Bush Presidential Records
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Subject File - General

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Document Number / Range: **196815CU to 203596**
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Document Number:	**196815CU to 203596**	**Entire Category Processed**
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CS

1045 am

ID # 90015 CU

HU 010

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☑ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Harold Walters

☐ **MI Mail Report** **User Codes: (A)** _____ **(B)** _____ **(C)** _____

Subject: Civil Rights Bill of 1990

ROUTE TO:

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
Cmpc	ORIGINATOR	91205		C	91,01,03 CS
Chief of	Referral Note:				CS
	A	901200	NL	A	91,01,03
	Referral Note:		~~letter to Walters~~		
		/ /			/ /
	Referral Note:				
		/ /			/ /
	Referral Note:				
		/ /			/ /
	Referral Note:				

ACTION

DISPOSITION

ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

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5/81

THE WHITE HOUSE

WASHINGTON

January 3, 1991

Dear Mr. Walters:

On behalf of the President, thank you for your letter of November 13, regarding the Kennedy-Hawkins bill.

The Administration is currently reviewing its options with respect to this issue, and we welcome input from the Society for Human Resource Management. Appropriate officials of that organization should feel free to contact me directly with their suggestions.

Thank you again for writing.

Yours truly,

Nelson Lund
Associate Counsel to the President

Mr. Ronald E. Walters
President
The Statesman Group, Inc.
Des Moines Building
Des Moines, Iowa 50309

1,960524

© THE STATESMAN GROUP, INC.

RONALD E WALTERS, SPHR
VICE PRESIDENT

November 13, 1990

President George Bush
White House
Washington, D.C. 20500

Dear Mr. President:

I was gratified to see that your veto of the Kennedy-Hawkins Civil Rights Bill was sustained in the Senate. The potential for creating a quota system and the increased exposure to frivolous litigation made that bill unacceptable and I thank you for your veto.

There is no question that the bill will come up again in the next session of Congress. I would hope that we could use these interim months to bring all interested parties together to fashion a civil rights legislation that is acceptable to all sides. I understand that your staff is working on that effort with the civil rights community. To that end, I would strongly encourage you to include representation from the business community in that effort.

The Society for Human Resource Management is the world's largest professional organization devoted to the professional growth and development of the human resource practitioner. SHRM is in the ideal position to provide input on civil rights legislation affecting the business community. It's the human resource practitioner in the companies who will be charged with the implementation of civil rights legislation. By involving SHRM in the process, I believe that we could provide ideal input and head off difficulties down the line.

SHRM has their national headquarters in Alexandria at 606 North Washington. The Government Affairs Department is in the capable hands of Sue Meisinger and I would urge your staff to contact her at (703) 548-3440 to involve SHRM in the process of fashioning acceptable civil rights legislation.

Thank you for your attention to my request.

~~Best~~ personal regards,

Ron Walters

Ronald E. Walters, SPHR

REW/pl

cc: Sue Meisinger

1400 DES MOINES BUILDING • DES MOINES IOWA 50309
(515) 284-7666 • FAX (515) 242-3208

196913 per HLG10

November 16, 1990

Dear Sam:

Many thanks for your note on the Kennedy-Hawkins Civil Rights Act of 1990. I think you know how much I wanted to sign a sound civil rights bill -- one that would lessen employment discrimination without resorting to hiring or promotion quotas. I'm convinced that Kennedy-Hawkins would have had the effect of leading employers to adopt quotas, thereby thwarting equal opportunity. I will work with the next Congress to adopt my alternative legislation.

I appreciate your support.

Sincerely,

Mr. Sam Walton
Chairman
Walmart Stores, Inc.
702 Southwest 8th Street
Bentonville, Arkansas 72716

GB/BW/SMG/jt (11PRESJ)

AP

DRAFT OF PRESIDENTIAL LETTER

DRAFT DATE: 11/15 DG	COMPUTER DRAFT DOCUMENT TITLE: WALTON
INITIALS: GB/ BW	CC:
CLEAR WITH:	WHCC:
ENCLOSURES, SPECIAL INSTRUCTIONS:	

Dear Sam:

Many thanks for your note on the Kennedy-Hawkins Civil Rights Act of 1990. I think you know how much I wanted to sign a sound civil rights bill -- one that would lessen employment discrimination without resorting to hiring or promotion quotas. I'm convinced that Kennedy-Hawkins would have had the effect of leading employers to adopt ~~hiring and promoting~~ quotas, thereby ~~and~~ thwarting equal opportunity. I will work with the next Congress to adopt my alternative legislation.

I appreciate your support. Best wishes.

Sincerely,

GB

Mr. Sam Walton

Chairman Walmart Stores, Inc.

702 SW 8th St
Bentonville, Ark 72716

NOV 19

THE WHITE HOUSE
WASHINGTON

10/25/90

BW -
for Civ. Rts
Ltr -
MI

TO: SHIRLEY GREEN

FROM: **JAMES W. CICCONI**
Assistant to the President and
Deputy to the Chief of Staff

Please handle.
Thank you.

Chairman of the Board
(501) 273-4210

October 23, 1990

The Honorable George Bush
Executive Office of the President
The White House
600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear President Bush:

Thanks for your wisdom and judgment again in not being willing to compromise on basic principles as you vetoed the Congressional Civil Rights proposal. That Act would not only be extremely costly to all U.S. consumers, it would be manifestly unfair to those who prefer to progress on their merit.

Congratulations, again.

Sincerely,

Sam Walton
Chairman

1045am

ID # 197083 CU

HU010

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
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☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Andrew Williams

☐ **MI Mail Report** **User Codes: (A)** ______ **(B)** ______ **(C)** ______

Subject: American Paralegal Institute's criticism of the veto of the Civil Rights Act of 1990.

ROUTE TO: **ACTION** **DISPOSITION**

Office/Agency (Staff Name)		Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
Cuofc	ORIGINATOR		90/12/07		C	90/12/18 PS
	Referral Note:					
Cuat 10		I	90/12/08		C	90/12/18
	Referral Note: ATTN: FYI					
			/ /		C	/ /
	Referral Note:					
			/ /			/ /
	Referral Note:					
			/ /			/ /
	Referral Note:					

ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
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X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE.
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: Noted by Nelson Lund -- the Captioned may be closed out.
Nelson Lund 12-12-90

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AMERICAN PARALEGAL INSTITUTE
22837 VENTURA BLVD.
SUITE 203
WOODLAND HILLS, CA 91364
OFFICE (818) 883-1185
FAX (818) 883-0590

November 27, 1990

Mr. George Bush
President Of The United States
Washington, DC 20037

Dear Mr. President:

I recently read an article in the Shreveport Journal by Julianne Malveaux which discussed how you vetoed the Civil Rights Act of 1990. Ms Malveaux compared your actions to the Supreme Court's 1857 decision in the Dred Scott Case. I took some time to research the Scott case and was shocked after reading the Supreme Court's decision.

I am very disappointed with your decision to veto the Civil Rights Act of 1990 without first reviewing its contents in detail. Ms Malveaux implied in her article, that your excuse for vetoing the legislation was frivolous and inaccurate. My question to you is why would you, the President of the United States say the Civil Rights Act had a section calling for quotas when in fact it clearly state, "Nothing in the amendments made by this Act shall be construed to require..hiring or promotion quotas."

Since the problem developed in the middle east you have made several statement on national television supporting the inforcement of international law and human rights to the citizens of Kuwait. What happened to your American spirit you raved about during your campaign, where you boasted about your World War II and CIA experiences. You even claimed that loved America. Well Mr. President the American Constitution is on the line once again and you just stepped on it with both shoes. I am sure you will go down in every Black History book as a nazi and racist for your actions. For the President of the United States to be compared with the Dred Scott Case is an embarrassment to this wonderful country.

I was considering voting for you in the coming 1992 election if you ran for another term. However, after reading about your racist maneuver to suppress Blacks and minorities, I am

totally convenienced you do not support equalty in this country. Therefore I will not support the Republican party in the coming presidential election.

Mr. President, if I were you I would reconsider the Civil Rights Act of 1990 as a method to gain Black and liberal votes rather then lose them to the Democrates.

Respectfully,

Andrew Williams
Executive Director

AW:bt

Your Local Newspaper

The Shreveport Journal is locally owned, having been founded on January 7, 1895. Editorials present opinions of the Editorial Board. Essays, cartoons and letters present the views of the individuals who contribute them. Our address is P. O. Box 31110, Shreveport, Louisiana, 71130

Civil rights veto recalls Dred Scott days

Julianne Malveaux

IN 1852, black nationalist Martin R. Delaney compared the plight of free blacks such as himself to that of slaves. In his book, "The Condition and Elevation, Emigration and Migration of Colored People," he wrote, "The bondsman is disfranchised, and for the most part so are we. He is denied all civil, religious and social privileges, except such as he gets by mere sufferance and so are we. They have no part nor lot in the government of the country, neither have we. They are ruled and governed without representation, existing as mere nonentities among the citizens and excrescences on the body politic, a mere dreg on the community and so are we. Where then is our political superiority to the enslaved?"

When Delaney wrote these words, he was torn with ambivalence about the status of blacks in America. Like Frederick Douglass and Rev. Henry Garnet, Delaney maintained both strong patriotic sentiments and a disgust for racism and slavery. But in the 1850s, disgust began to outweight patriotism. With the passage of the Fugitive Slave Act in 1850, all blacks were treated as slaves unless they could prove they were free. The Supreme Court's 1857 decision in the Dred Scott Case went even further, stating bluntly that a black man "had no rights which the white man was bound to respect." President George Bush sent much the same message when he vetoed the civil Rights Act of 1990.

Bush says he vetoed the legislation because it calls for quotas, but the Civil Rights Act has a section that states, "Nothing in the amendments made by this Act shall be construed to require . hiring or promotion quotas." Instead, the Civil Rights Act of 1990 clarifies points made murky by recent Supreme Court decisions. It specifically outlaws racial discrimination in private contracts, places the burden of proof for racially biased employment practices on the employer, and limits the ways consent decrees can be challenged.

Lacking the Civil Rights Act of 1990, a black woman hired as a bank clerk was racially harassed, subject to verbal abuse and assigned janitorial work. When she sued in Patterson v. McLean Credit Union, she lost her case because the U.S. Supreme Court said the law only prevented discrimination in hiring process, not in problems that arise from the conditions of employment. The 1988 Supreme Court was little different from the 1857 court in declaring that blacks had no rights whites are bound to respect.

The Civil Rights Act of 1990 gave our president and Congress a chance to send an opposite message. President Bush declined. African-Americans have responded with the same ambivalence that gripped us in 1857. Some celebrate success and advancement and vow to continue the struggle. Others, like Milwaukee City Councilman Michael McGee, have put whites on notice that armed struggle is a possibility unless there is a change. Many students have withdrawn behind slogans on T-shirts that shrug, "It's a black thang you wouldn't understand."

Historians say that 1850 marked the beginning of "the golden age of black nationalism," a period when blacks aggressively and vocally explored their relationship to white America. How will they describe the 1980s and 1990s, when the courts and presidents turned clocks back to the days of Dred Scott?

Julianne Malveaux, a Louisiana native, is a professor at the University of California at Berkeley.

ID # 197119 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Evan Kemp

☐ **MI Mail Report** **User Codes: (A)** _____ **(B)** _____ **(C)** _____

Subject: Forwards Copy of memo entitled regarding Racial quotas.

ROUTE TO: | **ACTION** | **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
Cuoco	ORIGINATOR	90/12/07		C	90/12/07
Cuat;O	Referral Note: I	90/12/07		C	90/12/07
Cuato7	Referral Note: I	ATTN: Fyi 12-13		C	12-13
Cugraf	Referral Note: I	12-13		C	12-13
	Referral Note:				
	_	1 1		_	1 1
	Referral Note:				

ACTION CODES:
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C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
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FOR OUTGOING CORRESPONDENCE.
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: Noted -- Please close out. Nelson Lund 12-7-90

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON, D.C. 20507

OFFICE OF
THE CHAIRMAN

TELECOPIER TRANSMITTAL SHEET

DATE: 12-7-90 TIME: 12:25 p.m.

NUMBER OF PAGES + COVER SHEET 5

TO : C. Boyden Gray
OFFICE : Counsel to the President
ROOM : 2nd Flr., West Wing
REMARKS :

FROM : Evan J. Kemp, Jr., Chairman
OFFICE : OFFICE OF THE CHAIRMAN
PHONE NUMBER : 663-4001
FAX NUMBER : 663-4110

CONFIRMATION REQUESTED? YES XX NO ___

IMMEDIATE DELIVERY REQUESTED? YES XX NO ___

IF THERE IS A PROBLEM WITH THIS TRANSMISSION, PLEASE CALL
Debra AT # above .

THE WHITE HOUSE

WASHINGTON

ORM OPTICAL DISK NETWORK

ID# 197119CU

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____ Remainder of case not scanned.

____ Oversize attachment not scanned.

____ Report not scanned.

X Enclosure(s) not scanned.

____ Proclamation not scanned.

____ Incoming letters(s) not scanned.

____ Proposal not scanned.

____ Statement not scanned.

____ Duplicate letters attached - not scanned.

____ Only table of contents scanned.

____ No incoming letter attached.

____ Only tracking sheet scanned.

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____ Bill not scanned.

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Comments:

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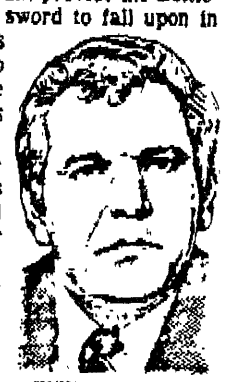
REVISED FROM EARLY EDITION OF CLIPS TO CORRECT PASTE-UP ERROR

Republicans See 'Racial Quotas' as '92 Weapon And William Bennett as Just the Man to Use It

By JAMES M. PERRY
Staff Reporter of THE WALL STREET JOURNAL

WASHINGTON—In 1984, Walter Mondale promised to raise taxes, delighting Republican media merchants. He lost. In 1988, GOP strategists could hardly contain themselves when Michael Dukakis ignored Willie Horton. He, too, lost.

Can the Republicans provide the Democrats with another sword to fall upon in 1992? Republicans are beginning to think so, and the name of the sword is "racial quotas."



William Bennett

Tagging Democrats as supporters of quotas worked twice last month for Republicans—in Jesse Helms's Senate race in North Carolina and in Pete Wilson's gubernatorial campaign in California. Now, Democrats are promising to revive the civil-rights bill that President Bush vetoed last year—a move many GOP strategists believe will eventually come back to haunt them.

Meanwhile, in their new national chairman William J. Bennett, the Republicans are literally turning the party over to the man who wrote the book against affirmative action and racial quotas. In "Counting by Race," written 11 years ago, Mr. Bennett called such methods "contemptible." He still feels the same way.

"It's a lively issue," he told reporters last month. "It's exactly what we should have a debate about." What worries some Republicans, though, is what happens to a rational debate on the question when the issue gets into the hands of hard-hitting media consultants: There's a thin line between opposition to quotas, as Mr. Wilson emphasized, and visceral appeals to racial fears, which worked for Mr. Helms but could fuel a backlash elsewhere in the country.

What happened in North Carolina was hardly a debate. In the last week of his campaign against Democrat Harvey Gantt, who is black, Mr. Helms introduced a TV ad called "White Hands." The camera focused on a pair of white hands crumpling a rejection letter. "You needed that job," said the voice in the ad. "And you were the best qualified. But they had to give it to a minority because of a racial quota. Is that really fair? Harvey Gantt says it is. . . . For racial quotas: Harvey Gantt. Against racial quotas: Jesse Helms."

"It's a classic," says Tad Beyle, a political scientist at the University of North Carolina in Chapel Hill. "It's so simple, so easy to grasp. Two hands. A piece of paper. A man talking."

"It plays on one of the most controversial issues in American politics," says Merle Black, a political scientist at Emory University, in Atlanta. "Eighty percent of whites come down on one side—they're against quotas. And blacks are almost entirely in favor. They support quotas. If you want a landslide with white voters, this is one way to get it."

Ron Brown, the Democratic national chairman, says the Helms ad "had nothing to do with quotas; it was strictly playing the race card." Mr. Wilson's ad in his California race against Democrat Dianne Feinstein was more traditional. It picked up on a story in the Los Angeles Times that was headlined, "Feinstein Vows Hiring Quotas by Race, Sex." The screen filled with the newspaper story and a voice asks: "Can we afford a governor who puts quotas over qualifications and promises over performance?"

Ms. Feinstein responded with an ad of her own, saying Mr. Wilson, when he was mayor of San Diego, had a record of enforcing rigid hiring percentages himself. But most observers believe Mr. Wilson got the best of the exchange.

Besides its emotionally loaded approach, the North Carolina ad had a bigger impact because it went on the air about the same time President Bush was successfully vetoing the civil-rights bill, which he said would create "powerful incentives for employers to adopt hiring and promotion quotas." In North Carolina, the bill was widely referred to as the "racial-quota bill," and Sen. Edward Kennedy was just as widely seen as its progenitor. Mr. Kennedy and other supporters of the bill, including 11 Republican members of the Senate, continue to argue there's nothing in it dealing with quotas or affirmative action. Democrats, says Mr. Brown, the party chairman, "vehemently oppose racial quotas."

Mr. Bennett, who campaigned for Mr. Helms, told reporters that "the ad was perfectly legitimate." But Terry Eastland, chief Justice Department spokesman in the Reagan administration and co-author with Mr. Bennett of "Counting by Race," disagrees. "I would not have run the Jesse Helms ad," he says. "That was putting whites against blacks."

With white and nonwhite voters so deeply split on the merits of affirmative action and quotas, any strong push on the issue could undermine the GOP's professed attempts to make inroads with minorities. When Lee Atwater became national chairman in 1989, he vowed to reach out to blacks and other minorities, with a goal of winning 20% of the black vote and 40% of the Hispanic vote in 1992. By most estimates, President Bush won 10% of the black vote and 30% of the Hispanic vote in 1988.

Mr. Atwater promised jobs for minorities in party posts and within the administration and held out the hope that some might be elected to the national committee. (Of elected members from the 50 states, none was black then, and none is black now; about 20% of the elected members of the Democratic National Committee are black.) But Mr. Atwater, who is seriously ill, is moving to a new post as "general chairman" to make room for Mr. Bennett.

"This is going to be a problem for Bennett," says Kevin Phillips, a maverick GOP theoretician. "He's already getting the image as the racial-quota chairman. He and Atwater will be seen as an odd couple, sending contradictory signals."

Mr. Bennett, until recently President Bush's drug czar, is a rare bird in the U.S. political aviary—a short-tempered, little-time-for-fools intellectual. The book he wrote with Mr. Eastland is an attempt to think through the whole complicated issue of what this country owes to its minority members, especially blacks, who have suffered discrimination for generations.

First of all, he argues, "most of those who have been most seriously hurt [by racial prejudice]—blacks, Chinese, Jews, American Indians—are dead." For the living, he says, opportunity is equal, so blacks and other minorities should now compete without benefits or rewards in a society that is colorblind and gender-ignorant. Civil-rights legislation passed in the 1960s, he says, "has provided minorities a real chance and a real opportunity. . . . What minorities need is further time to take advantage of those equal opportunities recently promulgated by law."

Racial quotas—affirmative action of almost any kind except the basic notion of making opportunity equal and available to all—are wrong, he says, because they deny respect and moral equality to minorities. "It is contemptible," he says, "that [college] admissions by race effectively reward minorities for low achievement. But it is more contemptible that they institutionalize low expectations for minority applicants." It resurrects "the doctrine of black inferiority—and the legacy of slavery," he says.

"You can say this for Bill," says Mr. Eastland, his co-author, "he certainly knows the argument at an intellectual level in ways the political leadership has yet to grasp."

two of three white voters will be emotionally swept up by this assertion."

Harris, president of Louis Harris & Associates, said Republicans "figure

favor affirmative action programs for blacks, but also for other minorities such as Hispanics and Asians and, for the largest minority, women."

W. Times 12/7/90

Employers required to fake test scores to favor minorities

By Peter A. Brown
SCRIPPS HOWARD NEWS SERVICE

The federal government has been forcing companies to artificially raise job-related test scores of minority applicants to match scores by white workers, an Equal Employment Opportunity Commission spokesman said yesterday.

Spokesman Jim Lafferty said the commission now thinks the policy was wrong.

The EEOC will review that policy following criticism by University of Delaware professor Linda Gottfredson in an essay in the Wall Street Journal, Mr. Lafferty said.

Miss Gottfredson said the policy being reviewed by the EEOC was similar to language in the 1990 Civil Rights Act that was vetoed by President Bush. The Senate failed by one vote to override the veto, and its supporters have promised to resurrect the legislation next year

Miss Gottfredson said her investigation found that the EEOC was trying to force firms to adjust the test results of black and Hispanic job ap-

see **SCORES**, *page A6*

• *Education report links minority graduation rate to population proportion. Page A6.*

SCORES

From page A1

plicants as a group in a way that would mirror those of all whites.

To do that, she charged, the EEOC was urging that the raw scores of black and Hispanic applicants be adjusted upward, even though the EEOC previously had agreed that there was no racial bias against minorities in the tests and that they were legitimate job-related tests.

> *"An unbiased test will always be considered 'unfair' whenever racial groups differ in average test scores."*

"By this formula the worse the black applicants performed as a group, the more bonus points they all individually receive," Miss Gottfredson wrote. "Typically, blacks scoring at the 16th and 50th percentiles [among all applicants] would be boosted to the 46th and 82nd respectively."

She charged that under the current EEOC policy, "an unbiased test will always be considered 'unfair' whenever racial groups differ in average test scores."

Mr. Lafferty said the EEOC was reviewing its files to verify her charges that it was currently suing five Fortune 500 companies to require the test scores of minority applicants be raised in that manner.

Miss Gottfredson did not name the five companies.

Mr. Lafferty did not dispute the thrust of her charges.

"Much of what she says is true," he said. "We don't think it [the practice of raising minority scores] is legitimate. We're reviewing all the cases related to this."

"We have been, for many months, conducting an internal review of the policies and some of the remedies at EEOC, and we are trying to bring them into line with administration policy," Mr. Lafferty said.

He added that he could not explain how the EEOC came to support such remedies but suggested that agency attorneys at one time thought such an approach might be required by the courts.

The EEOC is empowered to hear charges of discrimination made against employers and if necessary ask courts to find firms are violating civil rights laws. Most of the time they settle their cases out of court.

Miss Gottfredson, who has written extensively on the issue, said that language in the 1990 Civil Rights Act appears aimed at making a similar policy into law. If she is correct and the bill had become law, then courts would have been instructed to approve systems that raised minority scores in order to have them equal those of whites.

She said the legislation states employers could no longer defend the use of job-related tests "where qualified black workers fail a test at a higher rate than whites who are equally good workers."

There was no immediate response from Sen. Edward Kennedy, Massachusetts Democrat and the prime sponsor of the civil rights bill, about the charges.

Mr. Bush opposed the bill on the grounds that it would force businesses into racial quotas. Civil rights advocates have charged that the president was hiding his opposition to equal rights for minorities behind the issue of quotas.

Wall St. Journal Thur. Dec. 6, 1990

When Job-Testing 'Fairness' Is Nothing but a Quota

By Linda S. Gottfredson

Supporters of the recently vetoed 1990 civil rights bill indignantly deny it was a quota bill. But the legislation would, in fact, have imposed quotas to a far greater extent than even its most ardent critics realized.

The problem is a redefinition of "test fairness" embedded not in the bill itself, but in its legislative history. This radical redefinition in the Senate Labor Committee's "Explanation of the Legislation," written in June, is the same one used earlier this year when the Equal Employment Opportunity Commission quietly filed suit against at least five Fortune 500 companies for *not* using disguised quotas for test results.

In internal memos, the EEOC acknowledged that the employment tests it challenged are not biased against blacks. It also acknowledged that they are job-related. The employers had thus met the EEOC's first requirement for demonstrating business necessity, as codified in its Uniform Guidelines on Employee Selection Procedures. The commission charged, instead, that the employers had failed a second requirement of the guidelines: Companies will fail the business necessity test if plaintiffs can show that an "alternative" procedure is available that is comparably job-related but has less adverse impact on minority hiring.

What "alternative" had these Fortune 500 companies overlooked? The EEOC pointed not to a different test, but to a race-conscious procedure for scoring the challenged tests.

Specifically, the test scores of black and Hispanic job applicants would be raised according to a formula that gives them bonus points based largely on the size of the average test score difference between black (or Hispanic) applicants and "others" (mostly whites and Asians). By this formula, the *worse* the black (and Hispanic) applicants perform as a group, the *more* bonus points they all individually receive. Typically, blacks scoring at the 16th and 50th percentiles, for example, would be boosted to the 46th and 82nd, respectively.

Such race-conscious "performance-based score adjustments"—which violate, rather than honor, the principle of merit—come disguised by a pseudo-scientific rationale: On any existing test, some job applicants whose low test scores predict they will be poor workers would, if hired, actually turn out to be good workers (defined as performing above some minimally acceptable level on the job). When these prediction errors occur disproportionately among blacks and Hispanics as a group, the rationale continues, race-based score adjustments are needed.

No test can predict job performance perfectly (though job-related tests generally produce fewer errors than other selection procedures do). Individual applicants of any race with the same low test scores have the same risk of being mispredicted as poor workers. No one, of course, has suggested that the scores of low-scoring whites or Asians be adjusted.

The EEOC's chief psychologist, Donald Schwartz, claims in a memo that "the Uniform Guidelines . . . address only the need to ensure the fair use of selection procedures, not the unbiased use of these procedures." What matters now, in other words, are equal results, not race-neutral treatment.

This radical redefinition of fairness turns the traditional definition on its head, because it requires bias against whites in order to achieve "fairness" toward minorities. By the "performance-based score adjustment" standard, an unbiased test will *always* be "unfair" whenever racial groups differ in average test scores. More to the point, because racial differences show up on most unbiased job-related tests, virtually all unbiased job-related tests will be "unfair" by the new definition. Procedures that passed the old standard can be guaranteed to flunk the new standard whenever they have adverse impact—which they usually do.

In one sense the EEOC's "new" definition is not new. Many test experts rejected it more than a decade ago for being a quota system as well as technically flawed. When the theory was resurrected a year ago by a committee of the National Academy of Sciences to justify the use of race-based score adjustments by state employment agencies for making job referrals, leading test experts labeled it "rhetorical camouflage," "statistical legerdemain," "race-norming" and an "intellectually dishonest" effort to support racial preferences in hiring.

The EEOC has seized upon this discredited definition of fairness to create the illusion that unbiased job-related tests are unfair whenever a minority group performs more poorly on them ("without appropriate adjustments" such tests fail to meet "the requirements of . . . the Uniform Guidelines," is how it's phrased in one memo). Moreover, it claims that such tests can be transformed into an acceptable "alternative" by simply changing the test results for job candidates from EEOC-endorsed racial subgroups ("the use of adjusted test battery scores is . . . an acceptable alternative selection procedure to the use of unadjusted test battery scores").

This sounds a lot like the Senate Committee's June report on the 1990 civil rights bill, which states that a "demonstration of business necessity must deal not only with the subject matter of the test or job requirement, but also with the manner in which it is used." Echoing the EEOC's definition of fairness, the Senate report states that "where qualified black workers fail a test at a higher rate than whites who are equally good workers . . . such a test is not required [justified] by business necessity."

A job-related test would no longer be defensible if its color-blind use results in proportionately more such mispredictions for "poor" workers among blacks and Hispanics. While the Senate report does not explicitly say so, under the new definition the only way to make such tests—virtually all job-related tests—defensible would be to score them in a race-conscious manner.

Courts often are urged to read the legislative intent embedded in the history of a law. They will certainly be asked to do so with any new civil rights act. Should the redefinition of fairness be retained in the legislative history of the next bill, the bill's passage would codify the license the EEOC is already taking to mandate quotas for employment test results.

Ms. Gottfredson is a professor in the department of educational studies of the University of Delaware.

ID # 198319 CU
HU[illegible]

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
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Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: Nelson Mund

☐ **MI Mail Report** **User Codes:** (A)_____ (B)_____ (C)_____

Subject: A Positive Civil Rights Agenda; memo for C. Boyden Gray

ROUTE TO:

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
Cuyo	ORIGINATOR	90/11/30		C	90/11/30
	Referral Note:				
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ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
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I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
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C - Completed
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Type of Response = Initials of Signer
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5/81

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Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
01. Memo	Case Number 198319CU From Nelson Lund to C. Boyden Gray RE: A Positive Civil Rights Agenda (3 pp.)	11/30/90	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Records Management, White House Office of (WHORM)
Series: Subject File - General
Subseries: Scanned
WHORM Cat.: HU010
File Location: 196815CU to 203596

Open on Expiration of PRA
(Document Follows)
By JL (NLGB) on 2.14.05

Date Closed:	1/6/1999	**OA/ID Number:**	00002-001
FOIA/SYS Case #:	1999-0285-F	**Appeal Case #:**	
Re-review Case #:		**Appeal Disposition:**	
P-2/P-5 Review Case #:		**Disposition Date:**	
AR Case #:		**MR Case #:**	
AR Disposition:		**MR Disposition:**	
AR Disposition Date:		**MR Disposition Date:**	

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P-1 National Security Classified Information [(a)(1) of the PRA]
P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P-3 Release would violate a Federal statute [(a)(3) of the PRA]
P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

THE WHITE HOUSE

WASHINGTON

November 30, 1990

MEMORANDUM FOR C. BOYDEN GRAY

FROM: NELSON LUND

SUBJECT: A Positive Civil Rights Agenda

When Congress returns, the Administration will need to be ready with a strategy on civil rights. The strategy this past year was based on an attempt to negotiate a compromise, and it worked well in the sense that it exposed the agenda of the Democrats and their interest groups: the redistribution of jobs along racial lines. Everyone now knows that their agenda is incompatible with the President's principles. Our next step should be to offer a positive alternative agenda on civil rights: the elimination of all forms of discrimination and the expansion of economic opportunities for those who are disadvantaged. This can be seen as part of a broader "empowerment" initiative.

As you know, the bill transmitted to Congress on October 20, 1990 contained every concession to the proponents of Kennedy-Hawkins that we could possibly include. The bill contained very little that we thought was actually good policy. Our new bill should focus on worthwhile proposals that will actually advance equal opportunity and bring concrete benefits to minorities and women.

Eventually, the Administration will have to decide which of the undesirable concessions in the October 20 bill to include in next year's bill, if any. This is essentially a legislative strategy decision, and it will be important to consult early and carefully with key Members. We should not assume in advance, however, that we need to make all the concessions we made in the October 20 bill. Experience this past year suggests that what is important to most Members is being able to support a credible alternative: making this or that particular concession was much less important. Avoiding concessions, moreover, will help sharpen the distinction between our program and the Democrats' quota agenda.

If we can develop strong affirmative proposals, we are less likely to be forced by our allies to include undesirable concessions in our bill. Much coordination remains to be done, but preliminary work, including informal discussions with staff from DOJ, DPC, OPD, and OVP, has generated several tentative ideas that may hold promise:

I. The "Lorance" and "Patterson" Provisions from Last Year's Administration Bill

The Administration's original bill (February 1990) included provisions overruling two Supreme Court decisions that dealt with

the application of statutes of limitations to discriminatory seniority systems (Lorance), and the application of a Reconstruction Era statute to on-the-job racial harassment (Patterson). Neither measure is controversial.

II. Enhanced Remedies for Sexual Harassment

Because of an anomaly in current law, the remedies available for sexual harassment are not on a par with those available for racial harassment, and are often insufficient to provide meaningful relief. In his May 1990 Rose Garden remarks, the President indicated that this problem should be addressed.

Primarily because of complications arising from the Seventh Amendment right to a jury, it has proved difficult to eliminate this anomaly without importing some of the worst features of the tort system into Title VII. The Administration's October 20 bill adopted a compromise based on the approach in the Kassebaum substitute. It may be possible to devise a system of administrative remedies that will improve on this approach.

III. Anti-Quota Provisions

The Administration's October 20 bill included anti-quota language based on a proposal by Senator Dole. This language applies only to a few Federal statutes, and it addresses only quotas rather than improper preferences in general. Further steps could be considered. For example, provisions could be drafted to ensure:

- That no statute is construed to permit preferences based on race, sex, etc. unless it does so explicitly.

- That no regulation resorts to such preferences without specific statutory authorization.

- That all existing statutes authorizing preferences and set-asides shall be deemed to apply instead to economically disadvantaged persons without regard to race, sex, etc.

- That quotas and preferences are specifically outlawed in university admissions. (This is of special concern to Asian-Americans at the moment, and it has historically been a concern among Jews.)

IV. Davis-Bacon Repeal

Davis-Bacon and related statutes require that Federal contractors pay "prevailing wages." In practice, this essentially means union wages. Proposing to repeal them is very attractive:

- The impetus for the passage of Davis-Bacon in 1931 had racist overtones: the legislative history specifically references the problem of "cheap colored labor"

competing with white workers. (See attached Wall Street Journal op-ed.)

- o These statutes presumably continue to disadvantage racial minorities and women since key unions continue to be disproportionately white and male, and since the statutes create obstacles for small businesses, where minority entrepreneurship is concentrated.

- o Davis-Bacon reform (essentially exempting small Federal contracts) has consistently gotten around 200 votes in the House of Representatives in recent years.

- o In 1988, the CBO estimated that repeal of Davis-Bacon alone would reduce budget authority over 5 years by $6.62 billion.

V. Homeworker Reform

Labor laws that restrict homework are a burden on poor women, who are disproportionately minorities. Reforming these laws would expand economic opportunities, especially for rural women who lack transportation and child care. This would also be a pro-family proposal.

VI. Choice in Education

Inadequate education is unquestionably a principal cause of the fact that minorities are statistically underrepresented in desirable jobs. Legislation encouraging parental choice in school districts eligible for Chapter One or magnet school grants would help address this problem.

VII. Employer Sanctions

The rules on employer sanctions for hiring illegal aliens are widely believed to encourage discrimination against Hispanics. A proposal to modify these rules would generate strong support in that community. The Administration, however, has been careful not to take a position yet on this complicated and delicate issue. In addition, Senator Simpson is strongly committed to retaining employer sanctions.

VIII. Congressional Coverage

We should propose that Title VII be applied to Congress. The current exemption is inexcusable, and it encourages Congress to pass irresponsible measures (as they did with Kennedy-Hawkins this year) because they know the law won't apply to them.

Davis-Bacon: Racist Then, Racist Now

By Scott Alan Hodge

Two years before the 1964 Civil Rights Act was passed, local construction unions in Washington, D.C., prevented black electricians from working on one of the capital's premiere building projects: the Rayburn House Office Building. This week in that very same building the House Subcommittee on Labor Standards will be working on legislation that will perpetuate discrimination in the construction industry. Instead, that legislation should be repealed, once and for all.

At issue is the 1931 Davis-Bacon Act. Davis-Bacon requires contractors to pay all workers on federally funded construction projects valued at more than $2,000 the "prevailing wage" for that type of work, as determined by the U.S. Department of Labor. In practice, the Labor Department uses local union wage scales as a proxy for the "prevailing wage." Thus, any laborer who does not have the skills to command union scale is frozen out of these jobs. Typically, those frozen out are black or Hispanic.

The original supporters of the law could not have hoped for more—because, as the historical record shows, Davis-Bacon was written to prevent black workers, mostly from the South, from competing with the Northern construction trades.

So far, debate on Davis-Bacon has focused primarily on its costs, the estimated $1.5 billion it costs U.S. taxpayers to pay union scale when qualified workers are available at lower rates. But that complaint avoids the real evil of Davis-Bacon: discrimination against black Americans.

The original Davis-Bacon Act was drafted in 1927 by New York Rep. Robert Bacon after an Alabama contractor won the bid to build a federal hospital in Bacon's district. As Bacon reported at the first hearing on his bill, "The bid . . . was let to a firm from Alabama who brought some thousand non-union laborers from Alabama into Long Island, N.Y., into my congressional district." What he meant, of course is that many of the workers were black—and willing to work for less than local building tradesmen.

Bacon's complaints brought a knowing smile from Georgia Rep. William Upshaw, who commented: "You will not think that a Southern man is more than human if he smiles over the fact of your reaction to that real problem you are confronted with in any community with a superabundance or large aggregation of Negro labor."

Four years later during the floor debate on the bill, Alabama Rep. Miles Allgood echoed Upshaw's sentiments: "That contractor has cheap colored labor . . . and it is labor of that sort that is in competition with white labor. . . . This bill has merit . . . it is very important that we enact this measure."

There was little difference between the language of Reps. Upshaw and Allgood and the language of an 1857 petition from white tradesmen to the Atlanta city council. "We, the undersigned, would respectfully represent . . . that there exists in the city of Atlanta a number of men who . . . are of no benefit to the city. We refer to Negro mechanics [who] . . . can afford to underbid the regular resident mechanics . . . to their great injury. . . . We most respectfully request [the council] afford such protection to the resident mechanics."

Blacks dominated the skilled trades in the South after emancipation: In some trades there were five times as many black workers as whites, according to one estimate. In response, white workers used every political tool available to restrain black competition. In some cases, officially sanctioned licensing boards were established to "ensure the quality of local tradesmen." In other cases, whites sought to outlaw blacks from practicing specific trades, and even passed laws to prevent the recruitment of black laborers by Northern employers.

But, until the passage of Davis-Bacon, the federal government's policy of accepting the lowest bid on construction projects allowed black laborers to compete freely for federal work. Many blacks traveled great distances and endured harsh conditions for the chance to work, as Rep. Bacon discovered. The Davis-Bacon Act put a sudden end to this. Following enactment of Davis-Bacon, black tradesmen were shut out of many federal construction projects. Of the 4,100 workers on the Boulder Dam project in 1932, only 30 were black.

Blacks were also shut out of the massive public housing projects sponsored by President Roosevelt's Public Works Administration. Roosevelt sent representatives to Chicago to institute a quota system which required that a minimum percentage of a project's payroll be directed toward black tradesmen. The result: The blacks got all the low-pay, unskilled positions.

Despite all the civil rights laws on the books today, little has changed. According to Ralph C. Thomas III, executive director of the National Association of Minority Contractors, "The law in its current form is poison to minority contractors [and to minority employment in general . . . . The law stifles the minority contractors' efforts to not only hire as many minority workers as possible, but it also hinders minority contractor efforts to introduce new workers to the construction field."

Mary Nelson, director of Bethel New Life Inc., a church-affiliated social service organization in Chicago, has found that Davis-Bacon adds as much as 25% to her total budget and often prevents her from using the local unskilled poor to help refurbish the projects they themselves live in. Robert Woodson, president of the National Center for Neighborhood Enterprise, reports that public housing residents who want to help refurbish their own apartments often are forced to "volunteer" half a day's work in order to avoid Davis-Bacon requirements.

Davis-Bacon was intended to discriminate against blacks, and that is precisely what it has done. It's time for Washington to bid good-bye to Jim Crow.

Mr. Hodge is an analyst at the Heritage Foundation in Washington.

PL

ID# 199032

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

INCOMING

DATE RECEIVED: DECEMBER 18, 1990

NAME OF CORRESPONDENT: THE HONORABLE ALBERT GORE JR.

SUBJECT: FORWARDS CORRESPONDENCE FROM GLENN BOWMAN
REQUESTING THAT THE PRESIDENT MAKE DEC 15 90
A DAY OF PRAYER AND FASTING

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACTION ACT CODE	ACTION DATE YY/MM/DD	DISPOSITION TYPE RESP	DISPOSITION C D	DISPOSITION COMPLETED YY/MM/DD
FREDERICK MCCLURE	ORG	90/12/18		C	90/12/19 TC
REFERRAL NOTE:					
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COMMENTS: INCOMING REC'D AT THE WHITE HOUSE DEC 18 90
sent a ltr to Mrs Bowman 12/19/90

ADDITIONAL CORRESPONDENTS: MEDIA:L INDIVIDUAL CODES: 1210 ____ ____

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*C-COMMENT/RECOM	*B-NON-SPEC-REFERRAL	* CODE = A
*D-DRAFT RESPONSE	*C-COMPLETED	*COMPLETED = DATE OF
*F-FURNISH FACT SHEET	*S-SUSPENDED	* OUTGOING
*I-INFO COPY/NO ACT NEC		
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ALBERT GORE, JR
TENNESSEE

393 RUSSELL SENATE OFFICE BUILDING
PHONE 202-224-4944

United States Senate

WASHINGTON, DC 20510-4202

December 13, 1990

The Honorable George Bush
President of the United States
The White House Office
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

The enclosed correspondence is respectfully submitted at the request of Mrs. Glenn Bowman, Route 2, Box 353, Crossville, Tennessee.

Mrs. Bowman has been advised that her letter is being forwarded to the White House.

If there are any questions, please feel free to contact my office in Cookeville, Tennessee, 615-528-6475.

Sincerely,

Al Gore

Albert Gore, Jr.
United States Senator

AG/ob
Enclosure

Dec. 7- 1990

The Honorable Anna Belle Clement O'Brien.
United States senate

Dear Senator O'Brien!
Please encourage President Bush to make Saturday December 15th a day of prayer and fasting and Church bells ringing. Thankyou for doing this.

Mrs. Glenn Bowman

Rt 2 Box 353

38555

Name	Date
J Gardner	7/10/92

ID # 199189 CU

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WHITE HOUSE
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Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Mrs. Hearn

☐ **MI Mail Report** **User Codes: (A)** _____ **(B)** _____ **(C)** _____

Subject: Copy of letter to the President re 1991 Civil Rights Restoration Act

ROUTE TO: | **ACTION** | **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
Cuoco	ORIGINATOR	90/12/14		C	90/12/21
Cuoco	Referral Note: I	90/12/14		C	90/12/21
Cuoco	Referral Note: I	ATN: FYI 90/12/14		C	90/12/14
Cuoco	Referral Note: I	90/12/14		C	90/12/14
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	Referral Note:				

ACTION CODES:
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Type of Response = Initials of Signer
Code = "A"
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Comments: No Action Required -- Tracking Sheet may Be Closed Out -- Nelson Lund 12/21-90

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UNITED STATES MISSION TO INTERNATIONAL ORGANIZATIONS
GENEVA, SWITZERLAND
EXECUTIVE OFFICE

Telephone: 41 22 799-0300 FAX: 41 22 799-0892

This is page 1 of 5 pages. DATE: December 14, 1990

FROM: (Name/Office Symbol/Extension)	TO: (Name/Organization/Telephone Number)
Ambassador Morris B. Abram	The Honorable C. Boyden Gray Counsel to the President The White House Washington, D.C. Tel: (202) 456-2632 Fax: (202) 456-6279

MESSAGE TEXT:

Delivcr attached letter from Ambassador Abram to Mr. Gray as soon as possible.

Thank you.

THE REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
EUROPEAN OFFICE OF THE UNITED NATIONS
GENEVA

December 14, 1990

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As we discussed in Geneva on November 23, we have the chance to rescue civil rights from the mire of racial preferences by introducing legislation that restores the plain, original, and unambiguous meaning of the word "equality." More is at stake than statutory definitions of "business necessity" and "burdens of proof." This country did not wage a war against white supremacy only to witness the undoing of that victory by those who would elevate color preference over color blindness. I deeply believe that the great majority of this nation remains committed to equal protection of the law and color blindness, and will support a 1991 Civil Rights Restoration Act that embraces these principles.

We can offer legislation that reclaims this moral high ground and restores the irrefutable purpose of the Civil Rights Act of 1964: Racial discrimination in employment is impermissible and wrong, even when it proposes to correct imbalances by preferential treatment.

And we can go further than Kennedy-Hawkins to advance minority progress by offering tangible entrepreneurial and educational opportunities to the economically disenfranchised.

The Act should:

- Reaffirm our commitment to civil rights enforcement by salvaging portions of the White House version of the 1990 Civil Rights Act.

- Promote the original purposes of affirmative action: the development of human capital and the creation of opportunities, not the redistribution of entitlements by race-conscious goals and numerical timetables.

- Untangle the civil rights enforcement bureaucracy so that individuals can pursue legitimate grievances without enriching lawyers.

- Empower individuals by eliminating unnecessary barriers to educational and entrepreneurial opportunity.

- Insist that no civil rights legislation will gain your support unless it applies equally to Congress.

I have always believed that the strength of our nation lies in its ethnic and racial diversity. We should not let these differences balkanize and tribalize us. Your commitment to fairness in the fight over the Kennedy-Hawkins bill was the first step toward a lasting civil rights consensus in this country. The 1991 Civil Rights Restoration Act is the next, necessary, step.

Most respectfully,

Morris B. Abram
Ambassador

cc: The Honorable John H. Sununu
The Honorable C. Boyden Gray

Attachment

The Civil Right Restoration Act of 1991

Rather than try and squeeze marginal improvements from a warmed over Congressional version of Kennedy-Hawkins, we can set the terms of next year's civil rights debate by offering legislation that reclaims the original meaning of civil rights and offers hope to economically dispossessed minorities.

- Reclaim the language of civil rights: The proposed legislation should include preambulatory language that recalls the irrefutable, unambiguous purpose of Title VII: racial discrimination is impermissible, even to correct racial imbalances by preferential treatment. And it should recall Thurgood Marshall's argument in Brown v. Board of Education: the equal protection clause of the fourteenth amendment mandates color blindness, not color preference.

Reinforce our commitment to the enforcement of civil rights laws: Certain portions of the White House version of the 1990 Civil Rights Act would have eliminated anomalies in existing law and proposed greater compensation for victims of workplace sexual harassment and age discrimination. These provisions should be salvaged.

- Offer affirmative action strategies that work: Whether or not one supports the legality or morality of race-conscious goals and timetables, the evidence is overwhelming that this sort of "affirmative action" merely redistributes, rather than creates, opportunities. Instead of disavowing affirmative action, we should restore its original meaning -- efforts to give people the tools to take advantage of equal opportunities before unavailable to them. The emphasis should be on human capital development and economic mobility: education, basic skills development, and literacy training. The bill could require that in any federal regulation, executive order, or consent decree in which affirmative action is required, that term be defined not in terms of race but in terms of efforts to promote economic mobility and human capital development.

- Untangle the civil rights enforcement bureaucracy: Today's vast, expanding, and complex maze of federal civil rights regulations and enforcement mechanisms has made the pursuit of legitimate grievances impossible without legal assistance. Why should taxpayers and businesses continue to underwrite this lawyers' full employment scheme? Why should it be so difficult for laymen to pursue their civil rights claims? This bureaucratic thicket is long overdue for pruning. The bill should establish a temporary, bipartisan commission to study specific legislation to rationalize and harmonize civil rights enforcement.

- Individual Empowerment: Educational vouchers, urban enterprise zones, urban homesteading, and the elimination of excessive or arbitrary regulatory obstacles to entrepreneurial and occupational opportunities, such as licensing regulations and the federal Davis-Bacon Act, can empower minorities on the lowest rungs of the economic ladder.

- Evenhanded application of civil rights legislation: Is it not time that Congress be evenhanded in its application of civil rights? The automatic majority in Congress that supports civil rights legislation should be expected to obey its own laws, and the President should insist that no anti-discrimination legislation will gain his support unless it applies equally to Congress.

CS

ID # 199491 CU

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WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
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Date Correspondence Received (YY/MM/DD) / /

Name of Correspondent: NELSON LUND

☐ **MI Mail Report** **User Codes: (A)** _____ **(B)** _____ **(C)** _____

Subject: Forwards materials on H.R. 1 vs. The President's Civil Rights Bill

ROUTE TO: | **ACTION** | **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
CUOFC	ORIGINATOR	91/05/01		C	91/05/01
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CUAT 10	A	91/05/01		C	91/05/01
	Referral Note:	05/01/91 NL Note for Kristol.			
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FOR OUTGOING CORRESPONDENCE.
- Type of Response = Initials of Signer
- Code = "A"
- Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

Close out

THE WHITE HOUSE
WASHINGTON

Date: 5/1/91

TO: Bill Kristol

FROM: NELSON LUND
Associate Counsel
to the President

Attn: Kathleen

☐ Action

☐ Comments

☒ FYI

As promised.

H.R. 1 vs. The President's Civil Rights Bill

Common features of the two bills:

- Overturn the Patterson decision, greatly expanding the rights of racial minorities to sue for on-the-job harassment, as well as discrimination in promotions and dismissals.

- Overturn the Lorance decision, ensuring that victims of discriminatory seniority systems have a fair chance to challenge those systems.

- Put the burden of proof on employers to defend "business necessity" in cases of unintentional discrimination.

- Extend the statute of limitations, and authorize the award of interest, in cases involving the U.S. Government.

- Authorize the award of expert witness fees in civil rights cases.

Critical differences between the bills:

- In "disparate impact" cases -- those in which the employer is accused of using practices that unintentionally exclude disproportionate numbers of minorities or women -- H.R. 1 creates a complicated set of new rules that would make it almost impossible for employers to defend themselves successfully. As a result, they would have little choice except to adopt quotas so that their numbers come out "right." (H.R. 1 also includes phony "anti-quota" language that would have no legal effect.)

  The President's bill shifts the burden of proof to the employer in defending practices that cause disparate impact, which is a major concession to the civil rights groups. In other respects the bill essentially codifies the law as it stood prior to the Wards Cove decision in 1989.

- H.R. 1 creates new rules designed to prevent victims of illegal quotas from challenging consent decrees that mandate such quotas.

  The President's bill preserves the existing rights of these victims by codifying the Supreme Court's decision in Martin v. Wilks.

- H.R. 1 would radically alter Title VII by introducing jury trials, unlimited compensatory damages (including pain and suffering awards) and unlimited punitive damages in cases of intentional discrimination.

The President's bill permits awards of up to $150,000 in cases of harassment. It is only in harassment cases that existing remedies (back pay and injunctive relief) are inadequate, because harassment victims often do not suffer lost wages.

- o H.R. 1 would overturn the Price Waterhouse case, in which the plurality opinion was written by Justice Brennan. The effect would be to hold employers liable for discrimination even when an employer's "bad thoughts" caused no adverse action against anyone.

  The President's bill leaves current law intact, preserving the basic rule of no liability where no harm is done.

- o H.R. 1 purports to apply Title VII to Congress, but does not provide for any enforcement by an impartial tribunal.

  The President's bill allows congressional employees to seek redress in the court, just like other victims of discrimination (including those who work for the Executive branch).

- o H.R. 1 includes attorney fee provisions that would encourage litigation, and do more to enrich lawyers than to assist victims of discrimination.

  The President's bill retains the existing rules on attorney fees, which are already very generous to plaintiffs.

- o H.R. 1 includes a "comparable worth" provision.

  The President's bill contains no such assault on the fundamental premises of the free market system.

- o H.R. 1 applies retroactively.

  The President's bill applies only to new cases.

- o H.R. 1 instructs the courts to resolve all doubts against the employer.

  The President's bill allows the courts to apply normal rules of statutory construction.

FG 124/91

HU

THE WHITE HOUSE

WASHINGTON

December 27, 1990

Dear Morris:

I received your thoughtful letter of December 14 and read it with great interest. I agree we must find a way to restore our Nation's consensus on civil rights and to move forward with a positive approach. Your suggestions seem promising, and your ideas will be examined with the greatest care.

Thanks for writing. Best wishes, as always.

Sincerely,

George Bush

The Honorable Morris B. Abram
Representative of the United States
of America to the European Office
of the United Nations
Geneva

Happy New Year!

901228

1 3 1 4 9 1

THE REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
EUROPEAN OFFICE OF THE UNITED NATIONS
GENEVA

December 14, 1990

The President
The White House
Washington, D.C 20500

Dear Mr. President:

As we discussed in Geneva on November 23, we have the chance to rescue civil rights from the mire of racial preferences by introducing legislation that restores the plain, original, and unambiguous meaning of the word "equality." More is at stake than statutory definitions of "business necessity" and "burdens of proof." This country did not wage a war against white supremacy only to witness the undoing of that victory by those who would elevate color preference over color blindness. I deeply believe that the great majority of this nation remains committed to equal protection of the law and color blindness, and will support a 1991 Civil Rights Restoration Act that embraces these principles.

We can offer legislation that reclaims this moral high ground and restores the irrefutable purpose of the Civil Rights Act of 1964: Racial discrimination in employment is impermissible and wrong, even when it proposes to correct imbalances by preferential treatment.

And we can go further than Kennedy-Hawkins to advance minority progress by offering tangible entrepreneurial and educational opportunities to the economically disenfranchised.

The Act should:

- Reaffirm our commitment to civil rights enforcement by salvaging portions of the White House version of the 1990 Civil Rights Act.

- Promote the original purposes of affirmative action: the development of human capital and the creation of opportunities, not the redistribution of entitlements by race-conscious goals and numerical timetables.

- Untangle the civil rights enforcement bureaucracy so that individuals can pursue legitimate grievances without enriching lawyers.

- Empower individuals by eliminating unnecessary barriers to educational and entrepreneurial opportunity.

- Insist that no civil rights legislation will gain your support unless it applies equally to Congress.

I have always believed that the strength of our nation lies in its ethnic and racial diversity. We should not let these differences balkanize and tribalize us. Your commitment to fairness in the fight over the Kennedy-Hawkins bill was the first step toward a lasting civil rights consensus in this country. The 1991 Civil Rights Restoration Act is the next, necessary, step.

Most respectfully,

Morris B. Abram
Ambassador

cc: The Honorable John H. Sununu
The Honorable C. Boyden Gray

Attachment

The Civil Right Restoration Act of 1991

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- Untangle the civil rights enforcement bureaucracy: Today's vast, expanding, and complex maze of federal civil rights regulations and enforcement mechanisms has made the pursuit of legitimate grievances impossible without legal assistance. Why should taxpayers and businesses continue to underwrite this lawyers' full employment scheme? Why should it be so difficult for laymen to pursue their civil rights claims? This bureaucratic thicket is long overdue for pruning. The bill should establish a temporary, bipartisan commission to study specific legislation to rationalize and harmonize civil rights enforcement.

- Individual Empowerment: Educational vouchers, urban enterprise zones, urban homesteading, and the elimination of excessive or arbitrary regulatory obstacles to entrepreneurial and occupational opportunities, such as licensing regulations and the federal Davis-Bacon Act, can empower minorities on the lowest rungs of the economic ladder.

- Evenhanded application of civil rights legislation: Is it not time that Congress be evenhanded in its application of civil rights? The automatic majority in Congress that supports civil rights legislation should be expected to obey its own laws, and the President should insist that no anti-discrimination legislation will gain his support unless it applies equally to Congress.

PS

ID# 199491
HU010

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

INCOMING

DATE RECEIVED: DECEMBER 19, 1990

NAME OF CORRESPONDENT: THE HONORABLE MORRIS B. ABRAM

SUBJECT: FOLLOW-UP TO A NOV 23 90 DISCUSSION WITH THE PRESIDENT REGARDING SUPPORT FOR A 1991 CIVIL RIGHTS RESTORATION ACT; SUGGESTS CERTAIN PRINCIPLES THAT THE ACT SHOULD CONTAIN

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACTION ACT CODE	ACTION DATE YY/MM/DD	DISPOSITION TYPE RESP	DISPOSITION C D	DISPOSITION COMPLETED YY/MM/DD
~~C. BOYDEN GRAY~~ Cmpc	ORG	90/12/19			90/12/31/PS
REFERRAL NOTE:		/ /			90/12/31
REFERRAL NOTE: CBG SIGNATURE		/ /			
Cmat 10 REFERRAL NOTE:	D	90/12/20			90/12/31
Cmpray REFERRAL NOTE:	I	90/12/20			90/12/20
REFERRAL NOTE:		/ /			/ /
REFERRAL NOTE:		/ /			/ /

COMMENTS: ENCLOSURE
No Further Action Required PE M. Lund
12-31-90

ADDITIONAL CORRESPONDENTS: MEDIA:L INDIVIDUAL CODES: 1170 ____ ____

MI MAIL USER CODES: (A)_____ (B)_____ (C)_____

*ACTION CODES:	*DISPOSITION	*OUTGOING CORRESPONDENCE:
*A-APPROPRIATE ACTION	*A-ANSWERED	*TYPE RESP=INITIALS OF SIGNER
*C-COMMENT/RECOM	*B-NON-SPEC-REFERRAL	* CODE = A
*D-DRAFT RESPONSE	*C-COMPLETED	*COMPLETED = DATE OF OUTGOING
*F-FURNISH FACT SHEET	*S-SUSPENDED	
*I-INFO COPY/NO ACT NEC		
*R-DIRECT REPLY W/COPY		
*S-FOR-SIGNATURE		
*X-INTERIM REPLY		

REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE (ROOM 75,OEOB) EXT-2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS MANAGEMENT.

THE REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
EUROPEAN OFFICE OF THE UNITED NATIONS
GENEVA

December 14, 1990

The President
The White House
Washington, D.C. 20500

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The Honorable C. Boyden Gray

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SEARCH - QUERY
00008 MORRIS WITH ABRAM

147946 DOCUMENT= 7 OF 13

OPID	JV
DOCDATE	900607
RECTYP	IBA
MEDIA	F
STAFF	PRESIDENT BUSH
	PRBUSH
NAME	THE HONORABLE MORRIS B. ABRAM
TITLE	AMBASSADOR, U.S. MISSION
STREET	3, PLATEAU DE FRONTENX
ADDR	1208 GENEVA XX 00000
COUNTRY	SWITZERLAND
SUBJECT	URGES THE PRESIDENT TO REFUSE HIS CONCURRENCE
	TO THE CIVIL RIGHTS ACT OF 1990 AS IT NOW
	STANDS
SUBCODE	HU010
	LE
INDCODE	1150
RPTCODE	MI
ACTION	NSSCOW ORG 900608 C 900608
	PDPORT RSA 900611 CLOSED PER SUE YATES CP2 A 900717
	PDMCGE RSD 900612 C 900714
COMMENTS	ORIGINAL FAX TO GEORGE VAN ERON
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	OFFICE AND FORWARDED TO ANALYSIS FOR
	TRACKING

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00008 MORRIS WITH ABRAM

148134CU DOCUMENT= 8 OF 13

OPID TR
RECTYP HBA
MEDIA L
NAME MR. BILL KRISTOL
ORG THE WHITE HOUSE
ADDR WASHINGTON DC 20500
SUBJECT FORWARDS LETTER FROM MORRIS ABRAM TO THE
PRESIDENT REGARDING OPPOSITION TO THE
PROPOSED CIVIL RIGHTS LEGISLATION OF 1990
SUBCODE HU010
LE
INDCODE 1110
ACTION CUOFC ORG 900607 NAN C 900607
CUAT21 RSI 900607 C 900607
CUAT07 RSI 900607 C 900607
CUAT10 RSI 900607 C 900607
CUGRAY RSI 900607 C 900607
CUAT02 RSI 900607 C 900607
COMMENTS NO ACTION NECESSARY FDN.KRM JUN 7 90
I0607 * End of document.

SEARCH - QUERY
00008 MORRIS WITH ABRAM

186610 DOCUMENT= 13 OF 13

OPID JV
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MEDIA L
STAFF PRESIDENT BUSH
PRBUSH
NAME THE HONORABLE MORRIS B. ABRAM
TITLE REPRESENTATIVE OF THE UNITED STATES
OF AMERICA
ORG UNITED NATIONS OFFICE IN GENEVA
STREET 11, ROUTE DE PREGNY
1292 CHAMBESY
ADDR GENEVA XX 00000
COUNTRY SWITZERLAND
SUBJECT EXPRESSES SUPPORT FOR THE PRESIDENT 'S VETO
OF THE KENNEDY / HAWKINS BILL
SUBCODE HU010
LE
INDCODE 1170
RPTCODE MI
ACTION NSSCOW ORG 901030 C 901116
99DOS RAR 901120

I0601 * End of documents in list. Press ENTER or enter another command.

FG74/91

THE WHITE HOUSE

WASHINGTON

December 27, 1990

Dear Morris:

I received your thoughtful letter of December 14 and read it with great interest. I agree we must find a way to restore our Nation's consensus on civil rights and to move forward with a positive approach. Your suggestions seem promising, and your ideas will be examined with the greatest care.

Thanks for writing. Best wishes, as always.

Sincerely,

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The Honorable Morris B. Abram
Representative of the United States
of America to the European Office
of the United Nations
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Happy New Year!

901228

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of the United Nations
Geneva

GB/CBGray/JWC-JG/pt (12PRESC)

cc: C. Boyden Gray - FYI

CLEAR THRU JOHN GARDNER

PRESIDENT TO SIGN

THE WHITE HOUSE

WASHINGTON

December 21, 1990

MEMORANDUM FOR THE PRESIDENT

FROM: C. BOYDEN GRAY

SUBJECT: Response to Ambassador Abram's Letter on Civil Rights

Attached is a letter from Ambassador Abram urging that you take a strong stand in support of initiatives to enhance economic opportunities for disadvantaged Americans and to maintain your clear opposition to quotas. He also attaches an outline of several specific proposals for an Administration civil rights initiative.

I strongly agree with the general approach that Ambassador Abram advocates. The reason I've had to be so heavily involved in civil rights is that this issue has degenerated into a series of unbelievably arcane legal questions. But lawyers can never solve the real problems of disadvantaged minorities -- that will only happen through the efforts of educators, business people, the clergy, and ordinary decent Americans.

If we spend another year debating the proper scope of disparate impact theory and the merits of the impermissible collateral attack doctrine, I fear that two very bad things will happen: (1) the lawyers' lobby may pick up enough votes in Congress to override your veto next year; and (2) the real problems in the minority community will remain unaddressed and misunderstood. This will not put the issue behind us -- instead it will lead to new and even more divisive fights as the civil rights lawyers try to extend the racial spoils system to ever greater lengths. The Krauthammer op-ed from today's paper (attached) contains an eloquent warning about the threat this poses to the melting-pot ideal of the American experiment.

We played a defensive game this year, and we narrowly survived. Unless we move quickly to put forward a positive civil rights initiative along the lines suggested by Ambassador Abram, we will end up on the defensive again when Congress returns next month. I think we can change that, but I don't think we can afford to wait very long before acting.

I have attached for your signature a draft response to Ambassador Abram.

Attachments

~~December 21, 1990~~

Dear Morris:

I received your ~~very~~ thoughtful letter of December 14 and read it with great interest. I agree ~~that~~ we must find a way to restore our Nation's consensus on civil rights and to move forward with a positive approach. Your suggestions seem ~~very~~ promising, and ~~I will see to it that~~ your ideas ~~are~~ will be examined with the greatest care.

Thanks for writing. ~~I hope to see you again soon.~~ Best wishes, as always.

Sincerely,

GB

The Honorable Morris B. Abram
Representative of the United States
of America to the European Office
of the United Nations
Geneva, Switzerland

[redacted]

THE WHITE HOUSE
WASHINGTON

12/17/90

TO: BOYDEN GRAY

FROM: **JAMES W. CICCONI**
Assistant to the President and
Deputy to the Chief of Staff

Please prepare a reply for the President's signature.

Thank you.

cc: Shirley Green

[redacted]

[redacted]

THE REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
EUROPEAN OFFICE OF THE UNITED NATIONS
GENEVA

December 14, 1990

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Washington Post
12/21/90

Charles Krauthammer

What's Left of the Left

After socialism, an agenda for fracturing American society.

The Committee for the Free World, the most implacable and spirited anti-Communist voice in post-Vietnam America, closed shop this week. "We've won, goodbye," founder Midge Decter told The Post's E. J. Dionne. The most skeptical coroner has spoken. Communism is dead.

Another story, however, has been largely missed: socialism is dead too. At a recent gathering of the left (for a memorial tribute to radical historian William Appleman Williams), Christopher Lasch, with admirable candor, said: "We have to ask ourselves whether [Gorbachev] isn't presiding not just over the collapse of the Soviet empire but over the collapse of socialism as well. It is all very well to argue . . . that the socialist ideal was never to be confused with [Soviet-style] 'actually existing socialism.' But the whole point of Marxian socialism as distinguished from Utopian socialism, if anybody remembers, was precisely that it was not merely a speculative ideal."

Socialism, despite what Gorbachev pretends, was never the doctrine of loving thy neighbor as thyself. It is a political doctrine of class conflict rooted in a rejection of private property and a faith in "social control"—i.e., political control—of the means of production (factories, industry, etc.)

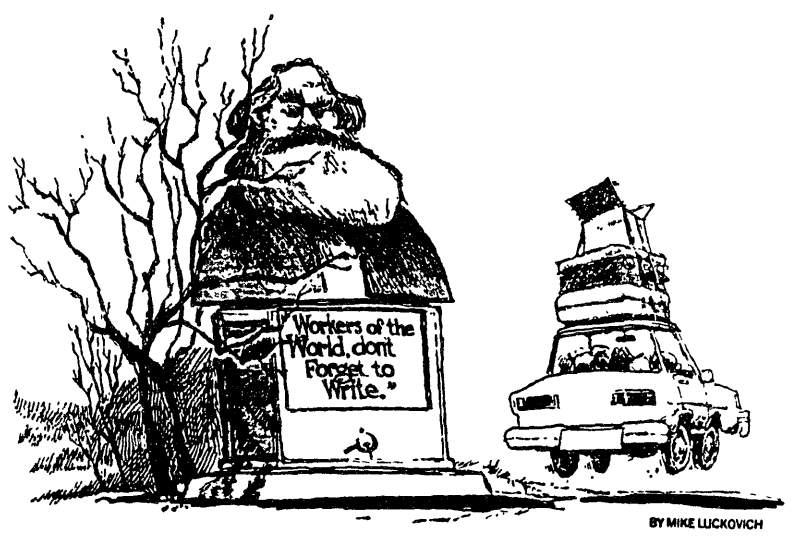
Well, the returns are in. Socialism is a prescription for economic ruin. Ruin not only where deformed by Stalinism but even where practiced with a human face. Tanzania's experiment in "African socialism" utterly destroyed a once self-sufficient economy. Even Israel's much idealized kibbutz movement faces insolvency. No serious country today looks to socialism as a model for development.

Accordingly, socialists have generally abandoned socialism and become social democrats. Social democrats want to humanize the market by attaching safety nets. A noble meliorism, but it is not socialism. It is liberalism. The socialist vision of new economic and social relations is finished.

But if socialism is finished, what's left of the left? How will it occupy its time? Judging from its recent activities, it is improvising well. Its agenda:

1) **Earth.** Environmentalism is a natural successor to Marxism. Europe's Green parties led the way, showing friends of the Earth the connection between opposition to development, on the one hand, and anti-nuclearism, anti-imperialism and anti-Americanism on the other.

There is a certain shamelessness in the left adopting the environment as its cause, considering the indescribable environmental wreckage left by "actually existing socialism" in Eastern Europe and the Soviet Union. Environmentalism is nonetheless the perfect escape hatch for the left because it enables the left to do precisely what it tried to do under the banner of socialism: allow educated elites to tell everyone else how to live. Social control, once asserted on behalf of the working class, is now asserted on behalf of the spotted owl.



BY MIKE LUCKOVICH

2) **Peace.** With the Gulf crisis, the left (with some help from the isolationist right) has been busy trying to revive the long dormant antiwar movement. But here one gets the feeling of people going through the motions, of a reflexive, almost nostalgic anti-interventionism.

After all, the last time the peace movement got terribly exercised, it was to warn the world in panicked tones of the imminence of nuclear catastrophe and of the urgent need to take as many nuclear weapons as possible out of the hands of Ronald Reagan. Now that a Third World adventurer and thug—a man who has used weapons of mass destruction in the past and has pledged to use them again—is about to get his hands on a nuclear arsenal, the antiwar left can find no "just war" reason to disarm him.

This is more than inconsistency. This is bad faith. Hence, I suspect, the weakness of the peace movement so far.

3) **The Balkanization of America.** This is the major project of the left in the universities, the monastic refuge to which, like a defeated religious order, the radical left has retreated. How to undermine a social system it cannot abide? By attacking its most central values: the idea of a common Western culture and the idea of a common American citizenship.

How? By proclaiming and championing a new oppressed, no longer the bloated and ungrateful working classes, but a new class of carefully selected ethnic and gender groups. Blacks, Hispanics, women, homosexuals, Native Americans—the list is long, the bids are open—are now wards of the left.

In their name is launched an all-out assault, first, on America's cultural past. As Prof. John Searle points out in the New York Review of Books (Dec. 6), the demand is not just for an expansion of the West's cultural canon to include works by women or people of color, but the destruction of this canon as representative of a white male-dominated system of cultural oppression.

So much for Western Civ. The other attack—on common citizenship—consists of the division of Americans into a hierarchy of *legally* preferred groups based on race and gender. From Canada to Lebanon, every other multi-ethnic society that has attempted such tribal stratification has come to grief. (Canada hangs by a thread, Lebanon has been shredded.) No matter. The left, helped by a nobly motivated but intellectually bankrupt "civil rights community," would march us just that way.

Of the three projects, Balkanization is the most serious. America will survive both Saddam and the snail darter. But the setting of one ethnic group against another, the fracturing not just of American society but of the American idea, poses a threat that no outside agent in this post-Soviet world can hope to match.

ID # 199631 CU

HU010

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
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Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Jim Cicconi

☐ MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Forwards copy of Morris Abram's letter to the President re Civil Rights Restoration Act of 1991. request for reply for POTUS Signature

ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
Cuoto		ORIGINATOR	90,12,17		C	90/12/21 CB
		Referral Note:	POTUS SIGNATURE			
Cuo+10		A	90,12,17	~~AEO~~	C	90,12,21 CB
		Referral Note:	Dec. 21,90 MEMO FOR CBG W/ POTUS LETTER			
Cuo+07		I	90/12/17		C	90/12/21 CB
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Cuoday		~~I~~	90/12/17		C	90/12/21 CB
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ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
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DISPOSITION CODES:
A - Answered
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C - Completed
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FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
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Comments: Dec. 21, 90 CBG memo to the President

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5/81

THE WHITE HOUSE

WASHINGTON

December 21, 1990

MEMORANDUM FOR C. BOYDEN GRAY

FROM: NELSON LUND

SUBJECT: POTUS Response to Morris Abram's Most Recent Letter

As we discussed, attached are a draft response for the President to Ambassador Abram and a cover memo for your signature.

Attachments

December 21, 1990

Dear Morris:

I received your very thoughtful letter of December 14 and read it with great interest. I agree that we must find a way to restore our Nation's consensus on civil rights, and to move forward with a positive approach. Your suggestions seem very promising, and I will see to it that your ideas are examined with the greatest care.

Thanks for writing. I hope to see you again soon.

Sincerely,

GB

The Honorable Morris B. Abram
Representative of the United States
of America to the European Office
of the United Nations
Geneva, Switzerland

Withdrawal/Redaction Sheet
(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
02. Memo	Case Number 199631CU From C. Boyden Gray to POTUS RE: Response to Ambassador Abram's Letter on Civil Rights (1 pp.)	12/21/90	P-5	

Collection:

Record Group: Bush Presidential Records
Office: Records Management, White House Office of (WHORM)
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WHORM Cat.: HU010
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FOIA/SYS Case #:	1999-0285-F	**Appeal Case #:**	
Re-review Case #:		**Appeal Disposition:**	
P-2/P-5 Review Case #:		**Disposition Date:**	
AR Case #:		**MR Case #:**	
AR Disposition:		**MR Disposition:**	
AR Disposition Date:		**MR Disposition Date:**	

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P-4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [a)(5) of the PRA]
P-6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

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(b)(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
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(b)(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
(b)(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
(b)(9) Release would disclose geological or geophysical information

THE REPRESENTATIVE
OF THE
UNITED STATES OF AMERICA
TO THE
EUROPEAN OFFICE OF THE UNITED NATIONS
GENEVA

December 14, 1990

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As we discussed in Geneva on November 23, we have the chance to rescue civil rights from the mire of racial preferences by introducing legislation that restores the plain, original, and unambiguous meaning of the word "equality." More is at stake than statutory definitions of "business necessity" and "burdens of proof." This country did not wage a war against white supremacy only to witness the undoing of that victory by those who would elevate color preference over color blindness. I deeply believe that the great majority of this nation remains committed to equal protection of the law and color blindness, and will support a 1991 Civil Rights Restoration Act that embraces these principles.

We can offer legislation that reclaims this moral high ground and restores the irrefutable purpose of the Civil Rights Act of 1964: Racial discrimination in employment is impermissible and wrong, even when it proposes to correct imbalances by preferential treatment.

And we can go further than Kennedy-Hawkins to advance minority progress by offering tangible entrepreneurial and educational opportunities to the economically disenfranchised.

The Act should:

- Reaffirm our commitment to civil rights enforcement by salvaging portions of the White House version of the 1990 Civil Rights Act.

- Promote the original purposes of affirmative action: the development of human capital and the creation of opportunities, not the redistribution of entitlements by race-conscious goals and numerical timetables.

- Untangle the civil rights enforcement bureaucracy so that individuals can pursue legitimate grievances without enriching lawyers.

- Empower individuals by eliminating unnecessary barriers to educational and entrepreneurial opportunity.

- Insist that no civil rights legislation will gain your support unless it applies equally to Congress.

I have always believed that the strength of our nation lies in its ethnic and racial diversity. We should not let these differences balkanize and tribalize us. Your commitment to fairness in the fight over the Kennedy-Hawkins bill was the first step toward a lasting civil rights consensus in this country. The 1991 Civil Rights Restoration Act is the next, necessary, step.

Most respectfully,

Morris B. Abram
Ambassador

cc: The Honorable John H. Sununu
The Honorable C. Boyden Gray

Attachment

The Civil Right Restoration Act of 1991

Rather than try and squeeze marginal improvements from a warmed over Congressional version of Kennedy-Hawkins, we can set the terms of next year's civil rights debate by offering legislation that reclaims the original meaning of civil rights and offers hope to economically dispossessed minorities.

- Reclaim the language of civil rights: The proposed legislation should include preambulatory language that recalls the irrefutable, unambiguous purpose of Title VII: racial discrimination is impermissible, even to correct racial imbalances by preferential treatment. And it should recall Thurgood Marshall's argument in Brown v. Board of Education: the equal protection clause of the fourteenth amendment mandates color blindness, not color preference.

- Reinforce our commitment to the enforcement of civil rights laws: Certain portions of the White House version of the 1990 Civil Rights Act would have eliminated anomalies in existing law and proposed greater compensation for victims of workplace sexual harassment and age discrimination. These provisions should be salvaged.

- Offer affirmative action strategies that work: Whether or not one supports the legality or morality of race-conscious goals and timetables, the evidence is overwhelming that this sort of "affirmative action" merely redistributes, rather than creates, opportunities. Instead of disavowing affirmative action, we should restore its original meaning -- efforts to give people the tools to take advantage of equal opportunities before unavailable to them. The emphasis should be on human capital development and economic mobility: education, basic skills development, and literacy training. The bill could require that in any federal regulation, executive order, or consent decree in which affirmative action is required, that term be defined not in terms of race but in terms of efforts to promote economic mobility and human capital development.

- Untangle the civil rights enforcement bureaucracy: Today's vast, expanding, and complex maze of federal civil rights regulations and enforcement mechanisms has made the pursuit of legitimate grievances impossible without legal assistance. Why should taxpayers and businesses continue to underwrite this lawyers' full employment scheme? Why should it be so difficult for laymen to pursue their civil rights claims? This bureaucratic thicket is long overdue for pruning. The bill should establish a temporary, bipartisan commission to study specific legislation to rationalize and harmonize civil rights enforcement.

- Individual Empowerment: Educational vouchers, urban enterprise zones, urban homesteading, and the elimination of excessive or arbitrary regulatory obstacles to entrepreneurial and occupational opportunities, such as licensing regulations and the federal Davis-Bacon Act, can empower minorities on the lowest rungs of the economic ladder.

- Evenhanded application of civil rights legislation: Is it not time that Congress be evenhanded in its application of civil rights? The automatic majority in Congress that supports civil rights legislation should be expected to obey its own laws, and the President should insist that no anti-discrimination legislation will gain his support unless it applies equally to Congress.

THE WHITE HOUSE

WASHINGTON

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Washington Post
12/21/90

Charles Krauthammer

What's Left of the Left

After socialism, an agenda for fracturing American society.

The Committee for the Free World, the most implacable and spirited anti-Communist voice in post-Vietnam America, closed shop this week. "We've won, goodbye," founder Midge Decter told The Post's E. J. Dionne. The most skeptical coroner has spoken. Communism is dead.

Another story, however, has been largely missed: socialism is dead too. At a recent gathering of the left (for a memorial tribute to radical historian William Appleman Williams), Christopher Lasch, with admirable candor, said: "We have to ask ourselves whether [Gorbachev] isn't presiding not just over the collapse of the Soviet empire but over the collapse of socialism as well. It is all very well to argue . . . that the socialist ideal was never to be confused with [Soviet-style] 'actually existing socialism.' But the whole point of Marxian socialism as distinguished from Utopian socialism, if anybody remembers, was precisely that it was not merely a speculative ideal."

Socialism, despite what Gorbachev pretends, was never the doctrine of loving thy neighbor as thyself. It is a political doctrine of class conflict rooted in a rejection of private property and a faith in "social control"—i.e., political control—of the means of production (factories, industry, etc.)

Well, the returns are in. Socialism is a prescription for economic ruin. Ruin not only where deformed by Stalinism but even where practiced with a human face. Tanzania's experiment in "African socialism" utterly destroyed a once self-sufficient economy. Even Israel's much idealized kibbutz movement faces insolvency. No serious country today looks to socialism as a model for development.

Accordingly, socialists have generally abandoned socialism and become social democrats. Social democrats want to humanize the market by attaching safety nets. A noble meliorism, but it is not socialism. It is liberalism. The socialist vision of new economic and social relations is finished.

But if socialism is finished, what's left of the left? How will it occupy its time? Judging from its recent activities, it is improvising well. Its agenda:

1) **Earth.** Environmentalism is a natural successor to Marxism. Europe's Green parties led the way, showing friends of the Earth the connection between opposition to development, on the one hand, and anti-nuclearism, anti-imperialism and anti-Americanism on the other.

There is a certain shamelessness in the left adopting the environment as its cause, considering the indescribable environmental wreckage left by "actually existing socialism" in Eastern Europe and the Soviet Union. Environmentalism is nonetheless the perfect escape hatch for the left because it enables the left to do precisely what it tried to do under the banner of socialism: allow educated elites to tell everyone else how to live. Social control, once asserted on behalf of the working class, is now asserted on behalf of the spotted owl.

BY MIKE LUCKOVICH

2) **Peace.** With the Gulf crisis, the left (with some help from the isolationist right) has been busy trying to revive the long dormant antiwar movement. But here one gets the feeling of people going through the motions, of a reflexive, almost nostalgic anti-interventionism.

After all, the last time the peace movement got terribly exercised, it was to warn the world in panicked tones of the imminence of nuclear catastrophe and of the urgent need to take as many nuclear weapons as possible out of the hands of Ronald Reagan. Now that a Third World adventurer and thug—a man who has used weapons of mass destruction in the past and has pledged to use them again—is about to get his hands on a nuclear arsenal, the antiwar left can find no "just war" reason to disarm him.

This is more than inconsistency. This is bad faith. Hence, I suspect, the weakness of the peace movement so far.

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WHITE HOUSE
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Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Tracy Card

☐ MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: Material from Clint Bolick re The Civil Rights and Individual Empowerment Act of 1991

ROUTE TO:

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Code	Completion Date YY/MM/DD
Cuofc	ORIGINATOR	90 12 17		C	90 12 21 CS
Cuat 10	Referral Note: A	90 12 18		C	90 12 21 CS
Cuat 07	Referral Note: I	see comments 90 12 18		C	90 12 18 CS
Cuglay	Referral Note: I	90 12 18		C	90 12 18 CS
Cuat02	Referral Note: I	90 12 18		C	90 12 18 CS
	Referral Note:				

ACTION

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ACTION CODES.
- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet to be used as Enclosure
- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
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- X - Interim Reply

DISPOSITION CODES:
- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

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- Type of Response = Initials of Signer
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THE WHITE HOUSE
WASHINGTON

Date: 12-17-90

FOR: Boyden Gray

FROM: ANDREW H. CARD, Jr.

- ☐ Action
- ☐ Your Comment
- ☐ Let's Talk
- ☒ FYI

THE WHITE HOUSE
WASHINGTON

Date: 12/4/90

TO: Andy Card

FROM: **CHARLES E. M. KOLB**

- ☐ Action
- ☐ Draft Response
- ☒ FYI
- ☐ Let's Talk

COMMENTS:

Attached is material on a proposed new Civil Rights bill sent to me by Clint Bolick.

Attachment

LANDMARK LEGAL FOUNDATION

CENTER FOR CIVIL RIGHTS

THE CIVIL RIGHTS AND INDIVIDUAL EMPOWERMENT ACT OF 1991

Clint Bolick
Director, Landmark Center for Civil Rights

Civil Wrongs: The hysteria that greeted President Bush's veto of the 1990 Civil Rights Act was predictably excessive. Forget the quotas subtext. The real issue is whether what American minorities need right now is an illiberal law that puts the burden of proof on employers with a dubious racial mix among their staff to convince juries they're not racist, and that creates an open-ended opportunity for litigation. We think not. If anything, the bill is a distraction from the real civil rights issue of the decade -- the plight of the black underclass. We understand why neither the civil rights industry nor George Bush wants to talk about this: tackling it is not as easy as politicking in Northwest Washington. Maybe if they spent some time in Southeast, they'd get a better idea of how irrelevant their grandstanding really is.

The New Republic, 11/12/90

The debate over the future of civil rights reached a critical crossroads in 1990. Several recent seminal events have occurred that ought to influence future directions:

- In a series of decisions, the United States Supreme Court declined to engage in further judicial activism to stretch the nation's civil rights laws far beyond the precious consensus those laws embody.

- Benjamin Hooks of the NAACP called a mass rally to protest the rulings, but he couldn't deliver and was forced to downsize the event to a "silent vigil." The NAACP has lost 100,000 members in the past decade.

- Scholars spanning the ideological spectrum reached the conclusion that race-specific policies and other forms of social engineering have failed to help the truly disadvantaged gain entry into the economic mainstream.

- In Washington, D.C., a ceremony to turn over ownership of the Kenilworth-Parkside public housing complex to its residents took place at the same time as a nearby counter-demonstration by Jesse Jackson to protest the former administration's housing policies. The Kenilworth-Parkside event

Center for Civil Rights: 216 G Street, N.E. • Washington, D.C. 20002 • (202) 546-6045 • (202) 546-3144 (FAX)
Headquarters: 1006 Grand Avenue • 15th Floor • Kansas City, Missouri 64106 • (816) 474-6600 • (816) 474-6609 (FAX)

attracted twice as many people, certainly the first time a Republican-sponsored event outdrew Jesse Jackson in the low-income community.

- Also in Washington, D.C., entrepreneur Ego Brown won a court challenge against a local ordinance banning shoeshine stands on public streets, allowing him to continue providing "bootstraps capitalism" opportunities to homeless people. The ruling was the first judicial triumph for "economic liberty" in the civil rights context in 50 years.

- Sen. Ted Kennedy introduced the "Civil Rights Act of 1990," which included some worthwhile provisions but whose main effect would be to encourage employers to abandon objective standards and adopt racial quotas.

- President Bush announced three requirements for civil rights legislation: it must neither require nor encourage racial quotas, it must preserve the due process principle that an accused is presumed innocent until proven guilty, and it must not be so complex as to amount to a full-employment act for lawyers. He also urge future strategies based on individual "empowerment."

- The bill's opponents gained control of the terms of the debate, successfully characterizing it as a quota bill. Several liberal commentators who never before opposed a civil rights bill so did so in this instance.

- In Wisconsin, the legislature passed the nation's first parental choice law, allowing 1,000 low-income Milwaukee children to use a portion of their state education funds to escape substandard public schools and instead attend excellent nonsectarian private community schools. The bill was sponsored by Democrat state representative Polly Williams and signed into law by Republican governor Tommy Thompson, but was opposed by liberal legislators and challenged in court by the state teachers' union and the local NAACP chapter.

- The Kennedy civil rights bill passed both houses of Congress, but was the first among the last ten civil rights bills to fail to garner veto-proof majorities. President Bush vetoed the bill, and the bill's proponents threatened retribution at the polls.

- On election day 1990, at least two major Republican candidates who raised the quota issue won close elections; others who waffled on the issue or opposed the president were defeated. In Wisconsin, Tommy Thompson was the first GOP gubernatorial candidate since 1946 to carry Milwaukee County.

These and other events produced abundant evidence to support a new direction for civil rights policy. We have learned that social engineering such as racial quotas and forced busing has done little to help the most disadvantaged individuals. We have learned that a civil rights bill promising more of the same does not resonate among low-

income voters. We have learned that strategies based on individual empowerment, offering tangible opportunities to those outside the economic mainstream, offer real hope for the future.

hope for the future.

The president's commitment to basic principles of fairness in the fight over the Kennedy bill was a crucial turning point in civil rights policy. Enough members of Congress were sufficiently skeptical about continuing down the road of social engineering to rebuff the siren call of the civil rights establishment.

But that leaves us with the ball at our own one-inch line. The Kennedy forces were only a few votes short, and even the most courageous members of Congress cannot vote against "civil rights" bills forever. Likewise, black voters who are now skeptical of President Bush's rhetoric understandably want to see real commitment.

We must take the steps necessary to reformulate the terms of the civil rights debate, away from entitlements and race-consciousness toward empowerment and opportunity. We must attract back to our fold moderate Republicans and Democrats who supported the Kennedy bill. We must offer a real alternative to low-income people.

That effort begins with a major civil rights bill that goes far beyond anything envisioned in the Kennedy bill, one that offers real, tangible opportunities to people who need them the most.

The Bill's Provisions

The Civil Rights and Individual Empowerment Act of 1991 should consist of two principal elements: provisions strengthening civil rights law enforcement, and provisions expanding individual empowerment.

1. Civil Rights Law Enforcement Provisions.

Any meaningful civil rights strategy depends for its foundation on effective law enforcement. The following proposals would improve and strengthen civil rights law enforcement without sacrificing the important civil rights principles the President has articulated.

A. Selected provisions from the President's 1990 civil rights bill. The administration counter-proposal to the Kennedy bill included some provisions that could eliminate anomalies that exist under current law. Specifically, limited monetary damages would aid in compensating victims of discrimination for whom back pay is not a viable or sufficient remedy. Likewise, the bill's provision easing restrictions on challenges to discriminatory seniority systems is a worthwhile proposal. For reasons discussed extensively in other writings,[1] I believe Wards Cove was correctly decided, since it creates a level playing field on which victims of discrimination can successfully challenge

[1] See, e.g., Clint Bolick, Unfinished Business: A Civil Rights Strategy for America's Third Century (San Francisco: Pacific Research Institute for Public Policy, 1990, pp. 119-122.

discriminatory practices and on which employers can successfully defend nondiscriminatory practices.

B. Affirmative action. Most people today consider "affirmative action" to consist of race-conscious efforts to meet numerical goals and timetables. Regardless of the legality or morality of such practices, the weight of evidence is overwhelming that they [illegible] in a redistribution of opportunities rather than creation of new

have primarily resulted in a redistribution of opportunities, rather than creation of new ones.

Far from disavowing affirmative action, we should restore its original meaning. Affirmative action as originally understood consisted of efforts to give people the tools to take advantage of the equal opportunities that for the first time were available to them. That task has never been taken on in a serious manner. As a result, affirmative action today is a surface-level response to far deeper social problems.

A variety of effective true affirmative action strategies are available to transform economic outsiders into productive workers.[1] These strategies are geared not toward race but toward economic disadvantage, and focus on such efforts as basic skills training, literacy training, mentoring, transportation from the inner city to the suburbs, daycare, and many others. For affirmative action to have any vitality in the 1990s, it must be geared toward economic mobility and human capital development, which are the two principal barriers to the meaningful participation of low-income people in the economy.

This bill could require that in any federal regulations, executive orders, or consent decrees in which affirmative action is required, that term shall be defined not in terms of race, but in terms of efforts to increase human capital development and economic mobility. Manifest efforts to achieve those goals shall be deemed proof of compliance. In this manner, we can move away from the current numbers game, toward real affirmative action efforts targeted to the most disadvantaged members of our society.

C. Consolidate civil rights provisions. Federal civil rights laws today involve an ever-expanding array of rights and responsibilities and a maze of law enforcement agencies to enforce them. For instance, the Department of Justice (DoJ) enforces the law that makes it unlawful to discriminate against people on the basis of immigration status, whereas the Equal Employment Opportunity Commission (EEOC) enforces the prohibition against discrimination on the basis of "national origin." DoJ enforces federal employment discrimination laws against the states and local governments; the EEOC enforces them against the federal government and private employers, except for the Age Discrimination in Employment Act, which it also enforces against state and local governments. The Department of Education investigates certain education discrimination

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[1] Such private sector efforts are profiled in Clint Bolick and Susan Nestleroth, Opportunity 2000: Creative Affirmative Action Strategies for a Changing Workforce (Washington: U.S. Department of Labor, 1988); and in Kevin Hopkins, Susan Nestleroth, and Clint Bolick, Help Wanted: How Companies Can Survive and Thrive in the Coming Worker Shortage (New York: McGraw-Hill, 1990).

claims, but DoJ prosecutes them. Title VII protects against all forms of employment discrimination; the Civil Rights Act of 1866 protects against far fewer, but provides greater damages. The list could go on and on.

This cacophony harms victims of discrimination, making it difficult for them to fathom their rights and to know how to vindicate them; it harms employers and others who must conform to confusing and sometimes conflicting standards; and it harms the taxpayers who must support an unnecessarily cumbersome system. For all these reasons, it hampers effective civil rights law enforcement.

The bill should establish a temporary, bipartisan commission to study existing federal antidiscrimination laws and to recommend specific legislation to harmonize these laws and streamline law enforcement. On this issue, I believe both the business and civil rights communities will agree.

2. Empowerment Provisions.

Since the abolition movement, the objective of the traditional civil rights movement was to secure for individuals the right to control their own destinies. In the 1990s, the principal barriers that confront disadvantaged people include the public school monopoly, economic regulations, the welfare system, and crime. This bill should launch the effort to reduce or eliminate these barriers.

A. Parental choice. If but a single major reform could be undertaken to help break the cycle of poverty in this country, the top priority would be the infusion of choice and competition into our educational system. No amount of money or cosmetic reform has done much to alter the crime-infested educational cesspools to which most low-income children are consigned. But in East Harlem, Milwaukee, and elsewhere, parental choice is giving low-income childrens real educational opportunities while creating competitive incentives for public schools to improve.

This bill should condition the receipt of federal funds for education (excepting special programs such as funds for handicapped students) in poor-performing urban school districts on the creation of meaningful choice among schools. Targeting disadvantaged students targets the benefits to those who need them the most. Such a requirement establishes educational opportunities as an overriding national policy objective, yet leaves implementation primarily in the hands of local communities.

This provision would allow the administration to go into the low-income community with a tangible offer: expanded educational opportuniyu through a choice of schools. I do not think there is anything more important that the president could offer, and it is much more significant than the illusory benefits offered by our opponents.

B. Economic liberty. The right of individuals to pursue a business or occupation free from arbitrary or excessive government interference was one of the primary liberties protected by the post-Civil War civil rights laws, including the Fourteenth Amendment. But these protections were quickly eliminated by the U.S. Supreme Court, leading to the Jim Crow laws and their contemporary equivalents.'

Entry restrictions and excessive regulation of entrepreneurial and occupational opportunities at every level of government -- from taxicab franchising laws to beautician licensing to the federal Davis-Bacon Act -- have effectively cut off the bottom rungs of economic ladder. Many of these laws contain legitimate public health or safety provisions, but many far exceeed these valid objectives for purposes of excluding or limiting competition from newcomers. The primary victims are people outside the economic mainstream. We cannot plausibly oppose quotas, set-asides, and welfare so long as traditional avenues for upward mobility are proscribed.

traditional avenues for upward mobility are proscribed.

This bill should re-establish an enforceable civil right to basic economic liberty. Economic regulations at any level of government that infringe upon economic liberty must promote a valid public health, safety, or welfare objective. The basis of this federal protection is the power to enforce the Fourteenth Amendment. Such a guarantee would once again restore America's promise of economic opportunity.

C. Emancipation from dependency. The welfare system is today's form of slavery. The bill should establish as a national objective the creation of incentives and opportunities for people who are dependent on welfare to emancipate themselves. Specific proposals could include resident management and ownership of public housing and other initiatives championed by HUD Secretary Jack Kemp.

D. Freedom from crime. Personal security is the most fundamental civil right and the principal objective of government. In 1948, President Truman's commission on civil rights identified four major rights that were systematically denied to blacks; subsequent federal legislation has redressed three of those deprivations, but personal security remains unredressed. Instead of focusing on the rights of criminals to be free from the consequences of their crimes, this civil rights bill should emphasize the victims of crimes against people and property, who are overwhelmingly poor and minorities.

This bill should make the protection of personal security a top national priority. It could include past administration law enforcement proposals. The bill should also elevate the importance of victims of crime in the law enforcement process, and should direct federal law enforcement officials to make a priority of obtaining restitution for victims of crimes against people and property. Once again, this issue is one to which the President can attract broad support in the inner city.

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[1] See Bolick, Unfinished Business, pp. 47-91.

CONCLUSION

This administration has a rare opportunity to make an enormously positive contribution to the future of rights and to broaden its base of support -- not by abandoning or compromising fundamental principles, but by emphasizing those basic values that most Americans share.

The opportunity may not last long. On both extremes of the current civil rights debate are racist demagogues who want to exploit current divisions. Meanwhile, Ted Kennedy and his allies are gearing up once again to promote the very same policies that have transformed civil rights into a zero-sum game. If President Bush takes the offensive on civil rights, boldly articulates a positive new strategy providing tangible opportunities, identifies the right congressional sponsors, and does this now, he will open the doors of opportunity to millions of Americans --and at the same time he will begin to reshape the political landscape.

Civil rights is not about preferential treatment, redistribution, or dependency. Civil rights is about opportunity. A civil rights bill based on opportunity speaks not to issues that divide Americans, but to core values that unite as Americans.

20031

THE WHITE HOUSE

WASHINGTON

June 12, 1990

Dear Mike:

It was a real pleasure to see you again at the meeting in my office this afternoon to discuss civil rights. I appreciated the forcefulness and candor of your comments and all that you are doing to try to help produce responsible civil rights legislation.

I am grateful for your counsel and for helping to ensure that the business community is well informed and active on a whole array of important public policy questions. When my schedule is a little less frenetic, I would enjoy very much getting together for a more leisurely discussion.

Warmest regards,

Roger

Roger B. Porter
Assistant to the President
for Economic and Domestic Policy

Mr. Michael E. Baroody
Senior Vice President
Policy and Communications
National Association of Manufacturers
1331 Pennsylvania Avenue, Northwest
Washington, D.C. 20004-1703

December 10, 1990

201-29 per 9
HU C10

Dear Mr. Latham:

Thank you for your kind and thoughtful message. I appreciate your warm words of support.

Barbara joins me in thanking you for your kindness and in sending our best wishes.

Sincerely,

GEORGE BUSH

Mr. Robert E. Latham
Executive Director
The Maryland Highway
Contractors Association
Empire Towers, Suite 707
7310 Ritchie Highway
Glen Burnie, Maryland 21061

901213

GB/BW/SMG/bws (pc 3)
P-1C.pf

Maryland Highway Contractors Association

November 16, 1990

President George Bush
The White House
1600 Pennsylvania Ave, NW
Washington, DC 20500

Dear President Bush:

The Civil Rights Act of 1990 (Kennedy-Hawkins) could have caused irreparable damage to the construction industry and to small businesses in general.

The Maryland Highway Contractors Association, on behalf of its 250 member firms thanks you for your courage in deciding to veto this legislation. We understand the intense pressure brought upon you to sign this ill-conceived legislation.

The measure would have shifted the burden of proof from an employee bringing a racial or sex discrimination suit to the employer. This legislation would supplant the "innocent until proven guilty" notion of law with one in which the employer is presumed to discriminate unless he or she can prove otherwise.

The Maryland Highway Contractors Association has long been opposed to special preferences. We have worked to create a system of contracting and business where the worth of the individual is the key measure of success.

For this we have sustained attacks in the legislature and the news media from proponents of special preferences.

We truly appreciate your efforts to stop the rising tide of preference legislation in America.

Sincerely,

Robert E. Latham
Executive Director

FAX (301) 760-6769

ID# 201454

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

INCOMING

DATE RECEIVED: DECEMBER 31, 1990

NAME OF CORRESPONDENT: THE HONORABLE EARLENE H. HILL

SUBJECT: ENCLOSES A COPY OF HER LETTER EXPRESSING DISAPPOVAL OF THE RACIAL STATEMENTS ATTRIBUTED TO PRIME MINISTER KAYIJAMA OF JAPAN; URGES A PUBLIC APOLOGY

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACTION ACT CODE	ACTION DATE YY/MM/DD	DISPOSITION TYPE RESP	DISPOSITION C D	DISPOSITION COMPLETED YY/MM/DD
MARY MCCLURE	ORG	90/12/31	MM	A	91/01/29 TC
REFERRAL NOTE:					
99DOS	I	91/02/07		C	/ / TC
REFERRAL NOTE:					
		/ /			/ /
REFERRAL NOTE:					
		/ /			/ /
REFERRAL NOTE:					
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REFERRAL NOTE:					

COMMENTS: _____

ADDITIONAL CORRESPONDENTS: MEDIA:L INDIVIDUAL CODES: 2200 ____ ____

IG MAIL USER CODES: (A)_____ (B)_____ (C)_____

*ACTION CODES:	*DISPOSITION	*OUTGOING CORRESPONDENCE:
*A-APPROPRIATE ACTION	*A-ANSWERED	*TYPE RESP=INITIALS OF SIGNER
*C-COMMENT/RECOM	*B-NON-SPEC-REFERRAL	* CODE = A
*D-DRAFT RESPONSE	*C-COMPLETED	*COMPLETED = DATE OF OUTGOING
*F-FURNISH FACT SHEET	*S-SUSPENDED	
*I-INFO COPY/NO ACT NEC		
*R-DIRECT REPLY W/COPY		
*S-FOR-SIGNATURE		
*X-INTERIM REPLY		

REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE (ROOM 75,OEOB) EXT-2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS MANAGEMENT.

THE WHITE HOUSE

WASHINGTON

January 29, 1991

Dear Assemblywoman Hill:

On behalf of the President, thank you for your correspondence expressing your disapproval of the racial remarks made by Justice Minister Kajiyama of Japan, and your request that the President obtain a public apology from Minister Kajiyama.

The Administration's position on this matter has always been clear and is a matter of record. On September 24, 1990, the State Department reiterated the Administration's view that racial stereotyping of any kind is deplorable and regrettable, and that such remarks are offensive to the American people. This statement was reported widely in the Japanese press, and the Japanese people have become very aware just how distasteful we found the Justice Minister's remarks. In addition, on September 27, 1990, in Tokyo, when the Justice Minister came to see him to apologize for his remarks, Ambassador Michael H. Armacost, America's envoy to Japan, clearly explained to the minister why such comments are objectionable to all Americans. Vice President Quayle also addressed this issue publicly at his November 14, 1990, press conference in Tokyo, in which he stated that the remarks should not have been made, and that the U.S. Government takes such racial statements very seriously.

There have been a great number of Americans who have expressed their indignation to the Government of Japan for these remarks. These expressions of disapproval clearly had their effect. Several newspaper editorials were critical of the Justice Minister, and he was reprimanded by the Prime Minister. He has apologized publicly at a press conference. As noted above, he also personally apologized to Ambassador Armacost, and asked that his apologies be conveyed to the American people. Finally, Prime Minister Kaifu, in his December 29, 1990, Cabinet reorganization, did not reappoint Mr. Kajiyama, and he is no longer a member of the Japanese Cabinet.

President Bush abhors racial stereotyping of any kind and the Administration has communicated to the Japanese government the disapproval that the President shares with you regarding the Justice Minister's remarks.

We appreciate the concern which prompted you to share your views with the Administration.

Sincerely,

Mary McClure
Special Assistant to the President
for Intergovernmental Affairs

The Honorable Earlene H. Hill
State Assemblywoman
148 Greenwich Street
Hempstead, NY 11550

M McGuire

201454

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

EARLENE H HILL
Assemblywoman 18th District

NASSAU COUNTY
148 Greenwich Street
Hempstead, New York 11550
(516) 489-6610

ALBANY OFFICE
Room 433
Legislative Office Building
Albany, New York 12248
(518) 455-5861

COMMITTEES
Aging
Alcoholism & Drug Abuse
Children & Families
Education
Labor
Women's Task Force

December 19, 1990

President George Bush
The White House
Washington, D.C. 20500

Dear President Bush:

I am writing to express my disapproval of the racial statements attributed to Prime Minister Kayijama. (Please review the enclosed copy of letter).

As the President of the United States and the national representative for all Americans, I am requesting that you obtain a public apology from Minister Kayijama.

Thank you for your immediate attention to this matter. I shall be awaiting your response.

Sincerely,

Earlene H. Hill

Earlene H. Hill
Member of the Assembly

EH/ns
enc.

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

EARLENE H HILL
Assemblywoman 18th District

NASSAU COUNTY
148 Greenwich Street
Hempstead, New York 11550
(516) 489-6610

ALBANY OFFICE
Room 433
Legislative Office Building
Albany, New York 12248
(518) 455-5861

COMMITTEES
Aging
Alcoholism & Drug Abuse
Children & Families
Education
Labor
Women's Task Force

December 11, 1990

Embassy of Japan
2520 Massachusetts Avenue, N.W.
Washington, D.C. 20008
Attn: Hideaki Ueda
Counselor for Public Affairs

Dear Mr. Ueda:

I am outraged by the racial slurs against African Americans that were recently attributed to the Justice Minister of Japan.

According to an article published in the New York Daily News, on September 23, 1990, Minister Kayijama stated that prostitutes "ruin" the atmosphere of Japan in the same way that African people move in to white neighborhoods and force them out in the United States.

As an African American, I am distraught by this prejudiced, racist and biased comment from Minister Kayijama. I feel that an immediate public apology is in order from Minister Kayijama to all of the people of the United States.

The United States of America is "the great melting pot" of the world. Our cultural divesity is our greatest strength. Each group has brought something positive to each other, for each other in order that we all become stronger. This is the reason that people around the globe clamor to come to America. For the Prime Minister of Japan to degrade any one group, is to degrade us all.

I am very offended and outraged at this racist statement. I insist that the people of the United States be given an immediate public apology from Minister Kayijama.

Thank you for your immediate attention.

Sincerely,

Earlene H. Hill

Earlene H. Hill
Member of the Assembly

EH/ns
cc: President Bush
Senator D'Amato
Assemblyman Griffith
Congressman McGrath
Senator Montgomery
Senator Moynihan

ID # 202064 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Ede Holiday

☐ MI Mail Report User Codes: (A) _____ (B) _____ (C) _____

Subject: U.S. Dept. of Education News Releases - "Williams Targets Civil Rights Issues" and "Fiesta Bowl Officials Advised of Civil Rights Obligations"

ROUTE TO:		ACTION		DISPOSITION		
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
	Cuoco	ORIGINATOR	90,12,13		C	90,12,17 PS
Cuat 10		Referral Note: I	90/12/13		C	10,12,17
Cuay		Referral Note: I	90/12/13		C	90/12/13
		Referral Note:	/ /			/ /
		Referral Note:	/ /			/ /
		Referral Note:				

ACTION CODES.
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE.
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: CBG & Ede have discussed. 9:00 am 12/13

Approved may Be Closed out. Copy Retained for our Civil Rights Scholarship file

Nelson Lund 12-17-90

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

UNITED STATES
DEPARTMENT OF EDUCATION NEWS

FOR RELEASE
December 12, 1990

Contact: Rodger Murphey
(202) 401-0774

WILLIAMS TARGETS CIVIL RIGHTS ISSUES

U.S. Education Department Assistant Secretary for Civil Rights Michael L. Williams today outlined his priorities and strategy for enforcement of civil rights laws.

Williams said enforcement priorities in the Office for Civil Rights (OCR) will focus on:

-- unequal educational opportunities for students with limited English proficiency;

-- ability grouping that results in segregation on the basis of race or national origin;

-- racial harassment on campus;

-- denial of equal educational opportunities for pregnant students;

-- discrimination on the basis of sex in athletic programs;

-- discrimination on the basis of race in the admission of students to undergraduate and graduate schools;

-- appropriate identification of "crack babies" and homeless children with handicaps for special education services.

"Education is the foundation of equal opportunity," Williams said. "Americans have used education as the building blocks to achieve their expectations and dreams of a better life."

Confirmed as assistant secretary on June 28, 1990, Williams developed the strategy as a result of his assessment of OCR. He said the new enforcement strategy will enable the office to focus its limited resources on issues identified as priorities.

-MORE-

"The fact is," Williams said, "OCR is facing a critical situation in terms of accomplishing its mission. Complaints now exceed any previous level in the agency's history."

OCR will develop and issue policy statements regarding the responsibilities of those who are recipients of federal funds. Investigative guidance will be provided to regional staff conducting reviews, including model investigation plans for each issue. OCR will also initiate a national compliance review program to determine if educational institutions are addressing the problem of discrimination.

OCR enforces four federal statutes that prohibit discrimination in programs and activities receiving financial assistance from the Department:

- Title VI of the Civil Rights Act of 1964 (discrimination on the basis of race, color, and national origin);
- Title IX of the Education Amendments of 1972 (sex discrimination);
- Section 504 of the Rehabilitation Act of 1973 (discrimination on the basis of disabilities);
- Age Discrimination Act of 1975 (age discrimination).

OCR also assists the Department in implementing the Magnet Schools Assistance Act which provides funds to school districts undergoing desegregation.

"The goal I expect to accomplish for OCR," Williams said, "is to ensure that discrimination does not block access to educational opportunity, that discrimination not be allowed to put opportunity out of reach."

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UNITED STATES
DEPARTMENT OF EDUCATION

NEWS

FOR RELEASE
December 4, 1990

Contact: Rodger Murphey
(202) 401-0774

FIESTA BOWL OFFICIALS ADVISED OF CIVIL RIGHTS OBLIGATIONS

The U.S. Education Department Office for Civil Rights (OCR) today offered to review for Fiesta Bowl officials any plans for a scholarship program named for Martin Luther King Jr. The offer was prompted by OCR concern that a proposed scholarship may inadvertently violate civil rights provisions governing participating insititutions.

"I commend your efforts at advancing minority opportunities in education," Michael L. Williams, assistant secretary for civil rights, said in a letter to the executive director of the Fiesta Bowl, Tempe, Ariz. "However, you should be aware of certain civil rights obligations of the participating universities under Title VI of the Civil Rights Act of 1964..."

Williams cited regulations [34 C.F.R. 100.3 (b)] that prohibit recipients of Department funds from denying, restricting, or providing different or segregated financial aid or other program benefits on the basis of race, color or national origin. OCR has interpreted the law to prohibit, in most cases, race-exclusive scholarships.

Fiesta Bowl officials have announced contributions of $100,000 to each of the schools fielding a team in the annual college football game. The funds would then be used to award scholarships to minority applicants. The University of Louisville Cardinals will play The University of Alabama Crimson Tide on New Year's Day.

-MORE-

In his letter to the executive director of the Fiesta Bowl, Williams suggested, "Alternatively, the University may wish to consider changing the Martin Luther King Jr. scholarship fund from a race-exclusive program to a program in which race is considered a positive factor among similarly qualified individuals, or to a program that utilizes race-neutral criteria."

Examples of such criteria include scholarships limited to students who are economically disadvantaged, educationally disadvantaged or from single-parent families.

In his letter, Williams said the prohibitions under the Title VI statute apply to recipient universities, not to the Fiesta Bowl. "The Fiesta Bowl can, therefore, award race-exclusive scholarships directed to students. However, the universities that those students attend may not directly, or through contractual arrangements, assist the Fiesta Bowl in the award of those scholarships through solicitation, listing, approval, provision of facilities, or other services."

Violations of Title VI of the Civil Rights Act place schools at risk of losing all federal funding, including the ability of their students to participate in the federal student grant programs.

###

UNITED STATES DEPARTMENT OF EDUCATION

OFFICE FOR CIVIL RIGHTS

THE ASSISTANT SECRETARY

DEC 4 1990

Mr. John Junker
Executive Director
c/o Fiesta Bowl
120 South Ash Avenue
Tempe, Arizona 85281

Dear Mr. Junker:

Recent news reports have indicated that the Fiesta Bowl intends to contribute $100,000 to each of this year's participants to create a Martin Luther King Jr. scholarship fund for minority students. I commend your efforts at advancing minority opportunities in education. However, you should be aware of certain civil rights obligations of these participating universities under Title VI of the Civil Rights Act of 1964, which is enforced by the Office for Civil Rights (OCR).

Title VI prohibits discrimination on the ground of race, color, or national origin in any program or activity receiving Federal financial assistance. OCR enforces this statute and the Title VI regulation of the Department of Education (ED) with respect to recipients of Federal education funds. The Title VI regulation includes several provisions that prohibit recipients of ED funding from denying, restricting, or providing different or segregated financial aid or other program benefits on the basis of race, color, or national origin. 34 CFR §§ 100.3(b)(1)-(5) (1989). OCR interprets these provisions as generally prohibiting race-exclusive scholarships. However, a recipient may adopt or participate in a race-exclusive financial aid program when mandated to do so by a court or administrative order, corrective action plan, or settlement agreement. See 34 CFR § 100.3(b)(6).

While these prohibitions apply to recipient universities, the Title VI statute and regulation do not apply to the Fiesta Bowl. Assuming that the Fiesta Bowl is a strictly private entity that receives no Federal financial assistance, it can award race-exclusive scholarships directly to students. However, the universities that those students attend may not directly, or through contractual or other arrangements, assist the Fiesta Bowl in the award of those scholarships unless they are subject to a desegregation plan that mandates such scholarships. Examples of such university assistance would include soliciting, listing, approving, or providing facilities or other services in connection with a race-exclusive financial aid program.

Consequently, assuming that participants in the Fiesta Bowl are recipients of Federal education funds, they could permit the sponsors of the Fiesta Bowl to provide their students with race-exclusive scholarships or other financial aid, but could not receive or disperse such scholarship funds or otherwise assist the Fiesta Bowl sponsors unless subject to a desegregation plan that includes such scholarships.

Alternatively, you may wish to consider changing the Martin Luther King Jr. scholarship fund from a race-exclusive program to 1) a program in which race is considered a positive factor amongst similarly qualified individuals if the institution is one where there has been limited participation of a particular race See 34 CFR § 100.3(b)(6)(ii), or 2) a program that utilizes race-neutral criteria. For example, eligibility to participate in a race-neutral scholarship program could be limited to students who are disadvantaged because of economic status (students from low-income families), educational status (students from poor school districts), or social status (students from single-parent families, or families in which few or no members ever attended a postsecondary institution).

Jeanette J. Lim, a senior attorney on my staff, will contact you in the near future to provide you assistance in designing and implementing the Martin Luther King Jr. scholarship program in a manner which will accomplish the goals you wish to achieve. If you wish, you may contact her at (202) 732-1645.

Sincerely,

Michael L. Williams
Assistant Secretary
for Civil Rights

cc: Lillian Gutierrez, Regional Civil Rights Director, Region VIII

ID# 202272

NH010

THE WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

INCOMING

DATE RECEIVED: JANUARY 04, 1991

NAME OF CORRESPONDENT: MR. WILLIAM T. COLEMAN JR.

SUBJECT: REQUESTS A MEETING WITH GOVERNOR SUNUNU TO DISCUSS A PROPOSED CIVIL RIGHTS BILL FOR 1991

ROUTE TO: OFFICE/AGENCY (STAFF NAME)	ACTION ACT CODE	ACTION DATE YY/MM/DD	DISPOSITION TYPE RESP	DISPOSITION C D	DISPOSITION COMPLETED YY/MM/DD
JOHN SUNUNU	ORG	91/01/04		C	91/01/04
REFERRAL NOTE:					
Jackie Kennedy	R	91/01/04		C	91/04/18
REFERRAL NOTE:					
		__/__/__			__/__/__
REFERRAL NOTE:					
		__/__/__			__/__/__
REFERRAL NOTE:					
		__/__/__			__/__/__
REFERRAL NOTE:					

LJ

COMMENTS: aid visit 4/12

ADDITIONAL CORRESPONDENTS: MEDIA:L INDIVIDUAL CODES: ____ ____ ____

CS MAIL USER CODES: (A)_____ (B)_____ (C)_____

ACTION CODES:	DISPOSITION	OUTGOING CORRESPONDENCE:
A-APPROPRIATE ACTION	A-ANSWERED	TYPE RESP=INITIALS OF SIGNER
C-COMMENT/RECOM	B-NON-SPEC-REFERRAL	CODE = A
D-DRAFT RESPONSE	C-COMPLETED	COMPLETED = DATE OF OUTGOING
F-FURNISH FACT SHEET	S-SUSPENDED	
I-INFO COPY/NO ACT NEC		
R-DIRECT REPLY W/COPY		
S-FOR-SIGNATURE		
X-INTERIM REPLY		

REFER QUESTIONS AND ROUTING UPDATES TO CENTRAL REFERENCE (ROOM 75,OEOB) EXT-2590
KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES AND SEND COMPLETED RECORD TO RECORDS MANAGEMENT.

Hold -

Maybe a phone
call first eventually
they will have to
meet.

20272

O'MELVENY & MYERS

400 SOUTH HOPE STREET
LOS ANGELES, CALIFORNIA 90071-2899
TELEPHONE (213) 669-6000
FACSIMILE (213) 669-6407

1999 AVENUE OF THE STARS
LOS ANGELES CALIFORNIA 90067-6035
TELEPHONE (213) 553-6700
FACSIMILE (213) 669-6779

610 NEWPORT CENTER DRIVE
NEWPORT BEACH CALIFORNIA 92660-6429
TELEPHONE (714) 760-9600 · (213) 669-6900
FACSIMILE (714) 669-6994

CITICORP CENTER
153 EAST 53RD STREET
NEW YORK, NEW YORK 10022-4611
TELEPHONE (212) 326-2000
FACSIMILE (212) 326-2061

555 13TH STREET, N W
WASHINGTON, D C 20004-1109

TELEPHONE (202) 383-5300

TELEX 89622 · FACSIMILE (202) 383-5414

EMBARCADERO CENTER WEST
275 BATTERY STREET
SAN FRANCISCO, CALIFORNIA 94111-3305
TELEPHONE (415) 984-8700
FACSIMILE (415) 984-8701

10 FINSBURY SQUARE
LONDON EC2A 1LA
TELEPHONE 071-256 8451
FACSIMILE 071-638 8205

AKASAKA TWIN TOWER EAST 18TH FLOOR
2-17-22 AKASAKA MINATO-KU
TOKYO 107, JAPAN
TELEPHONE (03) 587-2800
FACSIMILE (03) 587-9738

AVENUE LOUISE 106
1050 BRUSSELS, BELGIUM
TELEPHONE 32 (2) 647 06 50
FACSIMILE 32 (2) 646 47 29

WRITER'S DIRECT DIAL NUMBER
(202) 383-5325

January
2nd
1 9 9 1

OUR FILE NUMBER
600,000-010

The Honorable John H. Sununu
Chief of Staff
The White House Office
1600 Pennsylvania Avenue, N.W.
Washington D.C. 20500

Dear John:

I know the Middle East, the new budget and working out the major initiatives that the Administration will put to Congress this month have high priority (rightly so) on your list of priorities and what you should give your time to. And, as I have to remind several of my clients, Christmas is a holiday and is quite close to us who believe in the Christian traditions.

One of the matters which will no doubt be put into the hopper early in January is a proposed Civil Rights Bill for 1991. If you have the time, I would like to come over and talk with you in the next week to see whether we can start out at a point where we are closer together.

I hope you have a happy and successful New Year.

Sincerely,

Bill

William T. Coleman, Jr.

WTC,Jr:nob

ID # 202562 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Peggy Mills

☐ **MI Mail Report** **User Codes: (A)** _____ **(B)** _____ **(C)** _____

Subject: Expand of the Civil Rights Bill

ROUTE TO: | **ACTION** | **DISPOSITION**

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
Cuoco	ORIGINATOR	90112C6		C	90120C6
Cuoco	A	90112C6	VL	A	90121C6
	Referral Note:	Cuoco	-to Mr. Mills		
	—	/ /		—	/ /
	Referral Note:				
	—	/ /		—	/ /
	Referral Note:				
	—	/ /		—	/ /
	Referral Note:				

ACTION CODES:
A - Appropriate Action
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D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
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X - Interim Reply

DISPOSITION CODES.
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE.
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

Chose out

THE WHITE HOUSE

WASHINGTON

December 6, 1990

Dear Mr. Mills:

Your recent letter to Shirley M. Greene has been referred to me for reply.

In response to your request, I am enclosing copies of the civil rights bill that the President transmitted to the Congress on October 20, 1990; an accompanying section-by-section analysis; the President's transmittal letter; the message that the President issued when he vetoed S. 2104; and a memorandum from the Attorney General that accompanied the President's veto message. I hope that these materials will assist you in understanding why the President felt that his actions were necessary and appropriate.

Your interest in this important matter is appreciated. Thank you for writing.

Yours truly,

Nelson Lund
Associate Counsel to the President

Mr. Roger Mills
59 Carteret Place
Decatur, GA 30032

59 Carteret Place
Decatur, Georgia 30032

November 23, 1990

Hon. Shirley M. Green
Special Assistant to the President
The White House
Washington, D.C.

Dear Ms. Green:

Thank you for your November 19 letter explaining why President Bush unfortunately vetoed the Civil Rights Act of 1990. You included a copy of the President's October 20 statement in which he alludes to a substitute bill he returned with the veto.

I request a copy of the President's October 20 bill.

I would also appreciate any technical analysis about its provisions and why they are preferable to those in S.2104.

As an attorney, I am interested in getting past the rhetoric and looking at the actual wording.

It has been my experience that those litigating employment discrimination claims currently are having an almost impossible time obtaining justice because of the increasing burdens placed upon them by recent decisions of the High Court. The claims of opponents about quotas today are much like the claims of busing by opponents of school desegregation in the Nixon years: inflammatory hogwash.

Sincerely,

Rogh Mills

202633

NJC10

THE WHITE HOUSE

WASHINGTON

April 2, 1990

John

Dear General Fugh:

Thank you for your letter of March 26, 1990 regarding remarks by Cliff Kincaid about CBS journalist Connie Chung.

I understand and appreciate your concerns about ethnic slurs. In the President's eyes, there is no room for bigotry. As he said in the State of the Union Address, "Every one of us must confront and condemn racism, antisemitism, bigotry and hate. Not next week, not tomorrow, but right now - every single one of us".

Thank you for caring and for taking the time to write.

Sincerely,

Sichan Siv
Deputy Assistant to the President
for Public Liaison

John L. Fugh
Brigadier General, U.S. Army
7320 Range Road
Alexandria, VA 22306-2417

7320 Range Road
Alexandria, VA 22306-2417
March 26, 1990

Honorable Sichan A. Siv
Deputy Assistant to the President
The White House
Washington, D.C. 20500

Dear Mr. Siv:

We are deeply offended by Cliff Kincaid's remarks about Connie Chung as reported in the enclosed Washington Post clipping. His flaccid explanation of the ethnic slur, apparently shared by the WNTR program director, has made the incident even more outrageous. Both Kincaid and Del Giorno should consult a dictionary -- the term used is blatantly offensive.

Such public display of racism cannot be tolerated in our nation. We enlist your assistance in rectifying this outrage.

Sincerely,

John L. Fugh
Brigadier General, U.S. Army

Enclosure

On Radio, A Racial 'Joke'

WNTR Host Takes On Connie Chung

By Jeffrey Yorke
Special to The Washington Post

While criticizing the media's coverage of John Poindexter's trial, WNTR radio talk show host Cliff Kincaid yesterday referred twice on-air to CBS television anchor Connie Chung as "Connie Chink."

"I referred to her jokingly as Connie Chink because I thought she was making fun of President Reagan," Kincaid said yesterday.

"I was making fun of her liberalism and I joked about her name. I'm sorry if people were offended about it. But my point was to draw attention to the offensive way she had referred to President Reagan's videotaped testimony in the Poindexter trial.

"It's a play on words on her last name. It's a slang term. It is not a vulgar term," Kincaid said, adding

See CHUNG, C3, Col. 1

Chung

CHUNG, From C1

that it was "perfectly acceptable language" and that he did not consider the word racist because it "is like the term 'honky.' . . . "

Kincaid is a member of Accuracy in Media and does a daily radio commentary with the group's chairman, Reed Irvine, that is heard nationally.

While discussing Chung's appearance Thursday on the "CBS Evening News," Kincaid said, "The Dan Rather bias wasn't there, no, I guess he was on vacation. Connie Chink, uhhh . . . Chung, uhhh, Chung was sitting in for him. I'm sick of people in the media like Connie Chink getting on his back!"

The remarks came at the start of Kincaid's weekday 10 a.m. to noon conservative talk show on the low-powered Silver Spring station. The station is owned by former presidential hopeful and televangelist Pat Robertson and his Broadcast Equities Inc. and two weeks ago began simulcasting its continuous conservative programming to Robertson-owned stations in Charlotte, N.C., and Oklahoma City.

When informed of Kincaid's remarks, Melinda Yee, executive director of the Organization of Chinese Americans, said, "We will call for a public apology to the Chinese American community." Yee said she would wait to hear a tape of the remarks before asking the station's management to fire for Kincaid's dismissal.

Program director Michael Del Giorno said the station received only one phone complaint. He said Kincaid would not be fired. "It was a slang, not a vulgarity. He did not mean it that way. He was attacking merely her way of liberally slanting the news. . . . He's sorry for it and we are sorry for it."

Copy of memo to be filed in "Chinese Americans"

Page C-1
Washington Post
March 24, 1990

TALKING POINTS FOR NAACP MEETING - January 22, 1990

BEN, BILL SESSIONS, DICK THORNBURGH AND MEMBERS OF THE NAACP BOARD AND STAFF -- THANK YOU FOR COMING THIS MORNING.

THIS MEETING IS A FOLLOW UP TO MY MEETING ON JANUARY 9th WITH YOU, BEN, WHERE, AS YOU KNOW, I PERSONALLY EXPRESSED MY OUTRAGE AT THE RECENT BOMBINGS, OBSCENE PHONE CALLS AND HATE MAIL.

I ALSO SAID THAT MY ADMINISTRATION WOULD NOT TOLERATE BIGOTRY AND RACIAL PREJUDICE, AND I MEAN THAT.

THIS ADMINISTRATION IS DETERMINED TO PUT THE TIRED OLD BAGGAGE OF BIGOTRY AND RACIAL HATRED BEHIND US AND DICK THORNBURGH AND BILL SESSIONS ARE HERE THIS MORNING TO FURTHER DEMONSTRATE OUR SINCERE INTEREST IN BRINGING THE PERPETRATORS OF THESE HIDEOUS CRIMES TO JUSTICE.

WHEN I MET WITH THE BLACK LEADERSHIP FORUM IN NOVEMBER, BEN, YOU ASKED ME TO THINK ABOUT USING THIS OFFICE AS A 'BULLY PULPIT' TO SPEAK OUT AGAINST RACISM AND HATE CRIMES.

WELL, IN MY REMARKS AT THE MARTIN LUTHER KING, JR. FEDERAL HOLIDAY PROCLAMATION SIGNING CEREMONY, I SAID THAT I WILL CONTINUE TO USE THAT PULPIT ALWAYS TO DENOUNCE AND WORK TO BRING TO JUSTICE THE BIGOTS WHO STAIN THIS GOOD AND DECENT LAND. AND I SHALL.

AGAIN, THANK YOU FOR COMING.

CS

302912
HR CIC

May 17, 1990

Dear Senator:

In a ceremony today honoring the U.S. Commission on Civil Rights and its new Commissioners, the President reiterated his commitment to "equal opportunity and equal protection under the law for all Americans."

During the President's remarks, he specified three principles by which he will be guided when considering any civil rights legislation enacted by Congress. The principles enunciated by the President are:

- Civil rights legislation must operate to obliterate consideration of race, color, religion, sex, nation of origin, age, or disability from employment decisions;

- Civil rights legislation must reflect fundamental principles of fairness that apply throughout our legal system; individuals who believe their rights have been violated are entitled to their day in court, and an accuser must shoulder the burden of proof; and

- Federal law should provide an adequate deterrent to sexual or religious harassment, or harassment on the basis of disability in the workplace, and should ensure a speedy end to such discriminatory practices.

Since Congress is currently considering the Civil Rights Act of 1990, I have enclosed a copy of the President's remarks, and hope that it will prove useful in your deliberations.

With best regards,

Sincerely,

Frederick D. McClure
Assistant to the President
for Legislative Affairs

ID # 201626 CU

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

HU C10

☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING
Date Correspondence Received (YY/MM/DD) 1 1

Name of Correspondent: Betty Ann Rhodes

☐ **MI Mail Report** **User Codes: (A)** _____ **(B)** _____ **(C)** _____

Subject: Expresses Support for Michael Williams's Confirmation

ROUTE TO:

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
Cuc	ORIGINATOR	91/01/03		C	91/03/13
Cuci 10	Referral Note:				CS
	S	91/01/04		C	91/01/14
Restart to Cuci 07	Referral Note:				CS
	L	91/01/14	hh	A	91/03/13
	Referral Note:		letter to Rhodes		
	_	1 1		_	1 1
	Referral Note:				
	_	1 1		_	1 1
	Referral Note:				

ACTION CODES:
A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet to be used as Enclosure
I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:
A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:
Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: Close Out 3-18-91
Answered CS

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOB).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

5/81

THE WHITE HOUSE

WASHINGTON

March 13, 1991

Dear Ms. Rhodes:

Thank you for your correspondence in which you express your support for Mr. Michael Williams.

Your comments have been shared with the President's advisors for their attention and review.

Thank you again for your interest in writing.

Sincerely,

Lee S. Liberman
Associate Counsel to the President

Ms. Betty Ann Rhodes
4605 Post Oak Tritt Road
Marietta, GA 30062

203228cu

CB Gray

Betty Ann Rhodes
4605 Post Oak Tritt Road
Marietta, Georgia 30062
21 December 1990

Mr. John Sununu
The White House Chief of Staff
Washington, D. C. 20500

Sir:

Please do not IN ANY SENSE tell Mr. Michael Williams to "get lost."

Please do look into the Grove City Case. Allow Mr. Williams to brief you on the final outcome re Title 6 of the Civil Rights Case. The US Supreme Court handed down a sensible solution. Yet, oh, NO, Senator Kennedy got a bill passed to overide which survived President Reagan's veto.

Now, Mr. Williams has been taking the heat--from the White House, no less, for his correct interpretation of the law passed by Congress to "correct" the Supreme Court's touted "dastardly" opinion!

George Roche, Hillsdale College president, can furnish you a detailed summary, recently mailed to Hillsdale's supporters. (I gave mine to a son or I would enclose my copy.)

I think that the White House bungled a grand opportunity to set forth that it does mean to enforce color-blind rules, to force the Media to listen via press conferences to the legal effects of what they and other activists have helped, in the name of Civil Rights, to wrought. The politics of your lack of staunch support of Mr. Williams may so divide the Republican Party that it never recovers during my life time. President Bush's administration has deserved its present black eye of being bushed.

I am writing to Mr. Williams to tell him of my wholehearted support.

I seek your all-out support of him. After all you have the excuse that you are not a professional attorney and are hard pressed to realize that a sensible use of Civil Rights Law is so difficult to allow.....

Yours truly,

Bettie Ann Rhodes

203499

THE WHITE HOUSE

WASHINGTON

August 3, 1990

Dear Mr. Tate:

Thank you for your letter regarding the proposed Kennedy-Hawkins "Civil Rights Act of 1990". I appreciate hearing from you.

You expressed concern that the bill would permit compensatory and punitive damages in cases of unintentional discrimination. The provision of the bill permitting compensatory and punitive damages, however, applies only in cases of intentional discrimination and does not apply to disparate impact cases. Nonetheless, the prospect of inflicting on employment discrimination cases the shortcomings of tort law is very troubling. In our increasingly litigious society, we should be looking for more conciliatory ways of resolving our disputes, not abandoning such schemes.

The President has stated on a number of occasions that, although he would like to sign civil rights legislation, he will not sign a quota bill. With respect to the "business necessity" standard, the proponents of the bill claim that, as amended, the bill adopts the standard of the Griggs decision. Notwithstanding changes that have been made, however, it remains a quota bill.

Warmest regards,

Roger B. Porter
Assistant to the President
for Economic and Domestic Policy

Mr. John E. Tate
Executive Vice President
Professional Services
Wal-Mart Stores, Inc.
Corporate Offices
702 S.W. 8th Street
Bentonville, AR 72716

OFFICE OF THE ASSISTANT TO THE PRESIDENT
FOR ECONOMIC AND DOMESTIC POLICY
OFFICE OF POLICY DEVELOPMENT

CORRESPONDENCE TRACKING SHEET
GENERATED: 07/05/90

Control No : 89

Entry Date : 07/05/90 Due Date : 07/12/90

Assigned to : MARIANNE MCGETTIGAN

Action : Draft for RBP signature

Correspondent : TATE, JOHN E.

Subject : CIVIL RIGHTS

Comments:

WAL-MART

WAL-MART STORES, INC. CORPORATE OFFICES
702 S.W. 8TH STREET
BENTONVILLE, AR 72716
PHONE (501) 273-4000
FAX NO. (501) 273-8650

JOHN E. TATE
Executive Vice President
Professional Services
(501) 273-1928

BARBARA SMITH
Executive Secretary
(501) 273-1927

June 21, 1990

Mr. Roger B. Porter
Assistant to the President for
Economic and Domestic Policy
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Porter:

Wal-Mart is proud of our thousands of minority associates both in and out of management. Great progress has been made and is continuing, but we feel the proposed Civil Rights legislation (S. 2104/H.R. 4000) will subvert our efforts and send us straight to quotas as our only logical defense. Our Chairman, Mr. Sam Walton, has written each of the Senators and Congressmen but the pro-litigation juggernaut seems to roll on, ignoring the reality of the workplace.

We ask that you continue to hold the Administration squarely against this injustice and destruction of the free market. No matter how good the intentions of its sponsors might be, the bill is so far-reaching and unbalanced that it threatens to undermine equal employment law principles and end up promoting endless litigation and workplace quotas. These bills would end up harming -- not helping -- equal opportunity in employment.

Despite claims that an amendment worked out between Senators Kennedy and Danforth removes the danger of this bill promoting workplace quotas, "disparate impact" cases would not be returned to the standard the Supreme Court announced in Griggs v. Duke Power Co. That case required employers to justify a specifically challenged standard or practice as job-related. The Kennedy-Danforth would require an employer to prove "a substantial and demonstrable relationship to effective job performance" -- a far more demanding test that will clearly be expensive, and in practice, may be nearly impossible to meet.

How many companies would be willing and able to go through the expense and effort of justifying even the simplest and most basic standards -- for example, a high school diploma or equivalent -- appropriate for many entry-level jobs? And if employers have to go to great trouble to substantiate and demonstrate that a high school diploma is related to effective job performance, what will the effect be on schools and the drop-out rate? Or on national competitiveness and productivity?

Even worse, not only would we be faced with the near-impossible task of proving that each and every employment standard and practice bears a direct and obvious link to effective job performance, but Kennedy-Danforth would not even require that a plaintiff specify what particular practice was supposed to be having the "disparate impact."

As a lawyer myself, I feel that faced with a much higher burden of proof and massive new damages if a company fails to prove its innocence, many employers would, unfortunately, try to protect themselves by using "bottom line" quotas. If statistics and quota schemes replace merit, this will be terribly unfair to both employers and workers.

By creating massive new punitive and "compensatory" damages, the Kennedy-Hawkins bill is a radical departure from decades of emphasis on prompt conciliation through the EEOC and "make whole" remedies. Congress has clearly not given the proper thought to such a fundamental change in the law, but it certainly will produce an explosion of federal lawsuits. At the same time, the bill removes long-established employer defenses (such as in "mixed motive" cases), extends the time for filing lawsuits (even retroactively), and makes punitive damages available for even unintended discrimination.

We feel that while S. 2104/H.R. 4000 may have the best of intentions, it would have the worst of effects. I hope that you'll continue to see that the Administration stands forthrightly for equal opportunity and dispute conciliation through the EEOC rather than for the litigation explosion that these bills would inevitably bring.

Sincerely,

John E. Tate

JET:bjs

THE WHITE HOUSE

WASHINGTON

203515

August 3, 1990

Dear Mr. Stevenson:

Thank you for your letter regarding the proposed Kennedy-Hawkins "Civil Rights Act of 1990". The Administration shares many of your concerns about this legislation.

You expressed concern that the bill would permit compensatory and punitive damages in cases of unintentional discrimination. The provision of the bill permitting compensatory and punitive damages, however, applies only in cases of intentional discrimination and does not apply to disparate impact cases. Nonetheless, the prospect of inflicting on employment discrimination cases the shortcomings of tort law is very troubling. In our increasingly litigious society, we should be looking for more conciliatory ways of resolving our disputes, not abandoning such schemes.

The provisions of the bill relating to disparate impact cases are equally troubling. The President has stated on a number of occasions that, although he would like to sign civil rights legislation, he will not sign a quota bill. Notwithstanding changes that have been made to these provisions during Senate and House floor consideration, however, this measure remains a quota bill.

Warmest regards,

Roger B. Porter
Assistant to the President
for Economic and Domestic Policy

Mr. Robert Stevenson
Vice President
Public Affairs
K Mart Corporation
International Headquarters
3100 West Big Beaver Rd.
Troy, Michigan 48084

OFFICE OF THE ASSISTANT TO THE PRESIDENT
FOR ECONOMIC AND DOMESTIC POLICY
OFFICE OF POLICY DEVELOPMENT

CORRESPONDENCE TRACKING SHEET
GENERATED: 07/10/90

Control No : 108

Entry Date : 07/10/90 Due Date : 07/17/90

Assigned to : MARIANNE MCGETTIGAN

Action : Draft for RBP signature

Correspondent : STEVENSON, A R.

Subject : CIVIL RIGHTS ACT

Comments:

K MART CORPORATION
INTERNATIONAL HEADQUARTERS
3100 WEST BIG BEAVER RD
TROY, MICHIGAN 48084

A ROBERT STEVENSON
VICE PRESIDENT
PUBLIC AFFAIRS

July 3, 1990

Roger B. Porter
Asst. to the President for Economy
and Domestic Policy
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Mr. Porter:

On behalf of K mart Corporation, a major retailer operating in excess of 4,000 stores throughout the United States with annual sales in excess of $29 billion and an employee workforce of approximately 330,000 employees, I am writing to let you know our opposing views on the Civil Rights Act of 1990.

Let me tell you why, despite our firm commitment to equal opportunity in employment, we oppose the "Civil Rights Act of 1990" (S. 2104/H.R. 4000) and ask that you continue to hold the Administration squarely against it. No matter how good the intentions of its sponsors might be, the bill threatens to undermine equal employment law principles and end up promoting endless litigation and workplace quota. These bills would end up harming -- not helping -- equal opportunity in employment.

Despite claims that an amendment worked out between Senators Kennedy and Danforth removes the danger of this bill promoting workplace quotas, "disparate impact" cases would not be returned to the standard the Supreme Court announced in Griggs v. Duke Power Co. That case permitted employers to justify a specifically challenged standard or practice as job-related. But Kennedy-Danforth would require an employer to prove "a substantial and demonstrable relationship to effective job performance" -- a far more demanding test that will clearly be expensive, and in practice may be nearly impossible, to meet.

Faced with a much higher burden of proof and massive new damages if it fails to prove its innocence, many employers would unfortunately try to protect themselves by using "bottom line" quotas. If statistics and quota schemes replace merit, this will be terribly unfair to both employers and workers.

There are many other drawbacks in the bill as well. By creating new punitive and "compensatory" damages, the Kennedy-Hawkins bill is a radical departure from decades of emphasis prompt conciliation through the EEOC and "make whole" remedies. Congress has clearly not given the proper thought to such a fundamental change in the law, but it certainly will produce an explosion of Federal lawsuits. At the same time, the bill removes long-established employer defenses (such as in "mixed motive" cases, extends the time for filing lawsuits (even retroactively), and make punitive damages available for even unintended discrimination.

In short, while S. 2104/H. R. 4000 may have the best of intentions, it has intended effects. I hope that you'll continue to see that the Administration stands forthrightly for equal opportunity and dispute conciliation, rather than for the litigation explosion that these bills would inevitably bring.

Sincerely,

A. Robert Stevenson

ARS/rw

203518

THE WHITE HOUSE

WASHINGTON

August 3, 1990

Dear Mr. Paul:

Thank you for letting me know of United Technologies concerns with the Kennedy-Hawkins bill. I appreciate hearing from you.

In your letters to Members, you identified the Wards Cove provisions of the bill and the extension of remedies available under Title VII as particularly troubling. I agree with your assessment of the bill's weaknesses.

Section 8 of the bill constitutes a marked departure from our prior approach to employment discrimination disputes. Although the Administration agrees with the bill's proponents that existing remedies are inadequate to deter on-the-job harassment, imposing all the shortcomings of our tort system on the Title VII cannot be the answer. In our increasingly litigious society, we should be looking for more conciliatory ways of resolving our disputes, not abandoning such schemes.

Both the Senate and House passed versions of the bill are unacceptable to the Administration. It is unclear at this time whether the Conference Committee will make changes sufficient to address successfully these and other troublesome aspects of this measure.

Warmest regards,

Roger B. Porter
Assistant to the President
for Economic and Domestic Policy

Mr. William F. Paul
Senior Vice President
United Technologies
Suite 700
1825 Eye Street, N.W.
Washington, D.C. 20006

OFFICE OF THE ASSISTANT TO THE PRESIDENT
FOR ECONOMIC AND DOMESTIC POLICY
OFFICE OF POLICY DEVELOPMENT

CORRESPONDENCE TRACKING SHEET
GENERATED: 06/29/90

Control No	: 77	
Entry Date	: 06/29/90	Due Date : 07/06/90
Assigned to	: MARIANNE MCGETTIGAN	
Action	: Draft for RBP signature	
Correspondent	: PAUL, WILLIAM F.	
Subject	: CIVIL RIGHTS ACT	

Comments:

UNITED TECHNOLOGIES

Suite 700
1825 Eye Street, N W
Washington, D C 20006
202/785-7400, 785-7463

William F Paul
Senior Vice President
Washington

June 28, 1990

Mr. Roger B. Porter
Executive Office of the President
1600 Pennsylvania Ave., N.W.
Washington, DC 20500

Dear Mr. Porter,

I am enclosing a copy of a letter on the Civil Rights Act of 1990 which was recently sent to members of the House and Senate by Bob Daniell, the Chairman of United Technologies. This issue is one that concerns us deeply and I want to share our views with you.

United Technologies Corporation is firmly committed to equal rights and opportunities. We are morally committed to this goal, but in addition, we believe it to be an economic necessity. Real opportunity for women and minorities will come out of continued economic growth and successful competition in world markets.

We are convinced, however, that the proposed Kennedy Hawkins Bill (S. 2104/H.R.4000), will prevent us and others from focusing our affirmative action resources where they will do the most good - on education, training and the creation of new jobs, rather than on litigation. This bill will radically change employment law by abandoning conciliation in favor of confrontation.

The remedies provisions of the Kennedy-Hawkins bill amount to an extension of tort remedies to employment situations. In this respect, the bill is not civil rights legislation. Neither society nor business will benefit from such an anti-competitive, adversarial and costly approach.

With passage of the 1964 Civil Rights Act, the Congress and administration wisely chose to avoid lengthy trials and expensive damages in favor of EEOC resolution and "make whole" relief such as back pay, injunctions, and other equitable remedies. I urge you to hold the line on this point. Surely we can find ways to achieve the laudable objectives of equal opportunity without undermining the business community with a flood of lawsuits that are counter-productive to good employee relations.

If there is some way we can help you on this issue, please call on me. Once again, I urge you to oppose the Kennedy-Hawkins penalty provisions.

Sincerely,

William F. Paul

Attachments

UNITED TECHNOLOGIES

United Technologies Building
Hartford, Connecticut 06101
203/728-7643

Robert F. Daniell
Chairman and
Chief Executive Officer

June 21, 1990

The Honorable Sam Nunn
U.S. Senate
303 Dirksen SOB
Washington, DC 20510-1001

Dear Senator Nunn:

I am writing to ask you to oppose S.2104, the "Civil Rights Act of 1990," a bill which mistakenly chooses quasi-quotas and burdensome litigation as the preferred methods for addressing the problem of employment discrimination.

United Technologies Corporation (UTC) has been and will remain an "Equal Opportunity Employer" and, as a federal contractor, will continue to meet its "Affirmative Action" obligations. We have come to realize, however, that by-the-numbers compliance with mandated "goals" and "timetables" will not meet our need to attract, retain and manage the diverse workforce of the 1990's and the next century. Earlier this year we issued to our executives and managers a statement of policy and policy principles on "Managing Workforce Diversity." A copy is enclosed. This policy recognizes workforce diversity as a major business issue and encourages creative approaches to find new ways of assuring that women, people of color and older workers are attracted to UTC and, once here, find an environment that encourages the productive use of their talents.

The Civil Rights Act of 1990, as presently drafted, will not assist us in meeting the challenge of the changing workforce and, in many respects, will be counterproductive to that goal. Specifically, permitting employees or applicants to challenge an "overall employment process" on the basis of statistical disparities will result in a de facto quota system. If UTC is required to protect itself from litigation by adopting by-the-numbers, statistically pure employment policies and practices, it will be seriously hampered in finding solutions to the real challenges of workforce diversity.

Also, at a time when American businesses (not to mention state and federal courts) are overwhelmed with employment-related litigation, it is difficult to understand why Congress, instead of looking toward alternatives to court suits, is encouraging plaintiffs to engage in protracted litigation. Jury trials, compensatory damages, punitive damages, and the like, are standard remedies for personal injury lawsuits. They are not appropriate for solving employment-related problems. Abandoning the twenty-five year old Title VII model of employment-based remedies for employment discrimination to promote

no-holds-barred litigation can do nothing but distract companies like ours from addressing the real problems facing our changing workforce.

These are the major concerns UTC has with the proposed bill, although other aspects of this highly technical legislation are also troubling. I urge you not to support the bill in its present form. A better way of combatting employment discrimination, while encouraging businesses to deal with the reality of workforce diversity in a positive manner, can surely be found.

Sincerely,

Bob Daniell

Robert F. Daniell

Enclosure

DISTRIBUTED TO:

U.S. Senate:

Rudy Boschwitz
John B. Breaux
John C. Danforth
Pete V. Domenici
Bob Graham
Howell T. Heflin
Sam Nunn
John D. Rockefeller
William V. Roth
Jim R. Sasser
Richard C. Shelby
John W. Warner
Pete Wilson

U.S. House of Representatives:

Jack Brooks
Hamilton Fish
Dan Glickman
Henry J. Hyde
Bruce A. Morrison
F. James Sensenbrenner
Lawrence J. Smith

THE WHITE HOUSE

WASHINGTON

July 27, 1990

203592

Dear Ms. Rein:

Thank you for your letter concerning the Civil Rights Act of 1990. I appreciate hearing from you.

The Administration shares your concern about the effect of the enhanced penalty provisions of section 8 of that bill on the conciliatory approach of Title VII. In our increasingly litigious society, providing jury trials for unlimited compensatory and punitive damages will only exacerbate the problems with our civil justice system.

We agree with proponents of the bill, however, that the current remedies for on-the-job harassment are insufficient to deter such behavior. Nonetheless, the remedial structure of the Civil Rights Act of 1990 seems unlikely to ensure the prompt and fair resolution of such claims. In particular, it could undermine efforts to repair the ongoing relationship between the employer and employee. The Administration is working with Members of Congress to craft a remedial section of the bill that will provide an adequate deterrent to harassment while avoiding the shortcomings of our tort system. We hope such a compromise can be found.

I must add that I am particularly pleased to learn of the commitment of Metropolitan Life to provide for a discrimination free workplace and opportunities for disadvantaged and minority youth.

Warmest regards,

Roger B. Porter
Assistant to the President
for Economic and Domestic Policy

Ms. Catherine A. Rein
Executive Vice President
Metropolitan Life Insurance Company
One Madison Avenue
New York, N.Y. 10010-3690

Metropolitan Life Insurance Company
One Madison Avenue, New York, NY 10010-3690
(212) 578-2115

Catherine A. Rein
Executive Vice President

Metropolitan Life℠
AND AFFILIATED COMPANIES

The Honorable Roger B. Porter
Assistant to the President for
  Economic & Domestic Policy
The White House
Washington, DC 20500

Dear Mr. Porter

Metropolitan Life has long supported equal employment opportunity. Our corporate policy is published annually and is sent to each of MetLife's 49,000 employees; our human resource practices are designed to ensure a workplace free from discrimination.

We see equal employment opportunity as good business practice, particularly in view of demographic trends and increasing labor shortages. It is clear that the majority of new entrants into the labor force over the next decade will be women and minorities and that employers who do not emphasize equal employment opportunity will be at a competitive disadvantage in recruiting and retaining a high quality workforce.

At present, MetLife devotes considerable resources -- both human and monetary -- to minority recruiting, to summer work programs for disadvantaged youth, to minority summer and school year internship programs and to careful monitoring of the career progress of our high potential women and minority associates.

While it is clear from our actions that MetLife supports equal employment opportunity, as a major employer we have concerns about the penalty provisions of the Civil Rights Act of 1990.

The legislation's call for punitive and compensatory damages will clearly lead to costly and time-consuming litigation. As a result, it will prolong workplace disputes, will turn employment law into a tort system and will further overburden already backlogged judicial systems.

On the other hand, we support the existing Title VII remedies which encourage conciliation and speedy resolution of job bias suits. They are designed to make whole those who have been victims of employment discrimination. We believe these remedies are the appropriate means to stop the discriminatory behavior and to compensate the victim for work-related economic losses.

Thank you for your attention to this important issue.

Very truly yours

Executive Vice-President

May 31, 1990

OFFICE OF THE ASSISTANT TO THE PRESIDENT
FOR ECONOMIC AND DOMESTIC POLICY
OFFICE OF POLICY DEVELOPMENT

CORRESPONDENCE TRACKING SHEET
GENERATED: 06/06/90

Control No : 13

Entry Date : 06/06/90 Due Date : 06/13/90

Assigned to : MARIANNE MCGETTIGAN

Action : Draft for RBP signature

Correspondent : REIN, CATHERINE A.

Subject : EQUAL EMPLOYMENT OPPORTUNITY

Comments/Action Taken:

THE WHITE HOUSE
WASHINGTON

Date: 6-1-90

FOR: Marianne M Cottyn

FROM: **ROGER B. PORTER**

- ☐ Action
- ☑ Draft Response
- ☐ FYI
- ☐ Let's Talk

COMMENTS:

203596

THE WHITE HOUSE

WASHINGTON

July 27, 1990

Dear Bill:

Thank you for letting me know of your efforts to inform Members of Congress about the implications of the Kennedy-Hawkins bill.

In your letters to Members, you have identified the two primary concerns of the Administration, the Wards Cove provisions of the bill and the extension of remedies available under Title VII.

I am particularly concerned with Section 8 of the bill. Although the Administration agrees with the bill's proponents that existing remedies are inadequate to deter on-the-job harassment, imposing all the shortcomings of our tort system on the Title VII cannot be the answer. In our increasingly litigious society, we should be looking for more conciliatory ways of resolving our disputes, not abandoning such schemes.

Thank you again for writing. I hope the legislative process will successfully address these and other troublesome aspects of this measure.

Warmest regards,

Roger

Roger B. Porter
Assistant to the President
for Economic and Domestic Policy

Mr. R. W. Van Sant
President and Chief
Executive Officer
Blount, Inc.
4520 Executive Park Drive
Montgomery, AL 36116-1602

OFFICE OF THE ASSISTANT TO THE PRESIDENT
FOR ECONOMIC AND DOMESTIC POLICY
OFFICE OF POLICY DEVELOPMENT

CORRESPONDENCE TRACKING SHEET
GENERATED: 06/20/90

Control No : 39

Entry Date : 06/20/90 Due Date : 06/27/90

Assigned to : MARIANNE MCGETTIGAN

Action : Draft for RBP signature

Correspondent : VAN SANT, R W.

Subject : CIVIL RIGHTS

Comments:

June 15, 1990

Mr. Roger B. Porter
Assistant to the President
for Economics and Domestic Policy
The White House
Washington, DC 20500

Dear Roger:

Thank you for taking time to meet with us on Tuesday, June 12 regarding civil rights legislation that is pending in Congress. And, we were grateful to have Governor Sununu and Boyden Gray join in the discussions.

I am enclosing copies of letters that I have sent to a broad cross section of legislators since the June 12 meeting; also, a copy of a memorandum that was mailed to members of MAPI's Board of Trustees, many of whom are CEO's of Fortune 500 companies.

In the last twenty-four hours, I have visited with scores of industry leaders and most have exhibited a deep concern over the bill. It was apparent from those that I visited with that you have majority, if not unanimous support, to repeal the bill.

We intend to continue our efforts in soliciting support from business leadership and various special interest groups. I hope that these efforts, coupled with the President's and Congressional support, will be sufficient to defeat the bill.

At least, we may have demonstrated our desire to convey a "gutsy response" to this irresponsible legislation.

Sincerely,

Bill

RWVS/sp

BLOUNT, INC
4520 EXECUTIVE PARK DRIVE
MONTGOMERY AL 36116 1602
205 244 4000

R W VAN SANT
PRESIDENT AND
CHIEF OPERATING OFFICER

June 13, 1990

Honorable Robert Dole
SH-141 Hart Senate Office Building
Washington, DC 20510-1601

Dear Senator Dole:

I participated in a series of visitations with Congressional and Administration leaders in Washington on Tuesday, June 12. The purpose of this visit, which was attended by a small group of corporate leaders from a cross section of American industry, was to express our concerns about certain provisions of the Kennedy-Hawkins "Civil Rights Act of 1990".

As an ex-Kansan, now transplanted to Alabama, I was hopeful that we would be able to meet with you, but understand that your schedule was full and disallowed such a visit. Incidentally, Blount, Inc. recently purchased Dixon Industries, Inc. in Coffeyville, Kansas, from The Coleman Company; and, we have a great deal of respect for K.O. Dixon and his organization. Needless to say, we are proud to be a part of the Kansas business community and I'm pleased to be directly associated with Kansas again.

I would like to briefly summarize our concerns about the Kennedy-Hawkins Act in this letter.

The bill, as currently drafted, raises the real threat that employers will have no choice but to "hire by the numbers". More accurately, their only choice would be to let quotas govern their hiring decisions or to face the virtual certainty of lawsuits alleging discrimination. In the latter case, the bill establishes a legal burden of proof nearly impossible for employers to meet and so makes defense against such a charge virtually hopeless. In short, the employer must choose between resort to hiring quotas or being found guilty of discrimination.

By introducing jury trials, with provision for punitive and compensatory damages, the bill would also dramatically reverse Title VII practice, replacing its 25-year reliance on conciliation and "make-whole" relief with easy resort to litigation, the strong temptation to sue because of the lure of monetary damages, and the contentiousness that would accompany both.

Blount and most American businesses understand and are sympathetic with the need for equal employment opportunities. We practice it as a condition of employment. Increasingly in the tightening labor markets of the 1990s, it will be as much a matter of business necessity as it has come already to be a matter of conscience. To compete, we simply need good workers -- period. Men, women, people of all races need only have the skills or the ability to acquire them to seize the opportunity tomorrow's job will offer. Effective affirmative action in the 1990s will mean training for current workers and, for the young people who are tomorrow's workers, it means education, not litigation.

Senator, the bill in its present form would impose an extraordinary burden on business and, unfortunately, with little if any value for improving the state of equal employment opportunities. The potential cost to industry would erode our ability to fund important programs that target improved competitiveness, capital formation, increased productivity and employee training and development, among others. The bill is no less than a bonanza for the trial lawyers; a travesty that images the current product liability situation, which I found during my tenure as President and COO of Cessna Aircraft Company to be completely irrational.

We urge you to work against passage of this bill.

Sincerely,

RWVS/sp

BLOUNT, INC
4520 EXECUTIVE PARK DRIVE
MONTGOMERY AL 36116 1602
205 244 4000

R W VAN SANT
PRESIDENT AND
CHIEF OPERATING OFFICER

June 13, 1990

Honorable Thomas Foley
1201 Longworth House Office Building
Washington, DC 20510-4705

Dear Congressman Foley:

I was disappointed that a small group of corporate leaders, including myself, were not able to visit with you in Washington on June 12. NAM had arranged a series of visitations with Congressional and Administration leadership as a forum for us to present our concerns about the pending Kennedy-Hawkins "Civil Rights Act of 1990".

In my judgment, it is a classic example of a piece of non-value added legislation; a lawyer's bonanza. A bill with little, if any, societal value and, if enacted, will produce a litigious climate similar to that surrounding the product liability debacle.

Principally, I have two concerns with the legislation.

First, the Wards Cove provisions go far beyond reversal of last term's Supreme Court decision. The language of the bill, even with the Danforth-Hawkins modifications, clearly induce resort to quotas in company hiring decisions. The bill would allow for challenge on a simple showing that the composition of a firm's work force does not reflect the composition of the local labor market. After such a showing, the plaintiff's burden is essentially met; the burden then shifts to the employer who has a nearly impossible task of showing that each of his employment practices individually (and all of them in the aggregate) meets a test that can't be met.

To avoid going to court in the first place, the only safe haven is ensuring the work force is statistically balanced -- and the only way to do that is quotas.

Second, the introduction of jury trials and monetary damages turns time honored Title VII practice on its head. It promises to replace Title VII's emphasis on conciliation and prompt resolution with contention and protracted and costly litigation.

The combination of continued economic growth and well-recognized demographic trends suggest a different course. As the "baby-boom" matures, demographics tell us there will be fewer than in the past. More new jobs plus fewer new workers adds up to opportunity -- opportunity for women and minorities that will come as a function of tighter labor markets, not tighter equal employment laws.

These men and women need only have the skills such jobs will demand, or the ability and disposition to acquire such skills to seize these opportunities. That suggests clearly that effective affirmative action in the 1990s means education, not litigation.

I urge the Congress to proceed on these proposed dramatic revisions to U.S. employment law with caution and, frankly, with greater deliberation that has been shown in the all too brief time since the bill was introduced.

Sincerely,

RWVS/sp

BLOUNT, INC
4520 EXECUTIVE PARK DRIVE
MONTGOMERY AL 36116 1602
205 244 4000

R W VAN SANT
PRESIDENT AND
CHIEF OPERATING OFFICER

June 13, 1990

Honorable George Mitchell
SR-176 Russell Senate Office Building
Washington, DC 20510-1902

Dear Senator Mitchell:

I was disappointed that a small group of corporate leaders, including myself, were not able to visit with you in Washington on June 12. NAM had arranged a series of visitations with Congressional and Administration leadership as a forum for us to present our concerns about the pending Kennedy-Hawkins "Civil Rights Act of 1990".

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Principally, I have two concerns with the legislation.

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I urge the Congress to proceed on these proposed dramatic revisions to U.S. employment law with caution and, frankly, with greater deliberation that has been shown in the all too brief time since the bill was introduced.

Sincerely,

R. W. Van Sant

RWVS/sp

BLOUNT, INC
4520 EXECUTIVE PARK DRIVE
MONTGOMERY AL 36116 1602
205 244 4000

R W VAN SANT
PRESIDENT AND
CHIEF OPERATING OFFICER

June 14, 1990

MEMORANDUM TO:
Members of MAPI Board of Trustees

I've just returned from a visit to Capitol Hill where I participated with a small group of corporate leaders in a one-day series of visitations with Congressional and Administration leadership. The purpose of these visits was to present our concerns regarding the Kennedy-Hawkins "Civil Rights Act of 1990" which is pending in Congress.

During the day we met with Senator Orrin Hatch (R-UT) and Congressman Bob Michel (R-IL) and ten other congressional leaders. Our day ended with an extended meeting at The White House attended by Governor John H. Sununu, Chief of Staff; C. Boyden Gray, Counsel to the President; and Roger B. Porter, Assistant to the President for Economics and Domestic Policy.

The response from the Hill was frustrating. In essence, every meeting was punctuated by the comment ". .where has business leadership been? -- Congress and the Administration cannot defeat or veto this bill without your help!" Governor Sununu questioned why corporate leadership hadn't presented a "gutsy response" to the bill. In general, the Hill felt that corporate America had been sitting on its hands and was totally indifferent to the outcome of the bill.

Even more frustrating was a report from one member of our visiting group, a CEO of a Fortune 100 company, who indicated that during a dinner meeting with a large group of CEO's on June 11, he had raised the question as to his peers' opinions about the current civil rights legislation and received for the most part the response "what civil rights legislation?" -- or -- "it's a done deal!"

My purpose in writing is to urge you to help support a defeat of the Kennedy-Hawkins "Civil Rights Act of 1990". First, if you haven't already become fully acquainted with the onerous provisions of the bill, please do so; especially

the introduction of jury trials for discrimination cases, with punitive and compensatory damages. In many ways, this provision will put employment law cases on an equal standing with product liability issues. It will certainly precipitate a lawyer's bonanza.

And, secondly, I urge you to contact your legislators and solicit their help to defeat passage of the bill.

Time is short. House members indicated that the bill would go to the floor in July; Senate members believed that their version would reach the floor within the next week.

I have personally visited with many of our peers across the country during the last twenty-four hours, and interestingly, Governor Sununu and others might be right. We just haven't as a group grasped the context of this legislation and recognized the serious implications that it poses for all of us.

The attached letter sent to various legislators embraces the positions held by our group and are being sent for your reference or use.

We urge your help in this critically important matter.

Sincerely,

Bill

RWVS/sp
Attachment

«data senate.doc»

June 14, 1990

Honorable «FName»
«Address» Office Building
Washington, DC «City»

Dear «LName»:

Recently, I have become more active in expressing my concerns about the civil rights legislation that is pending in Congress. On Tuesday, June 12, I joined a small group of corporate leaders in a series of visitations with Congressional and Administration leaders, during which we expressed our concerns about the Kennedy-Hawkins "Civil Rights Act of 1990."

First of all, let me emphasize that Blount, Inc. and its employees strongly support and practice equal employment opportunity policies for all persons regardless of race, gender, religion or national origin. As you may recall, our founder, W. M. Blount, was a leader and effective mediator during the South's civil rights movement in the 1960s. Today, the company promotes and underwrites scores of social and educational programs that directly and indirectly target disadvantaged and minority groups.

But we are also willing to speak out against issues that we believe will unjustly and negatively impact American business.

And, in our judgment, the Kennedy-Hawkins "Civil Rights Act of 1990" is such an issue.

In simplest terms, the bill does little, if anything, to promote and ensure equal employment opportunities for people of all race, gender and religion. It is a bonanza for the lawyers and, if applied, would erode essential value-added programs on which business today is spending its limited resources and monies; programs that provide training and development for employees, thus improving competitiveness, allowing greater capital formation, increasing productivity, and improving the quality of our products and services.

We have two major concerns about the legislation.

First, the Wards Cove provisions go far beyond reversal of last term's Supreme Court decision. The language of the

bill, even with the Danforth-Hawkins modifications, clearly induce a return to quotas in company hiring decisions. The bill would allow for challenge on a simple showing that the composition of a firm's work force does not reflect the composition of the local labor market. After such a showing, the plaintiff's burden is essentially met; the burden then shifts to the employer who has a nearly impossible task of showing that each of his employment practices individually and (all of them in the aggregate) meets a test that can't be met.

To avoid going to court in the first place, the only safe haven is ensuring the work force is statistically balanced -- and the only way to do that is quotas.

Second, the introduction of jury trials and punitive and compensatory damages turns time honored Title VII practice on its head. It promises to replace Title VII's emphasis on conciliation and prompt resolution with contention and protracted and costly litigation.

The combination of continued economic growth and well-recognized demographic trends suggest a different course. As the "baby-boom" matures, demographics tell us there will be fewer skilled employees than in the past. More new jobs plus fewer new workers adds up to opportunity -- opportunity for women and minorities that will come as a function of tighter labor markets, not tighter equal employment laws.

These men and women need only have the skills such jobs will demand, or the ability and disposition to acquire such skills to seize these opportunities. This suggests clearly that effective affirmative action in the 1990s means education, not litigation.

I urge the Congress to proceed on these proposed dramatic revisions to U.S. employment law with caution and, frankly, with greater deliberation that has been shown in the all too brief time since the bill was introduced.

Lastly, Blount, Inc. is proud to have operating divisions in your home state, and I'm confident that our presence serves in part to support your goals and objectives.

As a corporate citizen of your state, we appreciate the opportunity to share with you our concerns about the current civil rights legislation. We urge you to support our position and request that you actively work against passage of the legislation in its current form.

Sincerely,