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possible letter?

Dr. Ibrahim M. Oweiss
4017 Glenridge Street
Kensington, MD 20895-3708
USA

Tel: 301 933 7667

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Yes ✓
for Messy

President Bill Clinton
The White House
Washington, D.C. 20500

May 20, 1998

Dear President Clinton,

Once again, I appreciate your kindness and your thoughtful message dated March 2, 1998 and for your human touch which I shall always treasure.

I am writing this letter to inform you of a small good-will project emanating from St. Albans School. However, as it turned out, it has touched a human cord internationally.

My 18-year old son Kareem, a senior at St. Albans School, formed the Encore Club of talented young musicians from his school and from National Cathedral School with the aim of giving concerts to raise funds to help some poor but talented young person somewhere in the world. With members ranging in age between 13 and 18, the Encore Club gave concerts for two years. Through a professor at Georgetown University, the Club identified a 13-year old boy, Marius Copaceanu, from a remote area in Transylvania, a town which has only one telephone line, to be a recipient of a full scholarship award to study music at the Interlochen Center for the Arts in Michigan. Upon hearing of the commendable project in a brief visit to Washington, former Minister Mansour Hassan, one of the top aides to late President Sadat donated \$1000.00. Ambassador Benaissa from Morocco donated \$500.00. Last evening the Ambassador of Romania hosted generously the last concert given by the Encore Club this year. The Club is making CD's of its music to support the same efforts. The Romanian boy will be arriving in Washington, D.C. on June 3 and will attend the graduation of St. Albans School on June 6 at the National Cathedral. The French TV was moved by the story and will have a full documentary to be shown sometime in July.

Allow me Mr. President to propose that you send a letter to Kareem to congratulate him and his senior class and to commend him as the President and Founder of the Encore Club for their international good-will gesture. The letter can be read at the graduation of his class at the National Cathedral on June 6. This will be another reflection of your great leadership that would encourage young people who do good emanating from the great ideals of our nation.

It would serve a great cause in focusing on good successful stories rather than the negative ones about our youth. Instead of having a picture of a young boy carrying a gun as was shown on the front page of the Time Magazine [April 6], why not having a picture with a youth holding a musical instrument as a means of showing how a young group of Americans can reach out globally to give a golden opportunity to a talented boy, Marius Copaceanu, who comes from a very poor family with absolutely no means to pursue professional studies in the United states. Marius comes from the little town from which the alleged Dracula came.

I may also propose another idea if it can be fitted for only few minutes of your time to meet at the White House with the 13-year old young Romanian together with Kareem as a good gesture that will touch the hearts and minds of all of the people from the former Soviet orbit. *Shah*

Yet, there may be another possibility if you so prefer. During your forthcoming State of the Union Address, you may wish to build on this small example, a good case of what the United States youth can do in full conviction of the great values upon which our great nation has been founded.

I am enclosing a copy of one of the articles covering the story of the Encore club along with a picture of the young Romanian, Marius Copaceanu as well as a copy of the program of yesterday's event at the residency of the Ambassador of Romania.

Please accept my warmest personal regards and best wishes for continued accomplishments as the President of the United States and as the leader of the world.

Sincerely yours,

Ibrahim

Ibrahim M. Oweiss



Marius Copaceanu
from Transylvania
Romania

playing French Horn
& winner of a contest

028084
#300205
Omerville

Don't forget to purchase an Encore Club CD

*To order a CD, please send \$13.00, including
\$3.00 shipping and handling, to the address shown below:*

*Kareem I. Oweiss
4017 Glenridge Street
Kensington, MD 20895-3708*

*Please include a return address in order for you to receive your
purchased CD*

*Please make checks payable to the order of
The Encore Club*

Encore Club

of

St. Albans School

and

National Cathedral School

*Welcomes you to the final concert
of the 1997-1998 academic year
held on Tuesday May 19, 1998*

Generously hosted by

*His Excellency the Ambassador of Romania
and*

Mrs. Mircea Dan Geoana

Speakers

His Excellency Mircea Dan Geoana
Ambassador of Romania

Mr. John F. McCune
Headmaster, St. Albans School

The Reverend Daniel R. Heischman
Faculty Advisor of the Encore Club
Head of St. Albans Upper School

Dr. Aurelia Roman
Professor of French, Georgetown University

Kareem F. Oweiss
President and Founder of the Encore Club

Program

Moonlight Sonata *L. Beethoven*
Peter Mondelli

Noctette in 4th *J. Gershwin*
Braxton Collier

Jeux d' eau (Water Games) *M. Ravel*
Natalia Luckyanova

O Sacrum con Vivium *J. L. de Victoria*
Charles Young, Martin Wilson, Brandon Dixon, Brian Barrett (voices)

Suite in E minor *P. Mondelli*
Peter Mondelli

Feux d' artifice (Fireworks) *C. Debussy*
Kareem Oweiss

Intermission

From Le Nozze De Figaro, Deh Vieni Non Tardar *W. Mozart*
Laura Beckner (voice), Alex Paulson (piano)

Wolstein Sonata No. 21, 1st movement *L. Beethoven*
Will Segal

Pro Ecclesia, Pro Patria *A. Paulson*
Alex Paulson

Sonata in D major, Op. 10 No. 3 *L. Beethoven*
Natalia Luckyanova

Scherzo in B-flat minor, Op. 31 No. 2 *F. Chopin*
Kareem Oweiss

THE GEORGETOWN CURRENT

WEDNESDAY, MAY 13, 1998

Serving Burleigh, Foggy Bottom, Foxhall, Georgetown, Glover Park, Lower Palisades & the West End

VOLUME VII, NUMBER 38

Northwest students send foreign child to music camp

By **JOSH LEVENTHAL**
Current Staff Writer

Kareem Oweiss has never been to Transylvania and does not speak the native language of the Romanian region best known for Dracula's castle. Yet for the past year Oweiss and a group of his fellow St. Albans and National Cathedral School students have raised money to bring a talented young musician from this Eastern European nation to the United States to study music.

Encore is a club that Oweiss founded last year and is made up of roughly 15 students. Its goals are to increase musical awareness not only on the neighboring schools' campuses, but throughout the global community as well.

That is where Marius Copaceanu fits into the picture. A talented 13-year-old French horn player, Copaceanu lives in Transylvania in a town so small that it has only one telephone.

Growing up in meager conditions, how-

ever, has not kept Copaceanu from developing into a talented horn player. Last year he finished second in an international contest in Romania and caught the eye of many, including Aurelia Roman, a family friend of Oweiss and a language professor at Georgetown University who is a lover of music.

Roman passed on to Oweiss the news of Copaceanu's success despite adversity, and Oweiss said he immediately knew this was

See **Concert**/Page 15

THE CURRENT

WEDNESDAY, MAY 13, 1998 **15**

CONCERT

From Page 1

the kid he wanted to help.

"I wanted to help the cause of music, not only in our school but in a more worldly sense with kids from around the world who are not as privileged as boys and girls at St. Albans and National Cathedral School," said Oweiss, who has been playing the piano since he was 5. "I wanted to help those who are talented but do not have the opportunities we have."

On Tuesday the students of the Encore Club will perform their final concert of the school year at the residence of Romanian Ambassador Mircea Dan Geoan. Donations collected at the concert will go toward the students' mission of bringing Copaceanu to the

United States this summer to study at the Interlochen Center for the Arts in Michigan.

Thus far Oweiss and his schoolmates have raised \$2,000 — Interlochen donated \$1,000 — and need to raise another \$1,000.

The group is in the process of releasing a CD of its music to help fund Copaceanu's education. It will also show off what Oweiss describes as a wealth of talent on the St. Albans and National Cathedral campuses.

Finding Copaceanu and arranging for him to come to the United States has been no easy task. Roman first met him when she was visiting her 87-year-old mother in Transylvania.

During her visit Roman took a picture of Copaceanu playing the French horn in his basement. Years later when Oweiss struggled to find a student from Romania and received little support from the Romanian Embassy,

Roman remembered the photograph and sent it to her mother to track down the young boy.

Copaceanu had to overcome great adversity to become a skilled musician. The young boy comes from a poor family and does not own a French horn. He borrows one from the music teacher at the school in the neighboring town of Brasov.

To practice at home without an instrument, Copaceanu drew the keys of the French horn on an oil cloth and pretends to play on it, said Roman, who has spoken to him several times over the telephone.



Copaceanu

Oweiss has never heard the young boy that he has found so inspiring play the French horn. And Copaceanu has never spoken to the young man and his schoolmates who are making one of his dreams come true.

Oweiss and Copaceanu have never met. But this June, during the week of Oweiss's graduation at St. Albans, the two will meet.

"The best week of my life will be the week of my graduation and the week I get to hear this boy [play]," Oweiss said.

Copaceanu has learned a Romanian prayer song on the French horn, Roman said, and he would like to play it for the students.

But he has no horn. When he gets to Interlochen, the camp will loan him an instrument, but Roman said he is looking for one of his own. Roman hopes someone will donate an old French horn.

Jack Valenti
MPAA

Phone: (202) 293-1966
Fax: (202) 452-9823

MEMORANDUM

Thursday, May 28, 1998

TO: Sandy Berger

FROM: Jack Valenti (Dictated but not read.)

Thank you for being present when I met with President Clinton. I am attaching a memo I left with the President as well as the one-page Plan for the Future which I provided the Chinese government when I was in Beijing. A most fascinating and inexplicable piece of news has just arrived at my desk. My office in Beijing has confirmed that the Chinese government is imposing a Blackout during which our films cannot be shown in China. The first Blackout is June 10 to July 31. Amazingly, this exile of American films is imposed during the time that President Clinton will be in China. A second Blackout period is Sept. 25-Oct. 10 and another Blackout period Dec. 1-20. The reason given for these three Blackout periods by the Chinese is "to give Chinese films a chance at the box office." This inhospitable piece of news makes it all the more important for President Clinton to put the issue of market access on his personal agenda when he meets with President Jiang.

I cannot emphasize more passionately how crucial this is, Sandy. Many thanks.

Attachment

*Summary
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JACK VALENTI
CHAIRMAN
AND
CHIEF EXECUTIVE OFFICER

May 26, 1998

1600 EYE STREET, NW
WASHINGTON, D.C. 20006
TELEPHONE: 202/293-1966
TELECOPIER: 202/452-9823

Dear Mr. President:

I spent four days in Beijing, April 26-29. It was my third visit in 16 months. I am told that two ingredients are needed in dealing with the Chinese, "tenacity and stamina." I am trying to exhibit both. My issues were (1) market access, and (2) anti-piracy. On the latter the Chinese are indeed redeeming many of their pledges made to Charlene Barshefsky and to me. On market access they lag, hesitate and smile courteously.

I met with SUN Jiazheng, the Minister of Culture and TIAN Cong Ming, Minister of Film, TV and Radio, and their colleagues. I left with them a paper (which is attached) summing up a moderate, restrained, sensible approach.

We are prepared to be helpful to China, to invest with Chinese partners in cinemas, studios, theme parks, etc, to help train their craftsmen, to help promote Chinese films in the U.S. But until we can open the crack in the access door a little wider, nothing will happen.

Because of my prior service as a Special Assistant to President Johnson, they seemed to believe that I would be reporting to you on my visit with them. Which is why I think it crucial, even indispensable, for you to bring our issue to President Jiang when you meet with him. If our issue is absent from your remarks, he will doubtless conclude that our government has small concern for giving the movie industry more access to China market. That would be a huge setback for us. I need your help, Mr. President.

Warmly,
Jack

A Specific Two-Year Plan for China/US Cinema Cooperation: June, 1998 to June, 2000.

1. Gradually increase number of films from the seven major U.S. film companies over the next two years. From June, 1998 to June, 1999, a total of 17 films to be imported into China. From June, 1999 to June, 2000, a total of 25 films. In June, 2000, China and the U.S. film industries to analyze the marketplace, to prepare for the next two years.
2. Increase the number of Chinese distribution companies involved in the distribution of U.S. major company films to at least two distribution entities, more if possible. By enlarging the number of distributors, China's film industry benefits from expanded performance and knowledge of how exhibition and marketing work.
3. China and the U.S. industry should discuss how to reduce the high taxation on American films in China.
4. U.S. companies will assist the Chinese film industry in training in production, marketing and distribution, if China finds this useful. This training would include interns working with American companies to learn the latest techniques in marketing and distribution. The U.S. industry will advise China on how to help young Chinese film-makers enroll in and study at the best film schools. U.S. companies will assist the Chinese film industry in training in the new technology, digital, the Internet, satellite delivery and cable.
5. China and the U.S. industries plan together as to how best to involve each other in the co-production of films.
6. The American industry to showcase Chinese films through film festivals in 1998 and 1999 in the United States.

SOME FACTS ABOUT Chinese/American film industries: In the last four years, the seven major U.S. companies have been allowed to exhibit a total of 28 films in China. The total box-office for these films was \$115 million. Note: TITANIC is still in exhibition so that total box-office number will rise. Due to taxes and expenses, the U.S. companies have been able to retrieve only 12-15% in revenues from these films.

In the US, more than 90% of all theaters are owned by independent businessmen with no connections to the major studios. Theater owners exhibit films they believe will attract paying audiences to their theater. That is their sole objective. New opportunities are opening up for exhibition of Chinese (and other non-English language films) on American cable systems and on satellite-to-home delivery of entertainment product.

Making and distributing movies is a very risky business. Of every ten movies released theatrically by the American companies, only four actually make a profit.

Jack Valenti
MPAA

Phone: (202) 293-1966
Fax: (202) 452-9823

MEMORANDUM

Thursday, May 28, 1998

TO: Nancy Hernreich

FROM: Jack Valenti (Dictated but not read.)

I am attaching a letter I have written to Sandy Berger concerning the President's visit to China. I would appreciate it – if you find this suitable – to pass this along to President Clinton. I think you will find this most interesting news.

Attachment

COLUMBIA UNIVERSITY

IN THE CITY OF NEW YORK

THE PRESIDENT HAS SEEN
6/31/98

PRESIDENT'S ROOM

May 27, 1998

Sandy
Owen
The Owen
1987-1988
PK

Through the
Sandy sent
Copy to 282
(Glenberg)

Dear Mr. President:

As you prepare for your forthcoming visit to the People's Republic of China, I write to ask you to raise the case of imprisoned Chinese journalist Gao Yu with President Jiang Zemin and to call for her immediate release on humanitarian grounds.

* This matter is of particular importance to Columbia University because Gao Yu was just days away from taking up a year-long study program here at the Graduate School of Journalism when she was arrested by the Chinese authorities on October 2, 1993. Our urgent appeal is prompted by her deteriorating health, which requires medical treatment denied her in China.

Accused of "providing state secrets to parties outside the borders," a charge that is believed to be related to articles on politics and economics she wrote for the *Mirror Monthly* magazine in Hong Kong, Gao Yu was convicted in a secret closed trial a year after her arrest and sentenced to six years in prison. It was the second time that this distinguished journalist had been a victim of China's laws penalizing independent reporting. After the suppression of the pro-democracy movement in June 1989, she was detained for 14 months as a result of her work as the deputy editor of the magazine *Economic Weekly*. She was released without being tried.

Gao Yu is among the most respected journalists in China, and her courage and dedication to her craft have long been recognized by the outside world. In 1995 she received the Golden Pen of Freedom Award from the Paris-based World Association of Newspapers, and in May 1997 she was awarded the first UNESCO/Guillermo Cano World Press Freedom Prize.

The years of hardship and deprivation in prison have devastated Gao Yu, who is now 54. She suffers from Meniere's disease, which causes severe hearing loss, and serious cardiac problems. Her son, Zhao Meng, was quoted in the Hong Kong newspaper *South China Morning Post* in April as follows: "My mother is very sick and our call for a medical parole will not be taken into consideration unless she confesses to crimes she did not commit." Her husband, Zhao Yuankang, has said that she was denied medical care because she has not admitted her "crime." He fears that she could die in prison, where she has shared a cell with as many as 11 others.

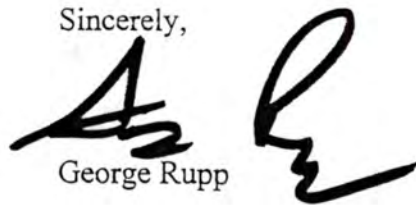
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But as important as the plight of Gao Yu is to this University, her suffering is ultimately emblematic of the broad restrictions imposed on free expression in China. The international press freedom group the Committee to Protect Journalists (CPJ) reported on May 3, World Press Freedom Day, that President Jiang Zemin's one-party state continues to control all forms of media, and monitors and censors most Internet communication. Journalists are subject to arbitrary detention and are frequent targets of harassment. CPJ documentation shows that at least nine journalists remain imprisoned in China because of their work as journalists. In short, China has yet to take the necessary steps toward creating a climate conducive to the development of a free press, that essential precondition for a truly democratic society.

Recognizing that constructive engagement with China on human rights is a cornerstone of an administration policy that contributed to the earlier release of pro-democracy advocates Wang Dan and Wei Jingsheng, the latter of whom is now a research scholar at Columbia University, I hope that you will emphasize to the Chinese leadership the seriousness of Gao Yu's case and the unacceptability of the restrictions imposed on free expression in China.

A meaningful step toward the goal of a more democratic future for China would be signaled by the release of Gao Yu -- before her fragile health deteriorates further. Please be assured that Columbia stands ready to welcome her into the university community to take up her long-postponed study at the earliest possible time.

Sincerely,

A handwritten signature in black ink, appearing to be 'George Rupp', written in a cursive style.

George Rupp

The Honorable William Jefferson Clinton
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

THE PRESIDENT HAS SEEN
6-3-98

98 MAY 29 PM8:30

THE WHITE HOUSE
WASHINGTON

May 29, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: THURGOOD MARSHALL, JR. T.M.

SUBJECT: Summary of Cabinet Weekly Reports
May 23 - 29, 1998

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DEPARTMENT OF TREASURY

- **APEC Finance Ministers Meeting:** On May 22-24, Secretary Rubin attended the APEC Finance Ministers meeting in Alberta, Canada. The Ministers endorsed the central role for the IMF and other international financial institutions in helping address the Asian financial crisis. Ministers from the crisis economies reaffirmed their commitment to the sound macroeconomic policies and deep structural reforms needed to restore market confidence and economic growth. There was broad agreement that if reform is to be sustained countries must meet the social challenges imposed by the crisis, and this makes assistance from the World Bank and Asian Development Bank essential. Representatives of private financial institutions, with whom the ministers had a joint session, generally concurred with U.S. views on what is needed to restore market confidence and build sounder financial systems.
- **Real Estate Investment Trusts (REIT):** On May 22, House Ways and Means Chairman Archer, Senate Finance Chairman Roth, and Finance ranking member Senator Moynihan introduced a bill aimed at eliminating an abusive transaction involving regulated investment companies (RICs) and REITs that are closely held by corporations. The bill would shut down "unwarranted tax benefits" where at least 80 percent of a liquidating RIC or REIT is owned by a single corporation. Treasury became aware of the abusive transaction, which would allow the parent corporation to eliminate all corporate level tax on certain kinds of income if earned through a closely-held RIC or REIT, brought it to the attention of the tax-writing committees, and worked closely with their staffs to develop the bill.

DEPARTMENT OF JUSTICE

- **NY Safe Drinking Water:** Last week, DOJ lodged a consent decree resolving the claims of the U.S. and NY under the Safe Drinking Water Act against the City of NY. Under the terms of the settlement, NY City is required to follow a schedule for the design and construction of filtration facilities to insure that the facilities are in operation and in compliance with all regulations by March 1, 2007. NY City will also pay a \$1 million civil penalty to the U.S. and perform Supplemental Environmental Projects worth \$5 million.
- **FBI Manslaughter Charges:** On May 14, the ID District Court dismissed criminal manslaughter charges that had been brought by the State of ID against FBI Hostage Rescue Team Member Lon Horiuchi. The charges arose out of the accidental killing of Vicki Weaver during the Ruby Ridge incident in August 1992. DOJ supported Horiuchi's motion to dismiss. The court found that Special Agent Horiuchi was entitled to immunity from State prosecution under the Supremacy Clause and that Agent Horiuchi did no more than what was "'necessary and proper' for him to do to carry out his duties under the totality of the circumstances."
- **Legal Services Funding:** On May 18, the Ninth Circuit rejected a constitutional challenge to Legal Services Corporation (LSC) funding restrictions. The restrictions, which apply to private as well as LSC funds, prohibit LSC grantees from engaging in litigation on certain topics (such as abortion, welfare reform, and redistricting), participating in class action suits, lobbying, and (in certain circumstances) representing illegal aliens and prisoners. Plaintiffs -- legal services organizations, clients, and legal aid lawyers -- argued that the restrictions impose unconstitutional conditions on the receipt of funds in violation of their First Amendment rights. They also argued that the restrictions violate the due process and equal protection rights of their indigent clients. DOJ intervened to defend the constitutionality of the statute and prevailed.
- **NCAA Eligibility for Learning Disabled Athletes:** On May 26, the NCAA and DOJ announced a settlement of claims that the NCAA's initial-eligibility academic requirements discriminate against student athletes with learning disabilities. In the consent decree, the NCAA agreed to revise its rules so that classes designed for students with learning disabilities can be certified as core courses if the classes provide students with the same types of knowledge and skills as other college-bound students. The NCAA also agreed to make payments totaling \$35,000 to be distributed among four student athletes.
- **Operation Casablanca:** On May 18, in the Central District of CA and DC, the U.S. unsealed four criminal indictments and numerous civil forfeiture complaints in Operation Casablanca, a long-running undercover operation conducted by the Customs Service. The operation targeted professional money launderers for the Cali and Juarez cartels and

numerous Mexican and Venezuelan bankers who assisted in laundering over \$80 million in drug proceeds. Three Mexican banks were included in the indictments and other banks will be named as defendants in a civil money laundering enforcement action.

- **U.S.-China Law Enforcement Agreement:** On May 13, the U.S. and China signed a MOU creating a Joint Liaison Group (JLG) on Law Enforcement Cooperation. The JLG, called for in the October 1997 Summit agreement, is a permanent bilateral entity for cooperation in alien smuggling, counterfeiting, and other organized crimes. The MOU also notes that the DEA will open an office in Beijing in June and the governments will also begin negotiations on a mutual legal assistance agreement. The next meeting of the JLG is scheduled for September in Beijing.

DEPARTMENT OF INTERIOR

- **Denver Service Center Downsizing:** On June 15, a report by the National Academy of Public Administration mandated by the FY98 Interior Appropriations Conference Report will recommend that staffing of the NPS' Denver Service Center be downsized significantly, with more construction oversight activity handled through contracts. This study was initiated after reports of significant cost overruns on NPS projects. NPS has cooperated with the study.
- **ID Military Training Range:** BLM announced an agreement with the Air Force over the establishment of a military training range in Southwest ID, which will be incorporated in an amendment to the Defense Authorization Act. The range proposal, known as Enhanced Training in Idaho (ETI), will involve the withdrawal of approximately 12,000 acres of public lands and continued use of approximately seven and one-half million acres of air space for military use.
- **Demolition of NC Dam:** Demolition of the state-owned Cherry Hospital Dam near Goldsboro, NC, will begin within the next month. This dam is being removed to restore 54 miles of anadromous fish habitat.

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Mesa Verde National Park: Mesa Verde National Park will soon be listed as one of the 100 most endangered sites in the world on the list issued by the World Monument Watch, and one of the 11 most endangered cultural sites by the National Trust for Historic Preservation. This park and two associated units protect 5,000 documented prehistoric sites, including 585 cliff dwellings and 45 mesa-top towers. Only about 100 of these sites have received treatment over the last 90 years, and structures renowned for their state of preservation are deteriorating at an alarming rate. Moreover, the recent fires at Mesa Verde revealed as many as 500 new sites that will add to the conservation workload.

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UNITED STATES DEPARTMENT OF AGRICULTURE

- **TifEagle:** USDA researchers have released TifEagle, a new Bermuda grass for putting greens, specifically developed for properties that reduce the need for herbicides and for superior putting performance. Golf courses in GA, FL, and throughout the South will begin growing the new variety of Bermuda grass this summer.
- **EU Barley Subsidies:** On May 27, Secretary Glickman announced that USDA will make available subsidies under the Export Enhancement Program to export 30,000 metric tons of barley to Algeria, Cyprus, and Norway. The action follows the EU decision to subsidize the sale of 30,000 metric tons of barley to a CA firm, which arrived during the Memorial Day weekend.
- **China Market for U.S. Fruit:** During the week of May 4, in Shanghai, China, USDA and the Chinese Animal and Quarantine Service reached an agreement that will allow farmers throughout the Western U.S. to export table grapes and sweet cherries to China, lifting previous restrictions that limited the China market to farmers in CA and WA.
- **Commodity Markets:** Wheat cash prices rose minimally last week, but futures fell as demand remained weak. Corn cash and futures prices changed little in a market driven mainly by uneventful weather in the Corn Belt. Rice cash prices remained firm and new-crop futures rose following a bullish Export Sales report. Soybean cash and futures prices retreated following reported increases in the 1997-98 soybean crops in China and Argentina, plus an unexpected surge in U.S. soybean oil stocks. Cotton prices strengthened in light volume because of weather concerns in TX. Cattle prices fell, largely from uncertainty over Memorial Day demand. Seasonally lower slaughter and stronger demand helped push up hog prices. Chicken features in supermarkets helped boost broiler prices. Butter prices rose sharply, as lower milk supplies combined with a surge in milk-fat demand. Cheese prices rose modestly, as concerns over milk supplies began to surface.

DEPARTMENT OF COMMERCE

- **India Economic Sanctions:** The Bureau of Export Administration (BXA) is working with other agencies to define the scope of the sanctions related to dual-use exports to India. U.S. industry is expressing concern about the implementation of sanctions, and BXA is advising exporters that it is continuing to review appropriate policy regarding the export of dual use goods and technology to India. BXA has suspended previously approved licenses for nuclear and missile items to India and it is denying pending license applications in those categories. All other license applications for India are on hold. International Trade Administration (ITA) also fielded calls on its Sanctions Hotline, posted an interagency contact list on the ITA website, and is preparing a Frequently Asked Questions sheet. The Advocacy Center estimates that of the \$15 billion in India

advocacy projects, about \$11 billion had been expected to use Eximbank, OPIC, or TDA financing.

- **Ireland Business Development Mission:** DOC Trade Development staff developed a home page for Secretary Daley's business development mission to Northern Ireland and the Border Counties of Ireland on June 8-10. The web page, which provides links to participating companies and to relevant U.S., Irish, and British government sites, will be updated as the trade mission progresses.
- **Satellite Exports to China:** On May 20, the House adopted four amendments affecting the export of certain technologies, particularly commercial satellites, to China. An amendment by Representative Hunter prohibits the export of satellites or satellite components to China. A second amendment, by Representative Bereuter, blocks U.S. companies from participating in investigations of a failed launch of a U.S. satellite on a foreign rocket unless authorized by the State Department. A third amendment, by Representative Hefley, prohibits the transfer of any U.S. missile equipment or technology to China that could be used for military purposes. The fourth amendment provides that business interests should not be placed above national security concerns and that the U.S. should not enter into new agreements with China involving space or missile-related technology.

DEPARTMENT OF LABOR

- **BLS Data Announcements:**
 - ▶ June 3 - Metropolitan Area Employment and Unemployment (April).
 - ▶ June 4 - revised Productivity Costs (first quarter).
 - ▶ June 5 - National Employment and Unemployment (May).
- **Mexico Labor Dispute:** DOL continues to monitor a labor dispute in Mexico. After a difficult struggle the independent union at the Han Young maquiladora in Tijuana, Mexico obtained legal representation rights and began bargaining with the employer. Amidst an impasse in collective bargaining negotiations, notices to strike and allegedly tainted voting, it appears likely that a new representation election will result in a vote against the strike and the union. Secretary Herman may contact the new Mexican Labor Secretary to discuss the issue.
- **International Labor Conference:** On June 7-11, Secretary Herman will attend the International Labor Conference in Geneva, Switzerland. The agenda this year includes the adoption of a new mechanism to ensure adherence to core labor standards by member nations, and the drafting of a new convention on child labor. Secretary Herman will address the opening plenary session, speak at a Ministerial session of the ILO's "More and Better Jobs for Women" Program, and address the Child Labor Committee negotiating the new Convention on child labor.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

- **Viagra Adverse Events:** During the week of May 18, Pfizer, Inc., makers of the newly approved impotence drug Viagra, reported that it has learned of six deaths of people who took Viagra. FDA is looking into these reports and other serious adverse event reports, but continues to believe that the drug is safe and effective for its labeled indication and intended patient population. The label warns that the drug should not be taken with nitroglycerin or other organic nitrates because of the occurrence of large and sudden drops in systemic blood pressure. The company was asked to provide additional patient information to consumers regarding appropriate use of the drug and Pfizer has sent a letter to physicians alerting them to Viagra's labeled contraindication with organic nitrates. The full text of the letter is available to the public through FDA's web page.
- **NM Title XXI Plan:** On May 19, NM submitted a Title XXI plan to expand Medicaid coverage for children up to age 18 in families with incomes up to 235 percent of the Federal poverty level.
- **ME Title XXI Plan:** On May 19, ME submitted a combination Title XXI plan to expand eligibility for Medicaid coverage for children and to implement a new program, Cub Care, to provide health coverage for children ineligible for benefits under the Medicaid program. The state will expand Medicaid to include children ages 1 through 18 in families with incomes up to 150 percent of Federal poverty level.
- **Recall of Dialysis Tubing:** On May 23-25, FDA, CDC, and state investigators linked two deaths in MD and dozens of illnesses in three states (NE, MA, and MD) to hemodialysis tubing sets made by Gambro Healthcare of Lakewood, CO. Patients were hospitalized with symptoms that included body flushing, high blood pressure, chest and abdominal pain, and shortness of breath; some clinics closed down temporarily. On May 25, Gambro announced a recall.
- **FDA-State Partnerships to Protect Children Against Tobacco:** During the week of May 18, FDA awarded contracts to HI, UT, NH, and MA to enforce FDA's regulation that prohibits retailers from selling cigarettes and smokeless tobacco products to children under 18. This brings the number of states to partner with FDA in the tobacco initiative this year to 13. FDA expects all 53 eligible states and territories to contract with the Agency this year.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

- **Housing and Community Development:** On May 26, Secretary Cuomo announced more than \$21.5 million to fund critical housing and community development efforts in Minneapolis when he approved the City's FY98 Consolidated Plan in a telephone news conference with Mayor Sharon Sayles Belton.

- **Native American Homeownership and Legal Summit:** On May 19-21, over 750 Indian tribal leaders, housing officials, tribal attorneys, HUD staff, lenders, and other public and private partners gathered in Albuquerque, NM, to discuss the most pressing homeownership and legal issues affecting Indian Country.

DEPARTMENT OF TRANSPORTATION

- **Atlanta Ribbon Cutting:** On June 3, Secretary Slater will participate in a Delta Airlines ribbon cutting event in Atlanta, GA to celebrate the first nonstop flight on Delta from Atlanta to Tokyo. This was achieved through the U.S.-Japan bilateral agreement signed by the Secretary in March. The Secretary will also tour Delta's heavy maintenance, safety, operations and training facilities and meet with Leo Mullen, Delta's new CEO.
- **Aircraft Fuel Tank Inspections:** On May 26, U.S. airlines agreed to make preliminary checks of McDonnell Douglas and Lockheed aircraft (DC-9, DC-10, MD-80, L-1011) to check for fuel tank electrical problems. This is in connection with the mandatory checks on 747s and 737s that were mandated earlier this month. On May 21, FAA requested these inspections as part of DOT's commitment to examine all commercial aircraft for fuel ignition sources following the TWA 800 accident.
- **Labor Leaders Meeting:** On June 2, Secretary Slater and Deputy Labor Secretary Higgins will meet with Labor leaders on NAFTA issues.
- **SEPTA Strike:** After negotiating for over two months past the March 15 contract expiration, the Transport Workers Union (TWU) has announced that it does not believe that sufficient progress is being made. The TWU has announced that there will be a strike if a settlement is not reached by June 1. The strike will affect all transit lines in the city of Philadelphia and the surrounding Pennsylvania suburbs. Although SEPTA has reached agreement with the UTU, which represents drivers on some of the suburban lines, the mechanics are represented by the TWU, so service on all lines is unlikely.
- **Nuclear Fuel Shipment:** On May 20, FRA met with DOE to discuss the continued development of a comprehensive action plan to address rail safety issues associated with the shipment of high-level spent nuclear fuel through Concord, CA to its facility in ID. The first of five planned shipments of the spent fuel is scheduled for July. The shipments will be made under DOE's Foreign Research Reactor Fuel Program to support your Nuclear Non-Proliferation Policy.
- **Cuban Migrants:** On May 16, the Cutter *POINT GLASS* interdicted ten Cuban migrants off Alligator Reef, FL. All were returned to Cuba.

- **China Aviation:** On May 18-20, the first round of formal aviation negotiations with China took place in Beijing. The U.S. proposed a three-year package of new opportunities including additional designations, increased capacity, greater route flexibility and a liberal code-share regime. The Chinese sought a more modest opening of the market. The talks resulted in each side gaining a deeper understanding of the other side's position. No more progress or talks are anticipated before your visit in June.

DEPARTMENT OF ENERGY

- **U.S.-Russian Commissioning Ceremonies:** Between May 25 - June 2, four Russian facilities will commemorate completion of installations of upgraded Materials Protection, Control & Accounting systems in commissioning ceremonies. The systems will provide increased security for weapons usable material at these facilities.

DEPARTMENT OF EDUCATION

- **School Violence:** On June 9, Secretary Riley will address a Safe and Drug Free Schools program conference.
- **Portugal Travel:** On June 11-15, Secretary Riley will visit Lisbon, Portugal for the World Expo '98.
- **Speeches Upcoming:** On June 19, Secretary Riley will address the National Association of Hispanic Legislators in Houston and on June 20, he will deliver the commencement address at the UCLA Graduate School of Education.

VETERANS AFFAIRS

- **ISTEA Conference-Veterans' Program Savings:** Recent media reports have portrayed the ISTEA conference negotiations as a "veterans vs. road projects" competition, prompted by veterans service organizations who are adamantly opposed to using VA tobacco-related disability savings to pay for roads and mass transit projects. On May 21, VSO leaders met with House leaders to reinforce their message on this issue. On May 22, the ISTEA conference agreement was approved by Congress and sent to you. The agreement includes language that would prohibit the payment of VA compensation for certain tobacco-related disabilities, including payment for pending claims and for veterans whose disability manifested itself while in service. The latter restrictions are harsher than those proposed by the Administration and VA is working to correct them with technical amendments. Most of the savings will be used for various ISTEA projects, although some will also pay for a GI Bill rate increase and improvements in other benefits for veterans and their survivors.

- **DAV Vans to Transport VA Patients:** The Disabled American Veterans (DAV) will donate 147 new passenger vans to provide access to VA medical care for thousands of veterans. On June 17, the vans will be presented to Secretary West at a special ceremony on the U.S. Capitol grounds. This will bring the total to 755 vans, valued at more than \$13.9 million, donated by DAV to VA since 1987. On June 14, all the new vans will be staged at Arlington National Cemetery for Flag Day. On June 16, they will be staged at the West Lawn of the Capitol for a congressional reception.
- **Veterans' Summit:** On May 28, Secretary West toured the Little Rock, AR, VA Medical Center and Regional Office with Representative Snyder. Secretary West also addressed the Veterans' Summit in Little Rock.
- **VA Movie to Feature Gulf War Veterans' Health Issues:** Beginning May 31, *Showtime* is expected to air a TV movie titled "Thanks of a Grateful Nation" about Gulf War veterans' health issues and starring Ted Danson. More than two years ago, VA cooperated in a limited way in the preparation of this movie by meeting with the author of the script and providing some background information. The movie, which is being previewed in several cities before its initial air date, focuses on Gulf War Syndrome and an alleged cover-up by the U.S. government.

ENVIRONMENTAL PROTECTION AGENCY

- **Mexican Fires:** In response to the serious fires in Mexico and Central America, EPA is helping to monitor TX air quality to ensure protection of the public health. The fires have produced significant air pollution over parts of TX. EPA installed five new fine particulate air monitors which will help TX produce accurate public health advisories. Data from these monitors has found that current levels of small particulates do not violate the new air quality standard for soot and should not create a high health risk for most of the general population over a short period of time. Concentrations at or above these levels over many days may exceed the safe limit set for an average exposure over a year.
- **FL Medfly:** There have been three outbreaks of medflies in FL so far this spring, in Miami Springs, Umatilla, and Brandenton. Medflies can cause widespread damage to many food crops, especially citrus fruit. EPA authorized USDA and FL to use the pesticide malathion to attack the medflies. Sterile flies were also released to control the outbreaks. The outbreaks in Miami Springs and Umatilla appear under control and no additional flies have been detected. The more recent outbreak in the Bradenton area is more serious. Because this is a highly residential community, applications of malathion were limited to a 7-8 square mile area.
- **Napalm Disposal:** In response to a request from the Department of the Navy, EPA is working with several states to provide historical compliance and performance information on eight potential disposal subcontractors that the Navy is considering using for the

recycling or disposal of napalm. The napalm was originally destined for Pollution Control Industries (PCI) in East Chicago, IN, but PCI announced in April that it would not accept the napalm waste, after significant news coverage focused on its past compliance problems. EPA did not direct PCI to cancel the planned shipments, but raised concerns about the facility's compliance with environmental regulations governing PCB wastes.

UNITED STATES TRADE REPRESENTATIVE

- **Special 301:** On May 27, Ambassador Barshefsky announced the immediate initiation of a Special 301 out-of-cycle review of the adequacy and effectiveness of New Zealand's intellectual property regime. This review was prompted by New Zealand's recent decision to reduce the level of intellectual property protection by eliminating parallel import protection for copyrighted works.

OFFICE OF NATIONAL DRUG CONTROL POLICY

- **UT Travel:** On June 1, Director McCaffrey will travel to Salt Lake City to participate in a roundtable discussion with Senator Hatch and UT law enforcement officials. Senator Hatch and the Director will announce the award of nearly \$600,000 in grant money through the Rocky Mountain HIDTA for combating clandestine methamphetamine labs and trafficking in UT. The Director will also meet with the editorial board of the *Salt Lake Tribune*, address the annual meetings of the Therapeutic Communities of America, Inc. and the National Association of State Alcohol and Drug Abuse Directors, and meet with senior leaders of the Church of Jesus Christ of Latter-Day Saints.
- **National Youth Anti-Drug Media Campaign:** On June 3, the Director will visit with Jim Burke, Chairman of the Partnership for a Drug Free America to discuss the upcoming roll out of Phase II of the National Youth Anti-Drug Media Campaign. The Partnership is ONDCP's collaborator in producing ads for the \$195 million National Youth Anti-Drug Media Campaign.
- **Center on Addiction and Substance Abuse (CASA):** On June 3, Director McCaffrey will meet with Joseph Califano, President of CASA and former HHS Secretary during the Johnson administration.

OFFICE OF PERSONNEL MANAGEMENT

- **Health Benefits for Military Retirees:** On May 21, the House adopted the Watt-Thornberry-Moran amendment to the DoD Authorization bill by a vote of 420-1. The amendment authorizes a demonstration program to allow certain military retirees to participate in the Federal Employees Health Benefits program. OPM provided technical assistance in drafting the amendment.

UNITED STATES INFORMATION AGENCY

- **Mexican Poll Results:** Initial results from USIA's April poll in Mexico, completed prior to the "Casablanca" banking scandal, show a public that is lukewarm to the U.S. . Although half have a positive opinion of the U.S. and you, six in ten lack confidence in the ability of the U.S. to handle world problems. Half to three-quarters also lack confidence that the U.S. will act as a reliable partner when it comes to immigration, illegal drugs, environmental or trade issues. About two-thirds of the public do believe that the U.S. has the right to control illegal immigration across its borders, a hemisphere-wide trade region would benefit Mexico, and Mexico should cooperate more with the U.S. on counter-narcotics programs.
- **Operation Casablanca:** USIS Mexico City has been deeply engaged in responding to Operation Casablanca. The announcement of the undercover operation and the indictment of Mexican bankers by Secretary Rubin and Attorney General Reno earlier this week have rocked Mexico. USIS has been in regular contact with Treasury and DOJ to provide advance information on the reaction in Mexico.

GENERAL SERVICES ADMINISTRATION

- **Missing Child Alert:** The National Center for Missing and Exploited Children has commended GSA for its "Missing Child Alert" program. The program places missing children's photos and information before the public in federal buildings. GSA downloads the photos and data from the Center and then transmits it to nearly 900 federally owned and leased buildings. This program helped recover 28 percent of the children it featured in 1997 -- twice the national average of children found through all photo distribution programs. Last year, 33 of the 108 children featured in the poster program were recovered. Additionally, six more children who were featured in 1996 were recovered in 1997.
- **National Missing Children's Day:** On May 25, GSA offices across the country focused special attention on missing children. Activities included a picnic with McGruff the crime dog and distributing "Kinder Passports" to the parents of children who attend federal daycare centers.
- **FCC Relocation:** The FCC relocation controversy is coming to a head. GSA is paying rent on the significantly completed Portals building which FCC refuses to occupy. GSA is about to issue a legal notice to FCC on the matter.

cc:

The Vice President

Erskine Bowles

Paul Begala

Sandy Berger

Sidney Blumenthal

Maria Echaveste

Rahm Emanuel

Mickey Ibarra

Janis Kearney

Ron Klain

Neal Lane

Jack Lew

Ann Lewis

Sylvia Mathews

Michael McCurry

Katie McGinty

Mack McLarty

John Podesta

Bruce Reed

Craig Smith

Doug Sosnik

Gene Sperling

Larry Stein

Melanne Verveer

numerous Mexican and Venezuelan bankers who assisted in laundering over \$80 million in drug proceeds. Three Mexican banks were included in the indictments and other banks will be named as defendants in a civil money laundering enforcement action.

- **U.S.-China Law Enforcement Agreement:** On May 13, the U.S. and China signed a MOU creating a Joint Liaison Group (JLG) on Law Enforcement Cooperation. The JLG, called for in the October 1997 Summit agreement, is a permanent bilateral entity for cooperation in alien smuggling, counterfeiting, and other organized crimes. The MOU also notes that the DEA will open an office in Beijing in June and the governments will also begin negotiations on a mutual legal assistance agreement. The next meeting of the JLG is scheduled for September in Beijing.

DEPARTMENT OF INTERIOR

- **Denver Service Center Downsizing:** On June 15, a report by the National Academy of Public Administration mandated by the FY98 Interior Appropriations Conference Report will recommend that staffing of the NPS' Denver Service Center be downsized significantly, with more construction oversight activity handled through contracts. This study was initiated after reports of significant cost overruns on NPS projects. NPS has cooperated with the study.
- **ID Military Training Range:** BLM announced an agreement with the Air Force over the establishment of a military training range in Southwest ID, which will be incorporated in an amendment to the Defense Authorization Act. The range proposal, known as Enhanced Training in Idaho (ETI), will involve the withdrawal of approximately 12,000 acres of public lands and continued use of approximately seven and one-half million acres of air space for military use.
- **Demolition of NC Dam:** Demolition of the state-owned Cherry Hospital Dam near Goldsboro, NC, will begin within the next month. This dam is being removed to restore 54 miles of anadromous fish habitat.

Mesa Verde National Park: Mesa Verde National Park will soon be listed as one of the 100 most endangered sites in the world on the list issued by the World Monument Watch, and one of the 11 most endangered cultural sites by the National Trust for Historic Preservation. This park and two associated units protect 5,000 documented prehistoric sites, including 585 cliff dwellings and 45 mesa-top towers. Only about 100 of these sites have received treatment over the last 90 years, and structures renowned for their state of preservation are deteriorating at an alarming rate. Moreover, the recent fires at Mesa Verde revealed as many as 500 new sites that will add to the conservation workload.

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Supreme Politics: Who'd Replace Justice Stevens?

President Clinton could soon make his third Supreme Court appointment, and his political play will be to trump Senate Republicans by naming the first Hispanic justice.

Such speculation is in high gear among Republicans because the White House is already floating the names of potential replacements should Justice John Paul Stevens pack it in when the high court's term ends in the next month.

Retirement for the flinty, independent 78-year-old justice is no sure thing. Merely hearing such speculation could cause him to stay on, and by all accounts he's in good mental and physical health. It's also clear from his *Clinton v. Jones* opinion that he's no great admirer of this president.

But friends who've spoken with Justice Stevens say that for the first time he seems like a man seriously contemplating retirement. He already spends much of his time in Florida, where his wife wouldn't mind seeing him more. He's also talked about the subject with more than one of his bench colleagues.

The timing would certainly make ideological sense for the court's ranking liberal. By retiring this year, he'd shelter his successor's confirmation from the presidential politics that will be going strong next summer. A Clinton nominee next year would also probably face a Senate with even more Republicans than the current 55.

If Mr. Stevens waits until the summer of 2000, he'd run the risk that his successor would be named by a conservative president. While the justice appointed by Gerald Ford likes to claim GOP credentials, you can bet he doesn't want to be replaced by another Antonin Scalia. If he wants to preserve the current court's precarious liberal-conservative balance, this is the year to depart.

The biggest beneficiary would be Mr. Clinton, who is eager to pad his lackluster

And the problem is, they might have to vote on the judicial equivalent. The lineup of qualified Hispanic Democratic judges is shorter than admirers of Monica Lewinsky's lawyer William Ginsburg. A list submitted to the White House (and delivered in person to Vice President Al Gore) by the Hispanic National Bar Association contains only six mostly minor-league names.

Voters recalled Cruz Reynoso from the California bench along with Rose Bird in 1986. Vilma Martinez has been a liberal civil-rights litigator. Gilbert Casellas ran the Equal Employment Opportunity Commission but has been passed over by Mr. Clinton for the appellate bench.

The list's one genuine legal heavyweight is José Cabranes, a Puerto Rican immigrant named to the federal Second Circuit by Mr. Clinton in 1994. A former Yale general counsel, Judge Cabranes was advertised as a finalist when the president made his last Supreme Court pick. He's a judicial moderate and his confirmation would be a bipartisan breeze.



José Cabranes

But his very moderation is making him less acceptable to many Clintonites this time. White House aides are already telling Senate sources and others that Mr. Cabranes isn't reliably liberal enough to replace Justice Stevens. He's especially suspect on the liberal orthodoxy of classifying everyone by racial and ethnic identity. He's no conservative, but he's spoken out publicly for the "Western civilization curriculum" attacked by the left.

Liberals also fret about the influence of Mr. Cabranes's daughter, whose sin is to have belonged to the Federalist Society and to have clerked for Judge Ralph Winter, a Reagan appointee. It may seem odd to blame a father for the beliefs of his daughter, but Clinton liberals believe in guilt by conservative association.

If liberals do prevail, the president could turn to 43-year-old New York district court judge Sonia Sotomayor. She's every Republican's confirmation nightmare—a liberal Hispanic woman put on the district bench by George Bush (at the request of Democratic Sen. Pat Moynihan).

Her willingness to legislate from the bench was apparent in her recent decision that a private group giving work experience to the homeless must pay the minimum wage. Never mind if this makes them that much harder to employ. Mr. Clinton has nominated Judge Sotomayor to join Mr. Cabranes on the Second Circuit, and she's said to be a favorite of Hillary Rodham Clinton.

All of which means that a Stevens retirement would put a large political burden on the protean shoulders of Judiciary Chairman Orrin Hatch. His own choice would probably be Judge Cabranes. And the Utah Republican has privately explained his brisk approval of Clinton lower-court nominees as a way to gain leverage and credibility for the more significant Supreme Court pick. But Mr. Clinton has fooled Republicans before.

Maybe Republicans are better off begging Justice Stevens to stay.

Potomac Watch

By Paul A. Gigot

ter legacy. That argues for naming the first Hispanic justice, an act of symbolic politics that would enhance Democratic ties to the nation's fastest growing ethnic group.

The move would also mousetrap Senate Republicans, who will be loathe to oppose anyone with a Hispanic surname. Still smarting from the backlash against their anti-immigration idiocy of 1994-96, some Republicans would vote to confirm Gerardo Rivera.

THE WALL STREET JOURNAL

FRIDAY, MAY 29, 1998

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May 20, 1998

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

I thought you would enjoy reading the Court's opinion in *Arkansas Educational Television Commission v. Forbes*, which was handed down this Monday. We had the opportunity to discuss the case when you visited our offices last fall.

I can tell you that Susan Howarth is both relieved and ecstatic.

What you may not know about this case is that you were originally a defendant, in your capacity as the governor who appointed the members of the Arkansas Educational Television Commission. I am happy to report that we were successful in asking the District Court to dismiss you quickly and with little expense. We try to set a good example.

My very best wishes.

Sincerely,



Richard D. Marks

RDM:ah
Enclosure

6/3/98

Send to Burkhardt?
Yes _____
No _____

and
with
counsel

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

ARKANSAS EDUCATIONAL TELEVISION
COMMISSION *v.* FORBESCERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

No. 96-779. Argued October 8, 1997—Decided May 18, 1998

Petitioner Arkansas Educational Television Commission (AETC), a state-owned public television broadcaster, sponsored a debate between the major party candidates for the 1992 election in Arkansas' Third Congressional District. When AETC denied the request of respondent Forbes, an independent candidate with little popular support, for permission to participate in the debate, Forbes filed this suit, claiming, *inter alia*, that he was entitled to participate under the First Amendment. The jury made express findings that Forbes' exclusion had not been influenced by political pressure or disagreement with his views. The District Court entered judgment for AETC. The Eighth Circuit reversed, holding that the debate was a public forum to which all ballot-qualified candidates had a presumptive right of access. Applying strict scrutiny, the court determined that AETC's assessment of Forbes' "political viability" was neither a compelling nor a narrowly tailored reason for excluding him.

Held: AETC's exclusion of Forbes from the debate was consistent with the First Amendment. Pp. 4-16.

(a) Unlike most other public television programs, candidate debates are subject to scrutiny under this Court's public forum doctrine. Having first arisen in the context of streets and parks, the doctrine should not be extended in a mechanical way to the different context of television broadcasting. Broad rights of access for outside speakers would be antithetical, as a general rule, to the editorial discretion that broadcasters must exercise to fulfill their journalistic purpose and statutory obligations. For two reasons, however, candidate debates present the narrow exception to the rule. First, unlike AETC's other broadcasts, the debate was by design a forum for candidates' political

Syllabus

speech. Consistent with the long tradition of such debates, AETC's implicit representation was that the views expressed were those of the candidates, not its own. The debate's very purpose was to allow the expression of those views with minimal intrusion by the broadcaster. Second, candidate debates are of exceptional significance in the electoral process. Deliberation on candidates' positions and qualifications is integral to our system of government, and electoral speech may have its most profound and widespread impact when it is disseminated through televised debates. Thus, the special characteristics of candidate debates support the conclusion that the AETC debate was a forum of some type. The question of what type must be answered by reference to this Court's public forum precedents. Pp. 4-9.

(b) For the Court's purposes, it will suffice to employ the categories of speech fora already established in the case law. The Court has identified three types of fora: the traditional public forum, the public forum created by government designation, and the nonpublic forum. *Cornelius v. NAACP Legal Defense & Ed. Fund, Inc.*, 473 U. S. 788, 802. Traditional public fora are defined by the objective characteristics of the property, such as whether, "by long tradition or by government fiat," the property has been "devoted to assembly and debate." *Perry Ed. Assn.*, 460 U. S., at 45. The government can exclude a speaker from a traditional public forum only when the exclusion is necessary to serve a compelling state interest and is narrowly drawn to achieve that interest. *Cornelius*, *supra*, at 800. Designated public fora are created by purposeful governmental action opening a nontraditional public forum for expressive use by the general public or by a particular class of speakers. *E.g.*, *International Soc. for Krishna Consciousness, Inc. v. Lee*, 505 U. S. 672, 678 (*ISKCON*). If the government excludes a speaker who falls within the class to which such a forum is made generally available, its action is subject to strict scrutiny. *E.g.*, *Cornelius*, *supra*, at 802. Property that is not a traditional public forum or a designated public forum is either a nonpublic forum or not a forum at all. *ISKCON*, *supra*, at 678-679. Access to a nonpublic forum can be restricted if the restrictions are reasonable and are not an effort to suppress expression merely because public officials oppose the speaker's views. *Cornelius*, *supra*, at 800. Pp. 9-10.

(c) The AETC debate was a nonpublic forum. The parties agree that it was not a traditional public forum, and it was not a designated public forum under this Court's precedents. Those cases demonstrate, *inter alia*, that the government does not create a designated public forum when it does no more than reserve eligibility for access to a forum to a particular class of speakers, whose members must then, as individuals, "obtain permission," *Cornelius*, 473 U. S., at 804,

Syllabus

to use it. Contrary to the Eighth Circuit's assertion, AETC did not make its debate generally available to candidates for the congressional seat at issue. Instead, it reserved eligibility for participation to candidates for that seat (as opposed to some other seat), and then made candidate-by-candidate determinations as to which of the eligible candidates would participate in the debate. Such "selective access," unsupported by evidence of a purposeful designation for public use, does not create a public forum, but indicates that the debate was a nonpublic forum. *Id.*, at 805. Pp. 10-14.

(d) AETC's decision to exclude Forbes was a reasonable, viewpoint-neutral exercise of journalistic discretion consistent with the First Amendment. The record demonstrates beyond dispute that Forbes was excluded not because of his viewpoint, but because he had not generated appreciable public interest. There is no serious argument that AETC did not act in good faith in this case. Pp. 14-16.

93 F. 3d 497, reversed.

KENNEDY, J. delivered the opinion of the Court, in which REHNQUIST, C. J., and O'CONNOR, SCALIA, THOMAS, and BREYER, JJ., joined. STEVENS, J., filed a dissenting opinion, in which SOUTER and GINSBURG, JJ., joined.

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 96-779

**ARKANSAS EDUCATIONAL TELEVISION
COMMISSION, PETITIONER v.
RALPH P. FORBES**

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE EIGHTH CIRCUIT

[May 18, 1998]

JUSTICE KENNEDY delivered the opinion of the Court.

A state-owned public television broadcaster sponsored a candidate debate from which it excluded an independent candidate with little popular support. The issue before us is whether, by reason of its state ownership, the station had a constitutional obligation to allow every candidate access to the debate. We conclude that, unlike most other public television programs, the candidate debate was subject to constitutional constraints applicable to nonpublic fora under our forum precedents. Even so, the broadcaster's decision to exclude the candidate was a reasonable, viewpoint-neutral exercise of journalistic discretion.

I

Petitioner, the Arkansas Educational Television Commission (AETC), is an Arkansas state agency owning and operating a network of five noncommercial television stations (Arkansas Educational Television Network or AETN). The eight members of AETC are appointed by the Governor for 8-year terms and are removable only for good

Opinion of the Court

cause. Ark. Code Ann. §§6-3-102(a)(1), (b)(1) (Supp. 1997), §25-16-804(b)(1) (1996). AETC members are barred from holding any other state or federal office, with the exception of teaching positions. Ark. Code Ann. §6-3-102(a)(3) (Supp. 1997). To insulate its programming decisions from political pressure, AETC employs an Executive Director and professional staff who exercise broad editorial discretion in planning the network's programming. AETC has also adopted the Statement of Principles of Editorial Integrity in Public Broadcasting, which counsel adherence to "generally accepted broadcasting industry standards, so that the programming service is free from pressure from political or financial supporters." App. to Pet. for Cert. 82a.

In the spring of 1992, AETC staff began planning a series of debates between candidates for federal office in the November 1992 elections. AETC decided to televise a total of five debates, scheduling one for the Senate election and one for each of the four congressional elections in Arkansas. Working in close consultation with Bill Simmons, Arkansas Bureau Chief for the Associated Press, AETC staff developed a debate format allowing about 53 minutes during each 1-hour debate for questions to and answers by the candidates. Given the time constraint, the staff and Simmons "decided to limit participation in the debates to the major party candidates or any other candidate who had strong popular support." Record, Affidavit of Bill Simmons ¶15.

On June 17, 1992, AETC invited the Republican and Democratic candidates for Arkansas' Third Congressional District to participate in the AETC debate for that seat. Two months later, after obtaining the 2,000 signatures required by Arkansas law, see Ark. Code Ann. §7-7-103(c)(1) (1993), respondent Ralph Forbes was certified as an independent candidate qualified to appear on the ballot for the seat. Forbes was a perennial candidate who had

Opinion of the Court

sought, without success, a number of elected offices in Arkansas. On August 24, 1992, he wrote to AETC requesting permission to participate in the debate for his district, scheduled for October 22, 1992. On September 4, AETC Executive Director Susan Howarth denied Forbes' request, explaining that AETC had "made a bona fide journalistic judgement that our viewers would be best served by limiting the debate" to the candidates already invited. App. 61.

On October 19, 1992, Forbes filed suit against AETC, seeking injunctive and declaratory relief as well as damages. Forbes claimed he was entitled to participate in the debate under both the First Amendment and 47 U. S. C. §315, which affords political candidates a limited right of access to television air time. Forbes requested a preliminary injunction mandating his inclusion in the debate. The District Court denied the request, as did the United States Court of Appeals for the Eighth Circuit. The District Court later dismissed Forbes' action for failure to state a claim.

Sitting en banc, the Court of Appeals affirmed the dismissal of Forbes' statutory claim, holding that he had failed to exhaust his administrative remedies. The court reversed, however, the dismissal of Forbes' First Amendment claim. Observing that AETC is a state actor, the court held Forbes had "a qualified right of access created by AETN's sponsorship of a debate, and that AETN must have [had] a legitimate reason to exclude him strong enough to survive First Amendment scrutiny." *Forbes v. Arkansas Ed. Television Network Foundation*, 22 F.3d 1423, 1428 (CA8), cert. denied, 513 U. S. 995 (1994), 514 U. S. 1110 (1995). Because AETC had not yet filed an answer to Forbes' complaint, it had not given any reason for excluding him from the debate, and the Court of Appeals remanded the action for further proceedings.

On remand, the District Court found as a matter of law

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that the debate was a nonpublic forum, and the issue became whether Forbes' views were the reason for his exclusion. At trial, AETC professional staff testified Forbes was excluded because he lacked any campaign organization, had not generated appreciable voter support, and was not regarded as a serious candidate by the press covering the election. The jury made express findings that AETC's decision to exclude Forbes had not been influenced by political pressure or disagreement with his views. The District Court entered judgment for AETC.

The Court of Appeals again reversed. The court acknowledged that AETC's decision to exclude Forbes "was made in good faith" and was "exactly the kind of journalistic judgment routinely made by newspeople." 93 F.3d 497, 505 (CA8 1996). The court asserted, nevertheless, that AETC had "opened its facilities to a particular group—candidates running for the Third District Congressional seat." *Id.*, at 504. AETC's action, the court held, made the debate a public forum, to which all candidates "legally qualified to appear on the ballot" had a presumptive right of access. *Ibid.* Applying strict scrutiny, the court determined that AETC's assessment of Forbes' "political viability" was neither a "compelling nor [a] narrowly tailored" reason for excluding him from the debate. *Id.*, at 504–505.

A conflict with the decision of the United States Court of Appeals for the Eleventh Circuit in *Chandler v. Georgia Public Telecommunications Comm'n*, 917 F.2d 486 (1990), cert. denied, 502 U.S. 816 (1991), together with the manifest importance of the case, led us to grant certiorari. 520 U.S. ____ (1997). We now reverse.

II

Forbes has long since abandoned his statutory claims under 47 U.S.C. §315, and so the issue is whether his exclusion from the debate was consistent with the First Amendment. The Court of Appeals held it was not,

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applying our public forum precedents. Appearing as *amicus curiae* in support of petitioners, the Solicitor General argues that our forum precedents should be of little relevance in the context of television broadcasting. At the outset, then, it is instructive to ask whether public forum principles apply to the case at all.

Having first arisen in the context of streets and parks, the public forum doctrine should not be extended in a mechanical way to the very different context of public television broadcasting. In the case of streets and parks, the open access and viewpoint neutrality commanded by the doctrine is "compatible with the intended purpose of the property." *Perry Ed. Assn. v. Perry Local Educators' Assn.*, 460 U.S. 37, 49 (1983). So too was the requirement of viewpoint neutrality compatible with the university's funding of student publications in *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U.S. 819 (1995). In the case of television broadcasting, however, broad rights of access for outside speakers would be antithetical, as a general rule, to the discretion that stations and their editorial staff must exercise to fulfill their journalistic purpose and statutory obligations.

Congress has rejected the argument that "broadcast facilities should be open on a nonselective basis to all persons wishing to talk about public issues." *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U.S. 94, 105 (1973). Instead, television broadcasters enjoy the "widest journalistic freedom" consistent with their public responsibilities. *Id.*, at 110; *FCC v. League of Women Voters of Cal.*, 468 U.S. 364, 378 (1984). Among the broadcaster's responsibilities is the duty to schedule programming that serves the "public interest, convenience, and necessity." 47 U.S.C. §309(a). Public and private broadcasters alike are not only permitted, but indeed required, to exercise substantial editorial

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discretion in the selection and presentation of their programming.

As a general rule, the nature of editorial discretion counsels against subjecting broadcasters to claims of viewpoint discrimination. Programming decisions would be particularly vulnerable to claims of this type because even principled exclusions rooted in sound journalistic judgment can often be characterized as viewpoint-based. To comply with their obligation to air programming that serves the public interest, broadcasters must often choose among speakers expressing different viewpoints. "That editors—newspaper or broadcast—can and do abuse this power is beyond doubt," *Columbia Broadcasting System, Inc.*, 412 U. S., at 124; but "[c]alculated risks of abuse are taken in order to preserve higher values." *Id.*, at 125. Much like a university selecting a commencement speaker, a public institution selecting speakers for a lecture series, or a public school prescribing its curriculum, a broadcaster by its nature will facilitate the expression of some viewpoints instead of others. Were the judiciary to require, and so to define and approve, pre-established criteria for access, it would risk implicating the courts in judgments that should be left to the exercise of journalistic discretion.

When a public broadcaster exercises editorial discretion in the selection and presentation of its programming, it engages in speech activity. Cf. *Turner Broadcasting System, Inc. v. FCC*, 512 U. S. 622, 636 (1994) ("Through 'original programming or by exercising editorial discretion over which stations or programs to include in its repertoire,' cable programmers and operators 'see[k] to communicate messages on a wide variety of topics and in a wide variety of formats'" (quoting *Los Angeles v. Preferred Communications, Inc.*, 476 U. S. 488, 494 (1986))). Although programming decisions often involve the compilation of the speech of third parties, the decisions nonetheless constitute communi-

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cative acts. See *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U. S. 557, 570 (1995) (a speaker need not "generate, as an original matter, each item featured in the communication").

Claims of access under our public forum precedents could obstruct the legitimate purposes of television broadcasters. Were the doctrine given sweeping application in this context, courts "would be required to oversee far more of the day-to-day operations of broadcasters' conduct, deciding such questions as whether a particular individual or group has had sufficient opportunity to present its viewpoint and whether a particular viewpoint has already been sufficiently aired." *Columbia Broadcasting System, Inc.*, *supra*, at 127. "The result would be a further erosion of the journalistic discretion of broadcasters," transferring "control over the treatment of public issues from the licensees who are accountable for broadcast performance to private individuals" who bring suit under our forum precedents. 412 U. S., at 124. In effect, we would "exchange 'public trustee' broadcasting, with all its limitations, for a system of self-appointed editorial commentators." *Id.*, at 125.

In the absence of any congressional command to "[r]egimen[t] broadcasters" in this manner, *id.*, at 127, we are disinclined to do so through doctrines of our own design. This is not to say the First Amendment would bar the legislative imposition of neutral rules for access to public broadcasting. Instead, we say that, in most cases, the First Amendment of its own force does not compel public broadcasters to allow third parties access to their programming.

Although public broadcasting as a general matter does not lend itself to scrutiny under the forum doctrine, candidate debates present the narrow exception to the rule. For two reasons, a candidate debate like the one at issue here is different from other programming. First, unlike AETC's

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other broadcasts, the debate was by design a forum for political speech by the candidates. Consistent with the long tradition of candidate debates, the implicit representation of the broadcaster was that the views expressed were those of the candidates, not its own. The very purpose of the debate was to allow the candidates to express their views with minimal intrusion by the broadcaster. In this respect the debate differed even from a political talk show, whose host can express partisan views and then limit the discussion to those ideas.

Second, in our tradition, candidate debates are of exceptional significance in the electoral process. "[I]t is of particular importance that candidates have the opportunity to make their views known so that the electorate may intelligently evaluate the candidates' personal qualities and their positions on vital public issues before choosing among them on election day." *CBS, Inc. v. FCC*, 453 U. S. 367, 396 (1981) (internal quotation marks omitted). Deliberation on the positions and qualifications of candidates is integral to our system of government, and electoral speech may have its most profound and widespread impact when it is disseminated through televised debates. A majority of the population cites television as its primary source of election information, and debates are regarded as the "only occasion during a campaign when the attention of a large portion of the American public is focused on the election, as well as the only campaign information format which potentially offers sufficient time to explore issues and policies in depth in a neutral forum." Congressional Research Service, *Campaign Debates in Presidential General Elections*, summ. (June 15, 1993).

As we later discuss, in many cases it is not feasible for the broadcaster to allow unlimited access to a candidate debate. Yet the requirement of neutrality remains; a broadcaster cannot grant or deny access to a candidate debate on the basis of whether it agrees with a candidate's

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views. Viewpoint discrimination in this context would present not a "[c]alculated ris[k]," *Columbia Broadcasting System, Inc., supra*, at 125, but an inevitability of skewing the electoral dialogue.

The special characteristics of candidate debates support the conclusion that the AETC debate was a forum of some type. The question of what type must be answered by reference to our public forum precedents, to which we now turn.

III

Forbes argues, and the Court of Appeals held, that the debate was a public forum to which he had a First Amendment right of access. Under our precedents, however, the debate was a nonpublic forum, from which AETC could exclude Forbes in the reasonable, viewpoint-neutral exercise of its journalistic discretion.

A

For our purposes, it will suffice to employ the categories of speech fora already established and discussed in our cases. "[T]he Court [has] identified three types of fora: the traditional public forum, the public forum created by government designation, and the nonpublic forum." *Cornelius v. NAACP Legal Defense & Ed. Fund, Inc.*, 473 U. S. 788, 802 (1985). Traditional public fora are defined by the objective characteristics of the property, such as whether, "by long tradition or by government fiat," the property has been "devoted to assembly and debate." *Perry Ed. Assn.*, 460 U. S., at 45. The government can exclude a speaker from a traditional public forum "only when the exclusion is necessary to serve a compelling state interest and the exclusion is narrowly drawn to achieve that interest." *Cornelius, supra*, at 800.

Designated public fora, in contrast, are created by purposeful governmental action. "The government does not create a [designated] public forum by inaction or by per-

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mitting limited discourse, but only by intentionally opening a nontraditional public forum for public discourse." 473 U. S., at 802; accord, *International Soc. for Krishna Consciousness, Inc. v. Lee*, 505 U. S. 672, 678 (1992) (*ISKCON*) (designated public forum is "property that the State has opened for expressive activity by all or part of the public"). Hence "the Court has looked to the policy and practice of the government to ascertain whether it intended to designate a place not traditionally open to assembly and debate as a public forum." *Cornelius*, 473 U. S., at 802. If the government excludes a speaker who falls within the class to which a designated public forum is made generally available, its action is subject to strict scrutiny. *Ibid.*; *United States v. Kokinda*, 497 U. S. 720, 726–727 (1990) (plurality opinion of O'CONNOR, J.).

Other government properties are either nonpublic fora or not fora at all. *ISKCON*, *supra*, at 678–679. The government can restrict access to a nonpublic forum "as long as the restrictions are reasonable and [are] not an effort to suppress expression merely because public officials oppose the speaker's view." *Cornelius*, *supra*, at 800 (internal quotation marks omitted).

In summary, traditional public fora are open for expressive activity regardless of the government's intent. The objective characteristics of these properties require the government to accommodate private speakers. The government is free to open additional properties for expressive use by the general public or by a particular class of speakers, thereby creating designated public fora. Where the property is not a traditional public forum and the government has not chosen to create a designated public forum, the property is either a nonpublic forum or not a forum at all.

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B

The parties agree the AETC debate was not a traditional public forum. The Court has rejected the view that traditional public forum status extends beyond its historic confines, see *ISKCON*, *supra*, at 680–681; and even had a more expansive conception of traditional public fora been adopted, see, e.g., 473 U. S., at 698–699 (KENNEDY, J., concurring in judgments), the almost unfettered access of a traditional public forum would be incompatible with the programming dictates a television broadcaster must follow. See *supra*, at 5–7. The issue, then, is whether the debate was a designated public forum or a nonpublic forum.

Under our precedents, the AETC debate was not a designated public forum. To create a forum of this type, the government must intend to make the property "generally available," *Widmar v. Vincent*, 454 U. S. 263, 264 (1981), to a class of speakers. Accord, *Cornelius*, *supra*, at 802. In *Widmar*, for example, a state university created a public forum for registered student groups by implementing a policy that expressly made its meeting facilities "generally open" to such groups. 454 U. S., at 267; accord, *Perry*, *supra*, at 45 (designated public forum is "generally open"). A designated public forum is not created when the government allows selective access for individual speakers rather than general access for a class of speakers. In *Perry*, for example, the Court held a school district's internal mail system was not a designated public forum even though selected speakers were able to gain access to it. The basis for the holding in *Perry* was explained by the Court in *Cornelius*:

"In contrast to the general access policy in *Widmar*, school board policy did not grant general access to the school mail system. The practice was to require permission from the individual school principal before ac-

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cess to the system to communicate with teachers was granted." 473 U. S., at 803.

And in *Cornelius* itself, the Court held the Combined Federal Campaign (CFC) charity drive was not a designated public forum because "[t]he Government's consistent policy ha[d] been to limit participation in the CFC to 'appropriate' [i.e., charitable rather than political] voluntary agencies and to require agencies seeking admission to obtain permission from federal and local Campaign officials." *Id.*, at 804.

These cases illustrate the distinction between "general access," *id.*, at 803, which indicates the property is a designated public forum, and "selective access," *id.*, at 805, which indicates the property is a nonpublic forum. On one hand, the government creates a designated public forum when it makes its property generally available to a certain class of speakers, as the university made its facilities generally available to student groups in *Widmar*. On the other hand, the government does not create a designated public forum when it does no more than reserve eligibility for access to the forum to a particular class of speakers, whose members must then, as individuals, "obtain permission," 473 U. S., at 804, to use it. For instance, the Federal Government did not create a designated public forum in *Cornelius* when it reserved eligibility for participation in the CFC drive to charitable agencies, and then made individual, non-ministerial judgments as to which of the eligible agencies would participate. *Ibid.*

The *Cornelius* distinction between general and selective access furthers First Amendment interests. By recognizing the distinction, we encourage the government to open its property to some expressive activity in cases where, if faced with an all-or-nothing choice, it might not open the property at all. That this distinction turns on governmental intent does not render it unprotective of speech. Rather, it reflects the reality that, with the exception of

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traditional public fora, the government retains the choice of whether to designate its property as a forum for specified classes of speakers.

Here, the debate did not have an open-microphone format. Contrary to the assertion of the Court of Appeals, AETC did not make its debate generally available to candidates for Arkansas' Third Congressional District seat. Instead, just as the Federal Government in *Cornelius* reserved eligibility for participation in the CFC program to certain classes of voluntary agencies, AETC reserved eligibility for participation in the debate to candidates for the Third Congressional District seat (as opposed to some other seat). At that point, just as the Government in *Cornelius* made agency-by-agency determinations as to which of the eligible agencies would participate in the CFC, AETC made candidate-by-candidate determinations as to which of the eligible candidates would participate in the debate. "Such selective access, unsupported by evidence of a purposeful designation for public use, does not create a public forum." *Cornelius*, *supra*, at 805. Thus the debate was a nonpublic forum.

In addition to being a misapplication of our precedents, the Court of Appeals' holding would result in less speech, not more. In ruling that the debate was a public forum open to all ballot-qualified candidates, 93 F. 3d, at 504, the Court of Appeals would place a severe burden upon public broadcasters who air candidates' views. In each of the 1988, 1992, and 1996 Presidential elections, for example, no fewer than 22 candidates appeared on the ballot in at least one State. See Twentieth Century Fund Task Force on Presidential Debates, *Let America Decide* 148 (1995); Federal Election Commission, *Federal Elections* 92, p. 9 (1993); Federal Election Commission, *Federal Elections* 96, p. 11 (1997). In the 1996 congressional elections, it was common for 6 to 11 candidates to qualify for the ballot for a particular seat. See 1996 Election Results, 54 Con-

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gressional Quarterly Weekly Report 3250-3257 (1996). In the 1993 New Jersey gubernatorial election, to illustrate further, sample ballot mailings included the written statements of 19 candidates. See N. Y. Times, Sept. 11, 1993, section 1, p. 26, col. 5. On logistical grounds alone, a public television editor might, with reason, decide that the inclusion of all ballot-qualified candidates would "actually undermine the educational value and quality of debates." *Let America Decide*, *supra*, at 148.

Were it faced with the prospect of cacophony, on the one hand, and First Amendment liability, on the other, a public television broadcaster might choose not to air candidates' views at all. A broadcaster might decide "the safe course is to avoid controversy," . . . and by so doing diminish the free flow of information and ideas." *Turner Broadcasting System, Inc.*, 512 U. S., at 656 (quoting *Miami Herald Publishing Co. v. Tornillo*, 418 U. S. 241, 257 (1974)). In this circumstance, a "[g]overnment-enforced right of access inescapably 'dampens the vigor and limits the variety of public debate.'" *Ibid.* (quoting *New York Times Co. v. Sullivan*, 376 U. S. 254, 279 (1964)).

These concerns are more than speculative. As a direct result of the Court of Appeals' decision in this case, the Nebraska Educational Television Network canceled a scheduled debate between candidates in Nebraska's 1996 United States Senate race. See *Lincoln Journal Star*, Aug. 24, 1996, p. 1A, col. 6. A First Amendment jurisprudence yielding these results does not promote speech but represses it.

C

The debate's status as a nonpublic forum, however, did not give AETC unfettered power to exclude any candidate it wished. As JUSTICE O'CONNOR has observed, nonpublic forum status "does not mean that the government can restrict speech in whatever way it likes." *ISKCON*, 505

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U. S., at 687. To be consistent with the First Amendment, the exclusion of a speaker from a nonpublic forum must not be based on the speaker's viewpoint and must otherwise be reasonable in light of the purpose of the property. *Cornelius*, 473 U. S., at 800.

In this case, the jury found Forbes' exclusion was not based on "objections or opposition to his views." App. to Pet. for Cert. 23a. The record provides ample support for this finding, demonstrating as well that AETC's decision to exclude him was reasonable. AETC Executive Director Susan Howarth testified Forbes' views had "absolutely" no role in the decision to exclude him from the debate. App. 142. She further testified Forbes was excluded because (1) "the Arkansas voters did not consider him a serious candidate"; (2) "the news organizations also did not consider him a serious candidate"; (3) "the Associated Press and a national election result reporting service did not plan to run his name in results on election night"; (4) Forbes "apparently had little, if any, financial support, failing to report campaign finances to the Secretary of State's office or to the Federal Election Commission"; and (5) "there [was] no 'Forbes for Congress' campaign headquarters other than his house." *Id.*, at 126-127. Forbes himself described his campaign organization as "bedlam" and the media coverage of his campaign as "zilch." *Id.*, at 91, 96. It is, in short, beyond dispute that Forbes was excluded not because of his viewpoint but because he had generated no appreciable public interest. Cf. *Perry*, 460 U. S., at 49 (exclusion from nonpublic forum "based on the *status*" rather than the views of the speaker is permissible) (emphasis in original).

There is no substance to Forbes' suggestion that he was excluded because his views were unpopular or out of the mainstream. His own objective lack of support, not his platform, was the criterion. Indeed, the very premise of Forbes' contention is mistaken. A candidate with uncon-

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ventional views might well enjoy broad support by virtue of a compelling personality or an exemplary campaign organization. By the same token, a candidate with a traditional platform might enjoy little support due to an inept campaign or any number of other reasons.

Nor did AETC exclude Forbes in an attempted manipulation of the political process. The evidence provided powerful support for the jury's express finding that AETC's exclusion of Forbes was not the result of "political pressure from anyone inside or outside [AETC]." App. to Pet. for Cert. 22a. There is no serious argument that AETC did not act in good faith in this case. AETC excluded Forbes because the voters lacked interest in his candidacy, not because AETC itself did.

The broadcaster's decision to exclude Forbes was a reasonable, viewpoint-neutral exercise of journalistic discretion consistent with the First Amendment. The judgment of the Court of Appeals is

Reversed.

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STEVENS, J., dissenting

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SUPREME COURT OF THE UNITED STATES

No. 96-779

ARKANSAS EDUCATIONAL TELEVISION
COMMISSION, PETITIONER v.
RALPH P. FORBES

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE EIGHTH CIRCUIT

[May 18, 1998]

JUSTICE STEVENS, with whom JUSTICE SOUTER and JUSTICE GINSBURG join, dissenting.

The Court has decided that a state-owned television network has no "constitutional obligation to allow every candidate access to" political debates that it sponsors. *Ante*, at 1. I do not challenge that decision. The judgment of the Court of Appeals should nevertheless be affirmed. The official action that led to the exclusion of respondent Forbes from a debate with the two major-party candidates for election to one of Arkansas' four seats in Congress does not adhere to well-settled constitutional principles. The ad hoc decision of the staff of the Arkansas Educational Television Commission (AETC) raises precisely the concerns addressed by "the many decisions of this Court over the last 30 years, holding that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license, without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." *Shuttlesworth v. Birmingham*, 394 U. S. 147, 150-

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151 (1969).

In its discussion of the facts, the Court barely mentions the standardless character of the decision to exclude Forbes from the debate. In its discussion of the law, the Court understates the constitutional importance of the distinction between state ownership and private ownership of broadcast facilities. I shall therefore first add a few words about the record in this case and the history of regulation of the broadcast media, before explaining why I believe the judgment should be affirmed.

I

Two months before Forbes was officially certified as an independent candidate qualified to appear on the ballot under Arkansas law,¹ the AETC staff had already concluded that he "should not be invited" to participate in the televised debates because he was "not a serious candidate as determined by the voters of Arkansas."² He had, however, been a serious contender for the Republican nomination for Lieutenant Governor in 1986 and again in 1990. Although he was defeated in a run-off election, in the three-way primary race conducted in 1990—just two years before the AETC staff decision—he had received 46.88% of the statewide vote and had carried 15 of the 16 counties within the Third Congressional District by absolute majorities. Nevertheless, the staff concluded that Forbes did not have "strong popular support." Record, Affidavit of Bill Simmons ¶5.³

¹See Ark. Code Ann. §7-7-103(c)(1) (1992).

²Record, Letter to Carole Adornetto from Amy Oliver Barnes dated June 19, 1992, attached as Exh. 2 to Affidavit of Amy Oliver Barnes.

³Simmons, a journalist working with the AETC staff on the debates, stated that "[a]t the time this decision [to invite only candidates with strong popular support] was made . . . , there were no third party or non-party candidates to evaluate as to the likely extent of their popular support." Record, Affidavit of Bill Simmons ¶5. Presumably Simmons

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Given the fact that the Republican winner in the Third Congressional District race in 1992 received only 50.22% of the vote and the Democrat received 47.20%,⁴ it would have been necessary for Forbes, who had made a strong showing in recent Republican primaries, to divert only a handful of votes from the Republican candidate to cause his defeat. Thus, even though the AETC staff may have correctly concluded that Forbes was "not a serious candidate," their decision to exclude him from the debate may have determined the outcome of the election in the Third District.

If a comparable decision were made today by a privately owned network, it would be subject to scrutiny under the Federal Election Campaign Act⁵ unless the network used "pre-established objective criteria to determine which candidates may participate in [the] debate." 11 CFR §110.13(c) (1997). No such criteria governed AETC's refusal to permit Forbes to participate in the debate. Indeed, whether that refusal was based on a judgment about "newsworthiness"—as AETC has argued in this Court—or a judgment about "political viability"—as it argued in the Court of Appeals—the facts in the record presumably would have provided an adequate basis either for a decision to include Forbes in the Third District debate or a decision to exclude him, and might even have required a cancellation of two of the other debates.⁶

meant that there was no other ballot-qualified candidate, because an AETC staff member, Amy Oliver, represented that there was consideration about whether to invite Forbes before he qualified as a candidate. See text accompanying n. 2, *infra*.

⁴See App. 172.

⁵See 2 U. S. C. §441b(a); see also *Perot v. FEC*, 97 F. 3d 553, 556 (CA DC 1996), cert. denied *sub nom. Hagelin v. FEC*, 520 U. S. ____ (1997).

⁶Although the contest between the major-party candidates in the Third District was a relatively close one, in two of the other three dis-

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The apparent flexibility of AETC's purported standard suggests the extent to which the staff had nearly limitless discretion to exclude Forbes from the debate based on ad hoc justifications. Thus, the Court of Appeals correctly concluded that the staff's appraisal of "political viability" was "so subjective, so arguable, so susceptible of variation in individual opinion, as to provide no secure basis for the exercise of governmental power consistent with the First Amendment." *Forbes v. Arkansas Educational Television Communication Network Foundation*, 93 F. 3d 497, 505 (CA8 1996).

II

AETC is a state agency whose actions "are fairly attributable to the State and subject to the Fourteenth Amendment, unlike the actions of privately owned broadcast licensees." *Forbes v. Arkansas Educational Television Communication Network Foundation*, 22 F. 3d 1423, 1428 (CA8), cert. denied, 513 U. S. 995 (1994), 514 U. S. 1110 (1995). The AETC staff members therefore "were not ordinary journalists: they were employees of government." 93 F. 3d, at 505. The Court implicitly acknowledges these facts by subjecting the decision to exclude Forbes to constitutional analysis. Yet the Court seriously underestimates the importance of the difference between private and pub-

lic ownership of broadcast facilities, despite the fact that Congress and this Court have repeatedly recognized the difference.

tricts in which both major-party candidates had been invited to debate, it was clear that one of them had virtually no chance of winning the election. Democrat Blanche Lambert's resounding victory over Republican Terry Hayes in the First Congressional District illustrates this point: Lambert received 69.8% of the vote compared with Hays' 30.2%. R. Scammon & A. McGillivray, *America Votes 20: A Handbook of Contemporary American Election Statistics* 99 (1993). Similarly, in the Second District, Democrat Ray Thornton, the incumbent, defeated Republican Dennis Scott and won with 74.2% of the vote. *Ibid.* Note that Scott raised only \$6,000, which was less than Forbes raised; nevertheless, Scott was invited to participate in a debate while Forbes was not. See App. 133-134, 175.

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lic ownership of broadcast facilities, despite the fact that Congress and this Court have repeatedly recognized the difference.

In *Columbia Broadcasting System, Inc. v. Democratic National Committee*, 412 U. S. 94 (1973), the Court held that a licensee is neither a common carrier, *id.*, at 107-109, nor a public forum that must accommodate "the right of every individual to speak, write, or publish," *id.*, at 110 (quoting *Red Lion Broadcasting Co. v. FCC*, 395 U. S. 367, 388 (1969)). Speaking for a plurality, Chief Justice Burger expressed the opinion that the First Amendment imposed no constraint on the private network's journalistic freedom. He supported that view by noting that when Congress confronted the advent of radio in the 1920's, it "was faced with a fundamental choice between total Government ownership and control of the new medium—the choice of most other countries—or some other alternative." 412 U. S., at 116.⁷ Congress chose a system of private broadcasters licensed and regulated by the Government.

⁷Interestingly, many countries that formerly relied upon state control of broadcast entities appear to be moving in the direction of deregulation and private ownership of such entities. See, e.g., Bughin & Grienspoor, *A New Era for European TV*, 3 *McKinsey Q.* 90, 92-93 (1995) ("Most of Western Europe's public television broadcasters began to lose their grip on the market in the mid-1980s. Only Switzerland, Austria, and Ireland continue to operate state television monopolies Europe as a whole (including Eastern Europe, where television remains largely state controlled), the number of private broadcasters holding market-leading positions nearly doubled in the first half of this decade."); Rohwedder, *Central Europe's Broadcasters Square Off*, *Wall Street Journal Europe* 4 (May 15, 1995) ("Central Europe's government-run television channels, unchallenged media masters in the days of communist control, are coming under increasingly aggressive attack from upstart private broadcasters"); Lange & Woldt, *European Interests in the American Experience in Self-Regulation*, 13 *Cardozo Arts & Ent. L. J.* 657, 658 (1995) ("Over the last ten years, in Germany and many other European countries, public broadcasting has been weakened by competition from private television channels").

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partly because of our traditional respect for private enterprise, but more importantly because public ownership created unacceptable risks of governmental censorship and use of the media for propaganda. "Congress appears to have concluded . . . that of these two choices—private or official censorship—Government censorship would be the most pervasive, the most self-serving, the most difficult to restrain and hence the one most to be avoided." *Id.*, at 105.⁸

While noncommercial, educational stations generally have exercised the same journalistic independence as commercial networks, in 1981 Congress enacted a statute forbidding stations that received a federal subsidy from engaging in "editorializing."⁹ Relying primarily on cases involving the rights of commercial entities, a bare majority of this Court held the restriction invalid. *FCC v. League of Women Voters of Cal.*, 468 U. S. 364 (1984). Responding to the dissenting view that "the interest in keeping the Federal Government out of the propaganda arena" justified the restriction, *id.*, at 415 (STEVENS, J.), the majority emphasized the broad coverage of the statute and concluded that it "impermissibly sweeps within its prohibition a wide range of speech by wholly private stations on topics that . . . have nothing whatever to do with federal, state, or

⁸The Court considered then-Secretary of Commerce Herbert Hoover's statement to a House committee expressing concern about government involvement in broadcasting:

"We can not allow any single person or group to place themselves in [a] position where they can censor the material which shall be broadcasted to the public, nor do I believe that the Government should ever be placed in the position of censoring this material." 412 U. S., at 104 (quoting Hearings on H. R. 7357 before the House Committee on the Merchant Marine and Fisheries, 68th Cong., 1st Sess., 8 (1924)).

⁹Public Broadcasting Amendments of 1981, Pub. L. 97-35, 95 Stat. 730, amending §399 of the Public Broadcasting Act of 1967, Pub. L. 90-129, 81 Stat. 365, 47 U. S. C. §390 *et seq.*

STEVENS, J., dissenting

local government." *Id.*, at 395. The Court noted that Congress had considered and rejected a ban that would have applied only to stations operated by state or local governmental entities, and reserved decision on the constitutionality of such a limited ban. See *id.*, at 394, n. 24.

The *League of Women Voters* case implicated the right of "wholly private stations" to express their own views on a wide range of topics that "have nothing whatever to do with . . . government." *Id.*, at 395. The case before us today involves only the right of a state-owned network to regulate speech that plays a central role in democratic government. Because AETC is owned by the State, deference to its interest in making ad hoc decisions about the political content of its programs necessarily increases the risk of government censorship and propaganda in a way that protection of privately owned broadcasters does not.

III

The Court recognizes that the debates sponsored by AETC were "by design a forum for political speech by the candidates." *Ante*, at 8. The Court also acknowledges the central importance of candidate debates in the electoral process. See *ibid.* Thus, there is no need to review our cases expounding on the public forum doctrine to conclude that the First Amendment will not tolerate a state agency's arbitrary exclusion from a debate forum based, for example, on an expectation that the speaker might be critical of the Governor, or might hold unpopular views about abortion or the death penalty. Indeed, the Court so holds today.¹⁰

¹⁰The Court correctly rejects the extreme position that the First Amendment simply has no application to a candidate's claim that he or she should be permitted to participate in a televised debate. See Brief for FCC et al. as *Amici Curiae* 14 ("The First Amendment does not constrain the editorial choices of state-entity public broadcasters licensed to operate under the Communications Act"); see also Brief for

STEVENS, J., dissenting

It seems equally clear, however, that the First Amendment will not tolerate arbitrary definitions of the scope of the forum. We have recognized that "[o]nce it has opened a limited forum, . . . the State must respect the lawful boundaries it has itself set." *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U. S. 819, 829 (1995). It follows, of course, that a State's failure to set any meaningful boundaries at all cannot insulate the State's action from First Amendment challenge. The dispositive issue in this case, then, is not whether AETC created a designated public forum or a nonpublic forum, as the Court concludes, but whether AETC defined the contours of the debate forum with sufficient specificity to justify the exclusion of a ballot-qualified candidate.

AETC asks that we reject Forbes' constitutional claim on the basis of entirely subjective, ad hoc judgments about the dimensions of its forum.¹¹ The First Amendment demands more, however, when a state government effectively wields the power to eliminate a political candidate from all consideration by the voters. All stations must act as editors, see *ante*, at 5–6, and when state-owned stations participate in the broadcasting arena, their editorial decisions may impact the constitutional interests of individual speakers.¹² A state-owned broadcaster need not plan, sponsor, and conduct political debates, however. When it chooses to do so, the First Amendment imposes important limitations on its control over access to the debate forum.

AETC's control was comparable to that of a local government official authorized to issue permits to use public facilities for expressive activities. In cases concerning

State of California et al. as *Amici Curiae* 4 ("In its role as speaker, rather than mere forum provider, the state actor is not restricted by speaker-inclusive and viewpoint-neutral rules").

¹¹ See *supra*, at 3–4.

¹² See n. 17, *infra*.

STEVENS, J., dissenting

access to a traditional public forum, we have found an analogy between the power to issue permits and the censorial power to impose a prior restraint on speech. Thus in our review of an ordinance requiring a permit to participate in a parade on city streets, we explained that the ordinance, as written, "fell squarely within the ambit of the many decisions of this Court over the last 30 years holding that a law subjecting the exercise of First Amendment freedoms to the prior restraint of a license without narrow, objective, and definite standards to guide the licensing authority, is unconstitutional." *Shuttlesworth*, 394 U. S., at 150–151.

We recently reaffirmed this approach when considering the constitutionality of an assembly and parade ordinance that authorized a county official to exercise discretion in setting the amount of the permit fee. In *Forsyth County v. Nationalist Movement*, 505 U. S. 123 (1992), relying on *Shuttlesworth* and similar cases,¹³ we described the breadth of the administrator's discretion thusly:

"There are no articulated standards either in the ordinance or in the county's established practice. The administrator is not required to rely on any objective factors. He need not provide any explanation for his decision, and that decision is unreviewable. Nothing in the law or its application prevents the official from encouraging some views and discouraging others through the arbitrary application of fees. The First Amendment prohibits the vesting of such unbridled

¹³After citing *Shuttlesworth*, we explained: "The reasoning is simple. If the permit scheme 'involves appraisal of facts, the exercise of judgment, and the formation of an opinion,' *Cantwell v. Connecticut*, 309 U. S. 296, 305 (1940), by the licensing authority, 'the danger of censorship and of abridgment of our precious First Amendment freedoms is too great' to be permitted, *Southeastern Promotions, Ltd. v. Conrad*, 420 U. S. 546, 553 (1975)." 505 U. S., at 131 (citations omitted).

STEVENS, J., dissenting

discretion in a government official." 505 U. S., at 133 (footnotes omitted).

Perhaps the discretion of the AETC staff in controlling access to the 1992 candidate debates was not quite as unbridled as that of the Forsyth County administrator. Nevertheless, it was surely broad enough to raise the concerns that controlled our decision in that case. No written criteria cabined the discretion of the AETC staff. Their subjective judgment about a candidate's "viability" or "newsworthiness" allowed them wide latitude either to permit or to exclude a third participant in any debate.¹⁴ Moreover, in exercising that judgment they were free to rely on factors that arguably should favor inclusion as justifications for exclusion. Thus, the fact that Forbes had little financial support was considered as evidence of his lack of viability when that factor might have provided an independent reason for allowing him to share a free forum with wealthier candidates.¹⁵

The televised debate forum at issue in this case may not squarely fit within our public forum analysis,¹⁶ but its

¹⁴It is particularly troubling that AETC excluded the only independent candidate but invited all the major-party candidates to participate in the planned debates, regardless of their chances of electoral success. See n. 6, *supra*. As this Court has recognized, "political figures outside the two major parties have been fertile sources of new ideas and new programs; many of their challenges to the status quo have in time made their way into the political mainstream." *Anderson v. Celebrezze*, 460 U. S. 780, 794 (1983) (citing *Illinois Bd. of Elections v. Socialist Workers Party*, 440 U. S. 173, 186 (1979)).

¹⁵Lack of substantial financial support apparently was not a factor in the decision to invite a major-party candidate with even less financial support than Forbes. See n. 6, *supra*.

¹⁶Indeed, a plurality of the Court recently has expressed reluctance about applying public forum analysis to new and changing contexts. See *Denver Area Ed. Telecommunications Consortium, Inc. v. FCC*, 518 U. S. 727, 741, 749 (1996) (plurality opinion) ("[I]t is not at all clear that the public forum doctrine should be imported wholesale into the

STEVENS, J., dissenting

importance cannot be denied. Given the special character of political speech, particularly during campaigns for elected office, the debate forum implicates constitutional concerns of the highest order, as the majority acknowledges. *Ante*, at 8. Indeed, the planning and management of political debates by state-owned broadcasters raise serious constitutional concerns that are seldom replicated when state-owned television networks engage in other types of programming.¹⁷ We have recognized that "speech concerning public affairs is . . . the essence of self-government." *Garrison v. Louisiana*, 379 U. S. 64, 74-75 (1964). The First Amendment therefore "has its fullest and most urgent application precisely to the conduct of campaigns for political office." *Monitor Patriot Co. v. Roy*, 401 U. S. 265, 272 (1971). Surely the Constitution demands at least as much from the Government when it takes action that necessarily impacts democratic elections as when local officials issue parade permits.

The reasons that support the need for narrow, objective, and definite standards to guide licensing decisions apply directly to the wholly subjective access decisions made by

area of common carriage regulation").

¹⁷The Court observes that "in most cases, the First Amendment of its own force does not compel public broadcasters to allow third parties access to their programming." *Ante*, at 7. A rule, such as the one promulgated by the FEC, that requires the use of pre-established, objective criteria to identify the candidates who may participate leaves all other programming decisions unaffected. This is not to say that all other programming decisions made by state-owned television networks are immune from attack on constitutional grounds. As long as the State is not itself a "speaker," its decisions, like employment decisions by state agencies and unlike decisions by private actors, must respect the commands of the First Amendment. It is decades of settled jurisprudence that require judicial review of state action that is challenged on First Amendment grounds. See, e.g., *Widmar v. Vincent*, 454 U. S. 263 (1981); *Rosenberger v. Rector and Visitors of Univ. of Va.*, 515 U. S. 819 (1995).

STEVENS, J., dissenting

the staff of AETC.¹⁸ The importance of avoiding arbitrary or viewpoint-based exclusions from political debates militates strongly in favor of requiring the controlling state agency to use (and adhere to) pre-established, objective criteria to determine who among qualified candidates may participate. When the demand for speaking facilities exceeds supply, the State must "ration or allocate the scarce resources on some acceptable neutral principle." *Rosenberger*, 515 U. S., at 835. A constitutional duty to use objective standards—i.e., "neutral principles"—for determining whether and when to adjust a debate format would impose only a modest requirement that would fall far short of a duty to grant every multiple-party request.¹⁹ Such standards would also have the benefit of providing the public with some assurance that state-owned broadcasters cannot select debate participants on arbitrary grounds.²⁰

¹⁸ Ironically, it is the standardless character of the decision to exclude Forbes that provides the basis for the Court's conclusion that the debates were a nonpublic forum rather than a limited public forum. On page 11 of its opinion, *ante*, the Court explains that "[a] designated public forum is not created when the government allows selective access for individual speakers rather than general access for a class of speakers." If, as AETC claims, it did invite either the entire class of "viable" candidates, or the entire class of "newsworthy" candidates, under the Court's reasoning, it created a designated public forum.

¹⁹ The Court expresses concern that as a direct result of the Court of Appeals' holding that all ballot-qualified candidates have a right to participate in every debate, a state-owned network cancelled a 1996 Nebraska debate. *Ante*, at 14. If the Nebraska station had realized that it could have satisfied its First Amendment obligations simply by setting out participation standards before the debate, however, it seems quite unlikely that it would have chosen instead to cancel the debate.

²⁰ The fact that AETC and other state-owned networks have adopted policy statements emphasizing the importance of shielding programming decisions from political influence, see *ante*, at 2, confirms the significance of the risk that would be minimized by the adoption of objective criteria.

STEVENS, J., dissenting

Like the Court, I do not endorse the view of the Court of Appeals that all candidates who qualify for a position on the ballot are necessarily entitled to access to any state-sponsored debate. I am convinced, however, that the constitutional imperatives that motivated our decisions in cases like *Shuttlesworth* command that access to political debates planned and managed by state-owned entities be governed by pre-established, objective criteria. Requiring government employees to set out objective criteria by which they choose which candidates will benefit from the significant media exposure that results from state-sponsored political debates would alleviate some of the risk inherent in allowing government agencies—rather than private entities—to stage candidate debates.

Accordingly, I would affirm the judgment of the Court of Appeals.

THE NATIONAL COORDINATED EFFORT OF HELLENES

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6/13/98

Send to Burkhardt?

Yes

No

June 2, 1998

Coordinate w/ NSC

Yes

No

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Hellenic American Congress (UHAC)
Council of Hellenes Abroad (SAE)

Christopher
Coordinating Committee -
Cyprus (PSEKA)
Association of America

E. Manatos
Coordinating Effort of Hellenes
Board Member
PSEKA

Iouylaris
Vice President
Association of America

Papanicolaou
President
Association of America

Marangoudakis
Vice President
Board Member

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Some American officials have made recent public statements which are encouraging aggressive voices in Turkey and increasing instability in the eastern Mediterranean. These statements are about the installation of defensive missiles in the Republic of Cyprus. If Turkey, in the coming months, again attacks its small defenseless neighbor, Cyprus, as Turkey says it will, these American officials will bear some of the responsibility.

These officials are sending dangerous signals to Turkey by not making clear the totality of our country's position on these defensive missiles on Cyprus. Like Richard Holbrooke, Tom Miller and some others, they must make clear that the Republic of Cyprus has every right to secure armaments to defend itself, including this S-300 defense missile system. They must also make clear that Turkey has no right whatsoever to threaten or to attack the Republic of Cyprus for doing so.

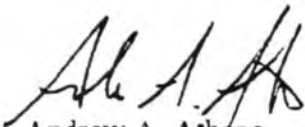
For American officials to deal with this matter by criticizing Cyprus' plans to install defensive missiles and saying nothing critical about Turkey's threatening military overflights, Turkey's illegal military occupation of Cyprus or Turkey's stated plans to attack Cyprus, is tantamount to providing tacit justification for the attack Turkey is planning against Cyprus. When such blame-the-victim statements come from the world's only remaining superpower, voices for peace in Turkey are weakened and voices for aggression encouraged.

The people in Turkey who need strengthening are those who would like to end the issue of the defensive missiles in Cyprus by having their country, Turkey, go along with European Union, United Nations and American requests to accept the offers of the President of the Republic of Cyprus. President Clerides said that these defensive missiles would not be installed if: (1) the Turkish military occupation of a major part of the Republic of Cyprus were to end (as has been called for by numerous U.S. and U.N. resolutions); or (2) the entire island were to become demilitarized. President Clerides' government even recently went so far as to say that they would reconsider deployment of the defensive missiles if the threatening Turkish occupation military forces on Cyprus were reduced from 35,000 to 20,000 or if productive Cyprus settlement negotiations take place this summer.

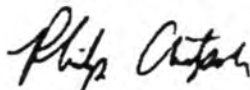
The way some of our officials have blamed the victim on the issue of the Cyprus defensive missiles is a microcosm of our country's larger traditional policy which inadvertently provides support for aggressors and undercuts non-aggressors in Turkey. The record shows clearly that the only time in the last two-and-a-half decades that moderate, non-aggressive Turkish voices surfaced temporarily in the Turkish media was when American policy began to take a firm stand against such aggression. The aggressors in Turkey are increasingly destabilizing the region.

Mr. President, we ask you to personally intervene now to stop this aggression-encouraging policy of blaming the victim rather than after Turkish aggression has occurred, as you did in the case of Imia. Your taking such an action can stop the promised Turkish military strike and can, as well, move the Cyprus settlement past its current Turkish roadblock.

Sincerely,



Andrew A. Athens
President
World Council of Hellenes
Abroad (SAE)
National Chairman
United Hellenic American
Congress (UHAC)



Philip Christopher
President
International Coordinating Comm.
-- Justice for Cyprus (PSEKA)
President
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TELECOPIER TRANSMISSION

TO:

President Bill Clinton

FROM:

Andrew Athens, Philip Christopher

Andrew Manatos

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2

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COMMENTS:

The President's Advisory Committee On The Arts

The John F. Kennedy Center for the Performing Arts • Washington, D.C.

6/3/98

Wayne Cranford

Chairman

303 West Capitol

Little Rock, Arkansas 72201

501-376-6251

Send to Burkhardt
Yes ☒
No ☐
C

May 20, 1998

The President
The White House
1600 Pennsylvania Avenue, NW
Washington, D. C. 20500-2000

Dear Mr. President:

I wish you could have been in the Carlton Hotel's Ballroom for the last meeting of our President's Advisory Committee on the Arts. Because, toward the end of a very good meeting about what we've been doing on behalf of the Kennedy Center and bringing its educational programs to every part of the country, a spontaneous discussion began about our President and how proud we are of you.

One member observed that, "the fact that the Kennedy Center is paying attention to little towns and small communities reflects that the President of the United States chose to put all of us on here (PACA) from out in the boondocks -- and not just everybody from a big city back east or Los Angeles or someplace like that." Another then noted that it was your foresight that brought us all together -- from all over the United States -- working on behalf of the arts and education. From there, the discussion developed into a recital of all the reasons we're all so proud of you and the job you're doing. I just thought you'd like to know.

Among those I remember making the comments that I wish you could have heard first-hand were Meghan Holbrook from Utah, Mary Gail Gwaltney and Deborah Potter from New Mexico, Ken Jacobsen from Pennsylvania, Diana Carlin from Kansas, Robert Zimmerman from New York, Edna Saffy from Florida, Ken Pentony from New Jersey, Zina Kramer from Michigan, June Hamra from Missouri, Ann McKay Thompson from South Dakota, Alison Deem from West Virginia, Karen Scates from Arizona, Kathleen Dougherty from Minnesota, Caryl Yontz from Virginia and Pat Etchart from Montana. I'm attaching a list of all our members.

Letter to The President

May 20, 1998

Page Two

Our next meeting is in New York on June 6. If you have anything you'd like me to pass along, I'll be happy to do so.

And keep up the good work. I know that you'll continue to make us proud.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne", with a stylized, flowing script.

Wayne Cranford
Chairman

WC/pl

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The Honorable Bill Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500-2000

Dear Mr. President:

When I visited Jennings High School in the St. Louis area recently, I promised the students that I would report to you on what they said. The attached article is a fair account of their comments.

Jennings is a remarkable school in a predominantly African American suburb. You would be impressed with the kind of leadership provided by its superintendent, Dr. Terry Stewart.

Your Initiative on Race continues to indicate to me how important it is that we pursue these efforts at increasing racial reconciliation.

I thank you again for your dedicated leadership.

Sincerely,


William F. Winter

WFW/sjt
Enclosure

613123
Send to Bankhardt
Yes ☒
No ☐

Teens send their thoughts on race to Clinton

Students share experiences,
hopes with president's emissary

BY SAMUEL AUTMAN
Of the Post-Dispatch

Ebonie Taylor has a message for President Bill Clinton.

"We don't have as bad a problem with racism," said the 15-year-old Jennings High School sophomore. "The people who are racists are just a few."

Former Mississippi Gov. William F. Winter, an advisory-board member for Clinton's Initiative on Race, met Thursday with several Jennings students and promised to take their remarks to the president next month in Washington.

Ebonie's message contrasted with some of the experiences of her schoolmates, especially black males. They told of being harassed by local police or treated rudely by store clerks. The stu-

dents say they are aware that race and economics divide the St. Louis area.

"Some people just don't socialize outside of their race," said DeAnthony Morris, 18, a senior. "One of the reasons we cannot come together as one is the way we live in certain areas. Those boundaries are important to some people."

Junior Michael Patton, 17, recalled that once when he was playing baseball during his freshman year, he went to retrieve a ball from a wooded area by a creek, and a child about 6 or 7 years old started throwing rocks at him.

"The little boy called me a 'stupid nigger,'" Michael said. "When I told the coach about it, there wasn't much he could do."

The students were divided on affirmative action, saying that there is a need for corrective action for racial disparity but that they feel uncomfortable with the idea of race determining who gets into college, lands government contracts or gets jobs.

The president's advisory board, creat-

ed last summer, has been criticized for being unfocused. It also has become embroiled in the affirmative action debate.

No matter which direction political winds blow, Winter said, the United States will only embrace its racial diversity by having honest discussions on race relations.

"It's not the kind of thing, frankly, that has a lot of automatic appeal," Winter said. "It is perceived as just being another conversation. There's a lot of skepticism that nothing will come of it."

Winter, 75, was governor of Mississippi from 1980 to 1984, when he met then Arkansas Gov. Bill Clinton. Winter is a lawyer and lives in Jackson, Miss. He has met with students in Arizona, California, Colorado and Virginia for similar conversations.

"It's not the same message everywhere, but students are expressing discontent and want the quality of education improved," he said. "There has been some concern over resegregation. The schools are becoming more racially segregated."



JIMMY CARTER

May 19, 1998

98 JUN 3 AM 9:33

To President Bill Clinton

When I was in Tokyo for the Common Agenda meeting in March, I met with Noboru Takeshita, who is one of three former prime ministers of Japan serving as advisors to Global Environmental Action (GEA). Formed as a follow-up to the Rio Earth Summit, GEA continues to contribute toward solutions to global environmental problems.

Prime Minister Takeshita hopes you will use the opportunity of your upcoming visit to China to request that the next comprehensive review of Agenda 21 (Rio+10 meeting) be held in China in 2002. China will be a key country for resolving global environmental problems in the 21st century, and hosting the meeting would send an important message about promoting environmental management to all developing countries.

I hope you can add this to your agenda in China.

Sincerely,

Jimmy

The Honorable Bill Clinton
The White House
Washington, D.C.

613198

Send to WSC?

Yes

☒

No

☐

5/22/98

Original being
held in Stf Sec
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THE WHITE HOUSE

WASHINGTON

May 12, 1998

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NSC WW Desk
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Malley (1st
3 pages)

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM:

SAMUEL BERGER
LARRY STEIN

SUBJECT:

Response to Letter from Senator Moynihan on
Responding to Genocide

Berger to Sandy B
before send →

Sandy

He on talk

probably OK to send
~~letter by AS~~
then set up meeting
2-4 other copy, perhaps
a few more expect

Purpose

To respond to Senator Moynihan.

Background

Senator Moynihan has written in support of your remarks in Rwanda, in which you committed to enhancing Administration efforts to identify and act on information suggesting the threat of genocidal violence. He also enclosed a copy of a 1992 memorandum he sent to you following a trip he took to Bosnia. Among other issues, the memorandum address questions of ethnicity that bear upon the themes of your Rwanda address.

Your response thanks Senator Moynihan for his support and agrees that early warning is an essential ingredient in preventing genocide, but also notes that it is only one of several necessary tools. The response goes on to describe other important efforts, including those reflected in the Entebbe Joint Communique.

RECOMMENDATION

That you sign the attached letter at Tab A.

Attachments

Tab A Letter for Signature
Tab B Incoming Correspondence

OK - see memo

OK to dispatch

CC: memo + letter

to Podesta + Stephen

phm

THE WHITE HOUSE
WASHINGTON

Dear Pat:

Thank you for your letter concerning my remarks in Rwanda regarding genocide. I also appreciated your providing me with another copy of your insightful trip report on the Balkans. While we have made great strides toward forging peace in that region, your report highlights the importance of continued vigilance in pursuit of both reconciliation and justice.

As always, you have raised in your letter thought-provoking questions that require serious attention. I believe we are developing a range of effective responses to the challenges posed by ethnic conflict and its aftermath -- responses that emphasize political reconciliation while accommodating the need for justice in post-conflict societies, and which recognize the importance of short-term reconstruction to bridge the gap between relief and long-term development.

All too often, however, these efforts come only after ethnic conflict that causes great suffering, and we are determined to do more to prevent the kind of mass killings that took place in Bosnia and Rwanda over the past several years. As I indicated in my remarks in Rwanda, early warning is a critical tool, but just as important is our ability to act quickly and effectively on information we receive. The earlier we are prepared to act through concerted diplomatic efforts, the less likely it is that we will be confronted with the stark choice between unilateral U.S. military intervention or inaction.

In this respect, the Entebbe Summit Joint Communique represents a step forward. At the Summit, where I joined five regional heads of state to consider pressing issues in Central and Eastern Africa, governments agreed to deny extremist networks the use of their territory, postal services, airports, financial institutions, passports, road networks and communications systems. If successfully enforced, this concerted action could substantially weaken the remnants of those extremist groups

responsible for the 1994 genocide in Rwanda, and diminish the likelihood of a resurgent genocide.

Again, thank you for your support on these issues. As we work through the many questions they present, I hope you will continue to provide me the benefit of your insights.

Sincerely,



The Honorable Daniel Patrick Moynihan
United States Senate
Washington, D.C. 20510

PS

We should discuss
this now - you
be in touch -

Daniel Patrick Moynihan
New York

United States Senate
Washington, D. C.

March 31, 1998

Dear Mr. President:

I read with great interest the text of your address in Rwanda in which you announced that you were directing the administration "to improve ... our system for identifying and spotlighting nations in danger of genocidal violence...."

You may just recall our conversation during the transition in 1992 when I told you I would be making my way to Sarajevo. You asked for a report, which I sent from Zagreb on November 28th. I don't believe it ever got to you in Little Rock and I can't imagine you would have the time to read it now, but there are two relevant passages. First:

* [There are going to be, what? fifty new states in the next fifty years. A number during your administration. Most will come into being through violent ethnic upheaval. The world needs rules for these upheavals which do not now exist. The old rules of sovereignty, the Westphalian state, just don't fit with this new reality. We have to ask ourselves just what "self-determination" means. And under what circumstances the world community, through the United Nations usually, but not necessarily, has the right to intervene.

And, second:

[It would not, for example, be too great a task to instruct your Secretary of State to work up a scenario for ethnic conflicts between now and the year 2000 that would concern the United States and which might or might not be avoided or diverted.

My point, simply, is to encourage you in your initiative. In my experience, our assorted bureaucracies have little interest in ethnicity and need to be prodded.

Respectfully,



The President
The White House
Washington, DC 20500

- (I) **Atlantic Monthly/Jack Beatty Article on Income Inequality forwarded by Sid** -- article notes that, according to a recent report, income inequality is highest in California and the Mid-Atlantic region (NY, NJ, PA); has improved some in the Rocky Mountain and South Central states; key to higher wages is education; each year of education results in a future wage gain of 10%, compared to a gain of 6% twenty years ago; quality of education also matters; smaller class sizes, in particular, boost later earnings.
- (J) **Congressional Correspondence forwarded by Janet Murgia** -- (1) **Note from Sen. Moynihan** -- says you were "wonderfully generous at the Reagan Building ceremony;" it took 37 years, but the Federal Triangle is done; what we now need is people/housing in the Pennsylvania Avenue Quarter; understands from Sid that the First Lady would like to get involved in such an effort; hopes she'll call on him, if he can be of assistance; (2) **Note from Sen. Murray** -- thanks you for appointing of Judi Johansen as the Bonneville Power Authority Administrator; Murray says, "it was very important to me and I appreciate it;" (3) **Note from Sen. Gordon Smith** -- says he and Sharon will long remember their evening with you and the Italian PM; "We are honored that you would invite us to the President's house for such an occasion;" (4) **Note from Rep. Silvestre Reyes** -- thanks you on behalf of the people of El Paso for your efforts to support NAFTA- dislocated workers; praises Sec. Herman's announcement of \$45M for retraining efforts for some 3,500 workers; "Thank you Mr. President for your commitment to the working men and women of El Paso and the nation."

cc: VP

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VP
COS



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

SILVESTRE REYES
SIXTEENTH DISTRICT
TEXAS

May 8, 1998

William Jefferson Clinton
President of the United States
The White House
Washington, DC 20502

Dear Mr. President:

On behalf of the people of El Paso, Texas, I want to thank you for the support you have given us in our efforts to address the needs of the hundreds of dislocated workers who have lost their jobs as a result of the North American Free Trade Agreement.

I also want you to be aware of the personal efforts of Secretary of Labor Alexis Herman on behalf of my constituents. Yesterday, she announced that the Department of Labor would award up to \$45 million over the next two years for a comprehensive retraining effort to assist 3,500 workers. With these funds, we will be able to provide necessary job skills so that these workers can once again join the workforce and be the productive, hard-working citizens they want to be.

Thank you again, Mr. President, for your commitment to the working men and women of El Paso and the nation.

Sincerely,

A handwritten signature in black ink, appearing to read "Silvestre Reyes", is written over a horizontal line.

Silvestre Reyes
Member of Congress

6-1-98

2

program over 10 or 15 years, or the creation of a commission to work out the best approach to this issue). As of now, however, both sides think they have the votes to defeat the other (which, in fact, they both might), and compromise discussions have not proved productive.

3. Tobacco -- Minority Caucus Concerns: DPC, OMB, and HHS will meet next week with members of the House Minority Caucuses to discuss their views of tobacco legislation -- especially the McCain bill's approach to public health spending. These members have concerns about the Senate bill's use of block grants to states for smoking prevention and cessation programs. They also are upset that the bill contains no direct grants to historically black and predominantly Hispanic colleges, universities, and medical schools. These members have sent us an alternative proposal for public health spending, but the agencies believe that it raises significant constitutional and administrative concerns. The proposal includes funding set-asides for minority groups that the Department of Justice believes run afoul of the Supreme Court's Adarand decision. In addition, the proposal's funding mechanism would create major administrative burdens for the Department of Health and Human Services. We anticipate holding several discussions with members of the Minority Caucuses to work out ways of making them more comfortable with the public health provisions of the legislation.

4. Welfare Reform -- State Use of TANF Funds: The NGA Fiscal Survey of States, released on May 27, contained some encouraging information about the way states are using welfare monies. The report showed that states are shifting funds from direct cash payments to work-related supports. Since 1996, spending for cash assistance has decreased 26 percent, while spending for child care has increased 85 percent and spending on work activities has increased 34 percent. Total welfare spending declined by 9 percent, but given caseload reductions, this figure represents increased spending per welfare recipient.

5. Education -- GAO Report on National Testing: In response to a request from Rep. Goodling, the GAO will issue a report next week on the roles played by NAGB and the Department of Education in developing the national tests in 4th grade reading and 8th grade math. The report finds that NAGB has full control over development of the tests, as required by law; it finds not a single instance of improper interference by the Department. In addition, the report finds no reason to criticize the procedures NAGB has used to award test development contracts. Although we do not expect the report to mitigate Rep. Goodling's adamant opposition to the tests, it should prevent him from making the claim that test development somehow remains under the influence of the Administration.

6. Education -- Adult Education: You recently asked what the Administration had accomplished with respect to adult education and whether we need to take additional steps. The Senate and House workforce investment bills, which Congress is expected to pass by July 1, provide for the reauthorization of all federal adult education programs. Your FY 1999 budget requests a \$16 million increase in grants to states for adult education programs. It also includes a request for funds to develop model English-as-a-second-language programs

*Survey
Mention
of UGA &
in Whitehouse*

*IGA/
+ 130224
W. H. Jones*