

Constitutional Court of South Africa unanimously concluded the death penalty is cruel and unusual punishment subject to elements of arbitrariness and the possibility of error.

The case before the Constitutional Court, *Makwanyane and McHunu* versus *State*, stemmed from an intra-family murder-for-hire which occurred in July 1987. Five people died when their hut was set on fire. Both men who carried out the attack and the man who hired them were convicted of murder and sentenced to death. The issues raised before the court concerned not the facts of the crime, but rather the constitutionality of the death penalty. Attorneys for the defendants cited the long history of racial discrimination and the arbitrary application of the death penalty in the United States as grounds for outlawing this ultimate punishment. The South African court heard that the United States practice of leaving capital punishment to the discretion of the judge and jury opens the door to the inevitable influences of race, poverty, and the quality of representation.

In effect, the South African court came to the same conclusion as former United States Supreme Court Justice Harry Blackmun, who concluded that the death penalty experiment has failed. Although Blackmun repeatedly voted to uphold capital punishment in the belief that the law could be channeled to guarantee its fair application, he ultimately decided that he could no longer "Tinker with the machinery of death."

South Africa had a history of applying the death penalty in an even more arbitrary fashion than the United States. Until the use of the death penalty was suspended in February 1990, South Africa had one of the highest rates of judicial executions in the world. The previous government executed 1,217 people between 1980 and 1989. And, as in the United States, it was much more common for a black defendant to be sentenced to death than a white defendant. In 1988, 47 percent of black defendants convicted of murdering whites were sentenced to death; 2.5 percent of blacks convicted of murdering other blacks were sentenced to death; while no whites convicted of killing blacks were given the death penalty.

I want to emphasize that the abolition of the death penalty will not result in impunity for those who commit the most heinous of crimes. But South Africa concluded that even in the country they looked to for guidance, the United States, the death sentence had not been shown to be materially more effective at deterring or preventing murder than the alternative sentence of life imprisonment.

The Government of South Africa has come to the decision that the recognition of the right to life and dignity is incompatible with the death penalty. I applaud them for it.●

MAJ. GEN. DAVID P. DE LA VERGNE

● Mr. GORTON. Mr. President, I am honored to offer my congratulations to Maj. Gen. David P. de la Vergne, who retires on June 25, 1995, as commanding general and civilian executive officer of Fort Lawton, WA.

The general's career has been exemplary. A native of Meriden, CT, he graduated from the Citadel and was commissioned a second lieutenant in 1961. After attending the infantry officer's basic and counterintelligence officers course, he served as special agent in charge of the Hartford Resident Office of the 108th Intelligence Corps Group. He did tours in Germany as operations officer of the 207th Military Intelligence Detachment and as commander of the Columbia Field Office of the 111th Military Intelligence Group. Posted to I Corps Advisory Group, Military Assistance Command Vietnam, he served as order of battle advisor and sector intelligence advisor, and then returned from Vietnam to serve as security officer for the Defense Language Institute in Monterey, CA.

After leaving active military duty in 1971, Major General de la Vergne was assigned to the 6211th U.S. Army Garrison, Presidio of San Francisco, where he served as inspector general, S-1, comptroller, and deputy commander before leaving to assume command of the 2d Battalion, 363d Regiment, 4th Brigade, 91st Division, training; Returning to the 6211th in 1981, he served as the garrison commander for 3 years before leaving for the 124th ARCOM, where he served as deputy chief of staff, resource management, as deputy chief of staff, operations, and then as chief of staff and deputy commander prior to his current assignment as commanding general.

Major General de la Vergne is a graduate of the Command and General Staff College and the Army War College, and he has completed courses at the Intelligence School, the Defense Language Institute, the Industrial College of the Armed Forces, the Inspector General School, the U.S. Army Institute for Administration and the Army Logistics Management Center.

His decorations include the Bronze Star, the Meritorious Service Medal with Oak Leaf Cluster, the Air Medal, the Joint Service Commendation Medal, the Army Commendation Medal with two Oak Leaf Clusters, the Republic of Vietnam Cross of Gallantry with Bronze Star and the Republic of Vietnam Honor Medal First Class.

Time and time again, the general has proven his mettle and displayed most excellent leadership. To quote from the citation for his Distinguished Service Medal, which will be awarded on the occasion of his official change of command ceremony on June 25, 1995:

... for exceptionally meritorious service of great responsibility:

Major General David P. de la Vergne distinguished himself by exceptionally meritorious service in successive positions of

great responsibility from 15 March 1988 to 27 March 1995. In all assignments, General de la Vergne displayed unexcelled leadership and absolute dedication. As Chief of Staff and later Deputy Commander, 124th United States Army Reserve Command (ARCOM), Fort Lawton, Washington, he displayed exceptional vision, skill, and tenacity in the management and direction of major Army activities. Culminating his distinguished service as Commander of the 124th ARCOM, General de la Vergne took immediate steps to provide the ARCOM with a positive image of its leaders and mission. General de la Vergne's energetic approach for improvement in training, logistics, and recruiting resulted in the molding of a mission-capable unit. His dynamic leadership and unique managerial abilities were instrumental in achieving significant improvements in the readiness posture of the 124th ARCOM elements. This was most evident during the mobilization of nine units to support Operation DESERT SHIELD and Operation DESERT STORM. Major General de la Vergne's unswerving dedication, outstanding service, professional skill, and superb leadership reflect great credit upon him, the United States Army Reserve and the United States Army."

I want to thank Major General de la Vergne for his many years of service to this country, and I wish him and his wife, Elinor, all the best.●

RECOGNIZING THE ACHIEVEMENTS OF DISTINGUISHED ANNE ARUNDEL COUNTY YOUTH

● Ms. MIKULSKI. Mr. President, it is with a great deal of pride and satisfaction that I commend to your attention a number of young adults from Anne Arundel County. These outstanding individuals are listed below, and they are outstanding because of their character, their academic achievements, and their contributions to their home communities.

Three years ago, an organization was formed in Anne Arundel County by one of my college classmates, Dr. Orlie Reid. He and other caring individuals gathered together to discuss what could be done to encourage our youth to perform at their highest levels and to be community minded, to reinforce the positive and discourage the negative. The Concerned Black Males of Annapolis has done just that since its inception in 1992.

On Monday, June 26, 1995, CBM is recognizing 88 young men and women at its first annual awards dinner. These students were nominated by church, school and community leaders. I extend my heartiest congratulations to them all for their efforts, and to the organizers of the Awards Dinner and the founders of Concerned Black Males of Annapolis. A concerned community working with youth sets a fine example, and CBM has proven over the years that it works. My best to all of them.●

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

● Mr. KYL. Mr. President, the White House Conference on Small Business

met earlier this month to consider issues of concern to small business men and women around the country, and to make recommendations to this Congress about what it can do to make Federal policy more responsive to small business's needs.

The men and women who attended the conference represent a vital economic force in the country. There are more than 20 million small businesses in the United States, and they represent the fastest growing sector of the economy. Small businesses provided all of the net new jobs created between 1987 and 1992. They employed 54 percent of the private work force in 1990. Small businesses provide two of every three new workers with their first job. Small businesses contributed 40 percent of the Nation's new high-technology jobs during the past decade. Together, they truly represent the engine that drives our Nation's economy.

So when small business leaders speak out on issues of concern, it would behoove the members of the Senate and the House to listen. These small business people are the innovators and the job creators. They are the ones on the front lines who have to wade through government rules and regulations every day, pay the taxes, and still find a way to compete in domestic and international markets.

If we are interested in economic growth and opportunity in this country—if we want an economy that is healthy and creating new jobs, and can compete around the world—we ought to take note of what small businessmen and women have to tell us.

And, Mr. President, this is what the delegates to the White House Conference had to say—these are the top ten vote-getting resolutions approved by the Conference:

No. 1: Clarify the definition of independent contractor for tax purposes—1,471 votes. The Conference called on Congress to recognize the legitimacy of an independent contractor; to develop more realistic and consistent guidelines for IRS auditors, courts, employers and State agencies to follow.

No. 2: Permit a 100 percent deduction for business meal and entertainment expenses—1,444 votes. Small businesses typically rely on close personal relationships and customer service to compete for sales, rather than expensive advertising campaigns. Expenditures for meals and entertainment are often an important part of that effort.

No. 3: Strengthen the Regulatory Flexibility Act—1,398 votes. In addition to making the act applicable to all Federal agencies, the Conference recommended that cost-benefit analyses, scientific benefit analyses, and risks assessments be required.

No. 4: Repeal the Federal estate, gift, and generation-skipping transfer tax laws—1,385 votes. As the members of the Conference noted in their resolution, "the negative effect (of these transfer taxes) on small business, and others, far exceeds the net income to

the Government when all administrative costs to individuals, businesses, and government are considered."

No. 5: Reform the Superfund law—1,371 votes. Delegates recommended the elimination of retroactive and strict liability prior to 1987, and called for sound science, realistic risk assessments, and cost-benefit analyses in assessing health and environmental hazards.

Mr. President, we ought to act promptly on all of these issues; bring them to the floor, debate them and vote on each of them at the earliest date practicable. I wanted to begin today, however, by speaking about one of the top five resolutions in particular, the one that received the fourth highest number of votes, a resolution that endorsed the Family Heritage Preservation Act, S. 628.

I introduced that measure earlier this year with the distinguished Senator from North Carolina, Senator HELMS. Representative CHRIS COX introduced the companion bill in the House of Representatives.

The Federal estate tax is actually one of the most wasteful and unfair taxes on the books today, and it is no wonder that small business leaders are urging its repeal. By confiscating up to 55 percent of a family's after-tax savings, it penalizes people for a lifetime of hard work, savings, and investment. It hurts small business and costs jobs. The result is that people spend their time, energy, and money trying to avoid the tax—for example, by setting up trusts and other devices—rather than devoting their resources to more productive economic uses.

The estate tax hits small family businesses particularly hard. It strips companies of much-needed capital at the worst possible time—under a change of ownership and oversight following the principle owner's death.

According to a 1993 survey by Prince and Associates—a Stratford, CT research and consulting firm—9 out of 10 family businesses that failed within 3 years of the principal owner's death said that "trouble paying estate taxes" contributed to their companies' demise. Sixty percent of family-owned businesses fail to make it to the second generation, and 90 percent do not make it to a third generation.

If the Tax Code were revised to eliminate these transfer taxes, small businesses would have a fighting chance; and the Nation would likely experience significant economic benefits by the year 2000. According to a report by the Institute for Research on the Economics of Taxation [IRET] "GDP would be \$79.22 billion greater, 228,000 more people would be employed, and the amount of accumulated savings and capital would be \$630 billion larger than projected under present law" by the end of the century.

Small business leaders recognize how counterproductive the estate tax really is, and that's why they specifically endorsed the Family Heritage Preserva-

tion Act at the White House Conference. That's why my bill is supported by the Small Business Council of America, the Small Business Survival Committee, Americans for Tax Reform, and the 60 Plus Association. The National Federation of Independent Business and the Independent Forest Products Association have called for estate tax reform.

Mr. President, I want to conclude by thanking the delegates to the White House Conference for their thoughtful, hard work. And, I wanted to make special note of the work of Mary Lou Bessette, who chaired the Arizona State delegation and carried out her responsibilities in an exemplary manner. She kept the group focused and on track, and was well respected by its members. Another member of the delegation, Sandy Abalos, served as Arizona tax chair. Her hard work and determination were reflected in the successful outcome of the Conference.

And finally, I wanted to commend Joy Staveley, who was my appointment to the Conference, and who served as environmental chair for the State. All four of her environmental resolutions made it into the top 60 final recommendations to emerge from the Conference session.

A job well done to all the members of Arizona's delegation and to all the delegates from around the country. Now it's time for the Senate and House to act on the good advice from the leaders of the Nation's small businesses. I invite my colleagues to join me as a cosponsor of the Family Heritage Preservation Act, and to begin addressing the other recommendations of the White House Conference as well.●

THE 25TH ANNUAL IRISH HERITAGE FESTIVAL

● Mr. BRADLEY. Mr. President, our country is a remarkable mosaic—a mixture of races, languages, ethnicities, and religions—that grows increasingly diverse with each passing year. Nowhere is this incredible diversity more evident than in the State of New Jersey. In New Jersey, schoolchildren come from families that speak 120 different languages at home. These different languages are used in over 1.4 million homes in my State. I have always believed that one of the United States greatest strengths is the diversity of the people that make up its citizenry and I am proud to call the attention of my colleagues to an event in New Jersey that celebrates the importance of the diversity that is a part of America's collective heritage.

On June 4, 1995, the Garden State Arts Center in Holmdel, NJ, began its 1995 Spring Heritage Festival Series. This heritage festival program salutes many of the different ethnic communities that contribute so greatly to New Jersey's diverse makeup. Highlighting old country customs and culture, the festival programs are an opportunity to express pride in the ethnic