I urge my colleagues to join me in recognizing this great American town and wishing the entire community another one hundred and fifty years of success.

U.S.-TAIWAN RELATIONS

HON. LINDA SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mrs. LINDA SMITH of Washington. Mr. Speaker, I was appalled to hear on June 30, 1998 President Clinton affirm China's ''three noes'' concerning Taiwan. Specifically, he said: ''We don't support independence for Taiwan, or two Chinas; or one Taiwan, one China; and we don't believe that Taiwan should be a member in any organization for which statehood is a requirement.''

Sadly, the President turned his back on 22 million people who live in democracy. What kind of message are we sending to the emerging democracies of the world? Are we going to turn our backs on these nations for political expediency?

Today, by a vote of 390 to 1 the House of Representatives voted to affirm U.S. commitment to Taiwan in accordance with the Taiwan Relations Act. The Taiwan Relations Act, passed by Congress and signed into law in the immediate aftermath of the 1979 recognition of mainland China, says that the United States will view any attempt to determine Taiwan's future by other than peaceful means, including by boycotts or embargoes, as a threat to the peace and security of the Western Pacific area and of grave concern to the United States.

Furthermore, H. Con. Res. 301 expresses the sense of Congress that the future status of Taiwan will be determined by peaceful means and that Chinese on both sides of the Taiwan Strait should determine their own future. Importantly, it states that we should make available to Taiwan ''defense articles and defense service,'' including appropriate ballistic missile defenses. Taiwan should also be able to have appropriate membership in international financial institutions.

The people of Taiwan have worked hard and sacrificed for their democracy. Taiwan transformed itself into a democracy with a multiparty parliament and a popularly elected head of state, the first in all the millenniums of Chinese political experience. In the end, Taiwan's future is not a matter for President Clinton, the American government or Beijing. It is a matter soley for the government and people of Taiwan to decide.

JUDGE SILBERMAN'S ATTACK ON THE ATTORNEY GENERAL COMES UNDER CRITICISM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mr. CONYERS. Mr. Speaker, I ask unanimous consent to enter into the record the following editorial that appeared today in the Washington Post. This article quite rightly criticizes D.C. Court of Appeals Judge Laurence Silberman's opinion issued last week in response to the Justice Department's request for a stay of the lower court order requiring several Secret Service agents to testify before the grand jury.

As this editorial makes clear, Judge Silberman's broad view of the powers of the independent counsel is completely insupportable. The editorial also helpfully reminds us that Judge Silberman once struck down the Independent Counsel Act as unconstitutional, but was later reversed by the Supreme Court. Judge Silberman's insistence on construing the Independent Counsel Act as broadly as possible, therefore, appears to be another chapter in an old argument that has long since been lost. This editorial provides some important context to Judge Silberman's intemperate attacks on the Justice Department's good-faith representation of the Secret Service.

[From the Washington Post, July 20, 1998]

A POWER NOT VESTED IN THE CONSTITUTION

(By Benjamin Wittes)

Judge Laurence Silberman's extraordinary concurrence in last week's Court of Appeals decision concerning grand jury testimony by Secret Service agents grabbed headlines for its vituperative rhetoric. The judge cast aspersions on Attorney General Janet Reno, saying she was ''acting as the President's counsel under the false guise of representing the United States.'' And Silberman also accused ''the President's agents [of] literally and figuratively 'declar[ing] war' on the Independnce Counsel.''

Silberman's overheated rhetoric, however, was not the most remarkable aspect of his opinion—which, as a mere concurrence, fortunately does not have the force of law. As a prominent conservative jurist, Silberman is an advocate of judicial restraint, yet his opinion Thursday was almost a prototype of activist judging. Indeed, the judge opined on a matter the parties had not squarely presented him. And, having reached its merits unnecessarily, he issued an opinion with constitutional implications for the independent counsel statute, a law that was upheld unequivocally by the Supreme Court in the 1988 case known as Morrison v. Olson. Silberman's opinion is more dramatic still, because the high court's holding in Morrison reversed an appeals court decision written by none other than Laurence Silberman himself.

Silberman's opinion does not directly attack the constitutionality of the independent counsel statute. Though he gripes about it, the judge is, after all, bound by the Morrison precedent. But by asserting that the attorney general legally cannot litigate against Kenneth Starr on behalf of the Secret Service, he attacks the statute through a back door. Silberman's opinion, were it actually law, would grant Starr such immense power that his role could no longer be constitutional under the vision of the independent cunsel the Supreme Court upheld in Morrison.

Silberman's decision 10 years ago held that the independent law unconstitutionally breached the separation of powers. The theory of his lengthy and elegant decision was that the Constitution vests the power of the executive branch in the president and that an executive branch officer independent of the president is a derogation of the president's exclusive sphere. The independent counsel, as a prosceutor named by a panel of judges, he reasoned, cannot constitutionally wield the prosecutorial powers of the executive branch.

The Supreme Court, however, disagreed. In Morrison, Chief Justice William Rehnquist held that an independent counsel is a constitutional beast known as an ''inferior officer'' of the executive branch. Inferior officers, under the Constitution, can be appointed by courts. And the high court deemed Independent Counsel Alexia Morrison to have this subordinate status because of her limited jurisdiction, her being subject to removal by the attorney general under certain circumstances, and her obligation to follow the policies of the Department of Justice. Starr, in other words, can exist constitutionally only as long as he remains such an ''inferior officer.'' The moment he becomes anything grander, his independence from the president would render him constitutionally defective.

Silberman understands the requirements of Morrison as well as anyone. Yet his latest opinion would inflate the balloon of Starr's authority well past the point where his constitutionality would burst. The law gives the independent counsel ''full power and independent authority to exercise all investigative and prosecutorial functions and powers of the Department of Justice [and] the Attorney General.'' And Silberman reasons that if Starr is acting as the attorney general in the areas within his mandate, Reno cannot also be the attorney general for those areas. She must, therefore, bow out: ''It seems clear to me then that no one in the United States Government, speaking for the government, has standing to oppose the Independent Counsel in [the Secret Service] proceeding. . . . That, as should be apparent, means that it is up to the Independent Counsel—the surrogate Attorney General in this matter—to decide whether the 'privilege' asserted by the Secret Service as a government entity should be recognized.''

This description of Starr's power hardly sounds like an inferior officer. Quite the contrary. In Silberman's vision, Starr is an officer of titanic executive power, who can operate not only entirely as he pleases with respect to Justice Department policies (for no one can oppose him) but can also decide the behavior of other parts of the executive branch. If Starr really can arbitrate his own dispute with the Secret Service—and, by extension, with any other federal agency—he would usurp enormous executive authority. But were this the true scope of his power, the constitutionality under Morrison of his office would evaporate.

Silberman's history on this issue makes his recent opinion all the more astonishing. By describing Starr's power in such a way as to make it inconsistent with the limited independence on which the Supreme Court predicated the constitutionality of the law, Silberman subtly would rehabilitate his own earlier opinion striking down the law. So even while Silberman bashes the integrity of the administration, his logic would make its greatest adversary impossible.

The writer is a member of the editorial page staff.

HONORING DON A. HORN

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1998

Mr. GREEN. Mr. Speaker, I rise today to pay special tribute to a community leader, a friend, and a legend in Houston's labor movement. Don Horn became a union member in 1945 when he joined the International Brotherhood of Electrical Workers in Houston. Don's leadership positions in Local 716 included