

In addition to his many contributions to the court, Justice Jefferson is also a founder of the California Judges College which trains newly appointed judges. He has published numerous articles for myriad legal journals, including the prestigious Harvard Law Review and the Columbia Law Review, as well as the Boston University Law Review. He has been recognized with innumerable awards and accolades for his extraordinary contributions to the legal profession, and is the recipient of the Appellate Justice of the Year award, presented to him in 1977 by the Los Angeles Lawyers Club.

Mr. Speaker, paraphrasing an old Chinese proverb, "one generation plants the trees; another sits in their shade. Here's to you, [Justice Bernard Jefferson,] for planting those trees." For nearly six decades, Justice Jefferson has dedicated himself to planting and nurturing the tree of excellence. Excellence as a student, excellence as an attorney, excellence as a jurist, and excellence as a university professor and administrator. He has helped to shape some of the finest legal minds practicing law today. His legacy is secure for the ages. He is revered by his peers, respected by his students, and held in the highest esteem by those of us who have been witness to a career that parallels few in the annals of the judiciary. I am proud to know him and I deem it a high honor to have this opportunity to publicly thank him on behalf of this nation for his legendary and distinguished contributions to the system of jurisprudence.

MR. BEREUTER GIVES SPEECH BEFORE THE HERITAGE FOUNDATION

HON. EDWARD R. ROYCE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1999

Mr. ROYCE. Mr. Speaker, I would like to share with my colleagues a thoughtful speech given before the Heritage Foundation by my distinguished colleague, Mr. BEREUTER of Nebraska, on U.S. policy toward Asia.

As Chairman of the Asia and Pacific Subcommittee, on which I am honored to serve, DOUG BEREUTER has been a leader in shaping U.S. policy toward this critical region. Mr. BEREUTER's views, as expressed here, are a significant contribution to our understanding of the challenges and opportunities facing our country in Asia. I encourage my colleagues to review this important speech.

Mr. Speaker, I submit the full text of Mr. BEREUTER's address before the Heritage Foundation's Asia Roundtable to be inserted at this point in the RECORD.

REMARKS DELIVERED AT THE HERITAGE FOUNDATION, THE HONORABLE DOUG BEREUTER, CHAIRMAN, SUBCOMMITTEE ON ASIA AND THE PACIFIC, FEBRUARY 9, 1999

I. INTRODUCTION

I am honored to be invited back, for a fifth year, to participate in the Asia Roundtable sponsored by the Heritage Foundation, and to share my Congressional perspective on U.S. foreign policy objectives in Asia. Seeing many familiar faces here today, I am encour-

aged that so many "old hands" (many of them young)—individuals with wide-ranging experience and expertise—remain committed to studying Asian affairs. No region is more dynamic, or more crucial to the future of America, as we stand on the threshold of the 21st century.

In my role as Chairman of the Asia and Pacific Subcommittee, a position which I have held since January 1995, I have found that your questions and related comments have been helpful in offering some different issues, and I hope that today's session will also have that benefit. I will keep my remarks fairly brief to afford maximum time for dialogue. Thus, I propose:

First, to very briefly reiterate the set of principles that have guided my approach to the Asia-Pacific region.

Second, to highlight key challenges that we face when viewing the Asian landscape through the larger prism of U.S. "grand strategy"—even if it isn't clear that our government has one.

Third, to offer my thoughts on appropriate Congressional responses to achieve our security objectives in Asia.

II. PRINCIPLES TO GUIDE FOREIGN POLICY

Soon after I assumed Chairmanship of the Asia and Pacific Subcommittee, I established a set of principles to guide goals and initiatives regarding Asia. I believe these principles remain valid today. These include:

first, Maintaining regional stability and security—particularly with respect to potential flashpoints on the Korean peninsula, the Asian subcontinent, and Taiwan—by sustaining our regional security commitments. The presence of American forces strategically forward-positioned in Asia promotes stability, deters aggression and the rise of hegemonic forces, and ensures our strategic agility—the ability to rapidly and flexibly respond to crises. Our forces must remain engaged in Asia to bolster alliances and friendships, build new bonds of trust, and strengthen the joint commitment of the U.S. and regional nations to peace and stability. An increasingly important aspect of the U.S. security responsibility concerns the proliferation and export of weapons of mass destruction and ballistic missiles. Given recent events on the Korean Peninsula, this priority has become increasingly important.

the second principle, Opening and expanding Asian markets, and leading systemic and structural reforms that contribute to long-term Asian economic health and prosperity. Asia's recent financial crisis underscores the need for this dual-track approach. We have engaged economically, for example, by applying public and private resources to our financial and commercial relationships in Asia, and by implementing business strategies that expand our trade and marketing potential. However, we also should provide more leadership in a drive for reforming the economic architecture in Asia. This includes direct assistance in the form of counsel and targeted, limited aid to beleaguered nations, and insistence on appropriate support from multilateral organizations, such as the IMF, and international fora. This integrated approach should help put Asian nations back on their feet and keep them on the path to the robust growth needed for their, and global, economic health.

the third principle, Promoting democracy & Protecting human rights. We cannot neglect our historic commitment to the fundamental principles of democracy, pluralism, and respect for human rights. Any Congressional policy based strictly on realpolitik and devoid of moral substance will lose the support of the American people.

In these three areas, then, Congress must seek and seize the initiative so that we can now, and amid the uncertainties of the new millennium, shape, prepare effectively for, and respond appropriately to, the challenges and opportunities in Asia.

Now, secondly, to move to the challenges, I start with . . .

III. DEFENSE ISSUES

A more detailed look at the region shows that the post-Cold War period has not ended threats to a peaceful, stable Asia. Threats to U.S. vital interests abound. Relatedly, I believe that maintaining our 100,000 forward-deployed troops is the responsible, prudent course of action now more than ever. That force is a cornerstone of our security strategy and has both symbolic and real value to our allies, and it should to us as well. It represents our tangible commitment to the region—our sacrifice for the common good that deters aggression and defends U.S. and allied interests in crisis or conflict. The 1998 Defense Authorization Bill included language, which I authored, reaffirmed both Congressional support for the 100,000 troop level, and explains why this troop commitment is crucial to peace and security in Asia. Indeed, I believe the presence of forward-based U.S. troops is welcomed by everyone in the region . . . with the notable exception of North Korea.

As to North Korea, I remain convinced, as I was in 1995, that there is no more volatile and dangerous spot in Asia, and perhaps the world, than North Korea. The situation on the Korean Peninsula currently is fragile. As you know, the North maintains a huge, standing, million-man army, the bulk of which is forward-deployed within 75 miles of the DMZ. Its nuclear and ballistic missile capabilities may threaten South Korea and Japan and, as demonstrated by Pyongyang's August '98 missile test, they potentially threaten even American soil—yes, the 48 states too. This test launch, coupled with uncertainty over the North's adherence to the 1994 nuclear framework agreement (generated by its continuing refusal to permit U.S. access to a suspected nuclear-related underground facility at Kumchang-ni) has renewed grave questions about Pyongyang's military intentions.

The North should realize, but may not, that it now stands at a crossroads and must choose whether to continue its march toward economic and social collapse or to embrace America's exchange of food aid, heavy fuel, and assistance in developing safe nuclear energy for a verifiable commitment that it has not continued—and will not continue—its nuclear weapons program. The Administration's high risk bargaining tactics on this issue require careful oversight; much hangs in the balance—potential war or peace on the Peninsula, large-scale proliferation or its containment. Ultimately, the longer term balance of power and regional stability is at risk. I referred to the Administration's high risk bargaining tactics because the questions we all must ask are:

What is the Administration's strategy with regard to North Korea? Why is there no linkage among the Administration's individual initiatives to stem the North's ballistic missile proliferation, to halt its nuclear program, and to forge any peace settlement? Have we substituted individual tactical maneuvers for an overarching strategy, a set of disjointed processes for an integrated policy and real progress?

The implications of North Korea's test launch of a three-stage ballistic missile reach far beyond the Peninsula. Tokyo, recognizing the implicit threat, has appeared

increasingly receptive to overtures to work with the U.S. to develop a regional missile defense network. Prime Minister Obuchi's hand also has been strengthened in gaining Diet approval for the revised defense guidelines. Once ratified, these guidelines will permit Japan to provide broader and more flexibility non-combat logistical support to U.S. forces in a regional contingency.

As a nuclear weapons state, a leading regional military power, and a global player with a permanent U.N. Security Council seat, China, too, has a crucial role in building lasting security in the Asia region. Thus, another key security objective in Asia must be to build a firm foundation for a long-term relationship with China based on comprehensive engagement. Clearly, divergent and sometimes conflicting policies on a variety of issues complicate relations. Continuing concerns regarding China's acquisition and possible proliferation of sophisticated technology with military applications poses challenges to improving relations. As you may know, I served recently on the Congressional Select Committee charged with investigating Chinese acquisition of sensitive U.S. military technologies. Our findings, which I will broadly review with you when I turn to proliferation challenges, almost certainly will strain U.S./China relations over the near-term once the maximum amount of the report is released.

Another weighty U.S. security objective in Asia is to contain the proliferation of weapons of mass destruction in South Asia. Indian's and Pakistan's recent nuclear tests, and their continued development of ballistic missiles, have fundamentally changed the strategic balance and increased the risk of nuclear exchange. As you know, the U.S. imposed mandatory unilateral sanctions on these countries following their tests. Major elements of these sanctions have subsequently been waived. We need to specifically examine whether to continue the President's waiver on Arms Export Control Administration (AECA) economic sanctions, which were based on a number of conditions, including both countries signing the CTBT, halting nuclear testing, and ceasing deployment and testing of missiles and nuclear weapons. It is to say the least, unclear whether those conditions will be met.

I have included proliferation issues in a number of my subcommittee's past hearings and, during the 106th Congress, I anticipate re-examining some of these concerns and Administration responses. Certainly we will review Presidential certifications on the North's nuclear program as required by the last Congress, and their impact on the KEDO light water reactor project under the Nuclear Framework agreement.

It also is clear that Congress will carefully review U.S. export and security policies dealing with sensitive military-related technologies. As I mentioned earlier, I serve on the House Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China, which produced what is commonly referred to as the Cox Report. While the findings of the Select Committee remain highly classified, I can say that we found that the transfer of sensitive U.S. technology to China extends beyond the widely publicized Hughes Electronics and Loral cases, to grave and extraordinary losses and severe damage to America's national security through Chinese espionage because of lax security measures. At this point, I cannot provide details as the report is undergoing declassification review. Suffice it to say at this time, how-

ever, that the United States must thoroughly, dramatically, and energetically revise its security procedures—no failures to follow-through this time and no half-way, half-hearted efforts are acceptable.

IV. ECONOMIC ISSUES

Now let's look at Asia's economic security challenges.

Over the course of the financial crisis, five Asian economies have contracted by at least 6 percent: Thailand, South Korea, Indonesia, Malaysia, and Hong Kong. During a recent visit to Asia, I heard leading Hong Kong business-men, who once were supremely confident of Hong Kong's continued prosperity, now admit they are in a depression—no, I didn't say recession. I also had the opportunity to visit Indonesia, and witness firsthand the very real difficulties that important nation faces in pursuing economic recovery. Other nations are in recession or close to it. I believe the U.S. now has a more palpable respect for the possibility of economic undertow because of the Asian crisis. We were "strategically surprised," to borrow a military analogy, and "strategic surprise" frequently results in tremendous confusion and very bad results. We can't afford to have this happen in the global economy.

We need to bolster our economic "defenses" now by expanding private and public U.S. economic engagement and leadership in the region, and by paying closer attention to "indications and warning" of financial instability. In retrospect, these signs were evident as the crisis built—and even before that if you look at the architectural problems that drove it—but their potential individual and cumulative impact clearly were insufficiently addressed.

U.S. economic growth of about 2-3 percent in 1999 has been widely projected—down from about 4 percent 1998 and attributable, in large measure, to the economic problems ignited in Asia. In late '98 the strong U.S. economy was, overall, able to more than compensate for the slump in Asian and other markets. Yet the Asian and other global impacts still are not all played out, and more Asia tides may still await us. To date, the rising U.S. trade deficit, largely resulting from the sizable fall in exports to Asia, has been offset in significant part by capital inflows seeking safe harbor in America and by the Federal Reserve three times lowering interest rates. Nonetheless, the impact of the Asian crisis has been weighty and, as I said, it's certainly not over: Asia's recession has cost U.S. industry \$30B in lost exports and resulted in manufacturing lay-offs and shrinking farm income. In addition, despite large IMF bailouts to some Asian nations, continuing financial setbacks in the region are shockingly projected to increase the 1999 U.S. trade deficit another \$50-60B deep because of Tokyo's role as the world's second largest economy and a U.S. ally. Japan has been America's largest overseas market for agricultural products. Japan has ranked as the third largest, single-market country for U.S. exports; it also has been the second largest supplier of U.S. imports.

Japan's economy has been anemic, and often in decline, for most of the past seven years, and it is now in recession, with nothing encouraging in sight. Recent trends indicate that, barring major shifts in government policies and global economic conditions, Japan's economic growth will be sluggish for at least the near-term. Problematically, the U.S. trade deficit with Japan in fall '98 was \$58.2B and nearing its all-time high of \$65.7B, which was reached in 1994. Large trade deficits will increase political

calls for protectionism. Indeed, we have seen the first shots over the bow on this subject already: The Administration has threatened to file a suit under Section 301 of US trade law against Tokyo unless its steel imports show substantial declines.

Politically, that instinct is hard to resist, but such a response has adverse consequences, forcing Americans to pay more for products and lowering their standard of living. Protectionism also can seriously damage Asian economic recovery efforts, which will pose longer-term risks for U.S. products, services, jobs, and industry. The trick is finding the line between protectionism and appropriate leverage to demand a fair shake in foreign markets.

Despite Japan's continuing economic problems, it admittedly has provided financial assistance, structural adjustment loans, and export/import credits to the IMF countries to help contain the financial crisis. Such generosity is to Tokyo's credit, but it is an adequate alternative to restoring a strong Japanese economy. Underlying Japan's market access problems and low productivity in some economic sectors are an abundance of rigid government regulations. While recent governments have promised to undertake deregulation, Tokyo still appears to be ill-prepared to make fundamental changes.

Although I have viewed Japan as the economic engine that could pull East Asia back to economic recovery, provide insurance against a worldwide recession and reinforce regional stability and security, this prospect is dimming. Last year, I introduced H. Res. 392, which was passed, calling on Japan to more effectively address its internal economic and financial difficulties, and to open its markets by eliminating regulatory, trade, and investment barriers. Japan must act now to stimulate its fiscal economy and make a decisive break with the regulatory webs and closed markets that slow growth. If Japanese markets aren't open—or opened—Asian countries will rely that much more on U.S. markets for their exports, American exports to Asia will decline, our trade deficits will be pushed even higher, and calls for protectionism will escalate.

U.S.-China Trade is part of our larger comprehensive engagement policy with that nation and reinforces our economic security objectives in Asia at large. The 106th Congress, like those previously, probably may once again, after heated debate, extend normal trade relations status to China; however, the renewal process likely will trigger consideration of other trade-related issues. These may include conditioning China's entry into the World Trade Organization (WTO), possibly linking WTO access with permanent NTR status, and taking a variety of initiatives to reverse the increasing U.S.-China trade deficit. Incredibly, WTO negotiations with China are in their 13th year; however, China's formal trade barriers remain high, and some very recently have been placed even higher. Key service sectors, such as distribution, finance, and telecommunications—the infrastructure of a 21st century economy—remain closed. Moreover, the rule of law, which permits enterprises to grow and flourish, remains severely underdeveloped. The Administration still has no effective plan to induce China to make the changes and commitments necessary for WTO eligibility despite our phenomenal trade deficit with that country, which grows by \$1B per week! I am convinced that the U.S. must use, in effect, a "carrot and stick" approach to push China on WTO membership. The "carrot" is permanent NTR; the

“stick” is snap-back tariffs. This year, I plan to more energetically push the Bereuter-Ewing-Pickering legislation—H.R. 1712: The China Market Access and Export Opportunities Act. It offers a strategic plan that includes snap-back tariffs to compel Beijing to join the WTO. Equally important, unlike repealing NTR, my approach does not invoke the impossible, severe, wide-ranging set of sanctions that would adversely impact American jobs and industry. Neither does it ease, as China has urged, WTO accession restrictions, which could seriously undermine support for free trade. Now to the final category of challenges for the U.S. in the region:

V. HUMAN RIGHTS & DEMOCRACY

There can be no serious discussion of U.S. policy toward Asia—or of challenges and opportunities in that region—without addressing U.S. democracy and human rights objectives. As you all know, last year was the 50th anniversary of the signing of the Universal Declaration of Human Rights. In looking back at that half century, an impressive body of international law has been enacted, and the ranks of committed individuals, organizations, and countries have swelled as has their power to command world attention in promoting and protecting the dignity and freedom of all people.

It should be noted that in 1998, for example, Beijing signed the International Covenant on Civil and Political Rights. In 1998, the U.N. Human Rights Commission and 36 Asian-Pacific nations—representing about one-half the world's people—also signed in 1998 the framework for an agreement on technical cooperation in human rights, which commits them to work together to strengthen national human rights strategies, plans, institutions, and education. Strides have been made, but we must do more to translate the legal instruments—the words—that guarantee human rights into actions that transform the daily lives of those citizens that still live under oppression.

Competing ideologies on the role of democracy versus authoritarian rule in building Asian stability and economic prosperity have impaired the strengthening of democratic institutions and individual freedoms. The Asian economic crisis brought simmering political tensions to a boil, and amplified regional—indeed, worldwide—calls for government accountability and profound social and political change. If equitable recovery measures are not adopted in 1999, the cycles of violence witnessed last year, and for much of history, well may be repeated.

Nowhere is that more true than in Indonesia. The widespread protests that brought an end to President Suharto's regime have not abated. President Habibie has lifted some restrictions on freedom of expression and political parties, but sources of political, ethnic, and economic unrest continue to abound. The June '99 parliamentary election process is a key test for democracy and government legitimacy. With political parties blossoming and competing for seats in what hopefully will be the first real election in over three decades, the stakes are very high. Moreover, another important watershed event may be on the horizon: Recently, the Indonesian government announced that it may be willing to consider East Timor's autonomy, perhaps even independence if the East Timorese deem the autonomy plan unacceptable. The jailed rebel leader, Xanana Gusmao, who I visited last month, appears destined for early release. I am told that U.N. Special Envoy Marker has redoubled his efforts to devise a formula that is acceptable

to all parties. Portugal and Indonesia must be told it is time to find an acceptable agreement *now*. The door is opening for an end to this 23 year old violent controversy.

In another Southeast Asian example, Cambodia's recent electoral history has been bloody. After the violent July 1997 coup, in which scores of Cambodians were executed, Hun Sen delivered a devastating “body blow” to the democratic aspirations of the Cambodian people. Following a very difficult year, where Hun Sen was ostracized from the international community, elections were held last July. These elections resulted in a small majority for the Cambodian People's Party, led by Premier Hun Sen. Extra-judicial killings, co-opting and coercion of political opponents, human rights abuses, and media censorship that led up to the election tarnished the process at large while allegations of election improprieties undercut claims of a democratic process.

Moreover, the current power sharing arrangement between Hun Sen and Prince Ranariddh is tenuous at best, and rumors of special deals with Khmer Rouge leaders who recently surrendered have fed additional suspicions. This small, long-suffering country has far to go before Western observers will be convinced it is on the way to democratization. I was the author of an amendment that was passed in the foreign operations appropriation bill that barred aid to the government of Cambodia until democracy is restored. I remain unconvinced that this has occurred.

And, finally, as for China, despite its signing of the U.N. Covenant on Civil and Political Rights, it has yet to be ratified. China's desire for improved relations with the West contributed to the release of some high profile political prisoners and slight loosening of limits on public expression in early 1998; however, the crackdown on the newly formed Chinese Democratic Party and other unregistered pro-democracy groups has demonstrated the continuing closed nature of the political system.

I want to emphasize here that I continue to support the excellent work of Mr. John Kamm, who has done much to learn the fate, and push for the release, of long-forgotten political prisoners. The physical and psychological lives of these prisoners, and of many other victims of Chinese human rights abuses, hang in the balance. We must continue to vigorously press Beijing to live up to both the letter and spirit of the international agreements it has signed. To this end, the first hearing this year in the House International Relations Committee concerned the recent crackdown on democracy movement leaders; a second hearing already has been held, and more are likely to be scheduled.

VI. CONCLUSION

I have reviewed a fraction—although a substantial and important fraction—of challenges and opportunities that will face the United States and Congress in Asia as we move into the 21st century. What I do I recommend, as both a Member of Congress and Chairman of the Asia and Pacific Subcommittee to my colleagues and to the Administration? A few bottom lines:

Vigorously promote regional security. In addition to maintaining our forward-deployed forces and strengthening our web of security Alliances, we need to explain the requirement for, promote, and collaboratively develop a regional missile defense system, as well as a limited national defense system at home.

Push the Administration to develop an effective, long-term strategy for dealing with

Pyongyang in concert with our regional Allies. Such a strategy must hold the North to its commitment to the framework agreement if we are to release any of the \$35M pledged. Further, it must link the nuclear initiative with other U.S. security objectives related to ballistic missile proliferation and discussions on peace and stability in Korea and in the region. Most importantly, we must replace the reaction stance our actions and policy have become. They are too much like paying blackmail to avoid North Korean aggression or to delay facing a growing threat of weapons of mass destruction.

Actively assist Asian countries' recovery plans where possible and appropriate and strengthen U.S. leadership of systemic and structural reform. To do this, we must remain engaged in Asian markets and avoid protectionism, and exert more leadership in pressing for IMF reforms. We also must provide private and public sector expertise for reforming the Asian economic architecture.

Adopt the Bereuter-Ewing-Pickering plan for Chinese accession to the WTO through snap-back tariff legislation. Engaging China now, on our terms, in a free market economy, is a key means to encourage it toward responsible domestic and international behavior.

Energetically promote the advancement of democracy and freedom throughout Asia. The United States, for example, should support the Indonesian elections in June—free, fair, and transparent elections are too important for the U.S. not to get involved. We also should support the rule of law and village election assistance in the PRC, and not let a few of our misguided colleagues block the effort and discourage further Administration initiatives. While the costs of such programs are minimal, they can make a significant contribution to the evolution of democratic institutions in Asia.

Thank you very much for your attention.

CRISIS IN THE HORN OF AFRICA

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, February 24, 1999

Mr. SAXTON. Mr. Speaker, I spoke on February 9, 1999, to remark that it was essential that we act to help stop the escalation of the crisis in the Horn of Africa, and particularly the Ethiopia-Eritrean war, if the region was not to slide further into chaos. Since then, the anticipated war between Ethiopia and Eritrea has erupted and it keeps escalating. The war has already long-term and dire ramifications for both countries—beyond the impact of the growing numbers of casualties on both sides. The war is largely a low-tech and fairly static war of attrition along long miles of rugged and inhospitable terrain. The new offensive just launched by the Ethiopians is yet to alter the overall character of the war. However, both sides have embarked on an intense effort to acquire high quality air power in order to break the deadlock. Both countries not only purchased several late model combat aircraft and helicopters from states of the former Soviet Union but also engaged a large number of air crews and technicians to fly and maintain them. This effort, that is yet to impact the situation on the front line, is rapidly exhausting the hard currency holdings of these already