

their agendas. Consequently the Tribes must bear the burden of the political expediency that is being demonstrated by this amendment.

My colleagues, this amendment is not so much about gaming as it is about not respecting the trust responsibility that our government has towards the first Americans.

Mr. Chairman, I find this particularly disturbing that we are considering this amendment offered by Republican members on a day that Speaker Hastert and the Republican leadership are meeting with several tribal leaders in support of Tribal sovereignty.

This amendment has no place in this debate and I urge all who care for the sovereign rights of native Americans to oppose its passage.

RISE IN HUMAN RIGHTS ABUSES
IN THE UIGHUR AUTONOMOUS
REGION OF XINJIANG, CHINA

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 16, 1999

Mr. PORTER. Mr. Speaker, I rise to bring attention to one of the forgotten areas of the world, where human rights abuses are at an all time high and the degree of these abuses is inhuman and completely unimaginable to most of us—the Uighur Autonomous region of Xinjiang, China (XUAR). I have spoken before this Congress many times to discuss the horrendous way the government of the People's Republic of China treats its people, but, according to the experts, the situation the Uighurs are facing is far worse than in any other region of the country.

Amnesty International released a report in April documenting the conditions and abuses in Xinjiang, and yesterday the Congressional Human Rights Caucus held a briefing on the Uighurs. We heard from five Uighurs as well as human rights advocates who all describe the same abominable situation.

Xinjiang has long been inhabited by a mixture of different Muslim peoples including Kazakhs, Kyrgyz and Tajiks, as well as the majority Uighurs. The region enjoyed independent statehood until 1759, when it was conquered by China's Manchu dynasty. In subsequent years, there were numerous attempts to shake Chinese rule lasting well into the twentieth century. The most significant of these was in 1945, when local forces took advantage of the looming civil war between Communist and Nationalist Chinese to revive the independent republic of East Turkestan, which survived until 1949 when it was crushed by divisions of the People's Liberation Army (PLA). Han Chinese migration and settlement into Xinjiang greatly increased with the onset of the economic reforms of the early 1980s, to the point where there are now almost as many Han as Uighurs living in Xinjiang. The two main ethnic groups live in virtual segregation, racial discrimination is widely reported and unemployment among Uighurs is high.

Since the early 1990s, the growing strength of the Islamic cultural and religious movement in Xinjiang, combined with the end of Soviet

political domination in Central Asia, has led the central government once again to impose increasingly tight restrictions on religious worship and practice in the region. The number of schools and mosques forced to close is rapidly increasing, displaying the strong similarities between the PRC's treatment of this region and Tibet.

Amnesty International reports that torture of political prisoners in XUAR is systematic and that new and particularly cruel methods of torture are used that are not known to be used elsewhere in China. The XUAR is the only region in China where political prisoners are known to be executed. They have been executed for offenses related to opposition activities, street protests or clashes with security forces. As true in other parts of the PRC, the death penalty is also applicable for a wide range of offenses, including non violent ones such as economic and drug related crimes. There are two reasons why this abuse is so much worse than in other areas of China. First, its history of independence and proximity to free countries, and second is the fact that the rest of the world seems to have forgotten them.

Amnesty International is calling on the Chinese government to establish a special commission to investigate human rights violations and economic, social, and cultural needs of the region. I want to join in this call, and demand that the Chinese government stop treating its citizens this way. The international community must be made aware of these atrocities and it is time for us to stand up and let the Uighurs know that the world has not forgotten them, and the Chinese government can not continue with this type of behavior.

THE SECOND AMENDMENT AND
GUN CONTROL LEGISLATION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 16, 1999

Mr. CONYERS. Mr. Speaker, today I am pleased to offer for the record a memorandum on the Second Amendment and Gun Control Legislation that was written by Professor Robert A. Sedler, an outstanding constitutional law professor who has taught at the University of Kentucky Law School and now teaches at Wayne State University School of Law. Professor Sedler previously worked with my Judicial Committee staff on constitutional matters during the recent impeachment proceedings. Given the current national debate on gun control and gun control legislation, his memorandum is particularly enlightening.

THE SECOND AMENDMENT AND GUN CONTROL
LEGISLATION

(By Robert A. Sedler, Professor of Constitutional Law, Wayne State University School of Law)

Opponents of gun control legislation, such as the NRA, frequently invoke the Second Amendment to argue that gun control legislation is unconstitutional. Such an argument is completely misplaced for two reasons. First, under current constitutional doctrine, as propounded by the United States Supreme Court, the Second Amendment does

not establish an individual right to bear arms. The Second Amendment is a state's rights provision, guaranteeing a collective rather than an individual right. Second, even if the Supreme Court were to hold in the future that the Second Amendment does create an individual right to bear arms, that right, like other constitutional rights, would not be absolute, and would be subject to reasonable regulation that did not impose an "undue burden" on that right.

The Second Amendment starts out by referring to state militias, which were the forerunner of the present National Guard: "A well-regulated Militia being necessary to the security of a free State," and goes on with the more familiar. "The right of the people to keep and bear arms shall not be infringed." At the time of the Constitution every state had a militia, consisting of all able-bodied men. When there was a call to arms to defend the state, each able-bodied man was supposed to show up with his own rifle. Every man had a rifle, which he used for hunting and for the legitimate self-defense of his family and his home. The Constitution gave the federal government a lot of power over the state militias. Congress could call them into federal service (Art. I, sec. 8, cl. 15), as units of the Michigan National Guard have been called up for service in Bosnia and Kosovo. When the militias were called into federal service, they were subject to the control of the President as Commander-in-Chief (Art. II, sec. 2, cl. 1). Congress was also given the power to govern the organization and training of the state militias (Art. I, sec. 8, cl. 16), just as today Congress regulates the state National Guard.

After the Constitution was ratified, there was concern in the states that Congress would use its power over the state militias simply to abolish them. This concern was addressed by the Second Amendment. The language and historical context of the Second Amendment indicates that it was to be a states rights provision, it was intended to prevent Congress from abolishing the state militias. Under this view of the Second Amendment, it would not be the source of an individual right to bear arms, and federal gun control laws could not be challenged as violative of the Second Amendment.¹

The contrary view focuses on the fact that the time of the Second Amendment, all the able-bodied men that made up the state militia were expected to have their own rifles to bring with them whenever there was a call to arms. Under this view, the Second Amendment would be the source of an individual right to bear arms, just as the First Amendment is the source of an individual right to free speech, and federal gun control laws could be challenged as violative of the Second Amendment. Many state constitutions do expressly establish an individual right to bear arms. The Michigan Constitution, Art. I, sec 6, for example, provides that: "Every person has a right to bear arms for the defense of himself and the state." There is much debate today among law professors and others over whether or not the Second Amendment should be seen as establishing an individual right to bear arms.

Of course, only the United States Supreme Court can say authoritatively what the Second Amendment means. The only Supreme Court case to expressly deal with that subject is the older case of *United States v. Miller*, 307 U.S. 174 (1939). In that case, the Court

¹The Supreme Court long ago held that the Second Amendment does not apply to the states. *Presser v. Illinois*, 116 U.S. 252 (1886).