

APPOINTMENT OF A SPECIAL  
COUNSEL

**HON. ADAM B. SCHIFF**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 1, 2003*

Mr. SCHIFF. Mr. Speaker, I rise today to discuss a matter of great importance to this country—impacting the national security of our Nation, the integrity of our branches of government, and the public trust.

Earlier this week, the Central Intelligence Agency urged the Justice Department to open a criminal inquiry into whether Administration officials leaked the identity of a CIA agent, in order to discredit a critic of the Administration's intelligence claims with respect to an alleged uranium program in Iraq.

Mr. Speaker, prior to the war, the Members of this House were provided with specific intelligence information with regard to weapons programs in Iraq—and this country went to war based on that intelligence. However, we are now learning that some of this intelligence information was seriously flawed, including information that was explicitly featured in a State of the Union address. The syndicated newspaper column that quoted "senior administration officials" identifying the undercover CIA operative by name was printed in order to discredit a critic of these very claims.

Disclosure of the identity of a CIA operative is a serious setback to our national security. Such actions also undermine any efforts to candidly assess the intelligence flaws we are now discovering. Because the sharing of classified information by an administration official for political or malicious purposes is such a serious abuse of power, an independent investigation of this matter should be commenced immediately.

As a former Assistant United States Attorney, I had the opportunity to handle both corruption and espionage cases. In my view, we have a clear conflict of interest if the Attorney General and other Justice Department officials are given primary responsibility for the investigation of this potential illegality, because of the alleged involvement of high-level Administration officials.

Such an investigation will not only be difficult to pursue, but the conflict will undermine the results of the investigation, and cause the public to question its result. Rather, this investigation should be pursued by an independent and impartial special counsel appointed by the Attorney General with the full confidence of the public.

INTRODUCTION OF THE BUSINESS  
ACTIVITY TAX SIMPLIFICATION  
ACT OF 2003

**HON. BOB GOODLATTE**

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 1, 2003*

Mr. GOODLATTE. Mr. Speaker, I am pleased to introduce today, along with my good friend Mr. BOUCHER, the Business Activity Tax Simplification Act of 2003. This important legislation provides a "bright line" that clarifies state and local authority to collect business activity taxes from out-of-state entities.

Many states and some local governments levy corporate income, franchise and other taxes on out-of-state companies that conduct business activities within their jurisdictions. While providing revenue for states, these taxes also serve to pay for the privilege of doing business in a state.

However, with the growth of the Internet, companies are increasingly able to conduct transactions without the constraint of geopolitical boundaries. The growth of interstate business-to-business and business-to-consumer transactions raises questions over where multi-state companies should be required to pay corporate income and other business activity taxes.

Over the past several years, a growing number of jurisdictions have sought to collect business activity taxes from businesses located in other states, even though those businesses receive no appreciable benefits from the taxing jurisdiction and even though the Supreme Court has ruled that the Constitution prohibits a state from imposing taxes on businesses that lack substantial connections to the state. This has led to unfairness and uncertainty, generated contentious, widespread litigation, and hindered business expansion, as businesses shy away from expanding their presence in other states for fear of exposure to unfair tax burdens.

In order for businesses to continue to become more efficient and expand the scope of their goods and services, it is imperative that clear and easily navigable rules be set forth regarding when an out-of-state business is obliged to pay business activity taxes to a state. Otherwise, the confusion surrounding these taxes will have a chilling effect on e-commerce, interstate commerce generally, and the entire economy as tax burdens, compliance costs, litigation, and uncertainty escalate.

Previous actions by the Supreme Court and Congress have laid the groundwork for a clear, concise and modern "bright line" rule in this area. In the landmark case of *Quill Corp. v. North Dakota*, the Supreme Court declared that a state cannot impose a tax on an out-of-state business unless that business has a "substantial nexus" with the taxing state. However, the Court did not define what constituted a "substantial nexus" for purposes of imposing business activity taxes.

In addition, over forty years ago, Congress passed legislation to prohibit jurisdictions from taxing the income of out-of-state corporations whose in-state presence was nominal. Public Law 86-272 set clear, uniform standards for when states could and could not impose such taxes on out-of-state businesses when the businesses' activities involved the solicitation of orders for sales. However, like the economy of its time, the scope of Public Law 86-272 was limited to tangible personal property. Our nation's economy has changed dramatically over the past forty years, and this outdated statute needs to be modernized.

That is why we are introducing this important legislation today. The Business Activity Tax Simplification Act both modernizes and provides clarity in an outdated and ambiguous tax environment. First, the legislation updates the protections in PL 86-272. Our legislation reflects the changing nature of our economy by expanding the scope of the protections in PL 86-272 from just tangible personal property to include intangible property and services.

In addition, our legislation sets forth clear, specific standards to govern when businesses should be obliged to pay business activity taxes to a state. Specifically, the legislation establishes a "physical presence" test such that an out-of-state company must have a physical presence in a state before the state can impose franchise taxes, business license taxes, and other business activity taxes.

The clarity that the Business Activity Tax Simplification Act will bring will ensure fairness, minimize litigation, and create the kind of legally certain and stable business climate that encourages businesses to make investments, expand interstate commerce, grow the economy and create new jobs. At the same time, this legislation will ensure that states and localities are fairly compensated when they provide services to businesses with a physical presence in the state.

I urge each of my colleagues to support this very important bipartisan legislation.

CELEBRATING LAS MISIONES DE  
SAN ANTONIO WEEK

**HON. CIRO D. RODRIGUEZ**

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, October 1, 2003*

Mr. RODRIGUEZ. Mr. Speaker, we are fortunate in San Antonio and the 28th District of Texas to be home to one of the few national parks located within an urban center, the San Antonio Missions National Historic Park. Today the missions represent a virtually unbroken connection with our past. Bearing the distinctive stamp of generations of Indian and Spanish craftsmen, the historic missions are still part of our daily lives as active parishes and cultural centers. In addition, some 1.5 million tourists visit the missions each year.

The four mission churches—San Jose, Concepcion, Espada and San Juan—are colonial era churches which the Spanish established to bring European religion and culture to the native and immigrant populations of the region. Today, the San Antonio Missions are among the relatively few intact examples of the colonial missions in the Southwest. Unfortunately, the four missions were largely neglected after secularization in 1824 as the functioning farms and ranches ceased operation. Today, the mission church structures are in dire need of restoration and preservation to protect the unique record of the architecture, art, and culture of the Spanish colonial period in Texas.

With the goal of preserving and restoring the church structures of Mission San Jose, Mission Concepcion, Mission Espada, and Mission San Juan, community leaders have formed the Las Misiones capital campaign. By educating all Americans about the historic, economic, architectural, cultural and spiritual significance of the churches and surrounding buildings, the three-year initiative will culminate with the restoration of the four mission church structures.

I would like to take this opportunity to commend the San Antonio community as they launch Las Misiones de San Antonio week, October 5th—October 11th. The missions are part of every Texan's history. The missions contributed to the agricultural and commercial development of central and south Texas, and they were critical to the growth of San Antonio