Section 4(e) makes explicit that the bill does not ''amend or repeal the Prison Litigation Reform Act.'' The PLRA is therefore fully available to deal with frivolous prisoner claims. This section is based on §4(c) of H.R. 1691.

Section 4(f) expressly authorizes the United States to sue for injunctive or declaratory relief to enforce the Act. The United States has similar authority to enforce other civil rights acts. This section is based on §§2(c) and 4(d) of H.R. 1691.

Section 4(g). If a claimant proves an effect on commerce in a particular case, the courts assume or infer that all similar effects will, in the aggregate, substantially affect commerce. This section gives government an opportunity to rebut that inference. Government may show that even in the aggregate, there is no substantial effect on commerce. Such an opportunity to rebut the usual inference is not constitutionally required, but is provided to create an extra margin of constitutionality in potentially difficult cases. This section had no equivalent in H.R. 1691.

Section 5. This section states several rules of construction designed to clarify the meaning of all the other provisions. Section 5(a) provides that nothing in the Act authorizes government to burden religious belief, this tracks RFRA. Section 5(b) provides that nothing in the Act creates any basis for restricting or burdening religious exercise or for claims against a religious organization not acting under color of law. These two subsections serve the Act's central purpose of protecting religious liberty, and avoid any unintended consequence of reducing religious liberty. They are substantially identical to §§5(a) and 5(b) of H.R. 1691.

Sections 5(c) and 5(d) have been carefully negotiated to keep this Act neutral on all disputed questions about government financial assistance to religious organizations and religious activities. Section 5(c) states neutrality on whether such assistance can be provided at all; §5(d) states neutrality on the scope of existing authority to regulate private organizations that accept such aid. Litigation about such aid will be conducted under other theories and will not be affected by this bill. They are identical to §5(c) and 5(d) of H.R. 1691.

Section 5(e) emphasizes what would be true in any event—that this bill does not require governments to pursue any particular public policy or to abandon any policy, and that each government is free to choose its own means of eliminating substantial burdens on religious exercise. The bill preempts laws that unnecessarily burden the exercise of religion, but it does not require the states to enact or enforce a federal regulatory program. This section closely tracks §5(e) of H.R. 1691.

Section 5(f) provides that proof of an effect on commerce under §2(a)(2)(B) does not establish any inference or presumption that Congress meant to regulate religious exercise under any other law. Proof of an effect on commerce shows Congressional power to regulate, but says nothing about Congressional intent under other legislation. This section is substantially the same as §5(f) of H.R. 1691.

Section 5(g) provides that the Act should be broadly construed to protect religious exercise to the maximum extent permitted by its terms and the Constitution. Section 5(i) provides that each provision of the Act is severable from every other provision. These sections are substantially the same as §§5(g) and 5(h) of H.R. 1691.

Section 6. This section is taken from RFRA. It was carefully negotiated to ensure that the Act is neutral on all disputed issues under the Establishment Clause. It is more general than §§5(c) and 5(d), which were negotiated in light of this bill's reliance on the Spending Clause. This section is substantially identical to §6 of RFRA.

Section 7. Section 7 amends the Religious Freedom Restoration Act. Sections 7(a)(1) and (2) and 7(b) collectively conform RFRA to the Supreme Court's decision in *City of Boerne* v. *Flores*, 521 U.S. 507 (1997), eliminating all references to the states and leaving RFRA applicable only to the federal government. Section 7(a)(3) clarifies the definition of ''religious exercise,'' conforming the RFRA definition to the definition in this Act. These sections are substantially the same as §7 of H.R. 1691, but the incorporated definition of religious exercise has been changed in §8.

Section 8. This section defines important terms used in the Act. Section 8(l) defines ''claimant'' to mean a person raising either a claim or a defense under the Act. This section had no equivalent in H.R. 1691.

The definition of ''demonstrates'' in §8(2) is taken verbatim from RFRA. It includes both the burden of going forward and the burden of persuasion. This section is identical to §8(5) of H.R. 1691.

Section 8(3) defines ''Free Exercise Clause'' to mean the First Amendment's ban on laws prohibiting the free exercise of religion. This section is substantially the same as §8(2) of H.R. 1691.

The definition of ''government'' in §8(4)(A) includes the state and local entities previously covered by RFRA. ''Government'' does not include the United States and its agencies, because the United States remains subject to RFRA. But a further definition in §8(4)(B) does include the United States and its agencies for the purposes of §§4(b) and (5), because the burden-shifting provision in §4(a), and some of the rules of construction in §5, do not appear in RFRA. These definitions are substantially the same as those §8(6) of H.R. 1691.

Section 8(5) defines ''land use regulation'' to include only zoning and landmarking laws that limit the use or development of land or structures, and only if the claimant has a property interest in the affected land or a right to acquire such an interest. Fair housing laws are not land use regulation, and this bill does not apply to fair housing laws. This section is based on §8(3) of H.R. 1691.

Section 8(6) incorporates the relevant parts of the definition of program or activity from Title VI of the Civil Rights Act of 1964. This definition ensures that federal regulation is confined to the program or activity that receives federal aid, and does not extend to everything a government does. This section is substantially the same as §8(4) of H.R. 1691.

Section 8(7) clarifies the meaning of ''religious exercise.'' The section does not attempt a global definition; it relies on the meaning of religious exercise in existing case law, subject to clarification of two important issues that generated litigation under RFRA. First, religious exercise includes any exercise of religion, and need not be compulsory or central to the claimant's religious belief system. This is consistent with RFRA's legislative history, but much unnecessary litigation resulted from the failure to resolve this question in statutory text. This definition does not change the rule that insincere religious claims are not religious exercise at all, and thus are not protected. Nor does it change the rule that an individual's religious belief or practice need not be shared by other adherents of a larger faith to which the claimant also adheres.

Second, the use, building, or conversion of real property for religious purposes is religious exercise of the person or entity that intends to use the property for that purpose. It is only the use, building, or conversion for religious purposes that is protected, and not other uses or portions of the same property. Thus, if a commercial enterprise builds a chapel in one wing of the building, the chapel is protected if the owner is sincere about its religious purposes, but the commercial enterprise is not protected. Similarly if religious services are conducted once a week in a building otherwise devoted to secular commerce, the religious services may be protected but the secular commerce is not. Both parts of this definition are based on §8(l) of H.R. 1691.

THE RELIGIOUS LAND USE AND INSTITUTIONALIZED PERSONS ACT OF 2000

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 2000

Mr. HYDE. Mr. Speaker, tomorrow the President of the United States will sign into law the Religious Land Use and Institutionalized Persons Act, S. 2869. I would like to submit for the RECORD a document prepared by the Christian Legal Society describing zoning conflicts between churches and cities which have come to light since subcommittee hearings on the subject:

RECENT LAND-USE CASES

''In the last 10 years, zoning conflicts between churches and cities have become a leading church-state issue. Disputes have arisen over church soup kitchens or homeless shelters in suburbs, expansion of church facilities, parking squeezes on Sunday, breaches of noise ordinances or disagreements on what kind of meetings the zoning permits. Growing churches that seek new land to relocate often cannot win zoning approvals in the face of public protest over traffic.'' Joyce Howard Price, Portland church ordered to limit attendance, Washington Times, February 18, 2000.

MONTGOMERY COUNTY, MD—8/16/00

A couple in Montgomery County, Maryland, challenged in federal court a zoning ordinance that allowed a Roman Catholic girls' school to build on its property without obtaining a special permit. In August 1999, a U.S. District Judge ruled that the ordinance violated the Establishment Clause, but on appeal a three-Judge panel of the 4th U.S. Circuit Court of Appeals reversed the district court by a 2-1 vote, concluding in August 2000, that '' [t]he authorized, and sometimes mandatory, accommodation of religion [by the government] is a necessary aspect of the Establishment Clause Jurisprudence because, without it, the government would find itself effectively and unconstitutionally promoting the absence of religion over its practice.'' The dissenting Judge differentiated between regulations that influence or alter programming and regulations that affect physical facilities.

Sources: David Hudson, Land-Use Ordinance Doesn't Advance Religion, Federal Appeals Panel Rules, The Freedom Forum Online, August 16, 2000.

PALOS HEIGHTS, IL—8/10/2000

On June 30, 2000, Chicago Public Radio's Jason DeRosa reported that the Al Salam Mosque Foundation encountered opposition from the city council of Palos Heights, Illinois, when Muslims tried to buy a building from a Reformed Church and turn it into a Muslim mosque. Although the city council attempted to block the $2.1 million sale by arguing that the city needed the building for

a recreation center, the community appeared to be driven more by anti-Arab prejudice than by a desire for new recreational facilities. According to the New York Times on August 10, ''[a]t public meetings, some residents spewed derogatory comments, telling the Muslims to go back to their own countries, and implying that their money could have come from a nefarious source,'' and in a newspaper inter-view an Alderman compared the Muslim group to Adolf Hitler. The City Council offered to pay Al Salarn $200,000 to leave Palos Heights for good. Al Salam agreed, reasoning that the buyout would cover legal expenses and a move to a different neighborhood, but Mayor Dean Koldenhoven vetoed the transaction. Al Salarn sued for $6.2 million, claiming, according to the Times, that ''the city's handling of the situation amounted to religious discrimination, conspiracy and unwarranted meddling in a private real estate transaction.'' An official with the Justice Department has stepped in to try to resolve the tension between Muslims and residents in Palos Heights through mediation and community meetings.

Sources: Pam Belluck, Intolerance and an Attempt to Make Amends Unsettle a Chicago Suburb's Muslims,'' New York Times, August 10, 2000. NPR Online, http://search. npr. org/cf/cmn/cmnpd01fm. cfm?PrgDate= 06/ 30/2000?PrgID=3, June 30, 2000.

BELMONT, MA—7/7/2000

In Belmont, Massachusetts, a new Latter-day Saints (Mormon) Temple has caused a great deal of controversy. The white, 69,000 sq. ft. building sits atop a hill, overlooking an upscale neighborhood of single-family homes. Nearby residents want the Temple demolished. In May 1999, a three-judge panel of the federal appeals court in Boston rejected the residents'challenge to the LDS Temple. The lawsuit challenged as unconstitutional state and town laws that prevent town officials from excluding religious uses of property from any zoning area. Boyajian v. Gatzunis, 212 F.3d I (1st Cir. 2000). The residents claimed that the laws ''violate the Establishment Clause of the First Amendment by favoring religious uses of property without a secular purpose.'' Id. at 3. The circuit held that the law prevents towns from ''us[ing] zoning power to exercise their preferences as to what kind of religious denominations they will welcome.'' Martin v. Board of Appeals of the Town of Belmont, No. 97–2596, slip op. 27 (Super. Ct. Mass. Feb. 22, 2000). The court allowed construction to proceed and the Temple to open for worship services.

Other actions over the Temple construction arc still pending. Middlesex Superior Court Judge Elizabeth Fahey has ruled that the proposed 139 ft. steeple for the Temple is not essential: ''While a spire might have inspirational value and may embody the Mormon value of ascendancy towards heaven, that is not a matter of religious doctrine and is not in any way related to the religious use of the temple.'' Id. at 13. The LDS Church is currently appealing.

Sources: Rachel Malamud, Mormon Temple Leads to Court Fight, The Associated Press, December 31, 2000. Public Affairs Office, Church Of Jesus Christ of Latter-day Saints. Boyajian v. Gatzunis, 212 F.3d 1 (1st Cir. 2000). Second Amended Complaint, Boyajian v. Gatzunis (212 F.3d 1) (1st Cir. 2000) (No. 98CVI 1763DPW). Boyajian v. Gatzunis, No. 98–11763–DPW (D. Mass. May 24, 1999). Martin v. Board of Appeals of the Town of Belmont, No. 97–2596 (Super. Ct. Mass. Feb. 22, 2000). Complaint, Martin v. Board of Appeals of the Town of Belmont (Super. Ct. Mass. May 19, 1997) (No. 97–2596).

VACAVILLE, CA—6/25/2000

A Seventh-day Adventist church in Vacaville, CA, was denied a permit to locate studio and administrative offices for a radio ministry in a mobile home on church property. The actual broadcast would come from an existing tower in the nearby hills, not from the mobile home. The permit has been denied on the grounds that the radio ministry is not an accessory use to an Adventist Church. In other words, the county was given discretion to determine what constitutes a legitimate ministry of a church. The California Court of Appeals distinguished between manned and unmanned radio towers and held in favor of Solano County.

Sources: Telephone Interview with Alan J. Reinach, Esq., Director, Department of Public Affairs and Religious Liberty, Pacific Union Conference of Seventh-day Adventists (July 7, 2000). Pacific Union Conference of Seventh-day Adventists, Department of Public Affairs and Religious Liberty, Church State Newsflash: California Court Denies Christian Radio Station the Right to Locate at Vacaville Seventh-day Adventist Church, The Religious Liberty Newsflash and Legislative Alerts, June 26, 2000.

EL CAJON, CA—5/14/2000

El Cajon Seventh-day Adventist Church has for years ministered to the homeless population in downtown San Diego. Such social welfare is an integral part of Seventh-day Adventist faith. When the church tried to relocate to a suburban area, it faced opposition from suburban neighbors, who feared that the church Would bring indigent people into their neighborhood. The church's zoning permit was amended with the following stipulation: the new facility cannot be used to ''feed, clothe, or house individuals.'' The vague language of this amendment (''individuals'' rather than ''homeless individuals'') raises questions about the status of more innocuous church activities that involve ''feeding,'' such as church potlucks. The Pacific Union of Seventh-day Adventists is interested in challenging the language of the amendment.

Sources: Telephone Interview with Alan J. Reinach, Esq., Director, Department of Public Affairs and Religious Liberty, Pacific Union Conference of Seventh-day Adventists (July 7, 2000). Pacific Union Conference of Seventh-day Adventists, Department of Public Affairs and Religious Liberty, Church State News flash: A Busy Week with Land Use Problems, The Religious Liberty Newsflash and Legislative Alerts, May 14, 2000.

SAN FRANCISCO, CA—5/14/2000

When the City of San Francisco recently proposed new parking regulations, the Tabernacle Seventh-day Adventist Church raised a cry for help. The parking regulations, which restricted visitors to one-hour parking, 9 a.m. to 6 p.m., Monday through Saturday, would have effectively closed down the Church by making it impossible for congregation members to park their cars during Saturday worship services. The regulations raised constitutional questions in the eyes of several faith groups, who pointed out that the regulations accommodate the majority (Sunday worshipers) but inhibit the religious exercise of minority groups who worship on other days. The Church received a favorable response from a hearing officer at City Hall, who granted their request to amend the parking policy to Monday through Friday.

Sources: Telephone Interview with Alan J. Reinach, Esq., Director, Department of Public Affairs and Religious Liberty, Pacific Union Conference of Seventh-day Adventists (July 7, 2000). Pacific Union Conference of Seventh-day Adventists, Department of Public Affairs and Religious Liberty, Church State News/Zash: A Busy Week with Land Use Problems, The Religious Liberty Newsflash and Legislative Alerts, May 14, 2000.

SAN MARCOS, CA—5/10/2000

At a lunch sponsored by the San Marcos Seventh-day Adventist Church, approximately 30 non-Adventist pastors from the local community were informed that the City is trying to obtain hefty fees from the Adventist church as a condition of granting the church a conditional use permit to build on a 3.4-acre property. The fees are based on what the city would obtain in tax revenue if the property were used to build single-family homes instead of a church (one acre of church property=approx. 4 Equivalent Dwelling Units). The fees imposed on the church amount to $133,000 up front and $5,000 per year, even though the congregation consists of only 75 people. This Situation does not bode well for the 30 non-Adventist pastors, some of whom wi11 be applying for building project permits in the future.

The only mention of churches in the Community Development Ordinances is located in a traffic-impact table. Nowhere in the city ordinances does it say that a church must be assessed in the way the city has chosen to assess this particular church. The Pacific Union of SDA believes that the city is not legally justified in its assessment, and is in the process of appealing to the city manager.

Sources: Telephone Interview with Alan J. Reinach, Esq., Director, Department of Public Affairs and Religious Liberty, Pacific Union Conference of Seventh-day Adventists (July 7, 2000). Pacific Union Conference of Seventh-day Adventists, Department of Public Affairs and Religious Liberty, Church State Newsflash: A Busy Week with Land Use Problems, The Religious Liberty Newsflash and Legislative Alerts, May 14, 2000.

GRAND HAVEN, MI—3/16/2000

The Haven Shores Community Church, a member of the Reformed Church in America, claims as its mission to ''worship and glorify God by reaching out and serving the community.'' The church aspires toward that goal by offering contemporary forms of worship and educational and counseling programs for youth and adults. Believing that ''a nontraditional storefront ministry is necessary to provide the exposure and character it requires to minister to people,'' the church rented a storefront and sought a building permit. Things did not, however, go as planned. The city and zoning board of Grand Haven denied the church a building permit on the grounds that the storefront is located in a business district zoned for private clubs and schools, fraternal organizations, concert halls, and funeral homes. The church hired the Becket Fund for Religious Liberty to sue in March of 2000, on its behalf, alleging religious discrimination. The Becket Fund's complaint accused the city of ''punish[ing]'' the church for asserting a nontraditional model of worship and outreach, and of violating state and federal constitutions by ''discriminating against religious use'' while ''permitting equivalent, non-religious use.''

Sources: Jeremy Learning, Church says Michigan zoning policy subverts its religious liberties, First Amendment Center, March 16, 2000.

APEX, NC—3/15/2000

The Wall Street Journal reports that in many towns across the rural south, downtown shopkeepers would prefer that landlords rent to any type of business rather than a storefront church. Shopkeepers consider storefront churches an economic liability and an obstacle to the town's revitalization plans. Since churches do not generate

weekday traffic, do not add revenues, and do not pay taxes, some shopkeepers support changes in zoning laws to prevent landlords from renting to churches in downtown areas. City officials in Apex, North Carolina, are not seeking to close the town's two existing storefront churches, but they do want to ban any new churches that might hinder their economic revitalization plans. The lawyer retained by Apex churches notes that city officials are overlooking the fact that churches can turn indigents into people who contribute economically to society.

Sources: Lucinda Harper, Upscale Stores Craft Bans Against Storfront Churches, The Wall Street Journal, March 15, 2000.

JACKSONVILLE, OR—3/7/2000

The City of Jacksonville granted First Presbyterian Church a permit to build a sanctuary and an education building on a ten acre site only if the church met certain conditions. The church would be required to close its buildings on Saturdays and during certain weekday hours, would be forbidden to hold weddings or funerals on Saturdays, and could not serve alcohol on the premises. The City Council met to revise this proposal after being warned that the wedding and funeral ban could potentially be unconstitutional. The result of the meeting was not a revision but a denial of the permit altogether. The local Community reacted strongly to the denial. While First Presbyterian pastor and elders considered an appeal before the Land Use Board of Appeals, other clergy and state politicians called for legislation to protect religious organizations from intrusion by zoning boards.

Sources: Oregon church loses battle for building permit, The Associated Press, March 7, 2000.

LOS ANGELES, CA—2/25/2000

Orthodox Jews must walk to services on the Sabbath because their religion does not permit them to use cars. Etz Chaim is a congregation of elderly and disabled Orthodox Jews in the Hancock Park area of Los Angeles who have trouble walking distances as short as half a mile. The members of Etz Chaim sought a conditional use permit to establish a synagogue in Hancock Park, an area zoned for single-family dwellings, because their disabilities prevent them from walking to any of the synagogues located in a nearby commercial zone. The Hancock Park Homeowners Association complained that this arrangement would hurt property values, and the permit was denied. Based on the testimony of a neighbor who argued that anyone ''should'' be able to walk to synagogues in the commercial zone, the state court of appeal found that alternative locations for prayer are available to Etz Chaim. In February, The Washington Times reported that, ''Congregation Etz Chaim—a home-based synagogue that served many elderly and disabled members—was closed under a zoning law that leading city officials refused to apply equally to close a gay sex club in a residential area.''

Sources: Electronic Letter from Susan S. Azad, Attorney for Plaintiffs Etz Chaim, et. al., to Julie E. Khoury, Paralegal, Christian Legal Society (Aug. 15, 2000) (on file with Christian Legal Society). Michelle Malkin, No prayer on zoning regulation, The Washington Times, February 25, 2000. Order and Memorandum Opinion, Congregation Etz Chaim v. City of Los Angeles, No. CV 97–5042 HLH(Ex) (C.D. Cal. June 1, 1998).

ST. PETERSBURG, FL—2/2000

The Refuge is an inner-city church whose ministry includes worship services, Bible studies, Bible-based counseling, music concerts, a feeding program for the poor and homeless, a crisis hotline, and Christian-perspective support groups such as Alcoholics Anonymous and a group for those infected with HIV. The City's zoning ordinance permits ''churches'' in the zone in which the Refuge is located, and the Refuge's certificate of occupancy indicates that it is a church.

When neighborhood residents complained to zoning officials about the character of people using the Refuge's services, City zoning officials decided to label the Refuge a ''social service agency,'' a type of establishment not permitted in the Refuge's zoning district. In September of 1997, the City ordered the Refuge to relocate. The Zoning Board of Appeals upheld the zoning official's order. St. Petersburg attorney Mark Kamleiter asked the Florida Circuit Court to review that order and contacted the Christian Legal Society's Center for Law and Religious Freedom. Working through the Western Center for Law and Religious Freedom, Kamleiter and CLS Chief Litigation Counsel Gregory Baylor filed an amended petition for certiorari in the Florida Court of Appeals on June 1, 1998. Attorneys for the Refuge argued that, in assessing the Refuge's activities, the City asked the wrong question. They emphasized that whether or not those activities fall under the definition of ''social service agency,'' what matters is that the activities can be considered either primary or accessory uses of a church. The court granted the petition for certiorari on December 21, 1999, noting that ''The Refuge is not doing anything not done, in one form or another, by churches both in this and other areas, in the past and present.'' The Refuge Pinellas, Inc. v. The City of St. Petersburg, No. 97–8543 CI–88B, slip op. at 3 (Fla. Cir. Ct. Dec. 21, 1999). In February of 2000, the district court of appeals denied certiorari to the City.

Sources: Michelle Malkin, No prayer on zoning regulation, The Washington Times, February 25, 2000. The Refuge Pinellas, Inc. v. The City of St. Petersburg, 755 So.2d 119 (Table) (Fla. Dist. Ct. App. Feb. 18, 2000). The Refuge Pinellas, Inc. v. The City of St. Petersburg, No. 97–8543 CI–88B (Fla. Cir. Ct. Dec. 21, 1999).

GROVES CITY, TX—2/9/2000

In trying to help the poor in Groves City, Texas, Pastor Richard Hebert has encountered repeated opposition from those who dislike the homeless his efforts would bring into their neighborhoods. The pastor was first denied a permit to open a boarding house for the homeless and drug-addicted in the city's business district, was next denied a permit to open a church with counseling and boarding, and was finally denied a permit to open a regular church. In February of 2000, Pastor Hebert filed suit claiming that the city's required operating permit for churches is unconstitutional. He wants the city to strike down the permit ordinance and to pay his attorney fees.

Sources: Texas judge halts move to shut down church, The Associated Press, February 9, 2000.

EVANSTON, IL—2/9/2000

An Evanston zoning code permits the Vineyard Christian Fellowship's building to be used for ''cultural'' events such as concerts and theatrical performances but prohibits religious gatherings in the building. The church's pastor cites the inconsistency of a policy that allows the church to use its building for a Christmas pageant but not for a Christmas Eve service. Vineyard, which has been seeking a permanent location for its Sunday services since 1988, filed suit, accusing the city of discriminating between religious and non-religious assemblies. The complaint claims that the city violated the church's constitutional rights to freedom of speech, freedom of religion, and freedom of assembly, as well as equal protection under the law, state zoning laws, and the Illinois Religious Freedom Restoration Act (RFRA). In answering the complaint, the city challenged the constitutionality of the Illinois RFRA. The challenge triggered intervention by the Illinois Attorney General's office, who supports RFRA. The city removed the case to federal court on February 9, 2000. Attorneys do not foresee settlement, and a trial date has been set for mid-January of 2001.

Sources: Telephone Interview with Mark Robert Sargis of Mauck, Bellande & Cheely (August 30, 2000). Vineyard Christian Fellowship of Evanston v. City of Evanston (N.D. Ill. Feb. 9, 2000) (No. 00C0798). Mark Robert Sargis, Mauck, Bellande & Cheely, Vineyard Church Re-Files Discrimination Suit Against City of Evanston, Press Release, January 12, 2000.

DENVER, CO—12/22/1999

According to The Associated Press, in August of 1999, a ''Denver couple filed a federal lawsuit to challenge a city order barring them from holding more than one prayer meeting at their home each month.'' The couple's attorney argued that the cease-and-desist order unconstitutionally distinguished between religious and secular meetings. Despite assertions by a zoning administrator that the order simply limited parking problems and protected the neighborhood from disruption, the couple's attorney pointed out that the order made no mention of parking or noise violations. Attorneys also emphasized that the city does not regulate parking on residential streets during home meetings. In December 1999, the city conceded that the order violated the Couple's First Amendment rights. The couple and the city struck an agreement in which both the lawsuit and the order were withdrawn, the city promised to change zoning policies that single out religious meetings in private homes, and the city paid the couple $30,00 in attorney fees.

Sources: Family Research Council, Denver Withdraws Cease & Desist Order on Home Bible Study, Legal Facts, Vol. 2, No. 9 (Jan. 7, 2000). Denver Couple Barred From Holding Weekly Prayer Meetings Sues City, The Associated Press, August 16, 1999.

ONALASKA, WI—12/17/1999

The mayor of Onalaska filed complaints with the City Planner against a Christian pastor and his wife who were hosting a weekly home Bible study. The mayor expressed an inability to understand why the pastor would invite five college students to his home rather than holding the meetings at church. The City Planner notified the pastor that he must obtain a conditional use permit pursuant to a city ordinance governing ''clubs, fraternities, lodges and meeting places of a noncommercial nature.'' When the pastor tried to distinguish his private residence from the types of enterprises listed in the ordinance, the City Planner told him that ''the regularity of the meeting . . . requires the permit.'' After receiving a letter from a lawyer warning of a potential lawsuit to protect the pastor's constitutional rights, the City Planner decided not to require the permit and told reporters that the city would consider revising the ordinance.

Sources: Jeremy Learning, City Withdraws Demand that Couple Obtain Permit to Hold Bible Meetings, The First Amendment Center, December 17, 1999.

FAIRFIELD, OH—9/7/99

Clara M. Pepper was convicted of violating the Fairfield Codified Ordinances (FCO) by operating a church in a residential district and by erecting a sign on her property. Pepper argued that Fairfield's attempt to regulate her use of the property was an unconstitutional infringement upon the free exercise

of religion. The trial court found that although Pepper's rights to practice and exercise her religion and to use and enjoy her property for religious purposes are protected by the Ohio and U.S. Constitutions, these rights are not absolute and may be reasonably regulated. The Court found that the FCO are not an unconstitutional exercise of police power. The appellate court similarly upheld the ''minimal requirements'' imposed on churches by the FCO.

Sources: City of Fairfield v. Pepper, 1999 WL 699867 (Ohio App. Sept. 9, 1999).

YOUNGSTOWN, OHIO—6/30/99

Beatitude House is a nonprofit corporation operated by Ursuline nuns who run job training and transitional housing programs for homeless and abused women. When Beatitude House tried to turn an old convent into transitional housing for four homeless women, the Youngstown zoning board denied the permit. The nuns appealed on the grounds that the proposed use of the former convent is an accessory use, but the appellate court held in favor of the zoning board and stated that the Zoning Ordinance does not unconstitutionally suppress the appellees' free exercise of religion.

Sources: Henley v. City of Youngstown Board of Zoning Appeals, 1999 WL 476087 (No. 97 CA 249) (Ohio App. June 30, 1999).

This list of Recent Land-Use Cases was compiled for the Congressional Record by the Center for Law and Religious Freedom, A Division of Christian Legal Society, 4208 Evergreen Lane, Suite 222, Annandale, VA 22003, Julie E. Khoury, Paralegal. The compilation was last modified on September 1, 2000. Thank you to Susan S. Azad, Crystal M. Roberts, Mark R. Sargis, and Alan J. Reinach for their assistance.

SADDAM HUSSEIN AS A WAR CRIMINAL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 21, 2000

Mr. PORTER. Mr. Speaker, on Tuesday, September 19, 2000, the Congressional Human Rights Caucus (CHRC) held a briefing on building the case against Saddam Hussein as a war criminal. This week our Administration urged the United Nations to establish a war crimes tribunal to try Saddam Hussein and eleven other Iraqi officials in the deaths of up to 250,000 civilians in Iraq, Iran, Kuwait and elsewhere. David Scheffer, the Ambassador-at-Large for War Crimes Issues, testified before the CHRC on September 19th. His remarks present the evidence which has been gathered by the U.S. against Hussein. This evidence includes crimes committed during the Iran-Iraq War, the massive use of chemical weapons in Halabja against his own citizens in 1988, the invasion and occupation of Kuwait in 1990 and 1991 and the killing of his political opponents which continues today.

Ambassador Scheffer's remarks are a thorough account of the horrendous crimes Saddam Hussein has committed and continues to commit, and what the U.S. is doing to promote justice in Iraq. I commend to Members' attention Ambassador Scheffer's remarks and hope that the U.S. Congress will strongly support the Administration's effort to bring Hussein to justice.

THE CASE FOR JUSTICE IN IRAQ

(By David J. Scheffer, Ambassador-at-Large for War Crimes Issues)

Thank you. It is good to be among so many groups and individuals who are dedicated to the pursuit of justice, democracy and the rule of law for the Iraqi people. I am here to tell you all that the United States looks forward to the day when justice, democracy and the rule of law will prevail in Iraq.

I want to do three things this morning, by way of starting us all on a series of interesting presentations on different aspects of the case for justice in Iraq. First, I want to call to everyone's attention the reason we are here—the need to address the continuing criminality of Saddam Hussein's regime. Second, it has been almost a year since I saw many of you here in Washington last October, when I spoke at the Carnegie Endowment for International Peace on the subject of Iraqi war crimes, or at the Iraqi National Assembly in New York shortly thereafter. I want to update you on what the U.S. Government has been doing to promote accountability for Saddam Hussein's 20 years of criminal conduct. Third, I think you will find of interest some of the reaction, in Baghdad and elsewhere, to what we—and many of you—have been doing to promote the cause of justice in Iraq.

Let me be clear at the outset. Our primary objective is to see Saddam Hussein and the leadership of the Iraqi regime indicted and prosecuted by an international criminal tribunal. If an international criminal tribunal or even a commission of experts proves too difficult to achieve politically, there still may be opportunities in the national courts of certain jurisdictions to investigate and indict the leadership of the Iraqi regime. The United States is committed to pursuing justice and accountability in the former Yugoslavia, Rwanda, Cambodia, Sierra Leone and elsewhere around the world. We are also committed to the pursuit of justice and accountability for the victims of Saddam Hussein's regime in Iraq.

THE CRIMINAL RECORD OF THE REGIME OF SADDAM HUSSEIN

Let me turn to my first main point, the need to address the criminal record of Saddam Hussein and his top associates for their crimes against the peoples of Iraq, Iran, Kuwait, and other countries. To the United States Government, it is beyond any possible doubt that Saddam Hussein and the top leadership around him have brutally and systematically committed war crimes and crimes against humanity for years, are committing them now, and will continue committing them until the international community finally says enough—or until the forces of change in Iraq prevail against his regime as, ultimately, they must.

This may seem self-evident to all of you here today. Interestingly, in my discussions of this issue I have found some people who will agree that Saddam Hussein is a criminal, but who are genuinely unaware of the magnitude of his criminal conduct. Those who want to gloss over Saddam's criminal record often want to gloss over the need for him to be brought to justice. This goes to the very heart of why his conduct deserves an international response, so I find it useful to review what we now know of the criminal record of Saddam Hussein and his top associates.

1. The Iran-Iraq War. During the Iran-Iraq War, Saddam Hussein and his forces used chemical weapons against Iran. According to official Iranian sources, which we consider credible, approximately 5,000 Iranians were killed by chemical weapons between 1983 and 1988. The use of chemical weapons has been a war crime since the 1925 Geneva Protocol on poisonous gas, to which Iraq is a party. Also during the Iran-Iraq War, there are credible reports that Iraqi forces killed several thousand Iranian prisoners of war, which is also a war crime as well as a grave breach of the Geneva Conventions of 1949, to which Iraq is a party. Other war crimes and crimes against humanity committed by Saddam Hussein and the top leaders around him against Iran and the Iranian people also deserve international investigation.

2. Halabja. In mid-March of 1988, Saddam Hussein and his cousin Ali Hassan al-Majid—the infamous ''Chemical Ali''—ordered the dropping of chemical weapons on the town of Halabja in northeastern Iraq. This killed an estimated 5,000 civilians, and is a war crime and a crime against humanity. Photographic and videotape evidence of this attack and its aftermath exists. Some of this is available to scholars and—God willing—to prosecutors through the efforts of the International Monitor Institute in Los Angeles, California. More visual evidence is available from Iranian cameramen, who collected their images of the victims of this brutal attack—most of whom were women and children—in a book published in Tehran. The best evidence of all is from the survivors in Halabja itself.

I am proud to say that the United States has been working with groups such as the Washington Kurdish Institute and scientists like Dr. Christine Gosden to document the suffering of the people of Halabja and—just as importantly—to find ways to help the people of Halabja treat the victims and bring hope to the living. Working with local authorities, we are looking for ways to help investigators, doctors and scientists document this crime and plan the help that the survivors need and deserve. We know they will not get that help from Saddam Hussein. As one example, to help war crimes investigators, the U.S. Government is today announcing the declassification of overhead imagery products of Halabja taken in March 1988, the best image we have that was taken a little more than a week after the attack. We hope this will serve as a photo-map to enable witnesses to describe to investigators, doctors and scientists what they were during those terrible days of the Iraqi chemical attack and its aftermath.

3. The Anfal campaigns. Beginning in 1987 and accelerating in early 1988, Saddam Hussein ordered the ''Anfal'' campaign against the Iraqi Kurdish people. By any measure, this constituted a crime against humanity and a war crime. Chemical Ali has admitted to witnesses that he carried out this campaign ''under orders.'' In 1995, Human Rights Watch published a compilation of their reports in the book ''Iraq's Crime of Genocide,'' which is now out of print. Human Rights Watch needs to reprint this book. Human Rights Watch estimated that between 50,000 and 100,000 Kurds were killed. Based on their review of captured Iraqi documents, interviews with hundreds of eyewitnesses, and on-site forensic investigations, they concluded that the Anfal campaign was genocide. I challenge anyone to read the evidence cited in Iraqs Crime of Genocide and come to any different conclusion.

4. The invasion and occupation of Kuwait. On August 2, 1990, Saddam Hussein ordered his forces to invade and occupy Kuwait. It took military force by the international community and actions by the Kuwaiti themselves to liberate Kuwait in February 1991. During the occupation, Saddam Hussein's forces killed more than a thousand Kuwaiti nationals, as well as many others from other nations. Evidence of many of these killings is on file with authorities in Kuwait and at the United Nations Compensation Commission in Geneva. Saddam Hussein's forces committed many other crimes in Kuwait, including environmental crimes such