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Senate

Mr. TSONGAS. Mr. President, I rise to speak in opposition to Senator JESSE HELM's amendment which would lift U.S. economic sanctions against Rhodesia.

Mr. President, the issue of Rhodesian sanctions is at the core of our policy toward Africa. Any decision to abandon U.N. sanctions against Rhodesia has the most grave implications for our relations with Africa and the Third World. This amendment, if passed into law, will strike a mortal blow to the President's efforts to mediate the conflicts in southern Africa. A vote to lift sanctions will accelerate and regionalize the local wars now raging in southern Africa. I want to make clear Mr. President, that the amendment now before us is a very serious matter.

Quite frankly, I am astonished that my good friend, Senator HELMS of North Carolina, has introduced this amendment at the present time. I am not opposed to a Senate debate on Rhodesian sanctions, but I cannot imagine a more inopportune moment for such a debate to take place.

Mr. President, this amendment to lift sanctions is premature. It puts the Senate in the unpleasant predicament of judging on a matter which the Senate has assigned to President Carter for decision. I refer to the Case-Javits amendment to the International Security Assistance Act of 1978. The Case-Javits amendment calls upon the President to evaluate the election in Rhodesia and then to determine if it was free and fair and open to the participation of all political groups. If the President makes a positive determination on these questions, then he is compelled by the Case-Javits amendment to lift sanctions.

Secretary of State Vance recently met with Senators HELMS, HAYAKAWA, and DeCONCINI. Mr. Vance assured my distinguished colleagues that the President would abide by the law of the land. The President will make his determination on the elections after the new government is installed in Zimbabwe-Rhodesia.

I feel strongly that the Senate should respect the law which President Carter will obey. If the Senate acts now on the sanctions question, it will effectively preempt the President's legal obligation to decide on the issue of Rhodesian sanctions. We will contradict the purpose of our own legislation. We will disrupt the orderly consideration of this important matter.

A hasty decision on the sanction's issue also will hurry past the growing controversy over the recent election in Rhodesia. Many mistakenly assume that all the election reports are favorable to Mr. Smith and his colleagues. Mr. President, I want to emphasize in the strongest terms that there is significant disagreement on the conduct of the Rhodesian elections.

Several reports and articles have described the elections as exemplary. These reports have been widely publicized. They are not the entire picture, however. There are other reports which state that the elections were not free and fair.

For example, Lord Chitnis, formerly the British Liberal Party's adviser on elections, has declared in his report that the election was "a confidence trick," and that the electorate was "brainwashed by

propaganda on an alarming scale, cajoled by false and dishonest promises of peace and intimidated in the most callous fashion to vote." He also found that the mobile polling booths visited prisons throughout the country recording the prisoners' vote. I quote Lord Chitnis' report:

We asked Mr. Malcolm Thompson to clarify who in prison was eligible to vote and to give us some idea of what the results had been. Mr. Thompson told us that all those sentenced to less than six months imprisonment, all those on remand, political detainees detained without trial, and martial law detainees were eligible to vote. Leaving aside petty criminals it seemed to us quite extraordinary that the government should lock up its political opponents and then ask them to vote "freely and fairly" for those leaders to whom they are opposed. Mr. Thompson told us that, to his surprise, four prisons had recorded a 100% poll.

Lord Chitnis' report cannot be ignored. He was in Rhodesia before most of the observers arrived, and traveled extensively in the country, frequently without Rhodesian military escort.

There are other disquieting reports coming out of Rhodesia. Reverend Sithole, the leader of one of the parties on the ballot, has repudiated the election, calling it a Big Cheat. Mr. Sithole declares that he will not take the 12 seats in Parliament his party won in the election.

It is clear to me that the information we have received so far is not unanimous on the election. It is simply too early to judge what really happened.

I have not made my own judgment on the election, and I do not intend to, until I have all the facts. I will consult all the reports and accounts of the election. I will read the transcripts of the hearings on Rhodesia which the House Foreign Affairs Committee will hold later this month. I will defer my decision until the President has made his determination. When he announces his decision, I will carefully consider all the facts at my disposal and decide if I agree or disagree with the President's findings. I can think of no justification for the Senate to act differently. This is simply too serious an issue for a hasty, precipitate decision.

Mr. President, there will be and there should be an animated debate on the elections and on the other criteria set down by the Case-Javits amendment. These are important issues which, by law, we must consider carefully.

It will be unfortunate, however, if my distinguished colleagues consider the Case-Javits conditions in a vacuum. First of all, it will be difficult, indeed, to reach agreement on such concepts as "free and fair," or "open to the participation of all groups," or "willingness to negotiate at an all-parties conference on all relevant issues": These conditions in the Case-Javits amendment are imprecise and invite subjective personal interpretations. I doubt whether Senator HELMS and I could ever agree on what a free and fair election should be.

It makes sense that our deliberations here should include consideration of the more substantial dimensions of the Rhodesian elections. I am going to list a number of factors here, all of which are outside the Case-Javits framework.

I invite my colleagues to consider carefully these larger implications of the vote today:

First, the United States simply cannot ignore without cost its responsibilities under the United Nations Charter and our vote in favor of United Nations sanctions. If we unilaterally lift sanctions, we abrogate our legal obligations under the U.N. Charter and undermine the authority of the Security Council and the U.N. itself.

Second, a sanctions lift will place the United States in a de facto alliance with the limited white rule government of Bishop Muzorewa. We would join with South Africa as the two announced friends of Rhodesia and thereby eliminate our capability to negotiate an international solution. We will also incur the wrath of key African allies such as oil-rich Nigeria.

Third, our de facto alliance with Rhodesia will encourage neighboring states to accept the assistance of the Soviets and the Cubans. A sanctions lift thus would threaten to escalate and internationalize the Rhodesian war.

Fourth, there are no signs that the new Muzorewa government will be any more effective than its predecessor in fighting the war. The guerrilla armies are inside Rhodesia and moving about freely. Whites are still emigrating in large numbers. The change in government has not altered the long-term trend of guerrilla advance and government retreat.

The fifth and last factor is the constitution of the new government. This is the document which will guide the government and its policies. I have consulted expert evaluations of that constitution authored by two organizations: The Members of Congress for Peace Through Law and the National Bar Association. I have yet to see two more reports forthcoming from the United Nations Association and the International Commission of Jurists. The reports in my possession conclude that the constitution restates white minority rule in new terms. The ingredients are a bit different, but the recipe is essentially the same.

Now, we may object to this constitution for moral and legal reasons, as well we should, but the real question to ask is how will black Rhodesians respond to the government which authored it? I am talking about the basic viability of the new regime. Can it capture the allegiance of blacks? There was never a black referendum on the constitution. Only whites were granted that privilege. Black opinion has yet to be expressed. The popular will on this issue is of paramount importance. It will determine whether there will be war or peace.

I would like to read to you the assessment of the constitution in the National Bar Association Report:

The new constitution adopted by the white minority of Rhodesia preserves existing power relationships in Rhodesia, and thereby denies majority rule. The white minority is given a grossly disproportionate quota of seats in the legislature that provides them with the power to veto the amendment of important constitutional provisions and other laws. The white minority retains control over important governmental institutions, including the police, armed forces,

judiciary, and civil service. Equally important, the new constitution fails to provide for the protection of basic human rights.

I want to draw the attention of my colleagues to these basic human rights guaranteed in the new Rhodesian constitution. In the words of the National Bar Association, the Declaration of Rights in the Constitution is a "shocking document." I read to you now one of the 12 basic rights guaranteed to the citizens of the new Rhodesia:

No person shall be subjected to torture or to inhuman or degrading punishment or other such treatment.

I think that wording is an exemplary guarantee of a basic human right—freedom from torture. The Rhodesian Constitution, however, adds some interesting qualifiers to that basic human right. I quote:

No treatment reasonably justifiable in the circumstances of the case to prevent the escape from custody of a person who has been lawfully detained shall be held to be in contravention of subsection (1) on the ground that it is degrading.

Translated from legal jargon, that section I just read permits degrading treatment of any prisoner. Now, the second qualification, and I quote:

Nothing contained in or done under the authority of any written law shall be held to be in contravention of subsection (1) to the extent that the law in question authorizes the doing of anything by way of punishment or other treatment which might lawfully have been so done in Zimbabwe Rhodesia immediately before the fixed date.

Translated, that passage means that any punishment of prisoners permitted under the Smith government will be permissible under the new constitution. Torture has been widespread under martial law and this provision permits it to continue.

Other basic rights listed in the constitution have similar crippling qualifications. I will not list them all here. I do request unanimous consent that the National Bar Association's report be reprinted in the Record.

Can the new Rhodesian Government succeed with their constitution? I cannot answer that question with any confidence. It is fair to say, however, that the outlook for this new government does not differ significantly from the regime it replaces.

So there you have the five factors, each representing an acute danger to U.S. interests in southern Africa if sanctions are lifted now.

I think my colleagues should know that I am not irrevocably committed to sanctions. I would gladly reconsider my position if the Rhodesian Government agrees to a U.N.-sponsored, all-parties, constitutional conference with an election to follow.

Under no circumstances do I favor an immediate decision. Instability defines the Rhodesian situation. All the facts are not at our disposal. We might easily jump on the deck of a sinking ship if we act too quickly. I urge patience and a cool assessment of developments.

Mr. President, there is no question in my mind that a vote to lift sanctions now would be a reckless, ill-considered, precipitous act. So much is at stake, the issue of sanctions is so central to our Africa policy that a decision made in haste today would discredit this distin-

guished body in our Nation and around the world. I cannot urge my colleagues strongly enough to join me in opposition to this amendment.

Mr. President, let me make just a few personal observations. We talked about the Constitution that is the basis of this election. Let me provide an analogy. The white population in Rhodesia is about 4 percent of the population of that country. That figure coincides with the Greek-American population in this country. Let me suppose the following set of facts:

If the Greek-American community got together in the United States and decided to pass a constitution in which we would determine the elections of this country and we would be guaranteed 28 percent of the Senate, how would the rest of the Members of this body feel about it, I suspect they would not be very happy. Yet, that is exactly what happened in Rhodesia. I think that kind of perspective is needed at this point.

Secondly, let me make a prediction. This issue is by far the most emotional issue in black Africa. It seems to me, from the statements made by various black African leaders, that this, indeed, is the litmus test on whether the United States, which talks about the majority rule, civil rights, and the rule of law, is really serious or whether, indeed, when push comes to shove, it is supportive of white-dominated regimes. If we are the first country to lift sanctions against Rhodesia, I think it will be a sad state of affairs for this country and will bode ill over the long term in terms of black Africa.

I was at a conference 10 days ago with some Soviet African specialists, talking about this particular issue. There is no doubt that the best thing that can happen to the Soviet cause in Africa is for the United States to adopt the Helms amendment. It seems to me that the United States should stop playing into the hands of the Soviets. It seems to me that our Nation should adopt policies that enhance our position in black Africa, not detract from it.

I hope that, on the merits of the United States posture in black Africa, this amendment will be defeated and will be defeated resoundingly. Then we can get back to the principles of majority rule and civil rights, that we have talked about in this country for such a long time.

Mr. President, I ask unanimous consent to have printed in the Record the report of the National Bar Association dated May 8, 1979.

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