

STATEMENT OF PERRY SHANKLE

PRESIDENT

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before the

Subcommittee on International Operations

Committee on Foreign Affairs

on H.R. 3036

The Revision of Diplomatic Privileges and Immunities Act

April 13, 1988

Mr. Chairman and members of the Committee, I am Perry Shankle, President of the American Foreign Service Association. I appreciate the opportunity to appear before the Committee to present AFSA's views on H.R. 3036, the Revision of Diplomatic Privileges and Immunities Act.

AFSA is the professional association of members of the Foreign Service and the exclusive representative of Foreign Service employees in the Department of State and the Agency for International Development. Most of these employees serve abroad as representatives of the United States under the protection of traditionally accepted standards of diplomatic immunity as codified in international law and the Vienna Convention.

AFSA supports the intent of this legislation to compensate victims of crimes committed by foreign diplomats in the United

States. However, we are concerned about the effect of this proposed legislation on the environment in which our own Foreign Service personnel and their dependents work and live overseas.

While no one could argue that diplomatic immunity should be used as a shield for criminal actions, AFSA is concerned that altering our country's obligations under the Vienna Convention on Diplomatic Relations could seriously jeopardize the freedom and effectiveness of Americans who represent the United States at foreign posts. Experience has shown that the system of diplomatic immunity, imperfect as it is, is in our national interest. Immunity is built on a system of reciprocity. What we deny to foreign diplomats here will in turn be denied to our colleagues and their families overseas. Our members serve in countries with legal and political systems that are often sharply at variance with ours where it is not uncommon that attempts are made to harass and intimidate Americans stationed or visiting there in an official capacity. In many situations, a healthy respect for the concept of diplomatic immunity is all we have.

It is bad enough out there even with diplomatic immunity. All of us have our own horror stories collected over the years, but new ones continue to occur. For example, some recent incidents: This fall, our economic counselor was arrested and detained in Panama and held incommunicado for eight hours. He had been observing, but not taking part, in a demonstration in which someone was killed. Late into the night, our Ambassador

was finally able to find the jail in which he was being held. Even where they are not taking action to deny our members their rights, local law enforcement officials are often extremely unhelpful, passive at best. In this case, two of our colleagues were recently roughed up by Sandinista mobs in Nicaragua. The police were aware of their diplomatic status, but did nothing to assist them.

Some in the Foreign Service, because of the nature of their duties and assignments, are excluded from the diplomatic list, and are already particularly vulnerable to the vagaries of local laws and the local political systems. We fear that any action the Congress might take to alter our obligations under the Vienna Convention will invite more harmful reciprocal action by unfriendly nations and will subject these individuals to even greater risk.

Americans serving overseas are representative of our country. They are typical Americans and as such they are basically law abiding, respectful of the customs, culture, and laws of the countries in which they are serving. They try to stay out of trouble, to avoid potentially trouble-making situations whenever they can, but, as typical Americans, sometimes some of us do get in trouble. Laws are broken; customs violated; people do stupid things. Individuals on occasion drive under the influence of alcohol, or take drugs, or get in fights, or commit even more serious crimes. Of course, AFSA does not

condone the commission of unlawful acts by persons having immunity, but neither do we want to turn them over to local justice, particularly in some countries we could all think of. Unlawful acts by our members do not often go unpunished, and they should not. Our foreign affairs agencies act against employees or their dependents who violate host country laws. Depending upon the seriousness of the incident, they may be brought back to the United States, to face sanctions by the United States Government. More often than not, they are subject to disciplinary or legal action, including separation from the Foreign Service.

We also remain aware that there may be political motivation for charging individuals with crimes that they have not committed. A dependent teen age son or daughter of a senior embassy official in a country where relations are tense, for instance, could be picked up on some trumped up driving or drugs charges as a way for that country to put pressure on us. Without the strongest form of diplomatic immunity, such a situation could turn into something horrible. And we do not feel that even those official Americans who are legitimately charged with criminal offenses should be at the mercy of the local justice system in countries which do not share our fundamental concepts of the presumption of innocence or the requirements of due process or the prohibition of cruel and unusual punishments.

AFSA is also concerned about the possible consequences of

that provision of the proposed legislation which requires \$1,000,000 per incident insurance coverage for injuries resulting from the operation of any motor vehicle, vessel, or aircraft. We support the requirement of minimum insurance coverage, but we do not want the costs of such insurance to be borne by individual diplomats. We believe that such coverage would probably be too costly for our members to afford, even if it were available in foreign countries. It is also possible that some countries may set unreasonably high premiums either as a revenue measure or to retaliate against diplomats. We propose that section 8 be amended by adding the words "by a Diplomatic Mission" after the word "carried", to clarify that it is the diplomatic mission itself which is required to carry such insurance.

I would be pleased to answer any questions the Committee may have.