part of common-law juries by the 18th century.

Mr. President, I found it interesting that the proposed language for the sixth amendment, as introduced by James Madison in the House of Representatives, provided for trial by jury as well as requisite of unanimity for conviction. While this particular proposal was passed by the House with little change, it met a significant challenge in the Senate and was returned to the House in a different form. Later, a conference committee was appointed and reported the language adopted by the Congress and the States which reflects the current sixth amendment.

The earlier House proposal requiring a unanimous jury verdict for conviction

was considered and not made a part of the sixth amendment. For purposes of discussion of this legislation, I will quote the pertinent part of the sixth amendment: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed."

The sixth amendment includes some features of common-law juries. However, the Supreme Court has admonished reliance on the easy assumption that if a given feature existed in a jury at common law in 1789, then it was necessarily preserved in the Constitution. So here we see the Supreme Court has noted specifically that all features of the common-law jury are not mandated by the Constitution.

Mr. President, there may be a number of inferences to be drawn from the deletion of the unanimity for conviction requirement in the proposed sixth amendment. One point we cannot escape is the fact that a unanimity requirement was considered by our Founding Fathers and determined that it should not be constitutionally mandated.

In *Duncan v. Louisiana*, 391 U.S. at 156, the Supreme Court stated that the purpose of the right to a trial by jury is to prevent oppression by the Government by providing a "safeguard against the corrupt or overzealous prosecutor and against the biased or eccentric judge." Carrying this view further in the subsequent case of *Williams v. Florida*, 399 U.S. 78 (1970), the Supreme Court stated, "The essential feature of a jury obviously lies in the interposition between the accused and his accuser of the commonsense judgment of a group of laymen" *Williams*, supra, at 100.

Juries are representative of the community and their solemn duty is to hear the evidence, deliberate, and decide the case after careful review of the facts and the law. Of course, this should be done free of intimidation from outside and within the jury. The Supreme Court has noted that a jury can responsibly perform its function whether they are required to act unanimously or allowed to decide the case on a vote of 10 to 2.

There are cases where a requirement of unanimity produced a hung jury where had there been a nonunanimous allowance the jury would have voted to convict or acquit. Yet, in both instances, the defendant is accorded his constitutional right of a judgment by his peers. It is my firm belief that this legislation will not undermine the pillars of justice or result in the conviction of innocent persons.

The American people, I believe, will strongly support change in the Federal rules of criminal and civil procedure to allow a jury conviction by a vote of 10 to 2. This change for jury verdicts in the Federal courts will also reduce the likelihood of a single juror corrupting

an otherwise thoughtful and reasonable deliberation of the evidence.

Mr. President, I hope the Congress will give careful and favorable consideration to this proposal and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1426

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF FEDERAL RULES OF CRIMINAL PROCEDURE.

Rule 31(a) of the Federal Rules of Criminal Procedure is amended by striking "unanimous" and inserting "by five-sixths of the jury".

SEC. 2. AMENDMENT OF FEDERAL RULES OF CIVIL PROCEDURE.

Rule 48 of the Federal Rules of Civil Procedure is amended—

(1) by inserting after the first sentence the following: "The verdict shall be by five-sixths of the jury."; and

(2) in the last sentence, by striking "(1) the verdict shall be unanimous and (2)".

ADDITIONAL COSPONSORS

S. 881

At the request of Mr. PRYOR, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 881, a bill to amend the Internal Revenue Code of 1986 to clarify provisions relating to church pension benefit plans, to modify certain provisions relating to participants in such plans, to reduce the complexity of and to bring workable consistency to the applicable rules, to promote retirement savings and benefits, and for other purposes.

S. 969

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1137

At the request of Mr. THOMAS, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 1137, a bill to amend title 17, United States Code, with respect to the licensing of music, and for other purposes.

S. 1228

At the request of Mr. D'AMATO, the name of the Senator from California [Mrs. FEINSTEIN] was added as a cosponsor of S. 1228, a bill to impose sanctions on foreign persons exporting petroleum products, natural gas, or related technology to Iran.

S. 1253

At the request of Mr. ABRAHAM, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of S. 1253, a bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes.

S. 1375

At the request of Mr. BURNS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a co-sponsor of S. 1375, a bill to preserve and strengthen the foreign market development cooperater program of the Department of Agriculture, and for other purposes.

NOTICE OF HEARING

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT AND THE DISTRICT OF COLUMBIA

Mr. COHEN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management and the District of Columbia, Committee on Governmental Affairs, will hold a hearing on Wednesday, November 29, 1995, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, on S. 1224, the Administrative Dispute Resolution Act of 1995.

ADDITIONAL STATEMENTS

IRANIAN HUMAN RIGHTS ABUSES

• Mr. D'AMATO. Mr. President, I rise today to deplore Iran's abominable human rights practices, and to remind my colleagues that Iran's continued abuse of the fundamental rights of its own citizens is one of the reasons why I have offered legislation intended to increase economic pressure on this outlaw regime in Tehran.

Human rights organizations all over the world have been deploring the Islamic Republic of Iran's human rights abuses against women, religious and ethnic minorities for years.

This is a country that sentences women to death for adultery, and then carries out the death penalty by bundling them into a postal sac and throwing them from the roof of a 10-story building.

This is a country that still carries out public stonings, and even has a strict legal code to govern the size stones citizens are to use to stone their fellow citizens. Stones too large are not to be used, because death will be inflicted too quickly. Stones too small are to be avoided, because death doesn't come at all. The stones have to be just the right size to allow the victim to suffer for a very long time, and to ensure that they will die of their wounds.

This is a country that continues to use paramilitary security forces to harass and intimidate people in the street, and that closes newspapers because of a political cartoon comparing the Supreme Leader to a comic strip figure.

This is a country where to be a candidate in an election you must first be deemed to be a supporter of the sitting Government. And this is a country, Mr. President, that continues to be cited, year after year, by the Special Representative of the U.N. Subcommission on Human Rights for its systematic use of torture, arbitrary arrests, and summary executions.

These practices were described in an article appearing in a Paris-based newsletter nearly 5 years ago, which I ask to have printed in the RECORD at the conclusion of my remarks, along with more recent material supplied to my office by the Foundation for Democracy in Iran, a human rights advocacy group.

Mr. President, I would like to call your attention to a few of the lesser known human rights abuses of the clerical regime in Tehran: its repression of religious and ethnic minorities.

As cited by the 1995 report of Middle East Watch, and the February 1994 report of U.N. Special Representative on Human Rights for Iran, the Iranian security forces conduct arbitrary arrests of Kurdish, Balouch, Turkomen, and other ethnic minorities, and to subject these minorities to cruel and degrading punishments in Iranian jails, including torture and summary execution.

Similarly, as the State Department's February 1995 Report on Human Rights points out, the clerical regime discriminates against citizens of other religious persuasions than the dominant Shiite Moslem faith. Baha'is, Jews, and Sunni Muslims have been arrested over the past year for no other reason than their faith, and some of these individuals have been executed.

In fact, the Islamic Republic has engaged in a deliberate policy to suppress the rights of its Sunni minority, and in particular members of the Balouchi tribes in eastern Iran. On February 1, 1994, riots broke out in Zahedan, Mashed, and Khaf after 500 municipal workers demolished a Sunni mosque in the Zahedan district. On January 10, 1993, Iranian Revolutionary Guards troops attacked Balouchi residents in the village of Robat, when the homes of an estimated 50 families were set on fire in an attempt to secure a single individual, Haji Pirdad. The U.N. Special Representative for Human Rights reported on February 2, 1994 that 20 Balouchis were executed in December 1992 and February 1993 in Zahedan prison, while Amnesty International reported that 42 Balouchis including minors were executed between November 1991 and March 1992.

I believe, Mr. President, that this behavior by the Islamic Republic just goes to show that we are dealing with an outlaw regime that cares little about its own people. If it cares so little about its own people, how will it act toward others?

Iran is isolated and universally viewed as a pariah state. Its actions are abhorrent to the civilized world. As long as this warped, terroristic regime continues to punish the Iranian people with its misrule, this condition will continue. The tyrants in Tehran must understand their aggression and abuse of the good people of Iran will not last, and one day they will be brought to task for their actions.

While the tyrants continue to rule in Tehran, sanctions are a clear way to keep up the pressure on Iran and to

deny them the ability to carry out their aggression on the outside world as well as against their own people. We do not take these issues lightly. It is a pity that the regime cannot act like a civilized country and not be so abusive. If only Iran would not conduct these brutal actions, we would not have to place sanctions on it.

The article follows:

[From Mednews, No. 4.4, Dec. 3, 1990]

HUMAN RIGHTS ABUSES IN IRAN

The "moderate" regime in Tehran so dear to Washington policymakers has failed the test again—the test of human rights. Three recent reports on human rights abuses in Iran show beyond a doubt that extreme caution is still needed in dealings with the current regime in Iran.

The reports were prepared independently by Amnesty International, the United Nations, a Paris-based Iranian exile group, the Foundation for the Independence of Iran. All three conclude unequivocally that human rights abuses have increased markedly since the end of the Gulf war, despite Iranian government claims to the contrary.

In his second report in thirteen months, which was released in late November, the UN's Reynaldo Galindo Pohl confirms that at least 113 Iranians have been executed since March 21, the start of the Iranian New Year.

In fact, Pohl's figures fall far short of the mark—once again. Accounts published in the official Iranian media alone show more than 600 deaths by execution since March 21. Last year, that figure reached 2,500. When he questioned the Iranian authorities about the executions during his first visit to Tehran during the fall of 1989, Mr. Pohl was told that the victims were "ordinary criminals," not political prisoners, and that all had been "treated in conformity with the Ta'zirat and the standards of Islamic law." Allegations of torture and summary execution were groundless, Pohl explained, since Iran did not maintain that its laws adhered to the universal declaration of human rights.

Amnesty International recently quoted Iran's "Islamic" law on lapidation and concluded: "In Iran, stoning someone to death isn't against the law. Using the wrong stone is." [See illustration.] Yet another Amnesty report on Human Rights abuses in Iran is scheduled for release on December 5.

The Foundation for the Independence of Iran has chosen to stick to accounts published in the Iranian press, and recently presented a detailed report to the French government on human rights abuses in Iran.

Here are just a few of the more startling examples the Foundation discovered:

July 26: Keyhan announces that forty women have recently been stoned to death. "Whippings, sectioning of fingers and hands are common punishments" in Iranian prisons.

August 17: The Iranian Press Agency (Irna), quoted by Nimrooz, acknowledges that 14,000 persons have been arrested during the past two months, mostly for drug trafficking. On the personal orders of President Rafsanjani and Intelligence Minister Fallayian, they were deported to work camps on the Island of Endourabi.

August 24: Nimrooz reported that a woman accused by her husband of infidelity was sentenced to an unusual death in Tehran. She was sewn into a burlap bag and thrown off the roof of the Ministry of Justice.

August 30: Keyhan reports that 45-year old Ebaolollah Kiani was condemned to death by stoning in the central square of the town of Nahavandi, for having had intercourse with a woman.