

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	[Personally Identifiable Information] [partial] (1 page)	01/08/2001	b(6)

COLLECTION:

Clinton Presidential Records
Staff Secretary
Too Late to Process
OA/Box Number: 20393

FOLDER TITLE:

The President Has Seen, January 2001 [4]

2019-0990-S

rs3482

RESTRICTION CODES

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

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- 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 concerning wells [(b)(9) of the FOIA]

Withdrawal/Redaction Marker

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Emily A. Parker
01/08/2001 06:49:25 PM

Record Type: Record

To: Orson C. Porter/WHO/EOP@EOP

cc:

Subject: proctor...

here it is. this may be the last time you see me alive.:

cory proctor

(b)(6)

bobby janett proctor

pat jackson

Joel Pick
up pass
Tomorrow
on Jan to Breslin

MICHIGAN STATE UNIVERSITY

January 8, 2001

MEMORANDUM

TO: Members of the MSU Board of Trustees

FROM: Nancy H. Pogel, Ph.D. *NHP*
Secretary of the Board of Trustees and
Executive Assistant to the President

SUBJECT: President Clinton's Visit

Parking

Please come to our office to pick up parking passes before proceeding to Breslin. Trustees will have reserved parking in the west Breslin lot, which should be accessed by Harrison Road.

Tickets

Trustees should arrive at the Breslin ticket office by noon. Trustees will not need tickets. If you have requested tickets for family and friends, those will need to be picked up at our office prior to the event as there is not time to overnight mail them. Your guests will be seated in the VIP section, but they will not be able to sit with you.

Schedule*

- | | |
|------------|---|
| 12:00 noon | Trustees waiting in the Breslin ticket lobby will go through security. |
| 12:15 p.m. | Trustees will be ushered to greet President Clinton's motorcade. A receiving line will be formed. |
| 12:25 p.m. | Informal photos at the motorcade with the President Clinton, Trustees, and President McPherson. Both White House and MSU photographers will be present. |
| 12:35 p.m. | President Clinton, Trustees, and President McPherson proceed to the men's locker room for photos with Coach Izzo and the men's basketball team. |
| 12:45 p.m. | Trustees will be ushered to the front row of the VIP section in Breslin. Trustees' names will be on seats. |

Following the event, there will be a small reception with President Clinton and other VIPs in Breslin meeting rooms B, C, & D (mezzanine level). Trustees will be given credentials for this event when they first arrive at Breslin to go through security.

*All times listed are approximate

S
**SECRETARY OF THE
BOARD OF TRUSTEES**

Michigan State University
450 Administration Building
East Lansing, MI
48824-1046
517/353-4647
FAX: 517/355-4670

1-10-01

~~PRESIDENT CLINTON~~

Mr. Calve

copied
Calve (original)
RM (copy)
Podesta

ANTON CERMAK KERNER

40 WEST SCHILLER STREET #A2

CHICAGO, ILLINOIS 60610

TEL: 312.943.4646 FAX: 312.649.9922

E-MAIL: AJCK@MSN.COM

President William J. Clinton
The White House
Washington, D.C.

October 22, 2000

~~CONFIDENTIAL~~

ANTON C. KERNER

40 WEST SCHILLER STREET
CHICAGO, ILLINOIS 60610

(312) 943-4646

chief executive to grant Otto Kerner, Jr. (1908-1976) a
posthumous pardon by reason of innocence pursuant to
the Constitution of the United States.
adult life to public service. In 1934 - after studies at Brown
University School of Law - he entered the military
serving highly decorated active duty in both theaters of World
War II. U. S. District Attorney for the Northern District of

Illinois, and President Eisenhower reappointed him in 1951. Twice elected Cook County Judge in 1954 and
1958, he was also twice elected Governor of Illinois in 1960 and 1964. In 1967, President Johnson
appointed him chairman of the national commission that produced the landmark "Kerner Report" on racism
in America. In 1968, President Johnson appointed him a judge on the 7th Circuit U. S. Court of Appeals.

In 1973, Otto Kerner was convicted in federal court of bribery, conspiracy, income tax evasion, false
statements and perjury by a federal mail fraud theory declared invalid in 1987 by the United States Supreme
Court in *McNally v United States*. But in 1974, the U.S. Court Appeals affirmed his conviction. That same year,
after the U.S. Supreme Court denied *certiorari*, he was incarcerated in federal prison where he served seven
months of a three-year sentence until grave illness forced his parole March 6, 1975. May 9, 1976 he died.

At every stage of the case, Otto Kerner challenged the pretense that either mail fraud or any other
crime could be established by the claim that he defrauded the State of Illinois of an "intangible right" to
"honest and faithful services" while Governor. When *McNally* established after he died that he was convicted
for conduct that did not constitute a crime, his estate appealed to overturn his conviction. But, while other
"intangible rights" defendants were granted acquittals under *McNally*, the otherwise timely Kerner appeal was
denied in 1989 because he was dead.

When courts are unwilling or unable to acquit innocent victims of false conviction, the burden falls
on the chief executive's pardon power to serve that end and remedy the injustice suffered. As the U. S.
Supreme Court said in its 1927 *Perovich* dictum, a pardon is not an act of grace, but a part of the
constitutional scheme, vesting final determination of the public's welfare in the President's ultimate authority.
The paramount determinant of the public's welfare is justice.

For over sixty years, U. S. Attorneys General and U. S. Pardon Attorneys have held that a pardon
given for the specific reason of innocence should have the same effect as a judgment of acquittal, but, absent
express reason of innocence, the word "pardon" connotes guilt and neither removes the basic fact of
conviction nor the social stigma attaching to it, but merely involves forgiveness.

DETERMINED TO BE AN ADMINISTRATIVE

MARKING INITIALS: MS

DATE: 4/15/21

2019-0991-S

ANTON CERMAK KERNER

40 WEST SCHILLER STREET #A2

CHICAGO, ILLINOIS 60610

TEL: 312.943.4646 FAX: 312.649.9922

E-MAIL: AJCK@MSN.COM

President William J. Clinton
The White House
Washington, D.C.

October 22, 2000

Dear President Clinton,

The ends of justice call upon our nation's chief executive to grant Otto Kerner, Jr. (1908-1976) a full, free and absolute warrant and proclamation of posthumous pardon by reason of innocence pursuant to powers under Article II, Section 2, clause I of the Constitution of the United States.

Otto Kerner dedicated forty years of his adult life to public service. In 1934 - after studies at Brown University, Cambridge University, and Northwestern University School of Law - he entered the military where he rose from Private to Major General, serving highly decorated active duty in both theaters of World War II. In 1947, President Truman appointed him U. S. District Attorney for the Northern District of Illinois, and President Eisenhower reappointed him in 1951. Twice elected Cook County Judge in 1954 and 1958, he was also twice elected Governor of Illinois in 1960 and 1964. In 1967, President Johnson appointed him chairman of the national commission that produced the landmark "Kerner Report" on racism in America. In 1968, President Johnson appointed him a judge on the 7th Circuit U. S. Court of Appeals.

In 1973, Otto Kerner was convicted in federal court of bribery, conspiracy, income tax evasion, false statements and perjury by a federal mail fraud theory declared invalid in 1987 by the United States Supreme Court in *McNally v United States*. But in 1974, the U.S. Court Appeals affirmed his conviction. That same year, after the U.S. Supreme Court denied *certiorari*, he was incarcerated in federal prison where he served seven months of a three-year sentence until grave illness forced his parole March 6, 1975. May 9, 1976 he died.

At every stage of the case, Otto Kerner challenged the pretense that either mail fraud or any other crime could be established by the claim that he defrauded the State of Illinois of an "intangible right" to "honest and faithful services" while Governor. When *McNally* established after he died that he was convicted for conduct that did not constitute a crime, his estate appealed to overturn his conviction. But, while other "intangible rights" defendants were granted acquittals under *McNally*, the otherwise timely Kerner appeal was denied in 1989 because he was dead.

When courts are unwilling or unable to acquit innocent victims of false conviction, the burden falls on the chief executive's pardon power to serve that end and remedy the injustice suffered. As the U. S. Supreme Court said in its 1927 *Perovich* dictum, a pardon is not an act of grace, but a part of the constitutional scheme, vesting final determination of the public's welfare in the President's ultimate authority. The paramount determinant of the public's welfare is justice.

For over sixty years, U. S. Attorneys General and U. S. Pardon Attorneys have held that a pardon given for the specific reason of innocence should have the same effect as a judgment of acquittal, but, absent express reason of innocence, the word "pardon" connotes guilt and neither removes the basic fact of conviction nor the social stigma attaching to it, but merely involves forgiveness.

Justice requires, and Otto Kerner deserves - no less than any other innocent - vindication, not forgiveness.

Presidential pardons have historically been granted not only by reasons of "innocence" and "grave doubt as to justice of conviction," but also by weight of reasons bearing either independently or cumulatively on innocence and justice, including "law held unconstitutional [invalid] - relief provided," "disclosure of new evidence," "irregularities at time of trial," "conflicting testimony," "bad character of witnesses against him" and "doubt as to guilt." All these reasons bear heavily on the accompanying pardon petition prepared on behalf of Otto Kerner pursuant to § 28 Code of Federal Regulations.

The manifest overreaching in the specious federal mail fraud invention against Kerner was but one threadbare stitch in an illusory fabric woven by an abusively ambitious prosecution. Where mail fraud was the novel hook, bribery was the crucial purl. Hung entirely on two witnesses' hearsay brought under cover of the conspiracy count, the bribery count named no briber, but, rather, framed Kerner between perjurious allegations of a suborned and an immunized witness against each other.

New evidence of obstruction of justice by the prosecution relating to prejudicial pre-trial leaks by the prosecution has been the subject of ongoing complaint since 1978. Documents disclosed pursuant to the Freedom of information Act in 1978 and 1979 reveal that the prosecution hid from the Court knowledge that pre-trial leaks against Kerner came from prosecution hands and that they were orchestrated to overcome Kerner's high public regard and the prosecution's low estimate of its case against him. The Office of Professional Responsibility in the U. S. Department of Justice has not responded specifically to the complaint as particularized in writing in 1980 and again in 1999, but has stated only that there seems no basis for criminal investigation. The disclosures nonetheless add basis for vindication.

While the chief executive is uniquely competent to address any and all reasons for pardon, a retrial of the Kerner case is not necessary for purposes of this petition. The Supreme Court's repudiation in *McNally* of his prosecutors' ambitious predicate is sufficient alone to warrant a presidential pardon for Kerner. That he was the victim of a more broadly overzealous prosecution attests further to the enormity of the injustice he suffered, but if investigation of further proofs were to delay unduly the issuance of a pardon deemed readily justified by *McNally*, it would merely extend, not lessen that enormity.

Rather, it is upon proclamation of his absolute innocence through the pardoning power vested in the president's ultimate constitutional authority that mitigation of the great injustice to Otto Kerner truly depends. Nothing less can hope to remove the wrongful stigma of condemnation marring the reputation of this impeccably dedicated soldier and statesman. Indeed, nothing less can hope to begin to restore public confidence so wanting in our system of criminal justice.

In sincere and respectful prayer,

Cc Roger C. Adams
Pardon Attorney
U. S. Department of Justice

ANTON CERMAK KERNER
40 WEST SCHILLER STREET #A2
CHICAGO, ILLINOIS 60610
TEL: 312.943.4646 FAX: 312.649.9922
E-MAIL: AJCK@MSN.COM

President William J. Clinton
The White House
Washington, D.C.

November 19, 2000

Dear President Clinton,

Accompanying are additional affidavits in support of the October 22, 2000 Petition for Posthumous Pardon on behalf of Otto Kerner, Jr. Below is an index of character writings submitted to date:

Blakely, Henry	Late Poet	Poem 5.12.76
Brooks, Gwendolyn Blakely	Poet Laureate of Illinois	Affidavit 10.14.00
Clark, Ramsey	Former United States Attorney General	Affidavit 11.14.00
Davidson, John L.	Lawyer	Letter 9.10.75
Dickerson, Earl B.	Executive, Supreme Life Insurance Company of America	Letter 4.20.73
Dixon, Alan J.	Former United States Senator, Illinois	Affidavit 10.13.00
Downing, Robert J.	Former Justice, Illinois Appellate Court	Affidavit 10.11.00
Fettridge, William H.	President, The Dartnell Corporation	Letter 2.19.73
Franklin, John Hope	Professor of History Emeritus, Duke University	Letter & Affidavit 10.18.00
Gingold, Ethel	Former Member, Illinois Board of Prisoner Review	Affidavit 10.21.00
Heineman, Benjamin W.	Former President, Northwest Industries; Former Chairman, Illinois Board of Higher Education	Affidavit 10.9.00
Henderson, Earl W.	Architect	Affidavit 10.31.00
Jenner, Albert E.	Former Chairman, U.S. Supreme Court Advisory Committee on Federal Rules of Evidence	Letter 2.20.73
Marovitz, Abraham Lincoln	Senior Judge, United States District Court	Affidavit 11.7.00
Marshall, Cecelia S.	Spouse, Former United States Supreme Court Justice Thurgood Marshall	Letter 5.21.73
Netsch, Dawn Clark	Professor Emeritus, Northwestern School of law	Affidavit 10.17.00
Perry, Joseph Sam	Senior Judge, United States District Court	Letter 2.19.73
Rock, Philip J.	Former Senator, Illinois General Assembly	Affidavit 10.16.00
Ross, Norman	Retired Executive, First National Bank of Chicago	Affidavit 10.10.00
Siegel, Beatrice S.	Former Neighbor	Affidavit 11.6.00
Shellow, Robert	Former Assistant Director, United States Commission on Civil Disorders	Affidavit 10.18.00
Sullivan, Thomas	Former United States District Attorney	Letter 2.23.73
Vlahoplus, Chris	Retired Journalist	Affidavit 10.20.00
Westmoreland, William C.	Former Chief of Staff, United States Army	Letter 4.7.73

Sincerely,

ANTON CERMAK KERNER
40 WEST SCHILLER STREET #A2
CHICAGO, ILLINOIS 60610
TEL: 312.943.4646 FAX: 312.649.9922
E-MAIL: AJCK@MSN.COM

President William J. Clinton
The White House
Washington, D.C.

December 18, 2000

Dear President Clinton,

Enclosed is a recently obtained 1999 Indiana Law Journal article in further support of the October 22, 2000 Petition for Posthumous Pardon by my sister and myself on behalf of our father, Otto Kerner, Jr. It relates to your February 19, 1999 posthumous pardon of Henry Oliver Flipper that we cited as precedent in our original submission, but are only now able to reference in detail.

While we adopt the Flipper petitioners' argument for *posthumous* pardon, we distinguish our pardon request from theirs in that ours is a request for nothing less than an express finding of *innocence*. Unlike them, we emphatically assert, not merely that Kerner's punishment was unjust, but that he committed no crime. We are particularly mindful of holdings cited in our petition that a pardon not expressly given for innocence implies guilt and connotes forgiveness, a result that would grievously violate the stance Otto Kerner maintained to the day he died.

Like Flipper, Kerner led a highly accomplished life: indeed, so highly accomplished that, were it not for his false conviction, Kerner's forty years of consummate public service would have stood him long ago among recipients of the Presidential Medal of Freedom. We do not doubt that he will one day join his illustrious peers there. Yet, while his impeccable dedication to the commonweal impeaches the accusation that he could have even conceived of betraying the public trust, we cite it to compliment – not supplant – his clear innocence as the essential, indispensable rationale for your pardon of him. We look forward to pardon as the conclusive vindication of his absolute innocence.

Respectfully submitted,

Cc Roger C. Adams
Bcc John Podesta
Meredith Cabe
Senator Richard Durbin

RICHARD J. DURBIN
ILLINOIS

COMMITTEE ON APPROPRIATIONS

COMMITTEE ON
GOVERNMENTAL AFFAIRS

COMMITTEE ON THE BUDGET

SELECT COMMITTEE ON ETHICS

ASSISTANT DEMOCRATIC
FLOOR LEADER

United States Senate
Washington, DC 20510-1504

364 RUSSELL SENATE OFFICE BLDG.
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230 SOUTH OAKBORN, 38TH FL.
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(312) 353-4952

525 SOUTH EIGHTH STREET
SPRINGFIELD, IL 62702
(217) 482-1062

701 NORTH COURT STREET
MARION, IL 62949
(618) 995-3812

www.senate.gov/~durbin

December 4, 2000

The Honorable William J. Clinton
President of the United States
The White House
Washington, DC 20500

Dear Mr. President:

I write to you in support of the posthumous pardon petition by Anton Cermack Kerner and Helena Kerner Stern on behalf of their father, former Governor Otto Kerner Jr. of Illinois.

Governor Kerner lead a life of public goodwill, first as a decorated member of the military, where he rose from Private to Major General before receiving an honorable discharge, and then in government, as a twice appointed U.S. District Attorney for the Northern District of Illinois, a twice elected Cook County Judge, a twice elected Governor of Illinois, and an appointed judge on the Seventh Circuit U.S. Court of Appeals. Governor Kerner is probably best remembered for his chairmanship of the National Advisory Commission on Civil Rights that produced the landmark "Kerner Report" on racism in America.

Governor Kerner remained an appellate judge for the Seventh Circuit until his 1973 conviction in federal court on counts of bribery, conspiracy, mail fraud, perjury, false statements and tax fraud. The bribery convictions were reversed on appeal (*United States v. Isaacs*). The surviving mail fraud counts charged that Kerner used the mails to defraud the citizens and State of Illinois of an "intangible right" to "honest and faithful service" as Governor. This novel concept was declared unconstitutional by the Supreme Court in 1987 in *McNally v. United States*.

As a result of the *McNally* decision, several other political figures in Chicago and elsewhere convicted under the intangible rights doctrine won new hearings. It is widely believed that had Governor Kerner lived, he would have seen his conviction overturned, as did other political figures. Unfortunately, the Supreme Court ruling came eleven years after Governor Kerner's death. Although Governor Kerner's children appealed to the Seventh Circuit in 1990 and tried to expunge his conviction, Judge Daniel Manion ruled, "That interest is personal to Otto Kerner Jr. and cannot survive his death."

Page 2 - The Honorable William J. Clinton

Because of the court's unfortunate ruling, Governor Kerner's name will forever carry the stigma of conviction in the absence of a pardon. His good works as a dedicated public servant will be regrettably overlooked.

Thank you for your attention to this issue. I look forward to hearing from you.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dick Durbin", written in a cursive style.

Richard J. Durbin
United States Senator

REASONS AT JUSTICE TO PARDON OTTO KERNER, JR.

by
ANTON C. KERNER

Pre-publication Confidential Draft

Introduction

Otto Kerner, Jr. (1908-1976) dedicated forty years of his adult life to public service. In 1934 - after studies at Brown University, Cambridge University, and Northwestern University School of Law - he entered the military where he rose from Private to Major General, serving highly decorated active duty in both theaters of World War II. In 1947, President Truman appointed him U. S. District Attorney for the Northern District of Illinois, and President Eisenhower reappointed him in 1951. Twice elected Cook County Judge in 1954 and 1958, he was also twice elected Governor of Illinois in 1960 and 1964. In 1967, President Johnson appointed him chairman of the national commission that produced the landmark "Kerner Report" on racism in America. In 1968, President Johnson appointed him a judge on the 7th Circuit U. S. Court of Appeals.

In 1973, Otto Kerner, Jr. was convicted in federal court of bribery, conspiracy, income tax evasion, false statements and perjury by a federal mail fraud theory eventually declared invalid by the United States Supreme Court. But in 1974, the U.S. Court Appeals affirmed his conviction, the U.S. Supreme Court denied him *certiorari*, and he was incarcerated in federal prison where he served seven months of a three-year sentence until grave illness forced his parole March 6, 1975. May 9, 1976 he died.

Reasons at justice call upon our nation's chief executive to grant Otto Kerner, Jr. a full, free and absolute warrant and proclamation of posthumous pardon pursuant to powers under Article II, Section 2, clause I of the Constitution of the United States.

Reason I: Necessity

Justice is administered by imperfect humans, and innocent people can be erroneously convicted by carelessness, skullduggery and cruel rigidity of the law.¹ While the falsely convicted are entitled to judicial reversal as well as restitution of fines and compensation for indignity and suffering undergone, American courts hold that judicial judgments should not be forever open to judicial review.²

The executive's pardoning power is the innocent's last resort.³ Necessity, therefore, is the *raison d'être* for pardon generally⁴ and for the instant petition on behalf of the late Otto Kerner, Jr.

Posthumous presidential pardon is precedented,⁵ as is presidential pardon by proclamation.⁶ The stigma of false conviction survives death of the innocent, and pardon by proclamation of complete and enumerated innocence gives full, requisite notice that the stigma is removed.⁷

Presidential pardons have historically been granted not only by reasons of "innocence" and "grave doubt as to justice of conviction," but also by weight of reasons bearing independently or cumulatively on innocence and justice, including "law held unconstitutional [invalid] – relief provided," "conflicting testimony," "disclosure of new evidence," "irregularities at time of trial," "doubt as to guilt," and "bad character of witnesses against him."⁸ These reasons all weigh heavily on the necessity of granting the present petition.

¹ A. Hamilton, *The Federalist*, Number 74, (Random House, ed. 1937) 482; W. W. Smithers, "Nature and Limits of the Pardoning Power," *Journal of the American Institute of Criminal Law and Criminology* (1910), I, no. 4, 550-552; E. M. Borchard, *Convicting the Innocent* (1932) vi et seq.; *The Yale Law Journal* (1942) 699; C. L. Newman, *Sourcebook on Probation, Parole and Pardons* (1958) 45; E. Abramowitz & D. Paget (1964) 160; C. C. Joyner, "Rethinking the President's Power of Executive Pardon," *Federal Probation*, XLIII (1979) 19; K. D. Moore, *Pardons* (1989) 131-137; C. R. Huff, A. Rattner and E. Sagarin, *Convicted But Innocent* (1996) xiv-xv, xxiii, 3-4, 22, 59 et seq.

² *The Attorney General's Survey of Release Procedures* (1939), III, 68, 69, 71; H. Weihoffen, "The Effect of a Pardon," *University of Pennsylvania Law Review*, 88 (1940) 178, 192; M. Borchard, *supra* note 1 at vii, xxi, xxiv, 376 et seq.; C. L. Newman, 45, 51; *The Yale L. J.*, *supra* note 1 at 699 et seq.; C. R. Huff, *supra* note 1 at 155-159

³ *The Attorney General's Survey*, *supra* note 2 at 74; H. Weihoffen, *supra* note 2 at 192; E. M. Borchard, *supra* note 1 at xxi, xxii; C. L. Newman, *supra* note 1 at 45, 50, 53, 54; *The Yale L. J.*, *supra* note 1 at 702 et seq.; W. W. Smithers, *supra* note 1 at 553; M. Morris, "the Overlooked Relevance of the Pardon Power," *Presidential Frontiers*, ed. R. J. Barilleaux (1998) 87, 88; K. D. Moore, *supra* note 1 at 137

⁴ C. C. Joyner *supra* note 1 at 19

⁵ E. Minor, "West Point Trailblazer to Receive Late Pardon," *The Associated Press*, February 19, 1999 (Henry Flipper); D. W. Jackson, J. H. Smith, E. H. Sisson, H. T. Krassnoff, "Bending Toward Justice: The Posthumous Pardon of Lieutenant Henry Ossian Flipper," *Indiana Law Journal*, 74 (1999) 1251 et seq

⁶ Presidential Pardon Proclamation 4311, 39 Fed. Reg. 32601-02 (1974) (R. Nixon); Presidential Pardon Proclamation 11, 13 Stat. 737 (1863); Presidential Pardon Proclamation 4483, 13 Weekly Comp. Of Pres. Doc. 90 (1977); K. D. Moore, "Pardon for Good and Sufficient Reasons," *University of Richmond Law Review*, 27, (1993) 284

⁷ *The Attorney General's Survey*, *supra* note 2 at 135, 190-194, 290, 293; H. Weihoffen, *supra* note 2 at 177-179 et seq.; W. H. Humbert, *The Pardoning Power of the President* (1941) 64, 65, 74-77; *Ex parte Garland* (1867) 71 U. S. 333, 380; J. R. Stanish, "The Effect of a Presidential Pardon," *Federal Probation*, XXXII, no. 3 (1978) 6, 7; K. D. Moore, *supra* note 1 at 98, 136, 177, 195-196, 220; K. D. Moore, *supra* note 6 at 281

⁸ W. H. Humbert, *supra* note 7 at 83, 124-125, Tables 5 & 6; *The Attorney General's Survey*, *supra* note 2 at 268

Reason II: Innocence

Otto Kerner was convicted of conspiracy, income tax evasion, false statements and perjury by a federal mail fraud theory declared invalid in 1987 by the United States Supreme Court in *McNally v. United States*.⁹ The keystone of the indictment, bribery under the federal Travel Act, was yanked on appeal.

The remains of the case - 7 of 17 original counts - are propped-up by two invalid mail fraud counts, charging that Kerner defrauded the people of Illinois of an "intangible right" to "honest service" when governor. Invalidity of the two mail fraud convictions invalidates convictions on all the other counts. Not only do the other convictions depend upon the mail fraud predicate, they are irreparably tainted by it.

At every stage of the case, Kerner challenged the pretense that any allegation could be established by use of the mail fraud statute because it did not make an intangible right the subject of mail fraud at the time he was convicted in 1973.

When *McNally* invalidated such overreaching use of the mail fraud statute and established after he died that he was convicted for conduct that did not constitute a crime, his estate appealed to overturn his conviction.¹⁰ But, while other "intangible rights" defendants were granted acquittals under *McNally* (including Maryland governor Marvin Mandel in a case with virtually identical mail fraud charges), the otherwise timely Kerner appeal was denied in 1990 because he was dead.¹¹

When courts are unwilling or unable to acquit innocent victims of false conviction, the burden falls on the chief executive's pardon power to serve that end and remedy the injustice suffered.¹² As the U. S. Supreme Court said in its still binding 1927 *Perovich* dictum, a pardon is not an act of grace, but a part of the Constitutional scheme, vesting final determination of the public's welfare in the President's ultimate authority.¹³ The paramount determinant of the public's welfare is justice.¹⁴

For more than sixty years, U. S. Attorneys General, U. S. Pardon Attorneys and other authorities have held: a pardon does not connote innocence unless given for that specific reason; a pardon based on innocence should have the same effect as a judgment of acquittal; and, absent the express reason of innocence, the word "pardon" connotes guilt and neither removes the basic fact of conviction nor the social stigma attaching to it, but merely involves forgiveness.¹⁵

Justice requires, and Otto Kerner deserves - no less than any other innocent - vindication, not forgiveness.¹⁶

⁹ *United States v. Isaacs and Kerner*, 493 F.2nd 1124 (7th Cir. 1974) *cert. denied*, 417 U.S. 976, 94 S.Ct. 3183 (1974) Exhibit A; *McNally v. United States*, 483 U.S. 350, 107 S. Ct. 2875 (1987)

¹⁰ *United States v. Isaacs and Kerner*, Petition & Memorandum for Writ of Error *Coram Nobis* (1987) Exhibit B

¹¹ *United States v. Isaacs*, 895 F.2nd 1159 (1989); *United States v. Mandel*, 862 F.2nd 1067 (1989)

¹² The Attorney General's Survey, *supra* note 2 at 296, 299, 313; H. Weihoffen, *supra* note 2 at 192; C. L. Newman, *supra* note 1 at 45; *Yale L. J.* *supra* note 1 at 699 *et seq.*; W. W. Smithers, *supra* note 1 at 553, 555,

560, 561; K. D. Moore, *supra* note 1 at 11, 97, 132; K. D. Moore, *supra* note 6 at 286-287; M. Morris, *supra* note 3 at 87-88; *Prisament v. United States*, 92 Ct. Cl. 434, 434 (1941)

¹³ *Biddle v. Perovich*, 274 U. S. 480, 486 (1927); M. Morris, *supra* note 3 at 86; C. C. Joyner, *supra* note 1 at 17

¹⁴ K. D. Moore, *supra* note 1 at 222; K. D. Moore, *supra* note 6 at 281, 284-285

¹⁵ *The Attorney General's Survey*, *supra* note 2 at 293 *et seq.*; *Annual Report of the Attorney General of the United States* (1980) 35 & (1984) 36; J. R. Stanish, *supra* note 7 at 3; H. Weihoffen, *supra* note 2 at 177-179 *et seq.*; *The Yale L. J.* *supra* note 1 at 700 *et seq.*; *Ex parte Garland*, *supra* note 7 at 380-381; C. C. Joyner, *supra* note 1 at 20

¹⁶ *United States v. Isaacs*, *supra* note 10; *The Attorney General's Survey*, *supra* note 2 at 296, 297; E. M. Borchard, *supra* note 1 at vii; C. L. Newman, *supra* note 1 at 44

Reason III: Accumulated Indications of Innocence

Accumulated indications of innocence are a rationale for presidential grants of pardon.¹⁷

Miscarriages of justice against innocents owe to government overzealousness through frame-ups, cover-ups, intimidation, manufacture or suppression of evidence, eyewitness error, suborned, immunized or plea-bargained perjuries, prejudicial publicity and community pressure for conviction.¹⁸ Justice especially miscarries when the prosecutor's enormous discretion over life, liberty and reputation is tainted by base personal or partisan motives to target victims rather than crimes.¹⁹

Otto Kerner's wrongful conviction was won by the combined affect of all these abuses and errors; they are grouped below according to reasons cited for pardons historically.²⁰

¹⁷ W. H. Humbert, *supra* note 7 at 83

¹⁸ E. M. Borchard, *supra* note 1 at xiv, xv, xviii; C. R. Huff, *supra* note 1 at xiv-xv, 22, 59 *et seq.*; K. D. Moore, *supra* note 1 at 133-135

¹⁹ R. H. Jackson, U. S. Attorney General, "The Federal Prosecutor," *Journal of the American Judicature Society*, XXIV (June, 1940) 18 *et seq.*; W. H. Humbert, *supra* note 7 at 139-142

²⁰ W. H. Humbert, *supra* note 7 at 83, 124-125, Tables 5 & 6; *The Attorney General's Survey*, *supra* note 2 at 268

A. Conflicting Testimony

The manifest overreaching in the specious federal mail fraud invention against Kerner was but one threadbare stitch in an illusory fabric woven by an abusively ambitious prosecution. Where mail fraud was the novel hook, bribery was the crucial purl.²¹ Hung entirely on two witnesses' hearsay brought under cover of the conspiracy count, the bribery count named no briber, but, rather, framed Kerner between perjurious allegations of a suborned and an immunized witness against each other.

The former testified, not that she bribed Kerner, but that the latter extorted her to offer Kerner stock.²² The latter testified not that he extorted the former, but that the government persuaded him the former sold Kerner stock through him to bribe Kerner.²³

Immediately after Kerner's bribery indictment, the hypothetical briber employed the prosecution's character reference and representation that she was a "public minded citizen" to secure a conditional horseracing license in California which was subsequently made unconditional despite Kerner's bribery conviction.²⁴

Sequestered 17 days with government prosecutors and agents, the hypothetical extorter took immunity two weeks before Kerner's trial was scheduled to begin, recanting nine months' resolute denial that he ever spoke with Kerner about the targeted stock transactions.²⁵

At Kerner's sentencing, the trial judge opined that the immunized witness "talked out of both sides of his mouth."²⁶ Just before Kerner's parole, the immunized witness recanted his trial testimony about Kerner saying, "I don't think he was bribed ... regretfully the jury believed me."²⁷

²¹ S. K. Skinner, Assistant U. S. Attorney for the Northern District of Illinois and H. E. Petersen, Acting Assistant Attorney General, Prosecution Memorandum re Otto Kerner, et al., November 8, 1971 16-19, 26-28b; *United States v. Isaacs*, *supra* notes 9 and 10; A. Kerner, "Convicted of Bribery - But Why?" *The Wall Street Journal*, February 7, 1991

²² *United States v. Isaacs*, et al, 71CRI086 Transcript of Proceedings, January 11, 1973 1807-1808 [Everett]

²³ *United States v. Isaacs*, et al, 71CRI086 Transcript of Proceedings, January 17-23, 1973 2846-3875 [Miller]

²⁴ "Marje Praised for Co-operation" *Chicago Sun-Times*, December 16, 1971 4; N. Papiano, Letter to California Horse Racing Board re Application of Mrs. Marjorie L. Everett, December 27, 1971 2; California Horse Racing Board, Regular Meeting, January 24, 1972; R. Koziol "How U. S. Stopped Race Probe of Mrs. Everett," *Chicago Tribune*, April 12, 1972 2; *United States v. Isaacs*, et al, CRI086 Motion for Evidentiary Hearing on Unlawful Government Inducements or Threats to Witnesses, May 8, 1972; *United States v. Isaacs*, et al, 71CRI086 Transcript of Proceedings, February 9, 1973 6307-6315 [Everett]; "Marje Gets California Racing OK," *Chicago Daily News*, April 2, 1973 20

²⁵ W. A. Barnett, W. S. Miller Immunity Agreement Letter to J. R. Thompson, U. S. District Attorney, August 15, 1972; J. R. Thompson, W. S. Miller Immunity Agreement Letter to W. A. Barnett, August 15, 1972; *United States v. Isaacs*, et al, *supra* note 23 at 2846-3875

²⁶ *United States v. Isaacs*, et al, 71CRI086 Transcript of Proceedings, July 9, 1974 15

²⁷ J. Manning, "Miller Denies Bribing Kerner," *The News-Sun*, February 11, 1975 1, 4A

B. Disclosure of New Evidence of Irregularities at Time of Trial

Evidence of obstruction of justice by the prosecution relating to prejudicial pre-trial leaks by the prosecution has been the subject of ongoing complaint since 1978.²⁸ Documents disclosed in 1978 pursuant to the Freedom of Information Act reveal that the prosecution hid from the Court knowledge that pre-trial leaks against Kerner came from

prosecution hands.²⁹ Whatsmore, the documents suggest that the leaks were orchestrated to overcome Kerner's high public regard³⁰ and the prosecution's low estimate of its case against him.³¹

The Office of Professional Responsibility in the U. S. Department of Justice has not responded specifically to the complaint as particularized in writing in 1980³² and again in 1999,³³ but has stated only summarily that there seems no basis for criminal investigation³⁴ The disclosures nonetheless add basis for vindication.³⁵

²⁸ A.C. Kerner, oral presentation to Thomas P. Sullivan, U. S. District Attorney for the Northern District of Illinois, September 20, 1978; A. C. Kerner, oral and document presentation to W. F. Conlon, Acting U. S. Attorney, October 2, 1978; W. F. Conlon letter to W. Tyson, Acting Director, Executive Office for U. S. Attorneys, October 6, 1978; A. C. Kerner, telephonic interview with J. A. Davis, Assistant Counsel, Office of Professional Responsibility, March 19, 1979; T. E. Patton, meeting with U. S. Attorneys J. A. Davis and D. Rogers, April 18, 1979; A. C. Kerner and H. K. Stern, meeting with J. A. Davis and D. Rogers, April 25, 1979; J. A. Davis, letter to A. C. Kerner, October 31, 1979; A. C. Kerner and T. E. Patton, letter to J. A. Davis, January 31, 1980; T. E. Patton, letter to J. Reno, U. S. Attorney General, October 5, 1998; R. K. Thomas, Associate Counsel, Office of Professional Responsibility, letter to T. E. Patton, January 10, 1999; A. C. Kerner, letter to R. K. Thomas April 20, 1999; R. K. Thomas, letter A. C. Kerner, June 23, 1999

²⁹ January 31, 1980 letter *supra* note 26

³⁰ S. K. Skinner, *supra* note 21 at 2a; F. Ugast, Deputy Assistant Attorney General, Memorandum for the File, November 30, 1971 I

³¹ F. Ugast, *supra* note 28 at I, "Mr. Peterson reviewed the nature of the proposed charges and outlined briefly the available evidence. He indicated that the principle weakness in the case was the government's dependence on a single key witness and the fact that Kerner was, in most instances, one step removed from the critical transactions. Mr. Petersen further pointed out that these factors, taken together with Judge Kerner's position in the community, in his opinion made our chances of obtaining a successful conviction about 50/50." R. H. Jackson, *supra* note 19 at 19, "What every prosecutor is practically required to do is to select the cases for prosecution and select those in which the offense is the most flagrant, the public harm the greatest, and the proof most certain."

³² January 31, 1980 letter *supra* note 26

³³ October 5, 1998 and April 20, 1999 letters *supra* note 26

³⁴ October 31, 1979, January 10, 1999 and June 23, 1999 letters *supra* note 26

³⁵ E. M. Borchard, *supra* note I at xviii; C. R. Huff, *supra* note I at 150-159

C. Doubt As To Guilt: Other Bad Witnesses Against Him

The false statement count (Count XV) pitted Kerner's word against that of two IRS agents who admittedly recreated notes they destroyed to frame the charge.³⁶ After Kerner died, grave IRS bias and misconduct against him was revealed conclusively.

In tape recorded admissions to a journalist in 1978, one of these agents confirmed that he and another colleague regularly leaked deliberately prejudicial pretrial stories against Kerner to the media.³⁷ Determined to criminalize transactions Kerner openly disclosed in his

tax returns, these latter two agents tainted government dealings with all principals in the case.³⁸

Arguably criminal tax claims against the government's two key witnesses were traded for testimony the government deemed "truthful" against Kerner. After Kerner's conviction, not only did the government's hypothetical briber win her permanent California racing license unimpeded, their hypothetical extortioner won dismissal of all criminal charges and waiver of a \$2,768,644 IRS tax lien used for his co-operation.³⁹

The IRS agent central to the case was demoted when caught publicly crowing in a tavern, "Do you know that Thompson (U. S. Atty. James Thompson) even got a call from Air Force I... Nixon has to be happy" and took refuge with the hypothetical extortioner, helping him win the tax-lien's waiver and produce an exculpatory exegesis, disclosing that Kerner's IRS investigators commonly joked their code name, CRIMP, stood for "Corrupt Republicans Investigating Marge's Pals."⁴⁰

³⁶ O. P. Stufflebeam, Memorandum of Interview with O. Kerner, July 15, 1970; *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 30, 1973 4599, 4609-4632, 4658-4669 [Campbell]

³⁷ S. Skolnik, transcript, tape recorded interview with J. Bone, May 16, 1978 32-35, 38-40, 43-45, 59-60, 66-67, 73; O. P. Stufflebeam, transcript, tape recorded interview with J. Bone, July 24, 1978 20-21

³⁸ *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 30, 1973 4704-4723, 4858 *et seq.* [Stufflebeam & Witkowski]

³⁹ *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 11, 1973 1767-1769 [Everett]; "Marje Cleared In California," *Chicago Sun-Times*, April 3, 1973; *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 17-23, 1973 3153-3158, 3818-3832, 3863 *et seq.* [Miller]; *United States v. Isaacs, et al*, 71CR1086 Transcript of Proceedings, January 30, 1973 4845-4866 [Stufflebeam]; "Drop Charges Against Miller for Help as Kerner Witness," *Chicago Daily News*, March 3, 1973; J. M. Walters, Commissioner, Internal Revenue Service, April 14, 1972 (notice to W. S. and C. G. Miller of \$1,845,763 tax deficiency); *William S. Miller and Catherine G. Miller v. Commissioner of Revenue*, Petition, July 13, 1972; *William S. Miller and Catherine G. Miller v. Commissioner of Revenue*, Answer, October 20, 1972; O. P. Stufflebeam, Affidavit, June 18, 1976; U. S. Tax Court Docket No. 5779-72, September, 1976 (\$58,552 tax deficiency settlement)

⁴⁰ T. Fitzpatrick, "Stufflebeam Flame Snuffed?" *Chicago Sun-Times*, February 23, 1973 35; B. Wiedrich, "IRS Investigator Gets His 'Reward,'" *Chicago Tribune*, April 18, 1973 22; I. Kupciet, "Kup's Column," *Chicago Sun-times*, November 25, 1974 70; H. Messick, *The Politics of Prosecution* (1978) 4

D. Other Grave Doubt As To Justice of Conviction: Partisan Zeal

Federal overreaching to criminalize Kerner's local and civil conduct reaches back to his accusers.⁴¹ In President Nixon's Oval Office tapes, Attorney General Mitchell, the nation's chief prosecutor is heard to complain two weeks before he called Kerner before a June, 1971 Grand Jury, "Now he's out talking about his Kerner Commission Report when he should be keeping his damn mouth shut as a judge."⁴²

Kerner, whose 524,252 vote gubernatorial landslide in 1960 swept Kennedy to an 8,858 victory over Nixon in Illinois, was outspoken about Nixon's first-term inaction on problems of racism highlighted in the "Kerner Report."⁴³ Even before it was released, Nixon had been the report's first critic.⁴⁴

Early in 1969, Mitchell - doubling as Nixon's campaign manager - began to implement a racist 1972 re-election strategy to split-off regional white Democrats put-off by national Democratic civil rights initiatives of the 1960's, and after the November 1970 congressional elections, Nixon, Mitchell and cohorts met to sharpen their divisive attack.⁴⁵ When the meeting turned to carving-up Illinois Democrats, the nation's chief prosecutor announced - just before he convened Kerner's January 1971 grand jury - "There's an investigation going on, and they won't be so powerful when the grand jury gets through with them."⁴⁶

From the Kerner investigation's outset in early 1970, Washington superiors wholly superseded the Chicago U. S. District Attorney⁴⁷ who told them they were "crazy" when they eventually informed him of it.⁴⁸ Three weeks before Mitchell ordered Kerner's indictment, Nixon elevated the skeptical local prosecutor to a federal judgeship and appointed a previously uninvolved recruit to fetch the indictment December 15, 1971.⁴⁹

⁴¹ R. H. Jackson, *supra* note 19 at 20; A. Petacque, "Decision up to Nixon," *Chicago Sun-Times*, September 26, 1971 5, 40; R. Koziol, "Draft Kerner Indictment," *Chicago Tribune*, November 21, 1971 1-2; J. Anderson, "Nixon's Revenge?" *Illinois State Register*, March 9, 1973

⁴² J. Warren, "Plenty of Gold Nuggets Kicking Around in Nixon Tapes," *Chicago Tribune*, October 17, 1999;

⁴³ M. Kilian, "Kerner Rips Nixon Failure to End Racism," *Chicago Tribune*, March 5, 1970 6; "New Racial Disorders Possible, Kerner Warns," *St. Louis Globe Democrat*, May 26, 1971 4A

⁴⁴ R. B. Semple, Jr., "Nixon Scores Panel for 'Undue' Stress on White Racism," *The New York Times*, March 7, 1968 1, 33; "Nixon Calls Riot Report Misleading," *Chicago Tribune*, March 7, 1968 8

⁴⁵ D. Rather and G. P. Gates, *The Palace Guard* (1974) 26, 188-189, 194-195, 208-213, 263, 287-292

⁴⁶ C. Colson, tape recorded interview with A. C. Kerner, March 1, 1976

⁴⁷ R. H. Jackson, *supra* note 19 at 18

⁴⁸ W. Barnhart and G. Schlickman, *Kerner: The Conflict of Intangible Rights* (1999) 273-276, 277-278, 279-308

⁴⁹ R. Koziol, *supra* note 41

Reason IV: Justice

While the chief executive is uniquely competent to address any and all reasons for pardon,⁵⁰ a retrial of the Kerner case is not necessary to render verdict on the petition in his behalf. The Supreme Court's repudiation in *McNally* of his prosecutors' ambitious predicate is sufficient alone to merit his pardon. That he was the victim of a more broadly overzealous prosecution attests further to the enormity of the injustice he suffered, but if

investigation⁵¹ of additional proofs were to delay unduly the issuance of a pardon deemed readily justified by McNally, it would merely extend, not lessen that enormity.

Rather, it is upon proclamation of presidential pardon by reason of his manifest innocence that mitigation of the great injustice to him truly depends. Nothing less than the ultimate authority's declaration that he was convicted of acts that the law did not make criminal can hope to remove the wrongful stigma of condemnation marring the reputation of this impeccably dedicated soldier and statesman. Indeed, nothing less can hope to begin to restore public trust so wanting in our system of criminal justice.

On the day he was sentenced to prison, Otto Kerner foretold his eventual vindication:

*I shall not offer here any false repentance . . . I do, however, most humbly disagree with the verdict . . . I am neither apologetic nor defensive of my conduct. The ultimate verdict on me will be rendered in future years, and I know that that verdict will establish that I was always an honest man and a faithful governor.*⁵²

Reasons at justice now make that vindicating verdict long overdue.

⁵⁰ *The Yale L. J.* *supra* note 1 at 701-702; *The Attorney General's Survey*, *supra* note 2 at 72 *et seq.*; W. W. Smithers, *supra* note 1 at 553 *et seq.*; C. C. Joyner *supra* note 1 at 18-19

⁵¹ W. W. Smithers, *supra* note 1 at 557

⁵² *United States v. Isaacs*, CR1086 Transcript of Proceedings, April 19, 1973 133

Perspective

SUNDAY, MARCH 19, 2000 • SECTION 2



Anton Kerner (left) and his father, Otto, in March 1975 after the former Illinois governor was released from prison.

Kerner on Kerner

Otto Kerner's son defends his father's reputation

By Anton Cermak Kerner

The warden stood to leave our brief family orientation. "I'll give you a moment to say goodbye," he said, stepping to his office door. When it shut, my sister and I turned to our father. His soldier's face fell, vanquished and vulnerable; once sky-blue eyes clouded with sadness and bewilderment. As we left the prison, I said to my sister, "I just saw Dad die." She replied quietly, "I know."

Within six months, cancer forced his early release from prison. Less than a year and a half later, in the still, dark, early morning of May 9, 1976, my father, Otto Kerner—retired U.S. Army major general, former U.S. district attorney for the northern district of Illinois, former

IN BOOKS: A review of "Kerner: The Conflict of Intangible Rights" appears in Section 14.

Cook County judge, former governor of Illinois, former chairman of the U.S. Commission on Civil Disorders, and former judge on the U.S. Court of Appeals—surrendered his last breath.

The next day, Illinois' poet laureate, Gwendolyn Brooks, penned the opening stanza of a remembrance titled "Otto Kerner":

*He was a man extensive and extending.
But we do not love largeness very long.
We look with narrowing littleness
on largeness.*

SEE KERNER, PAGE 5

Kerner

CONTINUED FROM PAGE 1

Brooks' husband, Henry Blakely, elaborated her insight with these closing lines of his poem "Of Otto Kerner":

*and his was the soldiers error,
knowing
but not deeply believing
any who followed the flag
could be enemy.
And so
he was flanked, taken,
and then beheaded,
the face, sometimes, of princes.
And I will be remembering
murders
and old kingdoms dead
because of great men killed.*

Little has since been written about Otto Kerner, save occasional reference to his chairmanship of the 1968 commission that produced the so-called Kerner Report and his incongruous 1973 federal conviction and imprisonment. The first biography of him, "Kerner: The Conflict of Intangible Rights," by Chicago Tribune columnist Bill Barnhart and retired Illinois legislator Republican Gene Schlickman, fills a great void. It is a vital account of a man that Tom Wickler's dust jacket blurb aptly proclaims "an admirably dedicated public servant, later victimized by partisan prosecution."

The Kerner Report's finding that "Our nation is moving toward two societies, one black, one white, separate and unequal" and that "white society is deeply implicated in the ghetto" is a landmark. Its insufficiently heeded calling to make good the promises of American democracy to all citizens urban and rural, white and black, Spanish-surname, American Indian, and every minority group still resonates today.

The new biography digs deeply into the wellspring that fed Kerner's work on the commission and his 40-year career in public service. The story of his Czech forebears' passion for civil liberty and his parents' struggle that took his father from unskilled laborer to attorney general of Illinois and judge on the U.S. Court of Appeals is authoritatively drawn from unpublished private—as well as public—documents. Fresh materials enrich the portrayal of his boyhood, education and early dual careers in the military and the law.

Regrettably, a dark caricature reveals none of the joy in his 39-year marriage with the youngest daughter of Anton Cermak, the Chicago mayor killed in 1933 by an assassin's bullet intended for President-elect Franklin Roosevelt. But accounts of his prosecutorial, judicial and gubernatorial years and his work on the Civil Disorders Commission are valuable. His 1958 judicial struggle with the Catholic Church over adoption reform and his gubernatorial initiatives in mental health, statewide open housing and economic development are warmly celebrated. Research into his work on the

commission is enlightening, especially the unearthing of a commission background document, "The Harvest of American Racism," likening 1967's urban black activists to Colonial revolutionaries.

While the collective effect of these vignettes is somewhat impressionistic, what is missing is mostly implied in the whole. For example, readers may well wonder how Kerner achieved consensus from rival Illinois legislators and contentious commission members. Nowhere detailed was his capacity to sublimate tactics, strategy and ego to substantive objectives. His quietly efficacious leadership to the politics of noisy confrontation and blatant self-promotion that sold newspapers, but accomplished little.

The book might also have done well to delve into Kerner's view of class in America as it informed his public life. It was a view reinforced by the career of Anton Cermak, benefactor of Kerner's father and creator of the pan-ethnic, labor-based, anti-Prohibition Cook County Democratic Party that heralded Franklin Roosevelt's 1932 presidential election sweep.

Growing up in a neighborhood of laborers, Kerner appreciated the role of the corner tavern. As a child, he carried buckets of beer on a pole over his shoulder to workmen for small change. He and his neighbors ate for free in the beer garden where adults drank and socialized in the Old World custom before radio, television and movies. He recalled that the tavern's only neighborhood safe was where laborers put their wages at day's end and that the tavern was where they went to borrow for their first home rather than face formidable lenders downtown.

What Kerner understood—and what Cermak capitalized on politically—was that threadbare, ethnic laborers felt disenfranchised by Prohibition in ways never grasped by well-clothed, white-collar managers who could afford expensive, illegal Canadian liquor and who felt at home in the city's imposing, marbled halls of commerce. Prohibition sensitized Kerner to the deep-seated political, economic and social misunderstandings between the haves and have-nots and anchored his belief that we must try harder to do unto others as we would have them do unto us.

The Kerner Report was as much a watershed for America's civil liberty as it was for Kerner's. In January 1969, Richard Nixon—the nation's first critic of the Kerner Report—was sworn in as president, and his campaign manager, John Mitchell, launched his masquerade as attorney general. The intangible civil rights of minorities advanced by Kerner were set on a collision course with a specious theory of intangible rights invented by Mitchell's prosecutors to allege Kerner failed to give citizens of Illinois "good and faithful services" as governor. With Kerner's conviction, Nixon and Mitchell managed to destroy one of

America's most respected civil rights advocates.

In a disturbing and poignant account, Barnhart and Schlickman accurately report that, when the U.S. Supreme Court overturned the Justice Department's overreaching theory 11 years after Kerner died, surviving defendants were granted reversals, while an otherwise timely appeal to reverse Kerner's conviction was denied because he was dead.

But the book fails to relate this injustice to the broad pattern of misconduct by Kerner's prosecutors who made him their target, not crime. Absent are incontrovertible proofs of his assertion that he was convicted by witnesses the government induced to lie. Missing is the revelation that the government's keystone bribery code named no briber or quid pro quo. Omitted is the government's obstruction of justice in hiding its campaign to ruin his reputation through prejudicial, pretrial leaks to the press of confidential grand jury proceedings and IRS information. Ignored is the government's admission that original IRS notes were destroyed and recreated to frame the perjury allegation he steadfastly denied. Uncritically repeated is the government's cover story that its investigation was inspired—within a year of Kerner's 1968 U.S. Senate confirmation to the U.S. Court of Appeals—by a faded moll's yarn that he was connected to the mob. Neglected is the story that government agents on the case commonly joked that their code acronym, CRIMP, stood for Corrupt Republicans Investigating Marj's Pals, Marj referring to Marjorie Everett, a key government witness.

The authors fail to recognize the enormity of the injustice Kerner suffered when they dismiss strong evidence of the political inspiration behind his prosecution. They recount the famous November 1970 meeting in which Nixon, Mitchell and cohorts plotted their 1972 reelection campaign strategy to attract southern and northern white Democratic voters disgruntled by their party's national civil rights and integration initiatives of the 1960s. They also repeat Mitchell's boast that Illinois Democrats wouldn't be so powerful after his grand jury got through in Chicago. They even admit that Mitchell's Justice Department officials had briefed Chicago prosecutors about Kerner only a month earlier, in October 1970. But they doubt that Mitchell's boast pertained to Kerner because no grand jury was then convened, overlooking the Kerner grand jury Mitchell seated in Chicago just a month after the 1970 holidays. To whom do they think Mitchell was referring, if not Kerner?

Kerner's U.S. appellate court opinions in defense of civil liberty and his persistent advocacy of Kerner Report recommendations were widely known to frustrate, embarrass and enrage Nixon and Mitchell. Not only did he block their draconian approach to law

The Kerner Report was as much a watershed for America's civil liberty as it was for Kerner's.

and order, he called them to task for impeding racial progress. In Nixon's Oval Office tapes, Mitchell is heard complaining about Kerner just two weeks before he called him in front of the June 1971 Grand Jury: "Now he's out talking about his Kerner Commission Report when he should be keeping his damn mouth shut as a judge." The question is not whether Nixon and Mitchell possessed the motive, means and opportunity to get Otto Kerner, but whether a smoking gun eventually will be found in the Nixon tapes.

Long before my father's trial and 10 years before he died, my sister, Helena, and I sat alone with him at dinner in the governor's mansion. "I may not leave you much materially when I'm gone," he said, "but you will have something that will open more doors than all the money in the world: You will have a good name."

His reputation was the heart of his being, and his conviction proved a fatal wound. At his trial in 1973, he testified, "This suit, this action is so very important to me. It's my life."

When his good name was taken, he felt a cherished door to great public service shut forever. This inspirational story of his life may prove him wrong about that. It strengthens faith that the legacy of his good works will eventually overwhelm the calumny of his enemies. It renews hope that he will be exonerated, his injuries remedied and his name restored—and that similar injustice may yet be thwarted. In this context, "Kerner: The Conflict of Intangible Rights" is a good place to learn how we might more fully realize our great capacity for genuine nobility as human beings.

Anton Cermak Kerner is a Chicago real estate broker.

Letters to the Editor

Convicted of Bribery—But Why?

Your Jan. 3 page-one article "Horse Play" touched upon Marjorie L. Everett's role in the federal government's prosecution of my father, Otto Kerner, former governor of Illinois, former chairman of the presidential commission that authored the so-called "Kerner Report" on racism in America, and former judge in the U.S. Court of Appeals.

Of the 17 counts in his indictment in December 1971, 16 counts rested on one key-stone, and that was the bribery count. And, at the time of his indictment, the government's case rested on one key witness, and that was Marjorie L. Everett. Presumably, since this was a bribery case, the government would name a briber, but this was never to be.

At the time of my father's indictment, Mrs. Everett had already committed the bulk of her fortune to ownership in Hollywood Park Turf Club and was, as its largest shareholder, seeking a seat on the board of directors of that horse-racing enterprise. Like every other director in California, she needed a license from the California Horse Racing Board to be seated.

The month following my father's indictment, the racing board was set to begin its inquiry as to Mrs. Everett's fitness for a license. Given all the publicity attendant to the bribery allegations against my father and Mrs. Everett's role as the government's key witness, the racing board wanted to ask Mrs. Everett whether she was a briber.

Pertinent as this question was, then U.S. Attorney General John Mitchell ordered his newly appointed U.S. District Attorney, James R. Thompson (and later governor of Illinois), to inform the California Horse Racing Board that the Justice Department would sue to prevent any inquiry involving Mrs. Everett's role in the Kerner case, whereupon Mr. Thompson and his assistant, Samuel K. Skinner (now U.S. Secretary of Transportation), flew out to California where they conveyed Mr. Mitchell's threat to that state's attorney general and its racing board, and, describing Mrs. Everett as a "public-minded citizen," they not only succeeded in blocking the inquiry, but, on the strength of their character references, they helped her secure a temporary license from the racing board and, thereby, a seat on the board of directors at Hollywood Park Turf Club.

Subsequent to my father's conviction, the same California Horse Racing Board granted Mrs. Everett her permanent license. You correctly noted that "it didn't hurt her that Ronald Reagan was governor of California at the time" but neglected to mention that two of Mr. Reagan's three Racing Board members (namely Messrs. Newman and Simpson) who gave Mrs. Everett her licenses wound up receiving directorships themselves from Mrs. Everett at Hollywood Park Turf Club. And, while you accurately related that Mrs. Everett testified in court that she was extorted to offer stock to my father in her Illinois horse-racing enterprises by then Illinois Racing Board Chairman William S. Miller, you neglected to mention that Mr. Miller denied her charge in his testimony.

You stated that "the U.S. Court of Appeals, in later affirming Mr. Kerner's conviction, said that Mrs. Everett had offered stock to Mr. Kerner with 'a corrupt intent.'" What the U.S. Court of Appeals actually said was, "The government contends, and the jury by its verdict must have found, that the evidence established that Mrs. Everett and Miller offered the stock with corrupt intent . . ." (emphasis added). You would have readers conclude that our U.S. Courts of Appeals are finders of fact, when that duty rests with the U.S. District Courts and their juries. The jury convicted my father on the bribery count without reconciling Mrs. Everett's testimony that she was extorted by Mr. Miller against Mr. Miller's testimony that Mrs. Everett was a briber and that he never extorted her.

Incredibly, Messrs. Thompson and Skinner both vouched for these witnesses' truthfulness in court. That they asserted and that the jury held that my father was guilty of bribery based on testimony of a "truthful" witness who never testified that she bribed or intended to bribe him is a crucial anomaly in his case. Despite the fact that these witnesses could not have both been telling the truth, the government deliberately presented their testimony to the jury with the cynical argument that it was the jury's job to decide who was telling the truth, not the government's.

Your article at least suggested two vital questions arising out of Mrs. Everett's involvement in my father's conviction 18 years ago: If Mrs. Everett was a briber, why did the California Horse Racing Board grant her the licenses? If she wasn't a briber, why was Otto Kerner convicted of bribery?

ANTON C. KERNER

Chicago

Dear
Mr President
& Mrs. Clinton !!

With so much to say
& such little paper to write—
in a nut shell, thank
you so very much for the
past 8 wonderful years of
great inspiration &
leadership!! You are
always cherished!! We all
know more greatness is to
come!! —Thank You Again
Fondly Yours Always eddy malave

Welcome
to NY!!

PhotoNotes™
by
Vivian

Violin Contractor Viola

Eddy Malave

BM, MM Juilliard

212.539.3032

516.352.2717

edatmalave@juno.com



Duncan P.O.Box 2118 Teaneck, NJ 07666



THE PRESIDENT HAS SEEN
1-8-01

Myler

1-8-01

To Eugene for reply?

Yes - No -

3.

See, please
file. I did
letter - 213

PHOTOCOPY
WJC HANDWRITING

1/8/01

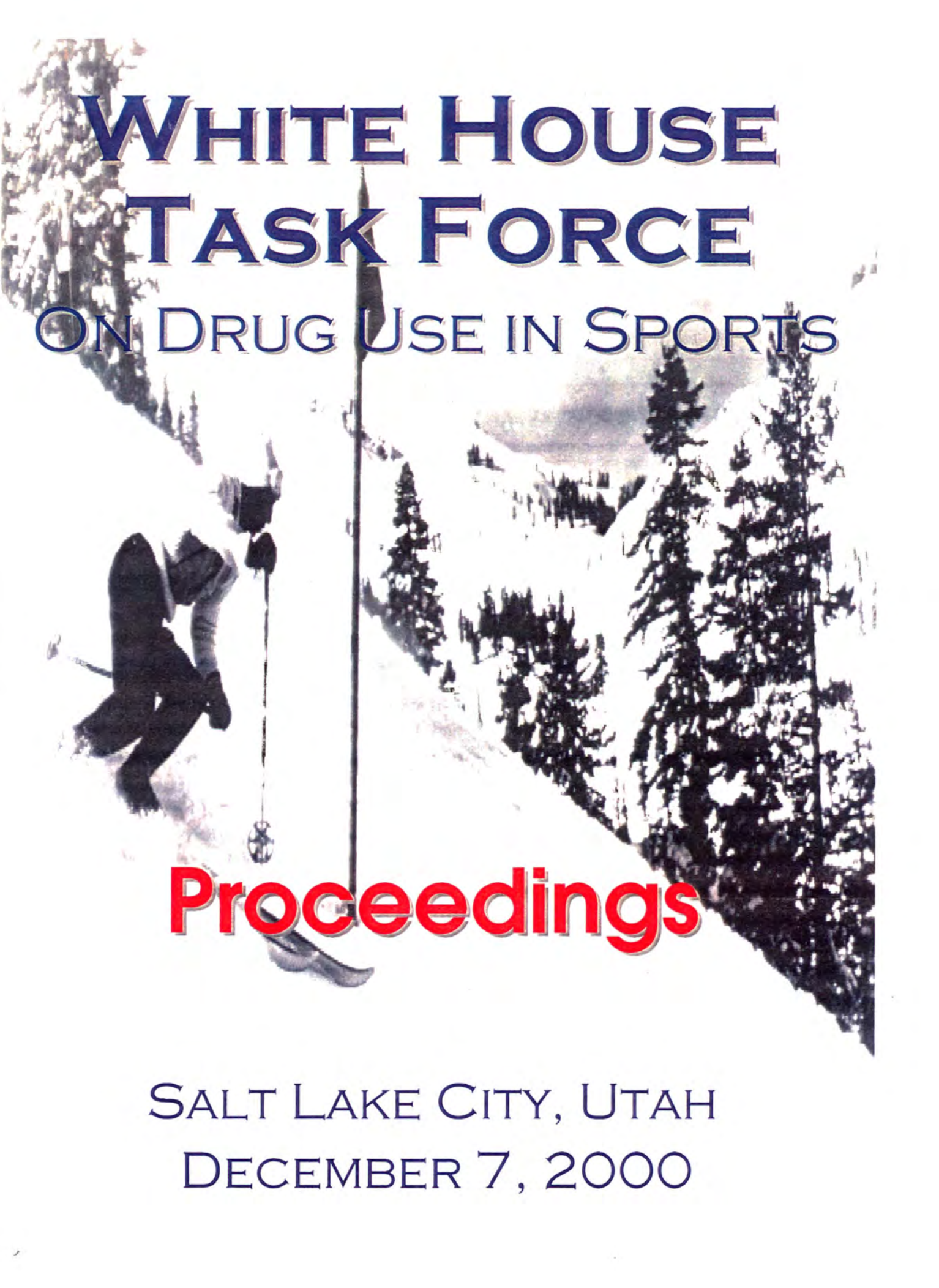
From the Axel

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WHITE HOUSE TASK FORCE ON DRUG USE IN SPORTS

Proceedings

**SALT LAKE CITY, UTAH
DECEMBER 7, 2000**

VIC SNYDER
2D DISTRICT, ARKANSAS

HOME OFFICE:
3118 FEDERAL BUILDING
700 W. CAPITOL AVENUE
LITTLE ROCK, AR 72201-3270
(501) 324-5941
TDD (501) 324-5922

1-5-01
Congress of the United States
House of Representatives
Washington, DC 20515-0402

COMMITTEE ON ARMED SERVICES
COMMITTEE ON VETERANS' AFFAIRS

WASHINGTON, DC OFFICE:
1319 LONGWORTH BUILDING
WASHINGTON, DC 20515-0402
(202) 225-2506
SNYDER.CONGRESS@MAIL.HOUSE.GOV

web: www.house.gov/snyder

January 4, 2001

The Honorable William Jefferson Clinton
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Dear Mr. President:

Thank you for your many years of service to our country and to the great state of Arkansas. I appreciate all of your efforts during these past several years. Prior to your leaving office, I would like to ask your assistance in a few last-minute projects of importance to the Second District and the state of Arkansas.

First, as you know, the state of Arkansas has been devastated by a series of ice storms. I appreciate your declaration of 52 Arkansas counties, including 6 of the 8 counties in my district, as state of emergency areas and then your declaration of these counties as major disaster areas. However, this declaration will not cover all of the associated damages, particularly since the area was still in recovery from major tornadoes during the last few years. I therefore request additional Federal assistance from HUD in the amount of \$20 million to aid in general community redevelopment.

Secondly, I and other members of the Arkansas delegation have contacted FEMA to request that FEMA cover 100 percent of the ice storm recovery costs rather than 75 percent as provided for under the major disaster declaration. County judges from two of the six counties in my district that were declared disaster areas have already contacted my office about this matter, and I am expecting to hear from the others shortly. I would ask you to take this matter up with Director Witt.

Third, I would ask your assistance in securing the release of funds for the Little Rock Central High. As you may recall, your budget contained \$2.5 million under the "Save America's Treasures" account for this project, and the funding for the project was approved by the Congress. I would ask your assistance in speeding the release of this money by the National Park Service so that the repairs to the school can proceed. Ken Smith and I personally toured the facility last fall.

Fourth, I ask your assistance with a grant request currently pending before the EDA for the Little Rock Port Authority. The grant would be used to construct a dock to further the port project, which is vital to the continuing economic development of Central Arkansas. The grant request is in the amount of \$1.28 million, which is the 80% Federal share of the \$1.6 million project. The remaining share would be provided by the City of Little Rock, which has already made

WJK

copied —
Kountoupes
Brain
Podesta

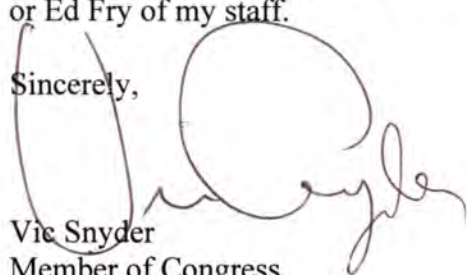
PHOTOCOPY
WJC HANDWRITING

arrangements to raise this money. I request your assistance in expediting the final disposition of this grant.

Fifth and finally, I request your assistance in locating \$200,000 for bilingual education in Yell County. I requested funding for this as part of the Labor/Health/Human Services appropriations matter, but my request unfortunately went unfulfilled. In recent years this county has become home to a significant number of Hispanics, and this money would help supplement the limited funding the school system can dedicate to this purpose. Any help you can provide Yell County in this matter would be greatly appreciated.

Thank you for your assistance with these requests and for your years of service. Should you or your staff have any questions about these requests, I hope that you will not hesitate to contact me or Ed Fry of my staff.

Sincerely,


Vic Snyder
Member of Congress

Thank you



Pulaski County

F.G. "BUDDY" VILLINES
COUNTY JUDGE / CHIEF EXECUTIVE OFFICER

ADMINISTRATION BUILDING
201 SOUTH BROADWAY, SUITE 400
LITTLE ROCK, ARKANSAS 72201
501-340-8305
501-340-8282 FAX

December 29, 2000

CITIES

ALEXANDER

CAMMACK VILLAGE

JACKSONVILLE

LITTLE ROCK

MAUMELLE

NORTH LITTLE ROCK

SHERWOOD

WRIGHTSVILLE

Mr. James Lee Witt, Director
Federal Emergency Management Agency
500 C Street
Washington, DC 20472

Dear James Lee:

This letter with similar letters from every mayor in Pulaski County will be presented Tuesday, January 2nd at 2:00 p.m. to the Arkansas Department of Emergency Management. This will be done at a meeting at the Jeffrey Hawkins Conference Room, 401 West Markham in Little Rock.

We got this help during the tornado damage a couple of years ago. We need help now because the amount of debris is far greater than it was then.

Thank-you.

Sincerely,

UNINCORPORATED AREA

600 SQUARE MILES

Floyd G. Villines, III

Floyd G. Villines, III
County Judge/Chief Executive Officer

FGV:dp

enclosure

MILITARY BASES

LRAFB

CAMP ROBINSON

Lanny E. Fite**Saline County Judge**

200 N. MAIN ST. - SALINE COUNTY COURTHOUSE, ROOM 117
BENTON, ARKANSAS 72015
303-5600 • FAX 303-5611

December 29, 2000

Mr. Bud Harper
Director, Arkansas Department of Emergency Management
P. O. Box 758
Conway, AR 72033-0758

Dear Mr. Harper:

I am requesting immediate direct federal financial assistance for Saline County at 100% utilizing the Army Corp of Engineers. The ice storm of two weeks ago coupled with this most recent disaster is placing financial hardships on both our county general fund and road department. Our emergency financial reserves are precariously low. Damage to our county infrastructure appears to be significant. Your immediate attention to this request is important to our recovery efforts. Should you require any additional information, please contact Paul Doramus, Director Saline County OEM, or me.

Sincerely yours,

copy

Lanny E. Fite
Saline County Judge

LEF/jb

1-5-06

Return to Nancy?

Yes

No

OK to OREM

THE WHITE HOUSE
WASHINGTON

HOLIDAY GREETINGS
January 4, 2001

James and Rita Walters thank for all your kindness and invitations. You have been a wonderful, effective President and have always taken the positive attitude on tough issues. They never doubted for a moment that Hillary would win and look forward to voting for her as our first woman President. Don't forget them in Arkansas. Democrats in Benton County are now an endangered species. They are forever your friends.

Bob and Peggy Francis and Children

Doug, Nancy, Kate, Rachel and Charlie Snyderman/Myers with family photos

Gina and Steve Wolfe with holiday letter. Thanks for the wonderful party on the 17th. They wish you all the best in the coming year with all its transitions.

Linda Dillon Rydman

Cornelia Flagg Keller sends best wishes for your future and appreciation for the good work you have done so far. She can't wait to read the next installment.

Jena, Michael, Teddy and Audrey King with family photo

Martha and Jack Rourke with photo and copy of *Seasons* enclosed. He suggests you "find your foto!" Good luck.

Th Ghanems – Elias, Jody, Crystal Ann, and Elias II with photos

Denise Rich – very ornate card

~~A T~~, Catherine and Tommy Smith – they love you. This New Year should be exciting for all. They'll be with you all the way. Wedding photo of the family

~~Peter~~ Cook and Christie Brinkley and Family with family photo

~~Ben~~, Amber, Ryan, Andrew, Catherine and John Pinter with photo of the children and holiday letter.

~~The~~ Tom Hanks Family with family photo. Hope to see you in 2001!

~~Anne~~ and Guido Calabresi with love and joy that Hillary will continue your wonderful tradition of service, especially in the next difficult years. Hope they may see you soon. They tried to be at the reception on the 17th, but the plane was delayed by the weather. Holiday letter enclosed.

~~The~~ Ken Bartels Family with family photo and holiday letter

PHOTOCOPY
WJC HANDWRITING

1-5-01

Send to Eugenie

Yes _____

No X

already
dare
(please
care
esp. m w
@ 1-5-01

cd

THE PRESIDENT HAS SEEN

1-5-01

Clinton / Arkansas

Memo

To: Nancy Herzog
From: Lynda Dixon
CC: Eugenie Bisulco
Date: 1/4/01
Re: Death of Elizabeth Allen, Hot Springs

PARENTS: Floyd and Priscilla Emerson
122 Grandview Drive
Hot Springs, AR 71913

Elizabeth was in a car accident. One of her young sons was badly injured and is at Children's Hospital. Her parents were good friends of Virginia.

I sent flowers from President Clinton.

PHOTOCOPY
WJC HANDWRITING

Per Nancy Adkins.

Elizabeth G.E. Allen

Elizabeth Gaye Emerson Allen, 28, of Hot Springs died Tuesday, Jan. 2, 2001.

Born June 10, 1972, in Garland County, she was a member of St. John's Catholic Church and a dental assistant.

Survivors include her parents, Floyd and Priscilla Emerson of Hot Springs; one daughter, Aubree Elizabeth Allen of Hot Springs; two sons, Michael Paxton Allen and Logan Neal Allen, both of Hot Springs; one brother, Floyd Emerson Jr. of Hot Springs; and one sister, Cynthia DeAnn Rodriguez of Benton.

The obituary will be listed at <http://www.legacy.com>.

Arrangements will be announced by Gross Funeral Home.

THE PRESIDENT HAS SEEN

1-4-01

'01 JAN 4 PM3:53



Philipp Brothers Chemicals, Inc.
One Parker Plaza · Fort Lee, New Jersey 07024

Mr. President.

JACK C. BENDHEIM
President

Appreciate Your Consideration

Tel. (201) 944-6020 · Fax (201) 944-5937
E-Mail: jcb@phibrochem.com

1-5-01

THE DARLING HOUSE

*A Bed and Breakfast Inn by the Sea*Karen Darling
Darrell Darling314 West Cliff Drive
Santa Cruz, CA 95060

Telephone 1-408-458-1958

JP - 1-5-01, 1-5-01, 1-5-01

K

December 28, 2000

Dear Mrs. Clinton,

I have a special request to make of you. You are aware of our 4 years of effort trying to pass legislation regarding the CT-43A crash that took the life of our son, Adam Darling. I mentioned it in a letter we sent with your birthday card. The bill did not pass the Appropriation Conference Committee. Chairman Stevens was the only opposing vote while ranking Senator Byrd and House Chair and Ranking Young and Obey strongly advocated passage as part of the last appropriation of the 106 th Congress.

We still need this matter attended to during this administration. Several family members who have lost spouses or children on the plane have written asking for an executive order by President Clinton to assist us in our losses. The administration was very supportive of the legislation and we have gone every way that was suggested to us to get relief, including a hearing of HR 3295 (without opposition) before the House Sub-Committee on Immigration and Claims of Judicial Committee. But now we are down to our final option. Please see that President Clinton attends to these requests so that we no longer need to suffer under this burden of seeking redress. Victims' families should not have to do this. We asked for an advocate early on and only defenders of the Pentagon were assigned the task.

Christina Kaminski lost her father on the plane and her mother died waiting for a kidney transplant a year later. She is now college age and needs help. Sheila Christian has 2 young children and minimal support because her husband was Ron Brown's Security; the government was not even able to find a way to secure continuing health benefits for her sons. Private Sector people received upwards of \$14 million individually from their claim against the government, a total of \$95 million for 13 families, while our 14 public sector families received a cumulative total of \$2 million; most of us were limited to the \$10,000 FECA limit. This disparity of 50 to 1 is unjust and demoralizing for committed government employees and shameful for our government to hide behind a technical regulation. It should be corrected. Some families are in severe financial duress. We ourselves need the compensation to keep working on the issues of air safety and reform of the Federal Tort Claims act and Pentagon accountability to a civilian government.

Please seek the President's time to give him your wise counsel on this matter while there is a moment left in this Democratic administration that our son and 13 other government employees loyally served, believing in a just cause which took their lives as a result of direct disobedience by a zealous Air Force General and lack of adherence to common safety.

Affectionately,



Karen Darling

Congratulations on
your election. The
knew you could do it.
Look forward to great things
from you. D & K

PHOTOCOPY
WJC HANDWRITINGcopied
Podesta

Families of the CT-43

Phone 831-458-1958 • Fax 831-458-0320

314 West Cliff Drive • Santa Cruz, CA 95060

December 7, 2000

President William Jefferson Clinton
The White House
1600 Pennsylvania Avenue.
Washington D.C. 20500-2000

Dear President Clinton:

I am writing to you about one matter that remains unresolved in your administration which it is looking as though only you can bring to proper conclusion. Our son, Adam Darling, decided at the age of six that he would be President of the U.S. He lived every day of his life practicing that worthy calling.

After several years of healing from his older brother Matt's untimely death in 1986, our family renewed our commitment and energy devoted to the political process, with Adam charting a course of unflinching support for your candidacy as early as 1990, actually from the night he watched your nominating speech for Dukakis. We were ecstatic when Hillary decided to come to Santa Cruz the Saturday before Mother's Day, 1992, and we were able to host her in our home. With Adam's appointment as speech writer for Dave Barram and then Ron Brown, the doors were open for the best man I have ever known, young as he was, to make a significant contribution to the nation and the global community.

Adam saw the Bosnia - Herzegovina/Croatian mission of commercial diplomacy as one of the boldest effective alternatives to war since the Marshall Plan. Adam was proud of you and of Secretary Ron Brown, fully aware of the detractors and of the personal and political vulnerability of every human being.

We gave the very best that it has taken our family years, generations to produce through painstaking care, faith, sacrifice and commitment. So did every family whose beloved were killed on the CT -43A on April 3, 1996. All things taken together and without fore-knowledge of the outcome, he made the right decision. The potential good was worth the apparent risks.

We are deeply appreciative of the honor you have shown our beloved. A cloud, however, still hangs over the mission, the Brown Commerce Department, and the tragically flawed decisions of the Air Force Command, as a result of the ill-motivated investigation by the Congressional leadership.

It is looking increasingly unlikely that our families will receive any relief or redress through Congressional action, HR3295/S1958 for which we and (thank you!) you and your administration have worked diligently. Our Congressman and dear friend, Sam Farr, and his staff have been the unflagging champions for all the families from day one and continue, even now, to hope against hope and to seize every shred of opportunity to move the legislation. Please continue, even at this late date, to use every potential for approving this appropriation, which does now have support or concurrence virtually from all of the appropriating principals in Congress.

In the event we are not successful in the 106th Congress, please close this painful chapter, honor the work and sacrifice of your good friend and faithful Cabinet Secretary and of all fourteen who caught your vision, served you and the nation faithfully, and gave all they had, their very lives, for the cause and vision they believed in for the hope of all humanity:

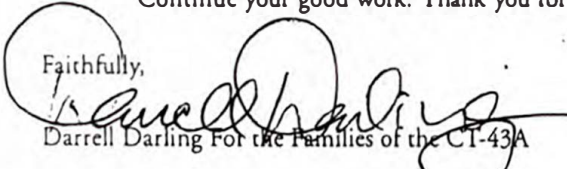
by executive order, direct the Air Force to pay the first \$100,000 of each 14 claims and the Secretary of the Treasury to pay the balance of \$2 million to each governmental employee's family, from the U.S. Continuing Emergency Fund.

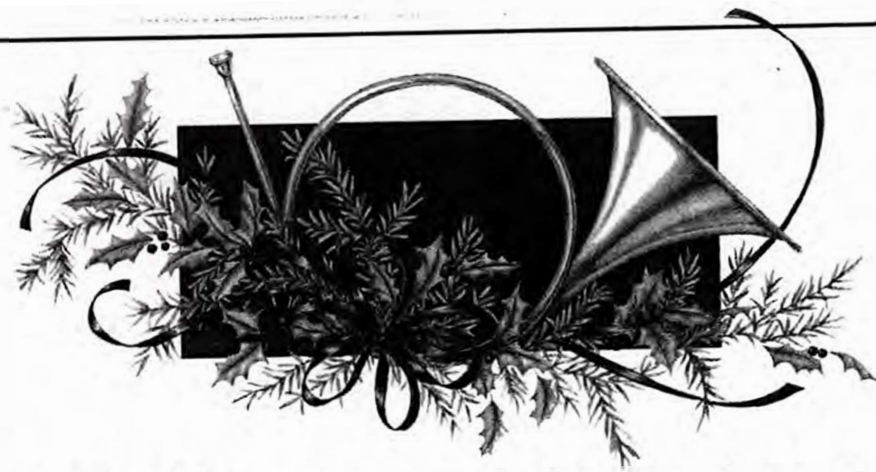
There is nothing in the law passed by Congress establishing the Military Claims Act or FECA which prevents the payment of compensation by the government to governmental employees just as it has to the 13 private sector families. The total amount paid to 13 private sector families was \$95 million; paid to 14 public sector families the total was \$2 million. The payment is prevented not by the law, but by Air Force regulations interpreting that law (Mil. Claims Act). In our lay opinion, you could in this instance direct by Executive Order that the regulation of the Air Force be waived. If this is accurate, and you were willing to take such action it would lift not only an immense burden of justice for the families; it would provide the relief from financial duress and suffering some families have experienced for these five years.

We are grateful for the 29 delightful years Adam lived. And we are grateful for the service he intended and he gave in the service to the larger human family. In all things, we thank God for the marvelous gift of life. And we will continue to seek the ways to keep faith with both Adam's commitment and our own, to serve as Christ Jesus served and calls us on.

Continue your good work. Thank you for your eight effective years.

Faithfully,


Darrell Darling For the Families of the CT-43A



SEASON'S GREETINGS

A Father's Catechism

I wanted a son whose hands were no stranger to good wood,
fingers were familiar to density and grain,
would know which timber bears the weight
of many generations' living within its walls,
whose back would bear the weight of such stout timbers,
to carry his own weight with pride
whether taken up at will or laid on him for spite,
would know which wood sands smooth so toys and cribs won't splinter.
(I'd made a cradle for my child, although more brutal if not wiser powers
forced us from our village home when the baby was full term).
Every bird builds his own nest.
I wanted a son who having nothing but a dream can build it with two hands.
I wanted a son to touch the village dust and grass with tenderness,
not grasping what must only slip away nor insisting that the earth yield answers
filling his own void, simply touching earth and creatures of the earth
with certitude he is at home with them.
I'd try to teach my son to tolerate extremes,
enduring desert heat and mountain cold with equanimity,
unfettered from frivolous fantasies undeterred by unfound fears.
Knowing pain would come in every village, I wanted him to know grief
not objectively observed but as the rain of human tears
that daily bathes his heart.
May he drop headlong in love,
never right himself from being forever in freefall in the abyss,
for whatever that by which he gains control, it is a paltry substitute for love.
I wanted my son to know no shame, have no confusion about his village place,
wherever his journey he will be forever at the center of the universe,
every star beams down on him, every sunrise lights his path,
each stranger is his brother, every woman worthy of the same respect.
He is the knower and the known.
The village is the garden which he tends as guardian
and the fruit which causes him to sing.
Yes, my heart sprang up with news I would be father of a child.
How could I teach this tiny harbinger of infinite possibilities
not my limitations but my dreams?
I'd bring to him with my two hands each craft,
each creature, each puzzlement I'd made my own.
To my delight my first born was a daughter.
I gave to her my village and two brothers.
She gave me back the world and more.

dwd 12/20/2000

*I have all 8 yrs.
of your cards on our
mantle. Thank you!
Darrell & Karen*

THE PRESIDENT HAS SEEN

1-4-01

Duke Ellington School of the Arts
3500 R. Street NW Washington, DC 20007
(202) 965-4695

N.W.J.O.

The New Washingtonians Jazz Orchestra

Davey S. Yarborough-director

PHOTOCOPY
WJC HANDWRITING

October 20, 2000

1-4-01
Send to Cohen for
reply?
— yes And

President William Jefferson Clinton

The White House

Dear Mr. President,

On behalf of The New Washingtonians, please let this letter serve as a small token of our appreciation for your dedication to our United States and especially the youth. During your administration you have constantly focused on the importance of preparing our youth to continue the greatness of our nation. It is gestures like sending the youthful photograph of The great Edward Kennedy (Duke) Ellington to our jazz orchestra to serve as a reminder of what can happen with proper directing of young spirit and creativity. Also, the professional mouthpieces have been distributed to our most deserving saxophonists and have brought a heightened sense of pride to a n outstanding group of talented students.

Thank again for all you have done to serve us and our nation.

Sincerely,

The New Washingtonians Jazz Orchestra

Muhsinah Abdul Karim

Amy Bormet

Benjamin Williams

Justin Rouse

Michael DeCastro

John Smith

Daniel Haedicke

Joseph Teachey

Ben Cooper

Monique Samples

Julien Lane

Kega John

Joshua May

Edward Johnson

Gregory Thompson

Randell Ozier

Keith Penn

Davey S. Yarborough-director

1. Ewa and S. Daniel Abraham
2. Karen Adler and Larry Greenwald
3. Barbara and Philip Altheim
4. G. Allen Andreas and family (Dwayne's son)
5. Ofer Azrielant and Amnon Shibolet
6. Jack and Giti Bendheim and family
7. Mark and Wendy Biderman
8. Avrum Burg, Knesset Member
9. Geoffrey H. Lewis and Amy Caplan
10. Susan Dlott and Stanley M. Chesley
11. Doron Cohen (Nava Barak's brother) and Lonny Rafaeli
12. Gayle Damiano and Suzanne Shaw
13. Paul and Joanne H. Egerman
14. Carol and Roger Einiger
15. Julia Fishelson and Linda Rae Sher
16. Cynthia Friedman and Margie Lynn
17. Gail Furman and family
18. Ronni and David Ginott
19. Zev and Sandy Furst and family
20. Alice and Nathan Gantcher and family
21. Dorian and Mattis Goldman
22. Barbara and E. Robert Goodkind
23. Sally Gottesman
24. Kim and Gary Heiman
25. Isaac Herzog, Sec. Of Israeli Cabinet
26. Michael and Meredith Kessler, Marcia Riklis
27. D. Jeffrey and Rachel Hirschberg and family
28. David C. Hochberg (Lillian Vernon's son) and Jim Snelly
29. Avi and Israel Ingberman
30. Jill Iscol and Faith Drucker
31. Patricia and Allan Kahane
32. Rita and Stanley Kaplan and family
33. Elliot Lobel
34. Fran Katz Watson and Bobby Watson
35. Bill and Linda Kaye
36. Allen R. Kronstadt
37. Vardit Lender (Marvin Lender's daughter)
38. Mr. and Mrs. Morris Levy and family
39. Loretta and Robert K. Lifton
40. Roger Lowenstein and Robin Reif
41. Juliana and Rowena Mann
42. Peter and Leni May
43. Richard Marker (Bronfman Foundation) and Mirele Goldsmith
44. David and Lucy Mimran
45. Harriet Mouchly-Weiss and Charles Weiss
46. Robert Muller (Vietnam Vet) and Tiffany McKenna
47. Henry and Sydelle Ostberg
48. Norm and Mary Pattiz (Vice Chair IPF)
49. Louis and Barbara Perlmutter and Family (honoree)
50. Diana and Gregory Porges
51. Seymour and Cynthia Reich and family
52. Ann, Michael, and Dana Rosen
53. Aryeh and Harold Rubin and family
54. Anita and Melvin Salberg
55. Jill and Lewis Saperstein
56. Jodi J. Schwartz
57. Elizabeth Scheuer, Peter Joseph, and Eleanor Joseph
58. Kristin and Robert Schwabe
59. Robert and Mao Shillman
60. Alan Slifka
61. Daniel and Jane Solomon
62. Alan and Susan Solomont and family (honoree)
63. Frederick and Jeannie Sondik
64. Michael Sonnenfeldt and Katja Goldman
65. Jacob and Jean Stein
66. David and Sylvia Steiner
67. Howard and Linda Sterling
68. Jeffrey and Susan Stern (honoree)
69. Judith Stern Peck and Stephen Peck and family
70. Mike Stinson, Rodney MacAlister, and Tanya Wantz
71. Daniel and Joyce Straus
72. Fern and Lenard Tessler
73. Alan and Peggy W. Tishman
74. Maria and William A.K. Titelman
75. Bert and Sandy Wasserman family
76. Leslie and Melvyn Weiss
77. Pamela Wohl and family
78. Diane and Gerald Wolf



Jan 1

GOVERNOR GRAY DAVIS

PHOTOCOPY
WJC HANDWRITING

Mr President,

Thank you very much
for meeting with me last
week. I truly appreciate
your all in help in
keeping the lights on in
California.

Mr President, as I said
in our meeting, there is
no substitute for a price
cap. Best wishes to the
both of you for a Happy
New Year. Gray

WASH
she asked about
them -

1-5-01

copied
Nash
Podesta

WACK

Mr. President,
WACK

Here is the information for the North Pacific Commission
that you asked for this evening.

Smita Shah

300 S. Wacker Dr #200

Chicago, IL 60606

312-697-3695

Thank you very much. The above information is my
work address and phone number

THE PRESIDENT HAS SEEN

1-5-01

THE WHITE HOUSE

WASHINGTON

ROBERT
Guidry, La

Louisiana ATCA
article about him

McCauley

fyh

Pol

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Cabe
Podesta

PHOTOCOPY
WJC HANDWRITING

Dear ~~Mr~~ President, ~~My~~

12/18/00

1-5-01

This note is long overdue - I have been meaning to write and say thank you since I left the White House in July but have been thoroughly intimidated by what I might say.

Thank you for letting me be a part of what you created. You assembled a remarkable group of people, people who truly believed in your vision. I have often heard you say to people: "this is your white House." You made me feel that way from almost the first time I met you - You made me feel

1/5/01

Send to Eugenie ?

Yes ☒

No ☐

cal

welcome and you made me feel like I belonged there. I can never thank you enough for that.

As you know, I started Stanford Law School this fall - It'll be another three years before I'm out in the real world again. In any case, please let me know if I can ever again be of service.

Warmest Regards,

Dawn Small

D. Smalls
796 Escendido Rd #86
Stanford, CA 94305

The President
The White House
Washington DC 20500