

# A Fax on Both Your Houses

## *An immigration bill as a case study of congressional lobbying & our failing democracy*

by Norman Matloff

The irony is pathetic: a piece of legislation whose origins stemmed from the lack of democracy in China turned out to itself typify the failure of the American democratic process.

The Chinese Student Protection Act (CSPA), passed in late 1992 and implemented in July 1993, became a catalog of the failings of Congress — its high susceptibility to intensive lobbying, its unabashed “scratch my back, I’ll scratch yours” deal-making, and above all, its indifference toward the American people. It is difficult to ascribe good intentions to Congress, for example, after hearing some members state that this legislation should be kept out of the press because many in the American public would oppose this immigration bill if they knew about it.

Congress passed the CSPA after a highly sophisticated lobbying campaign led by the Independent Federation of Chinese Students and Scholars (IFCSS). The Act granted automatic immigrant status — green cards, objects treasured throughout Asia, the dream of any red-blooded foreign student in the U.S. — to an estimated 80,000 Chinese students and other Chinese nationals who had been in the United States during the student protests in Beijing in 1989. In effect, the students were given blanket political asylum, even though only a very small fraction of them would have qualified for asylum had they applied individually.

Guided by a prominent Washington law firm, the IFCSS conducted a powerfully organized lobbying

effort. Using the Internet to coordinate their lobbying activities among Chinese students across the U.S., they inundated House and Senate offices with faxes, jammed White House phone lines, and most importantly, exploited an insider knowledge of the centers of power in Congress.

Interestingly, the story did not end with the CSPA's implementation in 1993. As we will show later, it has continued to have significant after-effects in the years that have followed.

### False premises

The Chinese Student Protection Act asserted that it was unsafe for the students to return to China, a claim which was false in most cases. Even Sidney Jones, Executive Director of Asia Watch — the most vigilant of the human-rights organizations monitoring China — has stated that the CSPA was unnecessary. She noted that the only students who would need protection were those high-profile individuals who had made public speeches or had published articles on Chinese politics, who comprised only a small percentage of the Chinese student population in the U.S. And these particular students could have applied for asylum on their own, without the CSPA.

Far from being unsafe, it was commonplace for Chinese students in the U.S. to return to China, say for family visits during summer vacations, and then come back to the U.S. to resume their studies. They did so without incident. An IFCSS document quotes the U.S. Immigration and Naturalization Service as saying,

*According to a cable from the U.S. Consul in Shanghai, China, over 120 returning [students] ... who had come to China for various reasons were interviewed [as they prepared to go back to the U.S.]. Not one reported any problem with the authorities.*

Amazingly, a clause in the CSPA explicitly included such students, i.e. students who had returned to China for a visit and then come back to

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the U.S., in its coverage. In other words, Congress gave green cards to students who had safely returned to China — on the grounds that they could not safely return to China! The IFCSS, noting the contradiction, broadcast a computer message in October 1992, urging the students to postpone visits back to China until the Act was implemented in 1993, as such visits were greatly undermining the Act's credibility and thus its chances for implementation.

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All of this was a far cry from Senator Gorton's claim that the students were afraid to return to China, because to do so would “endanger their very lives.” (In a wry postscript after the Act was implemented, the IFCSS, strapped for cash, started running promotions on the Chinese student computer network for bargain airfares to China.)

#### Congressional coercion

Though people in Congress publicly spoke of the Chinese students in terms approaching sainthood, their private views were quite different. In July 1991 the popular Chinese-language North American newspaper *Sing Tao Daily* had run a front-page article titled, “Congress Criticizes Chinese Students in the U.S. As Selfish, Unsupportive of Human Rights in China.” In the article, IFCSS leader Zhao Haiqing reported that there were mounting complaints in Congress that the students had given much more active support to Congresswoman Pelosi's 1989 CSPA-precursor bill (granting temporary residence in the U.S.) than to her bill which conditioned continuation of China's Most Favored Nation (MFN) trade status on improvements in human rights. Congress felt that the students were interested only in green cards, not democracy.

The MFN bill was of high importance to many in Congress. The AFL-CIO was pushing hard for it, and the Democrats were planning to make MFN an issue in the 1992 presidential election campaign,

portraying George Bush, who had vetoed the bill in the past, as uncaring of democracy in China. If it were to become known to the general public that even the Chinese students did not support the MFN bill, the case for the bill would be greatly weakened. But congressional supporters of the MFN bill were able to coerce the students into silence, by dangling green cards in front of them.

The acquisition of a green card had long been the goal of Chinese and other foreign students studying high-tech fields in the U.S. Universities in the students' home countries are treated as stepping-stones for eventual emigration. One clever Chinese ditty sung in Taiwan, referring to National Taiwan University (NTU), neatly summarizes the plan as (loosely):

*Come, come, come,  
Come to NTU!  
Go, go, go,  
Go to the U.S. too!*

However, as the high-tech industries matured in the late 1980s, a former labor shortage became a labor surplus. The situation was particularly acute for students from China, according to an IFCSS memo titled “On the Shortage of Immigrant [Quota] Slots for Chinese Students and Scholars,” broadcast on the Chinese student computer network. The IFCSS pointed to the Chinese Student Protection Act as a solution to these problems.

Thus the Chinese Student Protection Act became a carrot (or stick) for the students regarding the MFN bill. In the *Sing Tao* article, Zhao warned the students that passage of the CSPA would be contingent on their support of the MFN bill. The next year, after a meeting with Pelosi, Zhao reported in a computer message that Pelosi had once again reminded Zhao of the connection she expected the students to make between the two bills: she “reiterated...very bluntly: ‘You can not argue against [the MFN bill] and only want [the CSPA].’”

While there was some truth to the congressional claims that many students emphasized green cards to the exclusion of all else — financial contributions to the IFCSS dropped sharply after the CSPA was implemented — most students did genuinely believe that threatening to cut trade benefits was not the proper way to press China toward improvements in human rights. Thus, the *Sing Tao* article had noted, many students resented Congress' insisting on the MFN-for-CSPA quid pro quo. In fact, polls showed that two-thirds of the

Chinese students were opposed to Pelosi's MFN bills.

### High-tech lobbying methods

A novel feature of the Chinese students' lobbying campaign for CSPA was the deft use of computer networks. By broadcasting regular announcements over the network, the IFCSS provided telephone and fax numbers of key congresspersons, suggested wording for the messages, and continually exhorted the students to keep up the pressure. At various points during the bill's sojourns through Congressional committees, floor votes and so on, an IFCSS coordinator would, merely by hitting the "Enter" key on his computer, send lobbying instructions to tens of thousands of Chinese students nationwide in a fraction of a second.

When the bill reached the House Judiciary Committee, for instance, the IFCSS sent a message saying, "At this moment, perhaps one of the most critical junctions, we strongly urge students across the country to call/fax [the following congresspersons]... Three members need to be targeted more than others..." Another typical message read, "We need to exert maximum pressure [on] the whole Senate as quickly as possible... Starting tomorrow ... flood every single Senator's office with phone calls and faxes."

Senator Simpson from Wyoming, in an earlier Senate speech, had warned that the Chinese students

*are tough. They have people who are really setting them up [in their lobbying techniques]. They have fax machines, they have used the computer systems of every major university. I received 1,000 Christmas cards [from Chinese students], and that is more than I get from Wyoming. They are good and they know exactly what they are doing.*

Rep. Conyers of the Black Caucus tried to add a rider to the bill, allowing temporary U.S. residence for Haitian refugees. The IFCSS, fearing that this would kill the bill, immediately mounted a campaign against the rider. The students swamped Congress with phone calls, and meanwhile IFCSS leader Zhao headed straight for Capitol Hill, where he knew exactly which Congressional buttons to push:

*Immediately after the Judiciary Committee's mark-up, I and Ji Yingquan went to meet with a*

*senior aide of Rules Committee chairman Moakley, briefing him with the current situation, alerting him of the possible problems with the Haitian refugee issue, and expressing clearly our request for a quick vote of closed-rule [which would disallow addition of riders to the bill]. At the same time, I contacted the offices of leadership from both Houses and Senator Kennedy's office regarding the Haitian refugee issue and the perspective of scheduling floor votes before the recess.*

Offended by the Chinese students' apparent lack

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of sympathy for the Haitians, Rep. Brooks and others in Congress remarked about the injustice of giving 80,000 Chinese permanent U.S. residence while denying 11,000 Haitians even temporary residence. But the IFCSS campaign was successful in the end, and the rider was not added to the bill.

### Bill? What Bill?

Perhaps the most egregious action by Congress regarding the Chinese Student Protection Act emerged in a computer message broadcast by Zhao in August 1992. Zhao stated that their key supporters in Congress, as well as their law firm, told them that the bill should be kept quiet, out of the press, because many Americans would oppose the legislation if they knew about it. Thus, no article on the CSPA appeared in major newspapers during the time it was pending in Congress.

One convenient consequence of this lack of publicity was that virtually all the mail received in Congress regarding the bill was from the Chinese students themselves, and thus congresspersons could state, when questioned, "Yes, I support the CSPA. My mail is running heavily in favor of it." When I asked an aide to Senator Bentsen about this distortionary effect of keeping the bill quiet, she became quite indignant. The American populace should indeed have known about the bill, she said,

since it was in the Congressional Record! (Or as Marie Antoinette might have put it, "Let them read the Congressional Record.")

Again due to the anticipated unpopularity of the bill, the sponsors of the CSPA later made efforts to distance themselves from it. Rep. Pelosi, one of the sponsors of the House version of the bill, had been a freshman in Congress at the time of the 1989 Chinese student movement, and has built her career around legislation concerning China. She has always had extensive press coverage of such legislation, and yet there was nothing from her in the English-language press in the case of the CSPA. Even after the bill was implemented in July 1993, Pelosi's name was absent from a *San Francisco Chronicle* article on the implementation, an absence that normally would seem odd in view of the fact that Pelosi was an author of the bill and was the local San Francisco congresswoman.

Under the guidance of their law firm, Arent Fox, the IFCSS lobbyists became expert spin doctors. In July 1992 they broadcast a computer message informing the students that in lobbying Congress it was crucial to avoid the term "immigration" at all costs. This word vanished from the IFCSS vocabulary from that point onward. For instance, when the CSPA was implemented a year later, and some newspaper articles noted that the implementation came at a time when the Clinton administration was trying to tighten immigration controls, IFCSS President Geng Xiao pointedly explained to the *San Francisco Chronicle* that the CSPA was not an immigration bill, for if it had been one, "it never would have been passed by the House." Statements such as this acquired a rather surreal air to those of us viewing from the sidelines, since IFCSS internal documents had always featured titles like "Report on Immigration Lobbying," and the text of the bill itself repeatedly used the term "immigrant."

### Grab some Ph.D.s

Though many Democrats in Congress supported the Chinese Student Protection Act for reasons related to the MFN trade legislation, a number of Republicans saw the CSPA in other terms. The National Science Foundation had been warning Congress of a severe shortage of people with doctorates in science and engineering. Many in Congress saw the CSPA as a solution to this (claimed) shortage, since most of the Chinese

students were pursuing graduate degrees in these fields, particularly in the high-tech subjects.

The claim of a shortage has since been discredited, with even the National Science Foundation backing away from it. A recent report by William Massy of Stanford University and Charles Goldman of the RAND Corporation examines the issue in great detail. They find, for instance, that we are overproducing electrical engineering Ph.D.s by 44 percent.

And though Massy and Goldman estimate only a small degree of overproduction of Ph.D.s in computer science, in the sense of unemployment rates, that does not address the main point, which is that while a Ph.D. may be employed, he/she is in almost all cases doing work which does not need a Ph.D.

As Computer Science Professor Anthony Ralston of the State University of New York at Buffalo wrote last year, we are producing

*more — probably far more — Ph.D.s in computer science than will be able to find the kinds of research jobs which attracted them to seek doctorates in the first place. ... Many of us are, in fact, accepting students under false pretenses.*

Massy and Goldman point out that the production of Ph.D.s in computer science and engineering is geared not to the needs of industry or society, but instead to the universities' own needs, such as to get lucrative federal research grants. The Chinese students exploited this, sending out CSPA lobbying instructions on the computer network:

*The governors in ... California, Michigan, Wisconsin, Missouri have special influence on President Bush because these states are vital to Bush's re-election campaign. ... [students in these states should] contact deans or presidents in your school and ask them to contact governors' Education Offices. Ask the governors to call President Bush and urge him to sign the bill. ... IFCSS strongly urges students in [these] states ... to "secure the immediate support of your professors, university presidents, and other American friends. If they can ask the senators to put in a good word for us, it will be invaluable."*

### Long-term effects

The Chinese Student Protection Act not only was

unwarranted and a perversion of the democratic process, but also has had a number of significant indirect consequences since its enactment.

For example, the present national attention to immigration issues can be traced — in part — back to the Chinese Student Protection Act. Soon after the 1992 passage of the bill, some underworld figures in China spread rumors that anyone who managed to set foot on American soil before the July 1993 implementation of the bill would be given green cards. (This was incorrect. Though it is true that the bill covered non-student Chinese nationals as well as students, it only applied to those present in the U.S. as of April 11, 1990.) Subsequent articles in the Chinese press in the U.S. claimed that these rumors were a major impetus behind the huge influx of illegal-immigrant “boat people” from China around 1993. Further, that claim is made plausible by the timing: The first wave of boats arrived at the end of 1992, a sea-voyage span of time after President Bush's October signing of the bill, and the voyages sharply declined after the bill's July 1993 implementation. Since the arrivals of the boat people on American shores dramatically focused attention on immigration, the impact of the CSPA, if the theory of the effects of the rumors is correct, may be profound.

But in much more concrete terms, the CSPA — and more significantly, the manner in which it was passed — established a permanent body of highly aggressive Chinese in the U.S. who will continue to lobby on immigration-related issues. Many of the Chinese students active in the 1992 CSPA lobbying campaign found the experience empowering and intoxicating, and have eagerly sought out new opportunities for activism since that time.

Their first big opportunity came in 1994. Connie Chung, then Dan Rather's co-anchor for the CBS Evening News, hosted an interview with a former CIA agent who claimed that China was using regular immigration channels to get spies, especially in the high-tech fields, into the U.S. Some former IFCSS activists sprang into action in reaction to Chung's broadcast, complaining that their members would now have trouble finding jobs, since employers would fear that they are spies. Though this claim had some validity, it was quite hypocritical. During their 1992 lobbying efforts for the CSPA, they claimed that the Chinese government had been spying on them in the U.S., but now they dismissed the notion that China might

be sending over some spies.

In any case, the activists immediately went into their by-now-familiar mode, coordinating their attack via the Internet. They instructed their members to bombard CBS News President Eric Ober with faxes, and when that failed, they switched the fax blitz to the U.S. Civil Rights Commission. They even had numbers for the commissioners' home fax machines, and sent their faxes there as well. In the end, the commission asked CBS to respond, and Chung issued a “statement of regret.”

An even bigger chance for involvement then arose in 1995, when legislation was introduced by Rep. Lamar Smith and Senator Alan Simpson which would have restricted the ability of foreign-nationals to be sponsored for immigration by U.S. high-tech employers. Though the former CSPA activists now had their green cards, large numbers of new Chinese foreign students had come to the U.S. since the 1990 cutoff date of the Act, and thus would be adversely impacted by the new legislation. Under the active and enthusiastic direction of the “CSPA old-timers,” the new students organized a campaign in opposition to the Smith and Simpson bills. For example, within just a couple of weeks, they were able to collect 15,000 signatures via the Internet, mostly from Chinese students, for a petition opposing the bills.

A World Wide Web site was set up by Chinese students at UCLA to coordinate the lobbying process against the Simpson bill. Interestingly, it instructed the students to lie when calling Senate offices to lobby:

*They're not supposed to check up on you. ...Do not worry about your [foreign-student] status. Yes, you are counted as voting citizens because they never bother to ask the status. Therefore, in fact, your voiced opinion is really an American citizen's opinion from their point of view because they cannot tell the difference.*

What does all this say?

The American people have become cynical, even resigned, about politics. The Chinese Student Protection Act, along with its continuing after effects, is a perfect case study of the causes of this despair. It is ironic, to say the least, that an organization originally formed to promote democracy in China has been able to so skillfully exploit the dark side of the American political system.

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