

When peace became impossible and violence continued, NATO was left with the last resort. As promised, NATO took military action to halt the Serbian offensive and its mass genocide of the Albanians. A reasonable chance for success was existent. Furthermore, there was the belief that the consequences of these aggressive actions would be better than the situation that would exist had these actions not been implemented. In March 1999, NATO airplanes and cruise missiles began bombing Serbian military targets. Ultimately, through the joint efforts of the KLA and NATO, Serbia withdrew from Kosovo seventy-eight days later and signed NATO peace agreements. By the time peace had been achieved, 900,000 Albanians had been removed from their homes in Kosovo (Andrzejewski, 2000, p. 54). Another ten thousand lay dead—murdered by Serbs during their ethnic cleansing of Kosovo (Andrzejewski, 2000, p. 57).

Critics may argue that the decision to bomb Serbia may not have been the most effective course of action. Regrettably, serious mistakes were made and the bombings killed civilians, both Serb and Albanian. Furthermore, a bomb hit the Chinese embassy in Belgrade, killing three and wounding nearly two dozen (Andrzejewski, 2000, p. 50). Despite these tragic events, had NATO not put pressure on Serbia to end its campaign of ethnic cleansing, the number of genocide victims would have only increased.

As demonstrated, one territory cannot serve two masters. The Anglo-Zulu and Kosovo Wars were waged because two parties tried to control one piece of land. Each party had reasons for taking part in the fight. Many factors come into play that do or do not justify these reasons. The Zulus and Albanians were justified by reaching the last resort and defense of their homeland. Though neither of these parties had any reasonable chance of victory, the justness of their cause is in no way lessened. NATO military action was justified in its attempts to check the violence. Britain and Milosevic, though legitimate authorities, valued land over human life. Their motives were unjust. Justice is blind, but will forever be weighed by our motives and actions.

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LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred on September 22, 2000. A man looking to "waste some faggots" entered a gay bar in Roanoke, VA, and opened fire, killing Danny

Overstreet, and injuring six others. Overstreet, sitting at a table closest to the gunman, dropped when a shot hit him in the chest. The 43-year-old gay man died within minutes, despite efforts to help him. The other six victims eventually recovered. A witness told police that the gunman—a vocal antigay advocate—had asked directions earlier in the evening to gay bars in the Roanoke area.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

SUPREME COURT AFFIRMATIVE ACTION DECISION

Mr. KENNEDY. Mr. President, on Monday, in a landmark decision, the Supreme Court made clear that colleges and universities can adopt admissions policies that take students' racial and ethnic background into account to achieve a diverse student body. The Court's decision is a resounding vindication for the fundamental principle that affirmative action can be used in education to promote opportunity for all, and encourage interaction among students of diverse backgrounds.

Our diversity is our greatest strength, and this decision recognizes the broad benefits of diversity in higher education. A diverse student body benefits all students at our colleges and universities and helps prepare students for our increasingly diverse workforce and our diverse society.

As the opinion of Justice O'Connor states, "Major American businesses have made clear that the skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas and viewpoints." High-ranking military leaders, too, have stated that affirmative action is necessary for promoting a "qualified, racially diverse officer corps," to enable the Armed Forces to protect national security.

The Court's decision supports the paramount importance of education as a gateway to equal opportunity, reaffirming once again the Court's historic decision nearly 50 years ago in *Brown v. Board of Education*. Few areas are as vital to sustaining our democracy that education. Our institutions of higher education, like our public schools, are indispensable in broadening the minds of young adults, and training them for leadership.

As the Court stated in *Brown*, and emphasized again in Monday's opinion, "Education is the very foundation of good citizenship." The Nation is becoming increasingly diverse, and it is important for all our institutions to reflect that rich diversity.

The Court stated: "In order to cultivate a set of leaders with legitimacy

in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity. Access to education must be inclusive of talented and qualified individuals of every race and ethnicity, so that all members of our heterogeneous society may participate in the education institutions that provide the training and education necessary to succeed in America."

The Supreme Court has made clear that a well-crafted affirmative action admissions program like that of the University of Michigan Law School is constitutional. It is flexible and allows for individualized review of each applicant, and it is not a quota. The Court also made clear that States do not have to promote diversity only by relying on percentage plan programs which guarantee college admission to all students above a certain class-rank in every high school graduating class in the State.

As the Court recognized, such programs do not work for graduate and professional schools. In fact, percentage plans can prevent colleges and universities from making the individualized assessment of applicants that is necessary to assemble a diverse student body.

Our country has made extraordinary progress over the past half century toward equality of opportunity in all aspects of our society, and affirmative action has been an indispensable part of that success. But we all know that we have to do more to make the promise of *Brown* a reality. Even with affirmative action, vast inequities remain in access to higher education especially for African-Americans and Latinos.

We know that civil rights is still the unfinished business in America. Half a century after *Brown*, our schools remain starkly divided along racial and ethnic lines, and minority children are too often relegated to inadequate schools. We have to do more to see that minority children are not forced to think of an institution like the University of Michigan as an impossible dream. This decision by the Supreme Court is another major step by the Court to make that dream possible, and it is difficult to believe that either this Congress or this President would approve a Supreme Court nominee who would reverse that decision.

Mr. FEINGOLD. Mr. President, it has been nearly 50 years since the Supreme Court ruled segregation in schools unconstitutional in *Brown v. Board of Education of Topeka, Kansas*. Then-Chief Justice Earl Warren said: "We conclude that in the field of public education the doctrine of 'separate but equal' has no place. Separate educational facilities are inherently unequal."

This week, the tenet of equality that lies at the foundation of the *Brown* decision was reaffirmed and strengthened. In fact, it is becoming more and

more infused into our Nation's increasingly diverse identity.

This week, the U.S. Supreme Court reaffirmed the principle that diversity is a compelling national interest and that race can be a factor in higher education admissions decisions. The Court upheld the admissions policy at the University of Michigan Law School in *Grutter v. Bollinger*.

Justice Sandra Day O'Connor, on behalf of the 5-to-4 majority and citing *Brown*, wrote: "This Court has long recognized that 'education . . . is the very foundation of good citizenship.'"

Justice O'Connor and the Supreme Court found the use of race in the Michigan Law School admissions policy consistent with the aspirations of the 1954 Supreme Court in deciding *Brown*. O'Connor stated for the Court:

In order to cultivate a set of leaders with legitimacy in the eyes of the citizenry, it is necessary that the path to leadership be visibly open to talented and qualified individuals of every race and ethnicity. All members of our heterogeneous society must have confidence in the openness and integrity of the educational institutions with which the law interacts . . . Access to legal education (and thus, the legal profession) must be inclusive of talented and qualified individuals of every race and ethnicity, so that all members of our heterogeneous society may participate in the educational institutions that provide the training and education necessary to succeed in America.

The Court's decision keeps this country on a path toward the day when our children and our children's children will not be able to envision a pre-*Brown v. Board of Education*. In fact, Justice O'Connor cites the *Brown* opinion in writing the *Grutter* decision. Justice O'Connor's words reflect a powerful American value that is really a strength of our Nation—diversity. It is in the best interest of all Americans to seek diversity in all segments of our society, including educational institutions, the military, and the workplace. To fail to do so, in fact, would be to misrepresent our national identity.

I am heartened, by the large number of amicus briefs filed in support of affirmative action. These briefs showed the Court the deep importance of diversity to so many people and institutions across the Nation. I am pleased to have had the opportunity to join Senator KENNEDY and several of our colleagues in signing one such brief, urging the court to uphold the *Bakke* decision and support Michigan's admission policies.

One of the greatest strengths of our Nation is its guarantee of equal educational opportunities for all students. Our Nation's colleges and universities are the envy of the world for their rigorous courses of study and high-caliber professors, but also for their enriching environment of students from a range of racial, ethnic, and social and economic backgrounds representing every part of America, if not the world. I am proud that the Court has affirmed the importance of campus diversity and deemed it a constitutionally permissible governmental interest.

In the *Grutter* case, the Court decisively allowed race and ethnicity to be considered in combination with other factors in an admissions decision. I don't believe that the decision striking down the specific point system used in the undergraduate admissions policy will be a serious impediment to the implementation of race-sensitive admissions policies at colleges and universities.

In the 50 years since the walls of segregation began to crumble, we have traveled many miles on the road toward guaranteeing civil rights to all Americans. But this week's decision affirming diversity as a compelling national interest—and thus declaring affirmative action constitutional and viable—confirms our Nation's progress in ways unmeasurable by miles or years. The Court's decision is more than a victory. It is a milestone. It is a testament to the strength of *Brown* and our Constitution's equal protection guarantees.

HONORING AMERICAN AND KOREAN VETERANS OF THE KOREAN WAR

Ms. MURKOWSKI. Mr. President, today marks the 53rd anniversary of the official beginning of the Korean war.

Korea has often been called the forgotten war, but for the thousands of Alaskans who are veterans of that war it is hardly forgotten. The memory is with them daily.

The heroic American and Korean veterans of that war fought under the most adverse circumstances to free the people of the Republic of Korea from the yoke of Communism.

These veterans learned the hard way the lesson that is engraved on the Korean war Memorial here in Washington, "Freedom is not free."

While today marks the beginning of the Korean war, this anniversary does not mark the beginning of the war between freedom and Communism in that troubled country. From the moment that the Korean peninsula was divided in 1945, that battle had begun.

While Korea was one of the first examples of Imperial Japan's lust for land when it became a Japanese possession in the wake of the Russo-Japanese War at the beginning of the twentieth century, it was a side show in World War II. The U.S. had no plan for what to do with Korea when the war was over.

Although we had had U.S. representatives—governmental, business and missionary—in Korea from 1882 until the outbreak of the war, we made no plans for what would happen when at war's end, we might return to Korea.

The United States remained committed to the December 1945 decision of the Allied foreign ministers in Moscow that a trusteeship under four powers, including China, should be established with a view toward Korea's eventual independence. As a result, we were slow

to draw-up long-range alternative plans for South Korea.

We had made no decisions on how to govern Korea, or to assist Korea in governing itself. We had not made plans for the defense of the country, nor for its economic development. We didn't even have a plan for how we might accept a Japanese surrender on the peninsula.

The most convenient way to deal with the surrender issue was to allow the Soviets to accept the surrender in the north and for U.S. forces to take the surrender in the south. Such a division of Korea, which to modern eyes, seems so normal on our maps, was totally foreign to the long history of Korea. Further, the division, which was drawn on a large-scale map in the Pentagon and had no rational basis on the actual terrain, did not represent any known political division of the peninsula. When it took place, it left freedom loving Koreans in the north and communist insurgents in the south.

The Korean war did not begin with the full scale invasion of the Republic of Korea on June 25, 1950. It had been underway as an insurgency in the south since, at least, 1946. One of the first tasks facing the United States was to train and replace existing Japanese police and security forces. The United States, with insufficient forces in-country to deal with the insurgency problem, acted quickly to stem the insurgency by creating a Korean defense force to combat it.

This Korean Constabulary, consisting of Korean veterans of the various armies who had fought World War II in the area, was led by U.S. officers and fought under U.S. orders. The Constabulary had an initial force of 2,000 men in 1946, but built up to approximately 26,000 over the next two years.

It was equipped with the very little military materiel left behind by U.S. forces as they withdrew. The young American officers, mostly reservists, with few regulars had little in the way of education, language or experience for their task, but they had good will and a devotion to duty which they infused in their Korean troops. In contrast, the army that the North Koreans were forming north of the divide was well equipped with Soviet equipment and led by well trained and well indoctrinated communist zealots.

While all out invasion would wait until 1950, substantial insurgency and guerrilla warfare was a constant theme in the southern half of the peninsula from 1946 to 1948. When the Republic of Korea was founded in August of 1948, the Korean Constabulary became the Korean Army and brought with it a level of devotion to country and duty which has been, since that time, the envy of most of the world's fighting forces.

Today is a time, therefore, not just to remember the heroic men and women who served from 1950 to 1953, but to honor the heroic Koreans and Americans who defended Korean freedom in the days before 1950.