TO PRESCRIBE THE OATH OF RENUNCIATION AND ALLEGIANCE FOR PURPOSES OF THE IMMIGRATION AND NATIONALITY ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

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TO PRESCRIBE THE OATH OF RENUNCIATION AND ALLEGIANCE FOR PURPOSES OF THE IMMIGRATION AND NATIONALITY ACT

THURSDAY, APRIL 1, 2004

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION,
BORDER SECURITY, AND CLAIMS,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:06 a.m., in Room 2141, Rayburn House Office Building, Hon. John N. Hostettler (Chair of the Subcommittee) presiding.

Mr. HOSTETTLER. Good morning. Today's hearing is on H.R. 3191, legislation introduced by our colleague, Jim Ryun, to memorialize in the Immigration and Nationality Act the current language of the Oath of Renunciation and Allegiance.

This solemn oath, taken by applicants for naturalization, is the final step in becoming a U.S. citizen. Recent proposals to modify the oath have generated a large measure of controversy and have refocused attention on the oath's meaning and on the proper forum to consider changes.

A naturalization ceremony is one of the most stirring and meaningful occasions in the public life of our nation, both for the new citizens themselves and for those privileged enough to witness the event. In reciting the oath, naturalizing citizens are becoming true Americans, pledging their fidelity and their hearts to a new nation. Statutorily, the oath is required to embody five principles. The reciter promises to, one, support the Constitution of United States; two, renounce allegiance to any foreign "prince, potentate, state or sovereignty;" three, support and defend the constitution of the United States against all enemies, foreign and domestic; four, bear true faith and allegiance to the same; and, five, bear arms on behalf of the United States when necessary unless alternate national service is permitted.

The language of the present oath possesses a weight and majesty that helps focus one's mind on the implications of its recitation. Those who would like to alter it bear a heavy burden of proof. I do understand the motivation of those who feel that the language needs to be modernized; in fact, George Gekas, the former Chairman of this Subcommittee, strongly felt that revisions were in order.

The U.S. Commission on Immigration Reform worried whether the oath, with its use of archaic language such as "potentate" and

"abjure," was sufficiently comprehensible and thus meaningful to new citizens. The Commission recommended a new draft of the oath, one which was largely adopted by the Department of Homeland Security late last year in a proposed revision.

I share the concerns of Representative Ryun and many others that DHS' proposed oath may not fully embody the five principles set forth in the Immigration and Nationality Act. Most importantly, the present oath's statements that, "I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic," and, "I will bear arms on behalf of the United States when required by law," are conflated to read, "where and if lawfully required, I further commit myself to defend the Constitution and laws of the United States against all enemies, foreign and domestic . . . by military . . . service."

This seems to imply that the only duty that naturalized citizens have to defend the Constitution and laws of the United States is by consenting to being drafted and not a lifelong obligation to uphold the principles of our republic in everything that they do. I know that this could have not been the Commission's or DHS' intent, but it is an impression that could easily be conveyed by the language.

The fact that such misunderstandings could so easily arise reinforce why we need to be so careful in tinkering with the oath. And this brings up my second point, that any proposed editing should be done by Congress through the legislative process and not by a Federal agency. Any remolding of the oath is sufficiently momentous and the process strewn with enough rhetorical landmines that it should be entrusted only to the people's representatives. The other hallowed texts of our republic, from the Pledge of Allegiance to the national anthem, are set forth in statute. No less should be the Oath of Naturalization.

I congratulate Representative Ryun for introducing legislation accomplishing this needed task. I look forward to his testimony and that of our other witnesses.

At this time, are there any opening statements by other Members? I am glad to recognize the gentleman from Texas, Mr. Smith, for 5 minutes.

Mr. SMITH. Thank you, Mr. Chairman. I will be very brief. I just feel that I ought to say publicly and officially that I have a markup of the Science Committee that began at 10:00, so I am only going to be able to stay here for a couple minutes, and I just wanted to apologize to our witnesses for being here for such a short time.

Finally, I just wanted to thank you for being an activist Chairman and continuing to highlight issues that are important to so many people.

I yield back.

Mr. HOSTETTLER. I thank the gentleman.

The Chair recognizes the gentleman from Iowa, Mr. King, for 5 minutes for an opening statement.

Mr. KING. Thank you, Mr. Chairman, and I will try to match the brevity of Mr. Smith. I also appreciate you holding this hearing today and the witnesses and your testimony. My schedule is a little tight. I will be able to stay a little longer.

I congratulate Congressman Ryun for bringing this legislation, of which I am a cosponsor, and I believe that the core of who we are as a citizen needs to be preserved and protected and promoted, and I will do all that I can within my sphere of influence to preserve and protect those core principles that are articulated so well by our Chairman.

Thank you, Mr. Chairman. I will yield back.

Mr. HOSTETTLER. I thank the gentleman.

I will now introduce the members of our panel. Jim Ryun is serving his fourth term in Congress representing the Second Congressional District of Kansas. He is also a Member of the Armed Services, Budget and Financial Services Committees. Prior to serving in Congress, Jim partnered with the Resound Hearing Aid Company, creating his own program, Sounds of Success, aimed at helping hearing-impaired children fulfill their potential.

Mr. Ryun is the founder and president of Jim Ryun Sports, Incorporated, a public relations company where he acted as a product development consultant and actively promoted the awareness of various charities. Jim participated in three summer Olympic games, winning a silver medal in the 1,500 meter run in 1968. Jim Ryun graduated with a B.A. from the University of Kansas.

Mr. Alfonso Aguilar is the newly appointed Chief of the U.S. Citizenship and Immigration Services' Office of Citizenship. He joins the Department of Homeland Security after working at the U.S. Agency for International Development. Mr. Aguilar also served as the executive director of the Puerto Rico Federal Affairs Administration. He also joined the Bush administration as Deputy Director of Public Affairs for the U.S. Department of Energy.

Mr. Aguilar began his career in the Department of State at the Government of Puerto Rico in San Juan, coordinating and facilitating Government efforts to promote international trade. Mr. Aguilar is a member of the Puerto Rico Bar Association, the League of United Latin American Citizens and the National Association of Latino Elected and Appointed Officials.

Mr. Aguilar received his bachelor of arts and letters from the University of Notre Dame and later received his juris doctor degree from the University of Puerto Rico.

John Fonte is the senior fellow at the Hudson Institute and is the director of the Center for American Common Culture. He organized the Citizenship Roundtable, a joint product of the Hudson Institute and the American Legion to strengthen citizenship and promote the patriotic assimilation of immigrants into the American of life. Dr. Fonte also served as senior researcher at the U.S. Department of Education and a program administrator at the National Endowment for the Humanities.

He is currently on the board of the American Council for Trustees and Alumni. Dr. Fonte has served as a consultant for the Texas Education Agency, the Virginia Department of Education, the California Academic Standards Commission and the American Federation of Teachers. Dr. Fonte received his B.A. and M.A. in history from the University of Arizona and his Ph.D. in world history from the University of Chicago.

Dr. Andrew Schoenholtz is the deputy director of Georgetown University's Institute for the Study of International Migration. He

also co-directs the certificate program in refugee and humanitarian emergencies at the university. Before going to Georgetown, he served as the deputy director of the U.S. Commission on Immigration Reform, and prior to this, Dr. Schoenholtz practiced immigration, asylum and international law with the Washington, D.C. law firm Covington and Burling.

Dr. Schoenholtz has conducted fact-finding missions in Haiti, Cuba, Germany, Croatia and Bosnia to study refugee protection, long-term solutions to mass migration emergencies and humanitarian relief operations. Dr. Schoenholtz holds a J.D. from Harvard Law School and a Ph.D. from Brown University.

Gentlemen, thank you for your presence here today.

Congressman Ryun, the floor is yours, and you are recognized for 5 minutes for an opening statement.

STATEMENT OF THE HONORABLE JIM RYUN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

Mr. RYUN. Mr. Chairman, thank you for the kind introduction. I want to thank you and Ranking Member Jackson Lee for holding this hearing on H.R. 3191 and inviting me to testify before the Subcommittee on what I consider a very important issue.

The Oath of Allegiance has served as the gateway for American citizenship for over 200 years. When immigrants speak its forceful words, they pledge their unfettered allegiance to America, our Constitution and our laws. The Oath of Allegiance was first used in 1790. A standardized Oath of Allegiance was issued in 1929, and the current, powerful text of the Oath of Allegiance has been in place since the 1950's.

The words of this important symbol of American citizenship and commitment to the Constitution are not specified by law, however, and can be changed at the whim of a Government bureaucracy. In fact, such a change was to take place on September 17, 2003, which is Citizenship Day, the day on which we celebrate the signing of the Constitution. The proposed changes intended to make the language more modern but instead would have transformed an absolute commitment to the Constitution into a conditional statement and thereby weaken our citizenship.

It appears that the Bureau of Citizenship and Immigration Services hastily drafted and proposed these changes. Seemingly, they intended to implement the changes without going through the standard 60-day period for public comment. Most concerning are the substantive changes to the text that would have eliminated several forceful words and phrases, substantially weakening the charge to uphold and be faithful to the Constitution and the laws of the United States.

Specifically, it eliminates the call to, "bear true faith and allegiance to," and to, "bear arms on behalf of the Constitution of the United States." The addition of the words, "where and if lawfully required," before the charge to defend the Constitution causes me to wonder when we are not required to defend the Constitution.

In addition, the Oath of Allegiance currently calls on Americans to, "renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty," while the proposed Oath of Allegiance renounces allegiance only to foreign states. We should

continue to welcome legal immigrants into our country. Yet, as we continue to fight the war on terror, we must maintain a forceful and uncompromising Oath of Allegiance. Many of our terror threats are not from organized geopolitical states but rather from groups like al-Qaeda, led by the likes of Osama bin Laden.

On March 11 in Madrid, we were reminded of the very real presence of organized, non-state-sponsored terrorism aimed at the United States and our allies who are committed to eliminating global terrorism. The threat of terror and the attempts to infiltrate American society have not passed, nor has the need for a strong renunciation against all foreign sovereignties. Now is not the time to water down the words of commitment necessary to become a citizen of the United States of America.

That is why I introduced H.R. 3191, which would establish the Oath of Allegiance as Federal law and give it the same protection as the Pledge of Allegiance and the national anthem. My bill does not prevent the language in the Oath of Allegiance from being modernized or changed. Codifying the words of the Oath of Allegiance is simply a logical step and necessary step to ensure that the Oath of Allegiance is held in high regard and protected from destructive changes.

Throughout our history, our nation has been strengthened by immigrants who came here to pursue the American dream. Establishing the Oath of Allegiance as the law of the land would remind all Americans, recent immigrants and lifelong citizens alike, that pursuing that dream also requires a full-time commitment to citizenship; a commitment unlike what Thomas Paine once called the summer soldier and the sunshine patriot that shrank from the service of his country in times of crisis.

The scores of letters and phone calls I have received from constituents indicate an overwhelming desire to preserve the forceful language of the Oath of Allegiance. Should there ever be a sentiment to change this great oath, however, it should only be done after careful consideration that results in the strengthening of the meaning of citizenship. With the passage of H.R. 3191, such changes would occur only by an act of Congress.

The Oath of Allegiance should continue to support freedom, democracy and Constitutional rights. I believe that we can ensure this for decades to come by establishing the Oath of Allegiance as Federal law, and I urge the Judiciary Committee to pass H.R. 3191 and send it to the full House of Representatives.

And I thank you for your time, Mr. Chairman.

[The prepared statement of Mr. Ryun follows:]

PREPARED STATEMENT OF THE HONORABLE JIM RYUN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF KANSAS

I would like to thank Chairman Hostettler and Ranking Member Jackson Lee for holding a hearing on H.R. 3191 and inviting me to testify before your Subcommittee on this important issue.

The Oath of Allegiance has served as the gateway to American citizenship for over 200 years. When immigrants speak its forceful words they pledge their unfettered allegiance to America, our Constitution, and our laws.

The Oath of Allegiance was first used in 1790 and a standardized Oath was issued in 1929. The current, powerful text of the Oath of Allegiance that has been in place since the 1950s requires immigrants to say,

> "I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or a citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by law; that I will perform noncombatant service in the Armed Forces of the United States when required by law; that I will perform work of national importance under civilian direction when required by law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God."

While the text of the Oath of Allegiance is not specified by federal law, 8 U.S.C. 1448 provides five principles of what the Oath of Allegiance must contain. They include,

> "1) to support the Constitution of the United States; (2) to renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the applicant was before a subject or citizen; (3) to support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic; (4) to bear true faith and allegiance to the same; and (5)(A) to bear arms on behalf of the United States when required by the law, or (B) to perform noncombatant service in the Armed Forces of the United States when required by the law, or (C) to perform work of national importance under civilian direction when required by the law."

Since these principles are only guidelines, however, the text of the Oath of Allegiance can be changed on the whim of the government bureaucracy. In fact, such a change was to take place on September 17, 2003, which is Citizenship Day—the day on which we celebrate the signing of the Constitution. The Bureau of Citizenship and Immigration Services proposed to change the Oath of Allegiance to read,

> "Solemnly, freely, and without any mental reservation, I hereby renounce under oath all allegiance to any foreign state. My fidelity and allegiance from this day forward is to the United States of America. I pledge to support, honor, and be loyal to the United States, its Constitution and laws. Where and if lawfully required, I further commit myself to defend the Constitution and laws of the United States against all enemies, foreign and domestic, either by military, noncombatant, or civilian service. This I do solemnly swear, so help me God."

The proposed changes intended to make the language more modern, but instead would transform an absolute commitment to the Constitution into a conditional statement and thereby weaken our citizenship.

It appears that the Bureau of Citizenship and Immigration Services hastily drafted and proposed these changes. They rushed to implement the changes without going through the standard 60-day period for public comment. Even more revealing were the several grammatical errors throughout the text.

Most concerning are the substantive changes to the text that would have eliminated several forceful words and phrases, substantially weakening the charge to uphold and be faithful to the Constitution and the laws of the United States. Specifically, it eliminates the call to "bear true faith and allegiance to" and "bear arms on behalf of" the Constitution. The addition of the words, "Where and if lawfully required," before the charge to defend the Constitution causes me to wonder when we are not required to defend the Constitution. In addition, the Oath of Allegiance currently calls on Americans to "renounce, and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty," while the proposed Oath of Allegiance renounces allegiance only to foreign states.

We should continue to welcome legal immigrants into our country. Yet as we continue to fight the war on terror, we must maintain a forceful and uncompromising Oath of Allegiance. Many of our terror threats are not from organized geopolitical states, but rather from groups like al Qaeda, led by potentates like Osama bin Laden. On March 11, 2004 in Madrid, we were reminded of the very real presence of organized, non-state sponsored terrorism aimed at the United States and our allies who are committed to eliminating global terrorism. The threat of terror and the attempts to infiltrate American society have not passed, nor has the need for a strong renunciation against all foreign sovereignties. Now is not the time to water down the words of commitment necessary to become a citizen of the United States of America.

That is why I introduced H.R. 3191, which would establish the Oath of Allegiance as federal law and give it the same protection as the Pledge of Allegiance and the

National Anthem. Codifying the words of the Oath of Allegiance is a logical, necessary step to ensure that the Oath is held in high regard and protected from destructive changes.

Throughout our history, our nation has been strengthened by immigrants who came here to pursue the American dream. Establishing the Oath of Allegiance as the law of the land would remind all Americans—recent immigrants and life-long citizens alike—that pursuing that dream also requires a full-time commitment to citizenship; a commitment unlike what Thomas Paine once called the "summer soldier and the sunshine patriot" that shrank from the service of his country in times of crisis.

The scores of letters and phone calls I received from constituents indicate an overwhelming desire to preserve the forceful language of the Oath of Allegiance. Should there ever be a sentiment to change this great Oath, however, it should only be done after careful consideration that results in a strengthened meaning of our citizenship. With the passage of H.R. 3191, any such change could only occur by an act of Congress.

The Oath of Allegiance should continue to support freedom, democracy, and our Constitutional rights. I believe that we can ensure this for decades to come by establishing the Oath of Allegiance as Federal law. I urge the Judiciary Committee to pass H.R. 3191 and send it to the full House of Representatives.

Mr. HOSTETTLER. Thank you, Congressman Ryun.

Mr. Aguilar, you are recognized for 5 minutes.

STATEMENT OF ALFONSO AGUILAR, CHIEF OF THE OFFICE OF CITIZENSHIP, U.S. CITIZENSHIP AND IMMIGRATION SERVICES, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. AGUILAR. Good afternoon, Mr. Chairman and Members of the Subcommittee. I want to thank the Chairman for holding this hearing on such an important topic to our nation.

As you have raised the issue of the Department of Homeland Security's possible administrative revision of the Oath of Allegiance last September, I will start my testimony by providing some additional insight on exactly what happened last year. In the broader context of making the naturalization process more meaningful, the U.S. Citizenship and Immigration Services began researching what work had already been done in this area.

In our research, we noted the recommendations of the bipartisan Barbara Jordan Commission, a Congressional commission, which, in its final report to Congress in 1997 recommended that the Oath of Allegiance be revised. We considered the language and found that it would be a good starting point.

Although DHS worked on an interim rule to revise the oath, the rule was never published in the Federal Register. It was never issued. In fact, a draft version was prematurely leaked to the media and was unfortunately interpreted to be an effort to undermine the current oath. DHS chose not to issue this rule due to the considerable public reaction, both positive and negative, to this potential change. But the reaction is the most telling evidence that the concept and meaning of U.S. citizenship is relevant to people from all walks of life, from all political parties and backgrounds. And based on this, we decided that no action should be taken without participation from Congress and the American public.

Now that I have given some insight on what happened last year, I would like to speak about the bigger picture of naturalization and civic integration. Last year, the United States welcomed more than 455,000 new Americans through the process of naturalization. As we prepare our immigrants for U.S. citizenship, we must foster a sense of allegiance to their new country. Congress and the Presi-

dent recognized this through the creation of the Office of Citizenship within the Homeland Security Act of 2002, and since its creation, the Office of Citizenship has taken an ambitious and critically important agenda designed to promote civic integration among newly-arrived immigrants and also to promote awareness of the rights and responsibilities associated with U.S. citizenship.

Preparing immigrants to integrate into the civic culture of the United States requires reaching out to new immigrants at the earliest opportunity to provide them with information they need to adhere to American constitutional principles, develop loyalty to America and actively participate in U.S. civic life. It also requires making the process of naturalization more meaningful, so that immigrants who choose to become citizens have a real understanding of the commitment they are making when they take the Oath of Allegiance.

The significance of the naturalization process is highlighted in the Department of Homeland Security's strategic plan, and I quote, citizenship through naturalization is the ultimate privilege of the immigration system. We will place renewed emphasis on a national effort to cultivate an awareness and understanding of American civic values and to underwrite commitment to United States citizenship. We will promote education and training on citizenship rights, privileges and responsibilities to not only enhance the naturalization experience but also to ensure that the immigration system promotes a civic identity for diverse citizens.

Now, although the Oath of Allegiance is critical to the process of naturalization in many ways, its primary purpose is legal rather than symbolic, unlike the national anthem or Pledge of Allegiance. Taking the Oath of Allegiance at a public naturalization ceremony is typically required in order to effect the applicant's change of status from lawful permanent resident to citizen of the United States of America. The oath has legal significance. In fact, an individual can be subject to denaturalization if he or she is found not to have taken the oath in good faith and without mental reservation.

We have heard from a broad variety of stakeholders from across the political spectrum that the Oath of Allegiance should be updated for several reasons. First, the language of the current oath has been described as archaic by some stakeholders, including representatives of the Citizenship Roundtable, a joint project of the American Legion and the Hudson Institute; second, the current Oath of Allegiance has been criticized for its convoluted, legalistic and cumbersome grammar and sentence structure.

In 1997, the bipartisan U.S. Commission on Immigration Reform recommended that the oath be revised to make it comprehensible, solemn and meaningful. Finally, we have heard concerns that a revision of the current oath might result in weaker language, and this is totally contrary to the goal of a revision, which is to strengthen the Oath of Allegiance and make it relevant in today's society.

Congress has acted on the oath. It established principles for the Oath of Renunciation and Allegiance and codified them in section 337(a) of the Immigration and Naturalization [sic] Act.

With regard to the grammar and sentence structure, the current oath includes legalistic and cumbersome phrasing. It also has un-

necessary redundancies, such as the phrase absolutely and entirely renounce and abjure. At times, immigrants, particularly those who are non-native English speakers, have difficulty repeating the current Oath of Allegiance.

At this time, the Department of Homeland Security continues to study a revision of the Oath of Allegiance. If a decision is made to revise the oath, we believe the formal administrative regulatory process is the most appropriate means to do so. Congress, as I have said before, through the Immigration and Naturalization Act, has provided a clear mandate on the necessary content and substance of the Oath of Allegiance. They are not guidelines; they are requirements that have to be included in the oath.

The Executive Branch has the responsibility, both the responsibility to develop language to meet the legislative requirement and the discretion to make periodic revisions to the oath to make it current and relevant. Revising the oath administratively will allow a full opportunity for the public to provide comment on any proposed change through a rulemaking process. This would, in our view, lead to the best possible result in terms of comprehensibility, appropriateness of language, solemnity, meaning and adherence to principles set forth in the Immigration and Nationality Act.

We appreciate the interest Congress has shown and have listened to your concerns and ideas on this issue. If we proceed to a revision of the Oath of Allegiance, please be assured that Congress and the American public will have ample opportunity to provide comments on any proposed change prior to implementation.

We look forward to working with Congress and other stakeholders to ensure that the Oath of Allegiance and the process of naturalization are meaningful so that our new citizens have a full understanding of their rights and responsibilities to this country.

This concludes my prepared remarks, and I thank you for your invitation, and I will be happy to answer any questions you may have.

[The prepared statement of Mr. Aguilar follows:]

PREPARED STATEMENT OF ALFONSO AGUILAR

Good afternoon Chairman Hostettler, Ranking Member Jackson Lee and Members of the Subcommittee. My name is Alfonso Aguilar and I have the honor of serving as the first Chief of the Office of Citizenship within the Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services (USCIS).

Last year the United States welcomed more than 455,000 new Americans through the process of naturalization. As we prepare our immigrants for U.S. citizenship, we must foster a sense of allegiance to their new country. Congress and the President recognized this through the creation of the Office of Citizenship within the Homeland Security Act of 2002. Since its creation, the Office of Citizenship has undertaken an ambitious, and critically important agenda designed to promote civic integration among newly arrived immigrants and also to promote awareness of the rights and responsibilities associated with U.S. citizenship.

Preparing immigrants to integrate into the civic culture of the United States requires reaching out to new immigrants at the earliest opportunity to provide them with the information and tools they need to adhere to American constitutional principles, develop loyalty to America, and actively participate in U.S. civic life. It also requires making the process of naturalization more meaningful so that those immigrants who choose to become citizens have a real understanding of the commitment they are making when they take the Oath of Renunciation and Allegiance to the United States.

The significance of the naturalization process is highlighted in the Department of Homeland Security's Strategic Plan: "Citizenship through naturalization is the ultimate privilege of the immigration system. We will place renewed emphasis on a na-

tional effort to cultivate an awareness and understanding of American civic values and to underwrite commitment to United States citizenship. We will promote education and training on citizenship rights, privileges and responsibilities, to not only enhance the naturalization experience, but also to ensure that our immigration system promotes a common civic identity for diverse citizens."

In addition, in President Bush's January 7, 2004 unveiling of the Temporary Worker Proposal, he emphasized that any fundamental immigration reform should recognize the importance of citizenship and he has set high expectations for what new citizens should know about our history and government. He has charged USCIS with examining the standard of knowledge in the current citizenship test, to ensure that new citizens know not only the facts of our history, but also the ideals that have shaped our history.

Although the Oath of Renunciation and Allegiance is critical to the process of naturalization in many ways, its primary purpose is legal rather than symbolic, unlike the national anthem or pledge of allegiance. Taking the Oath of Renunciation and Allegiance at a public naturalization ceremony is typically required in order to effect the applicant's change of status from lawful permanent resident to citizen of the United States of America. The Oath has legal significance—in fact an individual can be subject to denaturalization if he or she is found not to have taken the Oath in good faith and without mental reservations.

We have heard from a broad variety of stakeholders from across the political spectrum that the Oath of Renunciation and Allegiance should be updated for several reasons. First, the language of the current Oath has been described as archaic by some stakeholders, including representatives of the Citizenship Roundtable, a joint project of the American Legion and the Hudson Institute. Second, the current Oath of Renunciation and Allegiance has been criticized for its convoluted, legalistic and cumbersome grammar and sentence structure. In 1997, the bipartisan U.S. Commission on Immigration Reform recommended that the Oath be revised to make it "comprehensible, solemn and meaningful." Finally, we have heard concerns that a revision of the current Oath might result in weaker language. This is totally contrary to the goal of a revision, which is to strengthen the Oath of Renunciation and Allegiance and make it relevant in today's society.

The principles embodied in the Oath of Renunciation and Allegiance are codified in Section 337(a) of the Immigration and Nationality Act, which provides that all applicants shall take an Oath of Renunciation and Allegiance that incorporates the *substance* of the following:

(1) Support the Constitution;

(2) Renounce and abjure absolutely and entirely all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which the applicant was before a subject or citizen;

(3) Support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic;

(4) Bear true faith and allegiance to the same; and

(5) (A) Bear arms on behalf of the United States when required by the law; or

(B) Perform noncombatant service in the Armed Forces of the United States when required by the law; or

(C) Perform work of national importance under civilian direction when required by the law.

The language of the current Oath of Renunciation and Allegiance—while derived from earlier versions of the Oath—is the product of Immigration and Naturalization Service rule making in the 1950's. The Oath includes words such as "abjure" and "potentate", which were not in common use at that time, let alone now. The Oath clearly is closely based upon the statutory elements in section 337(a), but it does not repeat them all verbatim; for example, it omits the first statutory element, "Support the Constitution," as adequately included within the third element, relating to the support and defense of the Constitution and laws against enemies. Because the Oath of Renunciation and Allegiance is the cornerstone of the applicant's commitment to the United States, its institutions, and its people, it is critical that applicants unequivocally understand the commitment they are making to this country. Both immigrants and native-born U.S. citizens have trouble making sense of the current language.

With regard to grammar and sentence structure, the current Oath includes legalistic and cumbersome phrasing, such as "of whom or which I have heretofore." It also has unnecessary redundancy, such as the phrase "absolutely and entirely renounce and abjure." At times, immigrants, particularly those who are non-native

English speakers, have difficulty repeating the current Oath of Renunciation and Allegiance. The Oath could be made clearer if the clauses were broken up in a manner that improves both the comprehensibility of the Oath and the dignity of the occasion.

At this time, DHS continues to study a revision of the Oath of Renunciation and Allegiance. If a decision is made to revise the Oath, we believe the formal administrative regulatory process is the most appropriate means to do so. Congress, through the Immigration and Nationality Act, has provided a clear mandate on the necessary content and substance of the Oath of Renunciation and Allegiance. The Executive branch has both the responsibility to develop language to meet the legislative requirement and the discretion to make periodic revisions to the Oath to keep it current and relevant. Revising the Oath administratively will allow a full opportunity for the public to provide comment on any proposed change through a rule making process. This would, in our view, lead to the best possible result in terms of comprehensibility, appropriateness of language, solemnity, meaning, and adherence to the principles set forth in the Immigration and Nationality Act.

We appreciate the interest Congress has shown and have listened to your concerns and ideas on this issue. If we proceed to propose a revision of the Oath of Renunciation and Allegiance, please be assured that Congress and the American public will have ample opportunity to provide comments on any proposed changes prior to implementation.

The Oath of Renunciation and Allegiance is the culmination of an immigrant's preparation to become a naturalized U.S. citizen, but it is not the end of the process of becoming a citizen. The extent to which a new citizen is actually a "good citizen" depends upon many factors, not least of which is an understanding and acceptance of the commitment made to the United States of America. Reciting the Oath of Renunciation and Allegiance, regardless of the language, does not guarantee that the new citizen will be a good citizen. By choosing to become a U.S. citizen, these immigrants must accept both the responsibilities and the rights of citizenship. The USCIS Office of Citizenship is working to ensure that both new immigrants and new citizens are educated about these rights and responsibilities. The end result of these efforts will be a stronger America with a common civic identity that unites its diverse citizens.

We look forward to working with Congress and other stakeholders to ensure that the Oath of Renunciation and Allegiance and the process of naturalization are meaningful, so that our new citizens have a full understanding of their rights and responsibilities to this country.

This concludes my prepared remarks. I thank you for the invitation to testify before this committee and I would be happy to answer any questions.

The current Oath of Renunciation and Allegiance appears in Title 8 of the Code of Federal Regulations:

Sec. 337.1 Oath of allegiance.

(a) Form of oath. Except as otherwise provided in the Act and after receiving notice from the district director that such applicant is eligible for naturalization pursuant to Sec. 335.3 of this chapter, an applicant for naturalization shall, before being admitted to citizenship, take in a public ceremony held within the United States the following oath of allegiance, to a copy of which the applicant shall affix his or her signature:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

Mr. HOSTETTLER. Thank you Mr. Aguilar.

Dr. Fonte?

STATEMENT OF JOHN FONTE, SENIOR FELLOW, THE HUDSON INSTITUTE

Mr. FONTE. Thank you, Chairman Hostettler.

My testimony today has the endorsement of the Citizenship Roundtable and the alliance of the Hudson Institute and the American Legion that was formed in 1999 to strengthen citizenship and promote the patriotic assimilation of immigrants into the American way of life.

American Legion Resolution 169 opposes any and all changes that would dilute the five core elements of the oath. We commend Congressman Jim Ryun for introducing this legislation to reaffirm America's commitment to the Oath of Renunciation and Allegiance, and we also salute officials at the United States Citizenship and Immigration Services, particularly the new chief of the Office of Citizenship, Alfonso Aguilar, who, I know, has been working very hard on this crucial issue and has some excellent ideas on the subject of the oath.

This issue is important because the Oath of Renunciation and Allegiance is essential to American democracy. It is central to who we are as a people. At the core of American self-government is the principle, "we the people of the United States." In taking this oath, the immigrant is voluntarily leaving a previous people and joining the American people. The newcomer is transferring sole political allegiance from his or her birth nation to the United States of America and also from any foreign sovereignty or political actor.

Now, for more than two centuries, this transfer of allegiance has been a central feature of our nation's great success in assimilating immigrants into what has been called the American way of life. We are not simply a nation of immigrants. We are a nation of assimilated immigrants and their descendants. The oath is central to America because of the kind of country that we are. If we were, like many other countries, a regime based on race or ethnicity or religion, the oath would not be crucial.

However, unlike most other countries, our nationhood is not based on these factors but instead on political loyalty to American constitutional democracy, so it is precisely because we are a nation of assimilated immigrants that we must be serious about the Oath of Renunciation and Allegiance.

Now, this oath, this transfer of allegiance is at the heart of citizenship and naturalization. To retain allegiance to another constitution besides the American Constitution and thus to belong to another people besides the American people is inconsistent with the moral and philosophical foundations of American constitutional democracy. So it is vitally important that we have an oath that is rhetorically unambiguous and substantively significant to the majesty of American citizenship and the meaning of American citizenship.

Both Congressman Ryun and Senator Alexander are right that the current oath possesses powerful, historic and majestic language and phrases. We know that others disagree and object to words like abjure and potentate. Reasonable people can disagree about the utility of these two words. But what we feel is essential are three major points: first, that Congress should decide the oath. This is something for the elected representatives of the people; second,

that the five elements of the current oath must be maintained. This should essentially be the "default position;" and third, that questions on the meaning of the oath should be part of the civics history test that applicants for citizenship take.

In today's post-9/11 and globalizing world of increasing transnational ties and continuous high immigration, it is more important than ever that the meaning of the Oath of Renunciation and Allegiance remain clear to all citizens, immigrant and native-born alike. Therefore, we believe it is essential that questions on the meaning of the oath be incorporated into the history and Government test that applicants for citizenship take.

Candidates for citizenship, when they apply for naturalization, should be given study guides that explain the meaning of the oath and told that there will be questions about it on the test. In other words, it should be clearly explained to new citizens by the United States Citizenship and Immigration Services, Department of Homeland Security, that the oath means that they have a moral obligation to give up all political allegiance, loyalty and citizenship from their birth nations and from non-state actors and foreign powers; that upon taking this oath, their sole political allegiance is to the United States of America.

Incorporating the principles and elements of the oath in the citizenship test should not be difficult. Current candidates for citizenship are asked questions such as, "What is the Constitution?", "What are the duties of Congress?" The current test also includes less appropriate questions, such as, "What form is used to apply to become a naturalized citizen?"

Certainly, candidates for American citizenship could be asked questions such as, "What do citizens promise to do when they take the Oath of Renunciation and Allegiance?" "What is it they are doing?" So including questions on the meaning of the Oath of Renunciation and Allegiance in the citizenship test would help make the naturalization process what it should be. It should be a rite of passage much as a communion or a confirmation or a bar or bat mitzvah or a wedding ceremony, for as James Madison declared in Federalist 49, our democratic republic requires both enlightened reason and a certain degree of veneration in order to endure.

From a serious orientation program at the beginning of the process when immigrants first apply to citizenship to studying for and passing the history and Government test and the language test to the final ceremony, the citizenship naturalization experience should be meaningful, dignified and inspiring. In short, it should foster patriotism.

For new Americans, the naturalization process should be a major life-altering experience. Thank you.

[The prepared statement of Mr. Fonte follows:]

PREPARED STATEMENT OF JOHN FONTE

Thank you, Chairman Hostettler. I am John Fonte, a Senior Fellow at the Hudson Institute and director of the Center for American Common Culture. My testimony today has the endorsement of the Citizenship Roundtable, an alliance which the Hudson Institute and the American Legion formed in 1999 to strengthen citizenship, and to promote the patriotic assimilation of immigrants into the American way of life. I would like to introduce into the record American Legion Resolution Number 169 that states that:

"The American Legion opposes any and all changes to the Oath of Renunciation and Allegiance, as used in naturalization ceremonies, that would dilute or eliminate any of the following important and necessary elements of the Oath:

(1) Support for the Constitution of the United States of America
(2) Renunciation of all allegiances to foreign states or sovereignties
(3) Support for and defense of the Constitution and laws of the United States of America against all enemies foreign and domestic
(4) Bear 'true faith and allegiance' to the United States of America and
(5) Bear arms on behalf of the United States, or perform work of national importance on behalf of the United States."

We commend Congressman Jim Ryun for introducing this legislation to reaffirm America's commitment to the Oath of Renunciation and Allegiance and to codify it into law. We also salute the officials at United States Citizenship and Immigration Service, particularly the Chief of the new Office of Citizenship, Alfonso Aguilar, who has been working hard on this crucial issue and has some excellent ideas on the subject of the Oath.

WHY IS THIS IMPORTANT?

This issue is important because the Oath of Renunciation and Allegiance is central to American Democracy. It is central to who we are as a people. At the core of American self-government is the principle of "We the People of the United States," the first words of our constitution expressing the principle of popular sovereignty. In taking this Oath, the immigrant is voluntarily joining "We the People," the sovereign American People. The newcomer is transferring sole political allegiance from his or her birth nation≤and from any other foreign sovereignty or political actor≤to the United States of America. For more than two centuries this "transfer of allegiance" has been a central feature of our nation's great success in assimilating immigrants into what has been called the American way of life. We are not simply a "nation of immigrants" we are a nation of assimilated immigrants and their descendants.

The Oath is central to America because of the kind of country that we are. If we were (like many other nations) a regime based on race or ethnicity or religion, the Oath would not be crucial. However, unlike most other countries our nationhood is not built on race, ethnicity, or religion, but, instead, on political loyalty to American constitutional democracy. It is precisely because we are a "nation of assimilated immigrants," whose citizens come from all parts of the world, that we must be serious about the Oath of Renunciation and Allegiance.

This Oath≤this transfer of allegiance≤is at the heart of citizenship naturalization. To retain allegiance to another constitution besides the American Constitution, and thus to continue to belong to another people besides the American people, is inconsistent with the moral and philosophical foundation of American constitutional democracy.

Clearly, a self-governing people, such as the American people, has the right to determine the rules of admission to citizenship, to its political community≤and there is no evidence that the American people favor dropping the principle of transferring allegiance from the old country to United States, that has been part of our law since the Presidency of George Washington.

HISTORY OF THE OATH OF ALLEGIANCE

The history of the Oath could be roughly divided into two periods: the Founding Era of the 1790s and the Americanization period of the 20th century.

Founding Era. With immigration on the rise after American independence, the Congress passed a series of laws regulating the citizenship naturalization of newcomers. The Naturalization Acts of 1790 and 1795 required new citizens to take an oath of allegiance to support and defend the Constitution and laws of the United States and to renounce all previous political allegiances. In addition, the new citizens were required to be of "good moral character," "attached to the principles of the Constitution" and "well disposed to the good order of the United States." All of these requirements remain part of the law today.

The Founding Fathers favored what could be called the "patriotic assimilation" of immigrants into the mainstream of American life. Thus, George Washington wrote to John Adams that he envisioned immigrants getting "assimilated to our customs, measures, laws," and because of this, Washington believed, native-born citizens and immigrants would "soon become one people."

In a 1790 speech to Congress on the naturalization of immigrants, James Madison stated that America should welcome immigrants who could assimilate, but exclude those who would "not incorporate" themselves into our society. Alexander Hamilton recommended gradually drawing newcomers into American life, "to enable aliens to get rid of foreign and acquire American attachments; to learn the principles and imbibe the spirit of our government; and to admit of a philosophy at least, of their feeling a real interest in our affairs."

Americanization period. During the period of large-scale immigration at the beginning of the 20th century America's political and civic leaders (including Theodore Roosevelt, Woodrow Wilson, Louis Brandeis, Jane Addams) supported a policy "Americanization."

In the spirit of Americanization Theodore Roosevelt declared that: "the immigrant who comes here in good faith [and] becomes an American and assimilates himself to us . . . shall be treated on an exact equality with everyone else, for it is an outrage to discriminate against any such man because of creed or birthplace or origin. But that is predicated upon the man's becoming an American and nothing but an American . . ."

Roosevelt's chief political rival, Woodrow Wilson, also supported Americanization. He told a mass naturalization ceremony in 1915:

> "I certainly would not be one even to suggest that a man cease to love the home of his birth and the nation of his origin—these things are very sacred and ought not to be put out of our hearts—but it is one thing to love the place where you were born and it is another to dedicate yourself to the place to which you go. You cannot dedicate yourself to America unless you become . . . with every purpose of your will thoroughly Americans . . ."

As part of this Americanization policy, citizenship naturalization requirements were standardized. In 1905 a Commission on Naturalization appointed by President Theodore Roosevelt recommended the following as a standard Oath of Renunciation and Allegiance (for a hypothetical immigrant from Great Britain):

> "I John Smith, do solemnly swear that I support and defend the Constitution and the laws of the United States against all enemies, foreign and domestic, that I will bear true faith and allegiance to the same, that I absolutely and entirely renounce and abjure all allegiance to any foreign prince, potentate, state, or sovereignty, and particularly my allegiance to King Edward VII of whom I was formerly a subject, and that I take this obligation freely without any mental reservation or purpose of evasion, so help me God."

In 1929 regulations for specific oath language were enacted that began with the renunciation of all allegiance to any foreign prince, potentate, state, or sovereignty and followed with a promise to "support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic." On the eve of World War II the phrase "I will bear arms on behalf of the United States" was added to the elements of the oath. The current oath based on the five elements, is as follows:

> "I hereby declare on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject of citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by law; that I will perform noncombatant service in the Armed Forces of the United States when required by law; that I will perform work of national importance under civilian direction when required by law; and that I take this obligation freely without any mental reservation or purpose of evasion; so help me God."

CONCLUSION: H.R. 3191 AND THE CENTRALITY OF THE FIVE ELEMENTS OF THE OATH

It is vitally important to have an Oath that is rhetorically unambiguous and inspiring, and substantively significant to the meaning of American citizenship. The language should be solemn and majestic. It must not be pedestrian. Above all, it should both focus the mind and stir the heart.

Congressman Jim Ryun has stated that "we need a forceful and uncompromising Oath of Allegiance." The Senate sponsor, Lamar Alexander, has declared that he likes the current Oath because "It has strength. It has clarity."

Congressman Ryun and Senator Alexander are certainly right that the current Oath possesses powerful, historic, and majestic language and phrases. We know

that others disagree and object to words like "abjure" and "potentate" that they call archaic and obscure.

Reasonable people can disagree about the utility of these two words, but what is absolutely essential are three major points.

First. Congress should decide the Oath

The Oath is a serious expression of American national identity (like, for example, the National Anthem) that should be decided by the elected representatives of the people. No single Administration should be able to change or alter the words of the Oath on their own volition.

Second. The Five Elements of the Current Oath must be maintained.

This means that either the current historic oath should be codified as is, or codified with some very minor stylistic changes (by, for example, dropping one or two words such as "abjure" and "potentate.") The five elements of the current oath (some of which has been in use since the 1790s), and the core language of the current oath should be the "default position." The five elements are the substantive heart of the Oath. It is imperative to retain these five elements and the traditional core phrases of the Oath that focus the mind and stir the soul, such as: "I absolutely and entirely renounce . . . all allegiance and fidelity to any foreign state or sovereignty; "that I will defend the Constitution and laws of the United States against all enemies foreign and domestic;" "that I will bear arms on behalf of the United States; "that I will bear true faith and allegiance;" "that I take this obligation freely, without any mental reservation or purpose of evasion, so help me God."

Third. Questions on the meaning of the Oath should be part of the civics/history test that applicants for citizenship take.

In today's post 9/11 and globalizing world of increasing transnational ties and continuous high immigration, it is more important than ever that we get citizenship naturalization right. It is vital that the meaning of the Oath of Renunciation and Allegiance remain clear to all citizens, immigrant and native born alike. Our new fellow citizens should clearly understand the nature of the moral commitment that they are making to the American democratic republic.

Therefore, we think it is essential that questions on the meaning and significance of the Oath (and the five elements of the Oath) be incorporated into the history-government test that applicants for citizenship take. Upon beginning the naturalization process, candidates for citizenship should be given study guides that clearly explain the meaning of the Oath (and its five elements) and told that there will be questions about it on the test. At this point, what could be considered as more obscure terms could be explained with examples given. For example, Osama Bin Laden meets one definition of potentate ("one who dominates or leads any group or endeavor.")

It should be clearly explained to new citizens by the Department of Homeland Security, United States Citizenship and Immigration Service, that the Oath means that they have a moral obligation to give up all political allegiance, loyalty, and citizenship, from their birth nations and from non-state foreign powers, and that upon taking the Oath, their sole political allegiance is to the United States of America.

Incorporating the principles and elements of the Oath in the citizenship test should not be difficult. They could be incorporated into a multiple choice test or other format. Currently candidates for citizenship are asked questions such as: What is the Constitution? What are the duties of Congress? Name one benefit of becoming a citizen of the United States? The current test also includes less appropriate questions such as "What INS (USCIS) form is used to apply to become a naturalized citizen"? Certainly candidates for American citizenship could also be asked questions such as: "What does the Oath of Renunciation and Allegiance mean"? "What do new citizens promise to do when taking the Oath"? "What is one thing that new citizens promise to do when taking the Oath"?

Including serious questions on the meaning of the Oath of Renunciation and Allegiance in the citizenship test would help make the naturalization process what it should be. That is to say, it should be a "rite of passage, "much as a communion, confirmation, bar or bat mitzvah, graduation, or wedding ceremony. For as James Madison declared in Federalist 49 our democratic republic requires both "enlightened reason" and a certain degree of "veneration" in order to endure.

From a serious orientation program at the beginning of the process when immigrants first apply for citizenship, to studying for and passing the history/government and language tests, to the final ceremony, the citizenship naturalization experience should be meaningful, dignified and inspiring. In short it should foster patriotism. For new Americans, the naturalization process should be a major life-altering experience.

Mr. HOSTETTLER. Thank you, Dr. Fonte.

Dr. Schoenholtz?

STATEMENT OF ANDREW SCHOENHOLTZ, DEPUTY DIRECTOR, INSTITUTE FOR THE STUDY OF INTERNATIONAL MIGRATION, GEORGETOWN UNIVERSITY

Mr. SCHOENHOLTZ. Thank you very much, Mr. Chairman. It is an honor to be here speaking with everyone.

Comprehensible, solemn and meaningful, that is what the naturalization oath of the United States should be, declared the bipartisan U.S. Commission on Immigration Reform in 1997, after considered reflection. As the former deputy director of the Commission, I am pleased to explain to you why the Commission reached that conclusion and proposed a new oath.

First, a word on the Commission. Congress established and funded this body for a period of 5 years, from 1992 to 1997, to study and make recommendations on the reform of our immigration laws and policies where needed. The Commission consisted of nine members: four appointed by the Senate, two Republicans and two Democrats; four appointed by the House, two Republicans and two Democrats, and the chair appointed by the President. Former Congresswoman Barbara Jordan chaired the commission until her death in 1996, when former Education Secretary and U.S. Court of Appeals Judge Shirley Hufstedler became chair.

Importantly, the Commission worked by consensus. Most decisions were unanimous. The decision to recommend a new oath was agreed to by all nine commissioners. With respect to the oath, the Commission first examined the current law, which has remained unchanged since its enactment in 1952. The statute requires the five elements that have already been discussed today.

The Commission determined that the statute continued to serve the national interests of the United States and did not need any change. The Commission then carefully examined the form of the oath that the Executive Branch established pursuant to regulation. The commissioners found that form wanting, particularly in terms of clarity. They doubted that most people understood the dated language of abjure and potentate, the archaic form and the convoluted grammar of that oath.

They believed, however, that newly-naturalized citizens must understand exactly what they are saying when they pledge allegiance to this country and to what it stands for. The commissioners determined that the oath needed to be comprehensible in order to be meaningful and solemn. To ensure that the oath conveyed the core meaning of becoming an American citizen, they asked Commissioner Richard Estrada, an eloquent writer and at the time a journalist for the *Dallas Morning News,* to draft a new oath.

Generally, consensus was not easily achieved by this very diverse group of nine commissioners. A unanimous recommendation, based on a proposal by Commissioner Estrada, one of the most conservative members of the Commission, was a real challenge. But in this case, the Republican appointed by Senator Simpson of Wyoming did all of his persuading through lucid and eloquent language. For all nine commissioners, the recommended oath delivered the solem-

nity and meaning of the extraordinary occasion of becoming an American citizen in a clear and fluent fashion.

In recommending this new oath, the Commission made two important determinations: first, they found that Congress had fulfilled its legislative duties well in setting forth the five required elements of the oath. Second, they recognized that language is a living expression of culture that grows and evolves; that the American language had evolved considerably since the language of the current oath started developing in the 18th Century and that from time to time, the Executive Branch should update the language so that those naturalizing understand and appreciate the solemnity and meaning of becoming an American citizen.

From the Commission's point of view, then, H.R. 3191, which would codify the current regulatory oath, should not be enacted for two important reasons: first, as I just explained, clear language is needed to make the oath solemn and meaningful. H.R. 3191 would prevent this needed reform from taking place. Second, Congress has duly exercised its legislative responsibility by setting forth the required elements of the oath and has rightfully determined, until now, that the Executive Branch is best suited to establish the specific language of the oath that incorporates all the required elements.

In its wisdom, Congress has already recognized that the difficult process of legislative change should not be imposed in this area by specifying the language of the oath in statute. By setting out the language of the oath in statute, H.R. 3191 would make it considerably more difficult for future generations to ensure that the naturalization oath is clear, solemn and meaningful.

In contrast, I know that the Commission would be pleased that Director Aguirre of the Department of Homeland Security's Citizenship and Immigration Services has taken their recommendation to heart and hopes to do precisely what the Commission intended: create a clear, solemn and meaningful oath for the new citizens today. I have no doubt that the commissioners would unanimously support him in his endeavor, particularly if a new oath reflects the eloquence of Commissioner Estrada's lucid words.

Members of the Committee, thank you for considering my testimony today.

[The prepared statement of Mr. Schoenholtz follows:]

PREPARED STATEMENT OF ANDREW I. SCHOENHOLTZ

Comprehensible, solemn, and meaningful. That is what the naturalization oath of the United States should be, declared the bi-partisan U.S. Commission on Immigration Reform in 1997 after considered reflection. As the former Deputy Director of that Commission, I am pleased to explain to you why the Commission reached that conclusion and proposed a new oath.

First, a word on this Commission. Congress established and funded this body for a period of five years (1992–1997) to study and make recommendations on the reform of our immigration laws and policies where needed. The Commission consisted of 9 members: four appointed by the Senate (two Republicans and two Democrats), four appointed by the House (two Republicans and two Democrats), and the Chair appointed by the President. Former Congresswoman Barbara Jordan chaired the Commission until her death in 1996, when former Education Secretary and U.S. Court of Appeals Judge Shirley M. Hufstedler became chair.

Importantly, the Commission worked by consensus. Most decisions were unanimous. The decision to recommend a new oath was agreed to by all nine Commissioners.

With respect to the naturalization oath, the Commission first examined the current law, which has remained unchanged since enactment in 1952. The statute requires that the oath contain five elements:

(1) support for the Constitution;

(2) renunciation of prior allegiance;

(3) defense of the Constitution and the laws of the United States against all enemies, foreign and domestic;

(4) true faith and allegiance to the Constitutions and laws; and

(5) a commitment to bear arms or perform noncombatant service when required by law.

The Commission determined that the statute continued to serve the national interest of the United States and did not need any change.

The Commission then carefully examined the form of the oath that the Executive branch established pursuant to the statute in Title 8, Code of Federal Regulations, Part 337.1:

> "I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God."

The Commissioners found that form wanting, particularly in terms of clarity. They doubted that most people understood the dated language of "abjure" and "potentate," the archaic form, and the convoluted grammar of the existing oath. They believed, however, that newly naturalized citizens must understand exactly what they are saying when they pledge allegiance to this country and what it stands for. The Commissioners determined that the oath needed to be comprehensible in order to be meaningful and solemn. To ensure that the oath conveyed the core meaning of becoming an American citizen, they asked Commissioner Richard Estrada, an eloquent writer and at the time a journalist for the Dallas Morning News, to draft a new oath.

Generally, consensus was not easily achieved by this very diverse group of nine Commissioners. A unanimous recommendation based on a proposal by Commissioner Estrada, one of the most conservative members of the Commission, was a real challenge. But in this case, the Republican appointed by Senator Simpson of Wyoming did all his persuading through lucid and eloquent language. For all nine commissioners, the recommended oath delivered the solemnity and meaning of the extraordinary occasion of becoming an American citizen in a clear and fluent fashion:

> "Solemnly, freely, and without any mental reservation, I hereby renounce under oath all former political allegiances. My sole political fidelity and allegiance from this day forward is to the United States of America. I pledge to support and respect its Constitution and laws. Where and if lawfully required, I further commit myself to defend them against all enemies, foreign and domestic, either by military or civilian service. This I do solemnly swear, so help me God."

In recommending this new oath, the Commission made two important determinations. First, they found that Congress had fulfilled its legislative duties well in setting forth the five required elements of the oath. Second, they recognized that language is a living expression of culture that grows and evolves, the American language had evolved considerably since the language of the current oath started developing in the 18th century, and from time to time the Executive branch should update the language so that those naturalizing understand and appreciate the solemnity and meaning of becoming an American citizen.

From the Commission point of view, then, H.R. 3191, which would codify the current regulatory oath, should not be enacted for two important reasons. First, as I just explained, clear language is needed to make the oath solemn and meaningful. H.R. 3191 would prevent this needed reform from taking place. Second, Congress has duly exercised its legislative responsibility by setting forth the required elements of the oath and has rightfully determined until now that the Executive

branch is best suited to establish the specific language of the oath that incorporates all the required elements. In its wisdom, Congress has already recognized that the difficult process of legislative change should not be imposed in this area by specifying the language of the oath in statute. By setting out the language in statute, H.R. 3191 would make it considerably more difficult for future generations to ensure that the naturalization oath is clear, solemn, and meaningful.

In contrast, I know that the Commission would be pleased that Director Aguirre at the Department of Homeland Security's Citizenship and Immigration Services has taken their recommendation to heart and hopes to do precisely what the Commission recommended: create a clear, solemn and meaningful oath for the new citizens of today. I have no doubt that the Commissioners would unanimously support him in this endeavor—particularly if a new oath reflects the eloquence of Commissioner Estrada's lucid words.

Members of the Subcommittee, thank you for considering my testimony today. I would be pleased to answer any questions you may have at this time.

Mr. HOSTETTLER. Thank you, Dr. Schoenholtz.

We will now turn to questions. Representative Ryun, do you believe that any of the language of the oath as it is today is archaic and should be more modern?

Mr. RYUN. Mr. Chairman, some of the words are not widely-used; at the same time, if there is a way of modernizing it without compromising the intent, you know, I am not opposed to that. H.R. 3191 does not preclude being able to modernize in some way. I think one thing that I want to keep with the intent here is that, you know, some of the words are a little difficult. However, what they do is they cause the immigrant working through this to pause and realize the seriousness of what they're doing. If there's something we can do without compromising the intent, then yes, I think that is substantially fine. That is what the intent of the bill is.

Mr. HOSTETTLER. Do you believe that the five principles of citizenship embodied in the oath are as meaningful today as they were when Congress wrote them?

Mr. RYUN. They are meaningful if not more meaningful as a result of the things that have happened in recent time.

Mr. HOSTETTLER. Very good.

Mr. Aguilar, it was not Citizenship and Immigration Services' intent, was it, to imply in the proposed oath of last year that the only duty that naturalized citizens have to defend the Constitution and laws of the United States is by being consented to being drafted and not a lifelong obligation to uphold the principles of our republic in everything that they do, was it?

Mr. AGUILAR. No, not at all.

Mr. HOSTETTLER. Your microphone, if you could—that is all right.

Mr. AGUILAR. No, not at all, and I should clarify that at this point, we are currently working on new language that is considerably different from the one that was circulated last year, and the fundamental thing that we are looking for here is that we, of course, include the five components that are required by the Immigration and Nationality Act.

But at the same time, because taking the oath is a legal action, we want to make sure that people taking the oath understand clearly what they are swearing allegiance to. So we definitely, and I agree with the Congressman, we want to strengthen the language. He mentioned, for example, that we should recognize all the geopolitical threats that our country recognizes right now. I think that is appropriate. Perhaps instead of mentioning all of the dif-

ferent principates, potentates or sovereign entities and potentates, I guess could be understood as a terrorist group, but I think we could simplify that and use terminology, for example, like foreign state and power. Power, I think, would cover groups like al-Qaeda and other terrorist groups.

So I think there is room here to work, but we have to make sure, because that is the mandate from Congress, that we meet those five requirements. And that, we are going to make sure that we meet. But at the same time, we want to make sure that we include comments from the public, from citizens and obviously from Congress.

Mr. HOSTETTLER. And with regard to the five requirements in law, I see a nuance change in the proposed language where the requirement in statute explicitly says that an oath must include the mention of bearing arms on behalf of the United States when required by law. And that does not differentiate between military service and, say, the context of the second amendment to the Constitution regarding civilian keeping and bearing of arms. And so, the original oath, the current oath, does explicitly refer to bearing arms and does not make a differentiation between who bears arms, but in the proposed oath by the Bureau, it says, "where and if lawfully required, I further commit myself to defend the Constitution and laws of the United States against all enemies, foreign and domestic, either by military noncombatant or civilian service."

And because it does not speak explicitly to the point made in statute with regard to bearing arms, and because it explicitly does mention military service in relationship to noncombatant or civilian service, there is, to me, once again a nuance that we may be changing the notion that civilians who are not under military control may be required, if there is an assault on the homeland, to bear arms. And it seems to me that the explicit mention of that in statute as it is today is once again harkening back to our War for Independence and the second amendment.

Can you speak to that?

Mr. AGUILAR. Absolutely, and let me say that I agree with you wholeheartedly. In the language that we are working on right now, we are actually addressing that issue. And right now, we believe that the principle of bearing arms should be included in the oath.

Mr. HOSTETTLER. For nonmilitary citizens?

Mr. AGUILAR. So it is understood as it is right now in the current oath.

Mr. HOSTETTLER. Thank you.

My time is up, and our time may be up. And since our time is not up, please continue with what you were mentioning.

Mr. AGUILAR. Right, so it would basically make the point that the current oath makes now, and if I can just find the language—exactly, make the point that it says right now: I will bear arms on behalf of the United States when required by law. We believe that we should keep that concept as we are working on new language that that concept should be included for civilian individuals.

Mr. HOSTETTLER. Citizens.

Mr. AGUILAR. Citizens, yes.

Mr. HOSTETTLER. Very good.

Dr. Schoenholtz, I have questions for you, too. It was not the Commission on Immigration Reform's intent, once again, that the only duty that naturalized citizens would have to defend the Constitution and laws of the United States is by consenting to be drafted, was it?

Mr. SCHOENHOLTZ. Not in the least.

Mr. HOSTETTLER. Do you know in your discussion why the notion of bearing arms by citizens was not—once again, it seems like the language, to me, refers to the bearing of arms strictly by the military, and then, in relationship to so-called noncombatant service and civilian service.

Mr. SCHOENHOLTZ. Frankly, it was not a major discussion among the commissioners. In fact, they simply found Commissioner Estrada's language clearer. They didn't think it raised any of these issues. Had they, I am sure there would have been much more discussion about it.

I think Commissioner Estrada, were he able to speak to you today; unfortunately, he passed away several years ago.

Mr. HOSTETTLER. Yes.

Mr. SCHOENHOLTZ. Would tell you the very same thing, that certainly, there was no intent to change the meaning of those elements. He thought and the commissioners, all nine, thought, they captured that meaning, and they certainly were not trying to change the intent of Congress in that. They thought this was clearer.

Mr. HOSTETTLER. Thank you.

Dr. Fonte, why do you believe that the oath plays such a key role in making new citizens part of the American family?

Mr. FONTE. Well, as I said in my testimony, I believe that the oath—because of the kind of country that we are, a nation not based on race or ethnicity and religion but on loyalty to our Constitutional democracy. What the immigrant is doing is leaving a previous people and joining the American people, becoming part of the sovereign American people.

If I could make a comment on what some of the other—what the discussion has been on the oath itself, we worked with Congressman Gekas, when he was Chairman of the Committee, with the Citizenship Roundtable, and he wanted to drop abjure and potentate, and we thought that was fine, and basically kept everything else the same. Now, Chief Aguilar has a suggestion in putting in the word "power" instead of "potentate." A foreign power, then, would be—al-Qaeda or a terrorist group could be constituted as a foreign power.

Now, the other point that I wanted to emphasize is that upon applying for naturalization, the applicants for citizenship do get the oath, so they have 6 months or sometimes, we know it takes a long time to become a citizen; it may take years, they have time to study the meaning of the oath. So this is a very short—whatever is come up with and even the current one could be explained exactly what is in the documents given to the applicants, and they have a lot of time to study the meaning of the oath, so there is a period of time to understand exactly what it means.

Mr. HOSTETTLER. Very good.

And so as not to seem as an overly despotic potentate at this point—— [Laughter.]

I would like to recognize the gentlelady from Texas, the Ranking Member of the Subcommittee, Ms. Jackson Lee, for an opening statement and for questions.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman.

I hope you offer to the witnesses, Mr. Ryun, that the Science Committee markup was doing something probably a little bit awry from this hearing on green chemistry, and for those of you who may not be aware, I wear a scientist's hat in my own mind, but I had an amendment, so I apologize to the Chairman, but I thank the Committee very much for this hearing.

Allow me to offer a few words of an opening statement and to say that I surmise and would believe that the support of the change in the language or the support of preserving the language is one that has been offered with great commitment and intent to the principles and the value of citizenship in the United States, and I respect that.

Taking an oath is a critical legal step in becoming a naturalized citizen, and in this Committee, both of us, the Chairman and the Ranking Member have spoken about the values of accessing citizenship. We may come at it in a different perspective, or we may have different solutions, but the value of accessing citizenship or the value of citizenship is taken very seriously in this Committee.

The words of the Oath of Allegiance convey the core meaning of becoming an American citizen. The Naturalization Act of 1790 and other early statutes required new citizens to swear an oath containing the elements of the current language, but prior to 1906, naturalization courts had free rein in determining the actual words.

As there were approximately 5,000 such courts, there was a wide variation in the language used, and might I suggest to you that that was the time when America opened its doors and its shores to immigrants who came for economic opportunity. We're reminded of the Statue of Liberty and the words that she posts on her figure.

It is interesting as well that in that time, though we went through our share of discrimination, the doors remained open and our hearts as well. Any of us who have attended naturalization services realize that the intensity, commitment, the joy, the celebration is equal, probably, to those years past. In 1905, Teddy Roosevelt's Commission on Naturalization recommended that naturalization laws should be rewritten to be more effective and consistent.

The basic Naturalization Act of 1906 implemented most of the Roosevelt Commission's recommendations, but it did not mandate a specific text for the oath. Regulations were not enacted until 1929. The Naturalization Act of 1940 provided that the elements of the naturalization oath prescribed by regulation must all be present in the spoken oath to make it a binding act. The 1952 McCarran-Walter Act required an oath with five specific elements, but it left the actual words to regulations and the discretion of judges who administer the oath.

The following elements were specified: support for the Constitution; renunciation of prior allegiance; defense of the Constitution

against all foreign and domestic enemies; true faith and allegiance to bear arms or noncombatant service as required.

Mr. Chairman and the panel, I agree with the elements of this oath. They are realistic; they are minimal, but they are necessary. In 1997, the U.S. Commission on Immigration Reform determined that Congress had fulfilled its legislative duties by establishing the five required elements. The Commission also determined that the language of the oath is a living expression of culture that grows and evolves. And it concluded that the language of oath should be updated, and might I repeat what the Commission concluded, that the oath is a living expression of culture that grows and evolves.

It unanimously recommended a new naturalization oath written by Richard Estrada. In late 2003, the Bush administration announced its intention to adopt the following, slightly modified version of the Estrada oath: "Solemnly, freely and without mental reservation, I hereby renounce under oath all allegiance to any foreign state. My fidelity and allegiance from this day forward is to the United States of America. I pledge to support, honor and be loyal to the United States, its Constitution, and its laws. Where and if lawfully required, I further commit myself to defend the Constitution and laws of the United States against all enemies, foreign and domestic, either by military, noncombatant or civilian service. This, I do solemnly swear, so help me, God."

This proposal met with resistance. For instance, former Attorney General Edwin Meese objected that the proposed language only asked new citizens to renounce their allegiance to "foreign state." He argued that, "In an era of international but non-state-specific terrorism, this singular reference is not sufficient. At the very least, an additional reference to 'sovereignty' or other appropriate terms should be maintained."

The Citizenship Roundtable objected to the dropping of the phrase, "I will bear arms on behalf of the United States," which it felt should clearly be understandable by anyone who wishes to become an American citizen.

I welcome such a debate over the text of our naturalization oath. But the need to resolve such issues does not require Congressional intervention or justify making the oath a statutory provision. I agree with the U.S. Commission on Immigration Reform that the language of the oath should be updated to make it meaningful to the people being naturalized. The current oath's dated language, archaic form and convoluted grammar prevent it from being widely understood by new citizens.

On the other hand, I also agree with my colleague, Congressman Ryun, that changes should not be made hastily. I believe that the oath should only be changed by regulations promulgated in accordance with the safeguards of the Administrative Procedure Act.

Mr. Chairman, I ask that my statement be submitted into the record or that it be accepted, rather, into the record.

Mr. HOSTETTLER. Without objection.

Ms. JACKSON LEE. Let me briefly take some questions, in particular to my colleague, Mr. Ryun.

In general, Congress sets out major parameters for immigration law and leaves it up to the Executive Branch to work out the implementing details. This has been the practice for many years with

respect to the Oath of Allegiance. And my question, of course, which is a question included in my statement, is why now, and why should we alter that practice?

Mr. RYUN. Thank you very much for your opening statement, and let me also address your question.

First of all, the reason this was brought to the attention of the Judiciary Committee is simply because there were some considerations for a language change that could have compromised the intent, I think, of the original Oath of Allegiance, and the reason for this legislation is simply to bring that debate where I think it should be addressed, and that is to the appropriate Committee, to the House of Representatives, to our elected officials, with Congressional oversight so that there would be a good, healthy debate and keep the intent of what was designed as the Oath of Allegiance from the very beginning.

Ms. JACKSON LEE. Mr. Ryun, let me just say that the explanation could result in quite the contrary, and I guess my concern would be that we would constantly be amending the language by statutory effort and altering a simple oath that would be clear on its face and clear to those who are taking the oath of office including all of the elements.

As I look at the oath as presently constructed, we do have to support and honor and be loyal to the United States, and we also have to defend the United States against all enemies, foreign and domestic, either by military, noncombatant or civilian service. Where lies the confusion or the necessity to clarify?

Mr. RYUN. The intent, again, is to bring that before a body such as this where you would have the kind of debate I think that is necessary, again, to move it forward as opposed to allowing a bureaucracy on the outside to make such a decision without having Congressional oversight.

So, again, the intent is to ensure that we keep those five basic principles that are there. Perhaps there is a need to address some of the modernization of some words, and I recognize some of them are hard to say. But when you say them, and you have to pause and say them, it causes you to realize the seriousness of what the immigrant is getting involved in in terms of citizenship.

I am not opposed to modernizing some of the words, but let us not abandon the time-tested principle of Congressional oversight.

Ms. JACKSON LEE. Mr. Schoenholtz, how do you respond to the argument made by Congressman Ryun, and does the climate today require us to codify and make statutory a simple oath? Are we in any way weeding out terrorists if we have a statutory basis? Are we gaining anything by this approach?

Mr. SCHOENHOLTZ. Ms. Jackson Lee, I think that Congress would not be gaining anything by enacting statutory language. In fact, I think we might be losing something here. The usual division of carrying out the responsibilities between the Congress and the Executive Branch is that Congress has set forth the major policies. That is what it has done with regard to the naturalization oath. It has the five required elements. And it has required the Executive Branch then to work out the details, important details, very important here, and they have done so through the regulatory process in the past, and that is certainly what they should do again today.

By enacting something in statute, which we know takes considerable effort, it means that it may be difficult in the future, that much more difficult in the future, for future generations to have a clear, solemn and meaningful oath. I think that the best way to move forward at this point is to hear all of the stakeholders on this issue, which I know that the Department of Homeland Security has been doing, and I can say that the Commission did; and then, move ahead with the regulatory process, which is a meaningful process; it is notice and comment rulemaking that should take place, and all Americans should be heard in this manner.

That way, we will have a meaningful oath today, for today's new citizens, and the next generation, if they feel they need to update it for good reasons they can go through a similar process. That process will guarantee the same protections, I believe, that a Congressional process would, but it won't mean that it will be that difficult to change in the future if necessary.

Ms. JACKSON LEE. And what do we gain, you've asked us, what do we gain by, besides the difficulty of changing statutory language, is there some suggestion of us being safer, that this has sort of a grounding in the changing mode that we're in after 9/11 as it relates to a citizenship pledge? Is there any argument that we could make that the times have changed and that we require statutory intervention? Is there any argument that you would see valid at this time?

Mr. SCHOENHOLTZ. Not at this time. I believe that the Department is as committed as the Congress is to making sure that our country is protected from any security risks. Our process guarantees that. I am not concerned in the least that the Executive Branch process would result in any security risks to our country. Therefore, on the whole, I think we would be much better off going down that path.

Ms. JACKSON LEE. I thank the gentleman.

I thank the Chairman.

Mr. HOSTETTLER. The Chair recognizes himself for 1 minute out of order. Dr. Schoenholtz, why would you think that the people directly elected by the citizens of this country would be less able to determine the oath of citizenship through statute than would the Executive Branch, selected by an electoral college and regulators, those very important employees in the Executive Branch that are not elected by citizens but that are appointed, employed, hired by that Executive Branch, why would you think that they would be more capable of doing that than would the people directly elected by the citizens?

Mr. SCHOENHOLTZ. Mr. Chairman, I apologize if you thought I was saying that the Congress is less able than the Executive Branch. That is not at all what I am saying. I am saying that the Executive Branch is perfectly capable of doing this, and the division of power that has existed in our immigration laws in general and specifically regarding the naturalization oath, has worked just fine. And that is Congress should be focusing on the major policies set forth by our immigration laws.

Those are difficult enough to achieve. It has traditionally left to the Executive Branch the implementation of those laws, and I think that is the better system that we should continue to follow.

It was certainly not meant to suggest that Congress is not capable of doing this; Congress is. But the Congressional process would also make it not only difficult now, but in the future to effect such change, whereas, I think the procedures, through the APA—we are talking about notice and comment rulemaking—that have traditionally allowed all of the stakeholders to play a role in this process, and I have seen it done very well; I work with a lot of people in the field, and I am sure that the talented people at this table and others will be coming forth to make excellent suggestions on how to develop the new oath. So I believe they are also capable of doing this.

Thank you.

Mr. HOSTETTLER. Thank you.

The Chair now recognizes the gentlelady from Tennessee, Mrs. Blackburn, for 5 minutes.

Mrs. BLACKBURN. Thank you all, and thanks for letting me step back in the hearing, Mr. Chairman. We had a markup next door in Government Reform, so I had to get over there for a few moments.

Dr. Schoenholtz and Mr. Aguilar, I would like to direct my first question to you and have a quick answer from each of you.

What is your stated goal, very concise stated goal and reason for changing the oath? Mr. Aguilar, if you will go first.

Mr. AGUILAR. Our main goal is to make sure that the Oath of Allegiance is comprehensible and that it follows the requirements of the Immigration and Nationality Act but that people understand—this is a homeland security interest—that people understand what they are swearing allegiance to.

Mrs. BLACKBURN. Okay; Dr. Schoenholtz?

Mr. SCHOENHOLTZ. Congresswoman, the Commission's intent was to ensure that the oath is comprehensible, solemn and meaningful. To do that, they felt that the five elements needed to be placed in a language that our modern American understands when they take a very serious oath.

Mrs. BLACKBURN. Okay; thank you both. I appreciate hearing your responses to that and knowing that that is your stated goal in the outcome, and I would like—other than that, that was the only other question that I had; I wanted to hear from each of you what your purpose, what you were desiring to achieve out of this actually was.

Other than that, Mr. Ryun, I want to thank you for bringing your bill. I think that it is a worthy bill, and I look forward to hearing more from you as we go forward on the legislation.

Sir?

Mr. RYUN. If I may respond.

Mrs. BLACKBURN. Yes, please do.

Mr. RYUN. First of all, thank you for your question.

I would just like to respond to your question in the sense that I think in some respects, we are all headed toward the same objective: comprehensible, sound, meaningful. But the forum in which that should take place is what I think this debate is partly about. I believe it should be done within the oversight of Congress as opposed to an outside body. Keeping the intent is very, very impor-

tant, and, you know, the five principles, again, staying within this body I think is significant, and that is why this is being offered.

Mrs. BLACKBURN. Thank you, sir.

Mr. HOSTETTLER. I thank the gentlelady.

I want to once again thank the panel of Members, the panel for coming out today and discussing this very important issue. Your insight and your input is invaluable in this discussion of a very important part of American life for those who have come here and have worked diligently to become citizens. So I want to thank you for that and remind Members of the Subcommittee that all Members will have seven legislative days to add to the record, to revise and extend their remarks.

Yes, the gentlelady from Texas is recognized for a question.

Ms. JACKSON LEE. Yes, I wanted to ask a question. Let me—is the—can I just ask Dr. Schoenholtz again, I want to pursue this statutory question. The present oath is regulatory, and it has been regulatory for, now, a good century, I guess.

Mr. SCHOENHOLTZ. 1952 was the last time that the regulation was—that the oath was put into the regulation.

Ms. JACKSON LEE. But we've had an oath since early 19—et cetera.

Mr. SCHOENHOLTZ. Going back a long, long, time, now, to the beginning.

Ms. JACKSON LEE. And we have managed to frame it as the culture has changed, America has changed. Again, let me just focus on the fact that we have had 9/11 and the fact that we have a new wave of immigrants. Does this in any way suggest some discriminatory approach because we have a new wave of immigrants coming from different regions, that we would want to put this oath in statutory language?

Mr. SCHOENHOLTZ. Congresswoman Jackson Lee, I don't believe that those changes suggest that the naturalization oath needs to be placed into statutory language. If you are suggesting that Congress is going to be more protective of our national security interests than any other branch of our Government, I fully believe that every branch of our Government will do its utmost to protect the American people. And I believe that the Executive Branch is fully committed to this. We now have the Department of Homeland Security that will exercise this regulatory duty, as the inheritor of the Immigration and Naturalization Service.

So I am confident that they will be able to carry this out well, and I don't see any added benefit, in that sense, from Congress taking this on.

Ms. JACKSON LEE. And what I would simply say in the course of accessing citizenship or becoming a citizen, we have the same stringent requirements that would weed out those seeking citizenship to do us harm, seeking it under fraud, fraudulent purposes. And so, by the time that you reach the oath, is it my understanding that you have been completely vetted, and you are now ready, simply, to make your commitment to the United States? The oath does not serve as a weeding-out document; it is simply a document that confirms your willingness to accept the responsibilities of citizenship; is that not clear?

Mr. SCHOENHOLTZ. That is absolutely correct.

Ms. JACKSON LEE. And so, statutory intervention might bog down that already-vetted process rather than enhance it.

Mr. SCHOENHOLTZ. That is true.

Ms. JACKSON LEE. That is a possibility?

Mr. SCHOENHOLTZ. Mm-hmm.

Ms. JACKSON LEE. I thank you.

Mr. HOSTETTLER. I thank the gentlelady.

Once again, the Chair reminds the Members that we have seven legislative days to revise and extend for the record.

The business of this Subcommittee being completed, we are adjourned.

[Whereupon, at 11:10 a.m., the Subcommittee adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON LEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF TEXAS

Taking an oath is a critical legal step in becoming a naturalized citizen. The words of the Oath of Allegiance convey the core meaning of becoming an American citizen. The Naturalization Act of 1790 and other early statutes required new citizens to swear an oath containing the elements of the current language, but prior to 1906, naturalization courts had free rein in determining the actual words. As there were approximately 5,000 such courts, there was wide variation in the language used.

In 1905, Teddy Roosevelt's Commission on Naturalization recommended that naturalization laws be rewritten to be more effective and consistent. The Basic Naturalization Act of 1906 implemented most of the Roosevelt Commission's recommendations, but it did not mandate a specific text for the oath.

Regulations were not enacted until 1929. The Nationality Act of 1940 provided that the elements of the naturalization oath prescribed by regulation must all be present in the spoken oath to make it a binding act.

The 1952 McCarren-Walter Act required an oath with five specific elements, but it left the actual words to regulation and the discretion of the judges who administer the oath. The following elements were specified: (1) Support for the Constitution; (2) renunciation of prior allegiance; (3) defense of the Constitution against all foreign and domestic enemies; (4) true faith and allegiance; and (5) to bear arms or noncombatant service as required.

In 1997, the U.S. Commission on Immigration Reform determined that Congress had fulfilled its legislative duties by establishing the five required elements. The Commission also determined that the language of the oath is a living expression of culture that grows and evolves. It concluded that the language of the oath should be updated. It unanimously recommended a new Naturalization Oath written by Richard Estrada. In late 2003, the Bush Administration announced its intention to adopt the following, slightly modified version of the Estrada oath:

Solemnly, freely, and without mental reservation, I hereby renounce under oath all allegiance to any foreign state. My fidelity and allegiance from this day forward is to the United States of America. I pledge to support, honor, and be loyal to the United States, its Constitution, and its laws. Where and if lawfully required, I further commit myself to defend the Constitution and laws of the United States against all enemies, foreign and domestic, either by military, noncombatant, or civilian service. This I do solemnly swear, so help me God.

This proposal met with resistance. For instance, former Attorney General Edwin Meese objected that the proposed language only asks new citizens to renounce their allegiance to a "foreign state." He argued that, "In an era of international but nonstate specific terrorism, this singular reference is not sufficient. At the very least, an additional reference to 'sovereignty' or other appropriate term should be maintained." The Citizenship Roundtable objected to dropping the phrase, "I will bear arms on behalf of the United States," which it felt should clearly be understandable by anyone who wishes to become an American citizen.

I welcome such debate over the text of our naturalization oath, but the need to resolve such issues does not require Congressional intervention or justify making the oath a statutory provision.

I agree with the U.S. Commission on Immigration Reform that the language of the oath should be updated to make it meaningful to the people being naturalized. The current oath's dated language, archaic form, and convoluted grammar prevent it from being widely understood by new citizens. On the other hand, I also agree with my colleague, Congressman Jim Ryun, that changes should not be made hast-

ily. I believe that the oath should only be changed by regulations promulgated in accordance with the safeguards of the Administrative Procedure Act.

Thank you.