

# It's Not Evil Spirits That Make Teens Kill

■ **Murder:** Blaming movies, song lyrics or Satanism lets us ignore the real cause, the breakdown of social safeguards.

By HELEN SMITH

Killer kids. They're everywhere these days, or so it seems. Probably no group in America today inspires more fear than the teenage killers regularly featured on the evening news. What many find most frightening about these young murderers is that their crimes seem so senseless and random. Thus after each bizarre slaying, the search is on for an explanation.

Sometimes we blame a movie, as in the recent Paducah, Ky., school killings, or in last year's Lillieid family massacre in Johnson City, Tenn., said to have been inspired by Oliver Stone's "Natural Born Killers." Sometimes we blame the gun: If only the teenager hadn't had one, this wouldn't have happened. Sometimes we blame Satanism, as in a Mississippi school shooting a few months back. We've also blamed rock (and rap) lyrics, the board game Dungeons and Dragons and the Internet.

None of these explanations holds much water, but in a way that isn't the point. Their real role is to let us breathe a sigh of relief. At last, we have an explanation for this horrible event: It was that awful Internet, those violent movies, whatever. Like primitive peoples who attributed

natural disasters to evil spirits, blaming these forces gives us the illusion of control. And, as with the primitive peoples, it gives our modern-day shamans power and prestige as they promise to protect us with V-chips, teen curfews, "zero tolerance" programs, or whatever it takes to prevent evil influences from possessing normal, healthy teenagers and turning them into killers.

For primitive tribes, this approach probably did little harm. They couldn't do anything about volcanoes or hurricanes anyway, and the shamans' solutions probably made them feel better. But in our modern society, we can and should do more. Focusing on symbolic solutions may provide some momentary comfort, but it distracts us from the real problem: These are not normal, healthy teenagers, and they don't become killers because of evil spirits. They become killers because they are already deeply disturbed individuals who can be sent over the brink by all sorts of innocuous influences. (Charles Manson, after all, claimed to find inspiration for his crimes in a Beatles song.)

It is not ordinary kids who kill. It is usually those with subpar intelligence, mental disorders and a history of cruelty to animals and siblings. A 1996 Harvard study of guns and gang murders found both juvenile and adult murderers to have long records of serious crimes. Substance abusers, people with subpar intelligence and those with major mental disorders are several times more likely to commit violent crimes than are ordinary citizens.

Teen killers tend to have a very narrow

view of other people's rights: that they have none. They also share another characteristic. In one way or another, teenage killers have encountered time and time again a feeling that the only way to deal with their frustration, despair or malaise is to bring it to a climactic conclusion.

I have met many of these kids in the course of my work as a forensic psychologist, some before and some after they committed their crimes. They are scary and they are aberrant. But most of them are not unsalvageable if caught before it is too late, nor are their crimes unpreventable. But if nothing is done, they are truly walking time bombs, as dangerous and unstable as a hatful of mercury fulminate. And, like the explosive, once they explode, the important question is not "what set them off?" but "why was that explosive lying around?"

When cells in our bodies become cancerous, it is the result of a long process in which one safeguard after another has failed. Unfortunately, the reason so many teens are becoming dangerous killers is that the social safeguards that used to exist are failing, too. Families, churches, schools, child welfare authorities, courts—even, in these quick-stop HMO days, private health care—are all becoming less and less effective at keeping these potential killers from reaching their final, lethal stage. We are all paying the price, and blaming Oliver Stone or the Internet won't help us start toward a solution.

*Helen Smith is a forensic psychologist in Knoxville, Tenn. She is writing a book on teenage murderers.*

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# Small Businesses' Hiring Plans Are at a Record

By RODNEY HO

Staff Reporter of THE WALL STREET JOURNAL

Small-business owners are preparing to hire at record levels, mirroring the optimism of their typically more upbeat big company brethren.

A net 20% of the 699 small businesses surveyed in November by the National Federation of Independent Business said they plan to increase their hiring of employees in the next three months. That's the difference between those who plan to increase hiring, which is around 30%, compared with those who plan to decrease hiring, which is about 10%. These are the strongest numbers the small-business group has seen since it began doing such surveys 24 years ago.

Companies in a broader survey released two weeks ago — and including bigger businesses — showed comparable results. Nearly one-fourth of companies polled by Manpower Inc., a Milwaukee temporary-help firm, said they plan to increase hiring in the first quarter of 1998, the highest first-quarter projection in that survey's 21-year history.

"Big business productivity started turning the corner sooner than small business," said Cliff Waldman, an economist at the NFIB, the nation's largest lobbying group for small business. "But we're now all swimming in the same favorable waters."

Despite the maturity of the current economic cycle, Mr. Waldman said, small businesses are exhibiting an unusually high amount of optimism. "I think the mentality has changed," he said. "Small business owners always assumed that fast growth would be followed by slow growth. They're now thinking perhaps this level of growth can be sustained for a longer period of time."

But the trade-off is increased concern about finding qualified workers. When asked which problem is the most pressing one, small businesses now place finding quality workers at about the same level of importance as regulation. Several years ago, this labor issue wasn't even on the radar screen. Taxes held their traditional spot as the main concern, the survey showed.

Bill Pritchard, president of Wichita Tool Co. of Wichita, Kan., says his plastics tooling company wants to hire more people

## It's Hard to Find Good Help

Top six issues small businesses cite when asked what is the most important problem they have (out of nine choices):

| RANK | ISSUE                         | Nov. 1997 | Dec. 1992 (RANK) |
|------|-------------------------------|-----------|------------------|
| 1    | Taxes                         | 25%       | 24% (1)          |
| 2    | Labor quality                 | 17%       | 4% (6)           |
| 3    | Regulation                    | 16%       | 22% (2)          |
| 4    | Competition with big business | 12%       | 8% (4)           |
| 5    | Poor demand/ weak sales       | 8%        | 18% (3)          |
| 6    | Labor costs                   | 5%        | 5% (5)           |

Source: National Federation of Independent Business

but hasn't been able to because of the lack of skilled workers in the area.

In fact, he says, the labor problems have become so bad that he has shrunk his business to 23 employees from 43 over the past 18 months. Large local employers such as Boeing Co. and Raytheon Co. are doing well enough to poach many of his tooling workers by offering wages up to 50% higher than he can pay. Mr. Pritchard says. He can't simply replace workers, since the tooling jobs he hires for are skilled positions.

Mr. Pritchard says he is so desperate for workers, he has started a four-year apprentice program to train people with literally no tooling background. "But I can only afford to do one a year," he says. "It'll take 20 years at this rate for me to get back where I was last year."

The latest unemployment rate in Wichita was 3.7% in October, nearly a full percentage point below the national rate, which was at 4.6% in November and the lowest in more than two decades.

Still, the labor shortages were one of the survey's sole dark spots. For instance, despite trouble finding workers, the survey actually showed few signs of wage pressures. Only 5% of those surveyed consider labor costs to be a primary problem (the same level as in 1992), a result that the NFIB's Mr. Waldman contends shows improvements in small businesses' productivity.

That leaves plenty of optimists, such as Proxim Inc. in Reston, Va., an Internet services company. Company executives say they plan to increase employment by 50% next year from a current 200. "We're extremely positive about our sector and the economy in general," said Raul Fernandez, chief executive officer.

"Everyone's keeping an eye on Asia and the repercussions from the financial crisis there, but we aren't exposed and our major clients haven't pulled back at all."

Mr. Waldman said smaller businesses aren't as exposed to international problems as larger ones and he has seen no sign of caution yet.

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# As HMOs lose control, patient costs head skyward

By Lester C. Thurow

Soaring costs were the impetus behind the Clintons' efforts to reform the U.S. health-care system four years ago. Their suggested reforms were ultimately defeated, but the pressures generated by their efforts transformed the private U.S. health care system. Fee-for-service health insurance almost completely disappeared, replaced by HMOs and managed care. Cost increases dropped dramatically. In 1997, they are averaging only 2%.

But if one looks at the contracts now being signed between employers and HMOs for 1998, this period of price stability is over. The federal government has signed contracts that will raise the costs of its 350 plans an average of 8.5%. Many large employers are facing double-digit increases, and small plans with lots of chronically sick members could see increases as high as 30%.

The pattern of moderation followed by accelerating costs was predictable — and predicted. With new, expensive technologies continually being invented and with an ever-aging population (even in low health-care spending Japan, the average person over 65 spends more than three times as much on health care as the average person under 65) underlying costs rise very rapidly. New cost savings have to be found each and every year if aggregate costs are not to resume rising.

By generating a number of one-time cost reductions, HMOs offset these upward pressures for a little while. Since HMOs have fixed annual revenues and they don't get the cost-based management fees of insurance companies, they are more interested in controlling costs and in greater efficiency. But once the existing waste is squeezed out of the system,

further cost reductions have to be found in other areas. Since the old fee-for-service doctors and hospitals who suddenly had to join HMOs were in a weak bargaining position, HMOs could reduce their incomes. But, here again, the HMOs got a one-time cost reduction. Doctors are now organized to fight further cuts in their incomes.

While competing for customers to get started, the new HMOs also offered the equivalent of retailing's "loss leaders" to get their enrollments quickly up to levels where they could be efficient. Those loss leaders' below-cost entry prices could not last. And they haven't.

Most HMOs have tried to deal with the long-run answer to rising health-care costs, but with declining success. If costs are going to be brought under control, treatments can only be given when they are cost effective. That means denying high-cost treatments unless there is a very high probability of success. But Americans don't want to live under such a system. If there is a treatment that might help, they want it even if it is very expensive and the chance that it will

help them is very small.

HMOs started off being tough on such treatments. But, increasingly, they are in retreat under the public pressure of heart-rending stories of people who are denied

treatments that might have helped them. But if they are forced by either the courts or public opinion to give such treatments, they end up being no better at controlling annual cost increases than

the old insurance system.

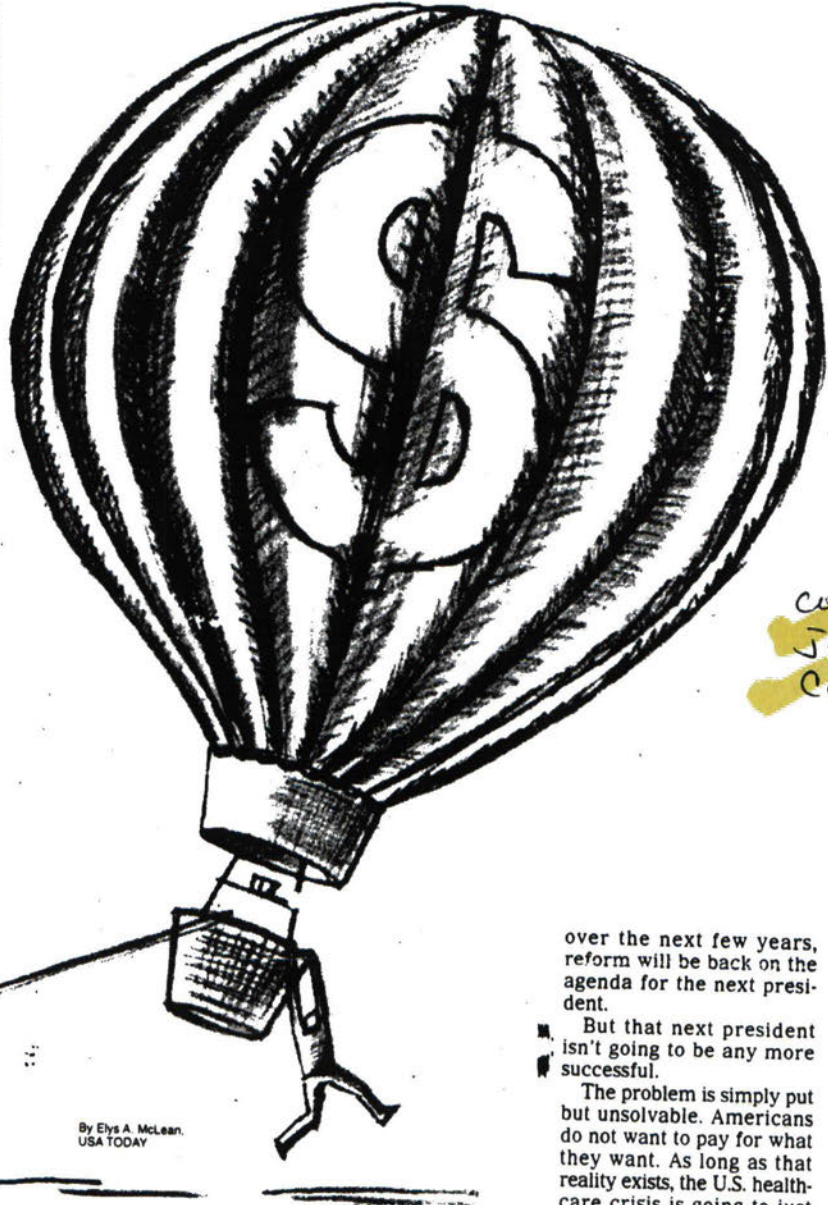
The Clintons clearly are not going to be putting health-care reform back on the political agenda. But you can bet that with large annual health-care cost increases

over the next few years, reform will be back on the agenda for the next president.

But that next president isn't going to be any more successful.

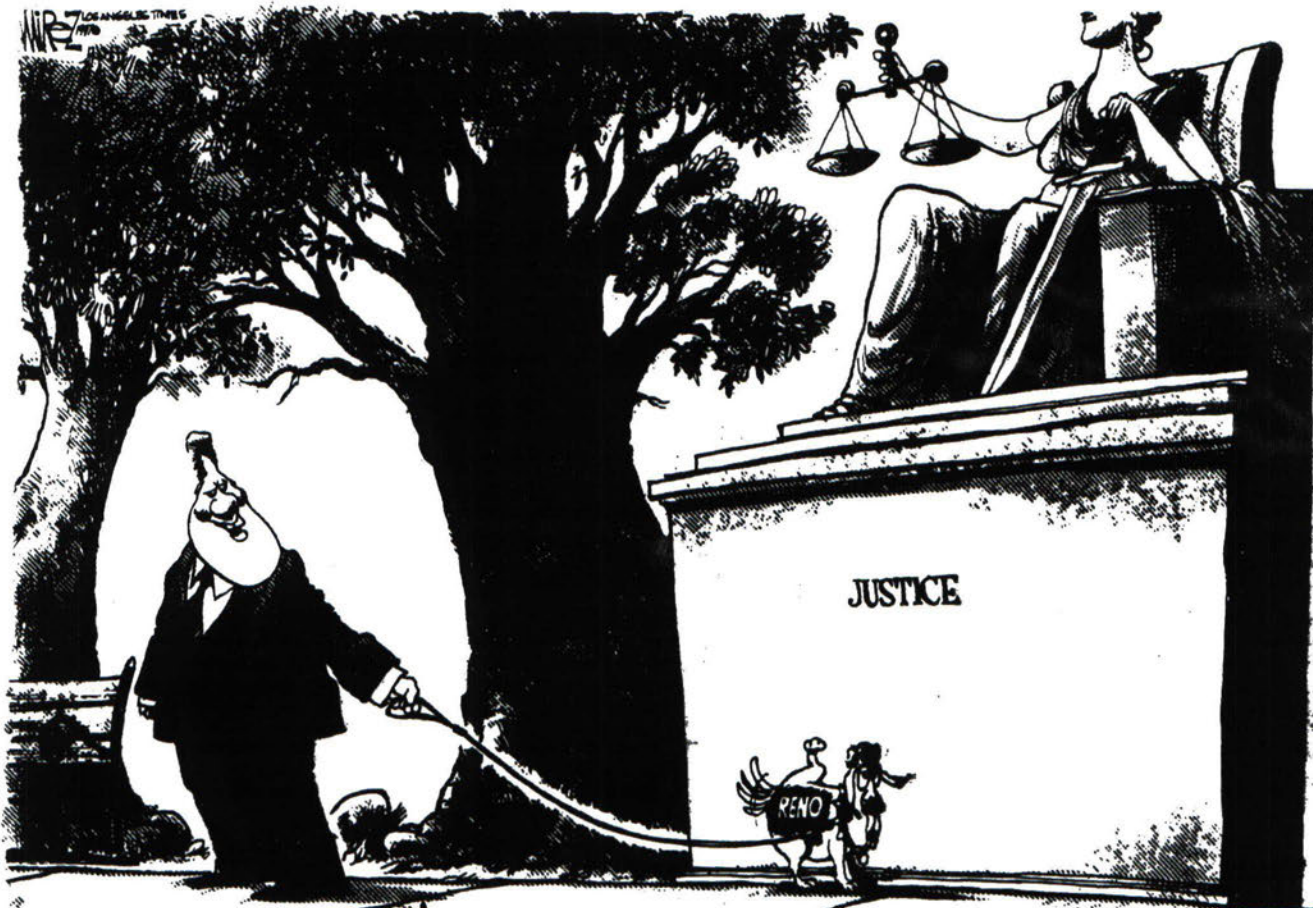
The problem is simply put but unsolvable. Americans do not want to pay for what they want. As long as that reality exists, the U.S. health-care crisis is going to just keep on going, and going, and going.

Lester C. Thurow is a professor of economics and former dean of MIT's Sloan School of Management. He is also a member of USA TODAY's board of contributors.



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## PERSPECTIVE ON CIVIL RIGHTS

# Latinos Rights Is the Big Loser



**The overturning of equal opportunity laws and programs leaves the soon-to-be majority minority bereft.**

By GARY ORFIELD

Within a decade, Latinos will become the nation's largest minority, but this approaching change has yet to produce any serious examination of the policies that will determine the destiny of this community and help shape its relationships with the rest of society. Instead, fear of displacement on the part of whites and blacks, particularly in states where Latinos will become the majority, has fostered politi-

conservative direction. Meanwhile, during the 1980s, the Latino population began to explode and many signs of deepening social and educational inequality became manifest.

Nevertheless, Latinos often benefited from the surviving parts of the reforms of the civil rights era—affirmative action, the right to begin school and vote in Spanish, less racist immigration policies, minority scholarship and college recruitment, special programs for high poverty schools, and welfare, food stamp and housing programs intended to help families facing deep problems at some stage of their lives.

The needs were (and are) very great. Latinos had high school dropout rates far

but not yet citizens.

The Rehnquist court assailed civil rights policies from many directions. Its decisions seriously limited affirmative action, leading to an intense political debate about the legitimacy of any race-conscious policies. Three major school desegregation cases expanded local authority to send students back to inferior neighborhood schools and to reduce the educational components of desegregation remedies. Latinos were rarely included in desegregation plans, but where they were, such as in San Jose and Denver, the plans are being terminated. Well over half of Latinos live in California and Texas, where affirmative admission policies have been banned in public higher education and Latino enrollment in the top schools is plummeting. The rights of legal residents who are not citizens were sharply curtailed by Congress. The Supreme Court recently narrowed



## The civil rights revolution and equal opportunity laws and programs leaves the soon-to-be majority minority bereft.

By GARY ORFIELD

Within a decade, Latinos will become the nation's largest minority, but this approaching change has yet to produce any serious examination of the policies that will determine the destiny of this community and help shape its relationships with the rest of society. Instead, fear of displacement on the part of whites and blacks, particularly in states where Latinos will become the majority, has fostered political demagoguery and exploitative anti-Latino or anti-immigrant policies. This approach, of course, only compounds the inequalities and tears at already fragile bonds within the society. The long-term risk is polarization and a deepening cynicism about the system by those destined to inherit it.

Though the Census Bureau predicts a Latino community of more than 90 million people by mid-century, the concentration of the change in a few regions means that there has been little national discussion about Latino rights issues, which had hardly any attention at the time of the civil rights revolution.

When the U.S. finally decided in the mid-1960s to end the apartheid system of the South and incorporate a much smaller African American population, the key changes came with the enactment of sweeping civil rights laws and supporting social and educational programs. The right to go to college, for example, doesn't mean a great deal if there are no resources that permit an eligible student to use that right. In less than a decade, the effort transformed the South from a separate society totally defined by race to a region that reflected national norms and even was more integrated in its schools, for example, than any other region.

Though the civil rights revolution is far from complete, the emergence of a large black middle class and many black political leaders is evidence of a very important historical change. The central eas were the removal of the barrier of race, the reconstruction of institutions defined by race and the opening of opportunity for those historically excluded. These revolutionary changes, however, generated a counterreaction that has dominated politics for decades. Unfortunately, the mid-1960s was the

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The needs were (and are) very great. Latinos had high school dropout rates far higher than blacks; millions were the working poor, trapped in jobs with no mobility and no exit. Political representation lagged far behind population growth. Poor Latinos were ghettoized in urban neighborhoods where housing and education were substandard. By the late 1980s, Latinos were significantly more isolated in high-poverty, low-achieving schools than African Americans.

The problems were compounded by severe economic recession in the early

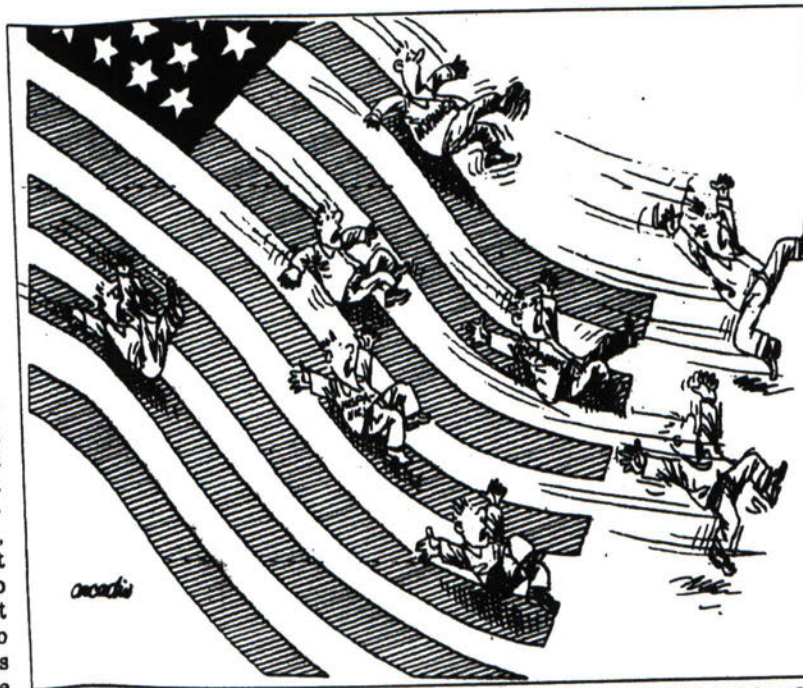
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As a student of the tragic policies that led to the creation of the nation's black ghettos and to the destruction of the society of many inner-city families and neighborhoods, I see a profoundly ominous quality in these policy changes. My unease is deepened by watching the impact on young Latinos whom I teach at Harvard. Several years ago, there was an exciting sense of hope among Latino students who often were the first in the family to go to college and saw themselves preparing to help in the large and positive changes that would be emerging in the coming years. Now they watch with dismay as the programs that helped them are eliminated. One of the student editors of the Harvard Education Review recalled that he learned English in a bilingual program that may be forbidden, got to college under an

affirmative action plan that is now illegal and received a scholarship that can no longer be offered. Under the new rules, he could not be the leader that he has become.

The combined force of all these changes in law and policy represents a large but unacknowledged reversal in Latino rights. Many young Latinos feel that their community is under a kind of racist assault, particularly in California. They are profoundly alienated from political leaders.

This is a period of grave danger for the future of Latinos in American society, perhaps on the scale of the end of Reconstruction for blacks. Before disposing of a set of relatively modest civil



ARCADIO ESQUIVEL, La Nacion, San Jose, Costa Rica

1980s and early 1990s. When NAFTA enabled U.S. firms to move easily across the border and obtain much cheaper Mexican labor inside Mexico, many of the relatively good jobs for poorly educated Latinos disappeared. Education became even more critical to Latinos' future prospects and even harder to access. The risk was the creation of a vast new isolated and alienated population unable to participate in the increasingly demanding global economy.

Yet in the face of these needs, the country set about radical cutbacks in laws and programs that might help. Presidents Reagan and Bush and the judges they appointed (a substantial majority of all federal judges) set about

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Though the civil rights revolution is far from complete, the emergence of a large black middle class and many black political leaders is evidence of a very important historical change. The central areas were the removal of the barrier of race, the reconstruction of institutions defined by race and the opening of opportunity for those historically excluded. These revolutionary changes, however, generated a counterreaction that has dominated politics for decades. Unfortunately, the mid-1960s was the only period of serious civil rights change. With the coming of the Nixon administration, enforcement was radically curtailed. Recently revealed documents prove that President Nixon pursued an intentional campaign of racial polarization through fierce attacks on civil rights policies. Two Nixon administrations and the three terms of Reagan and Bush tried to reverse civil rights policies and turn the federal courts in a

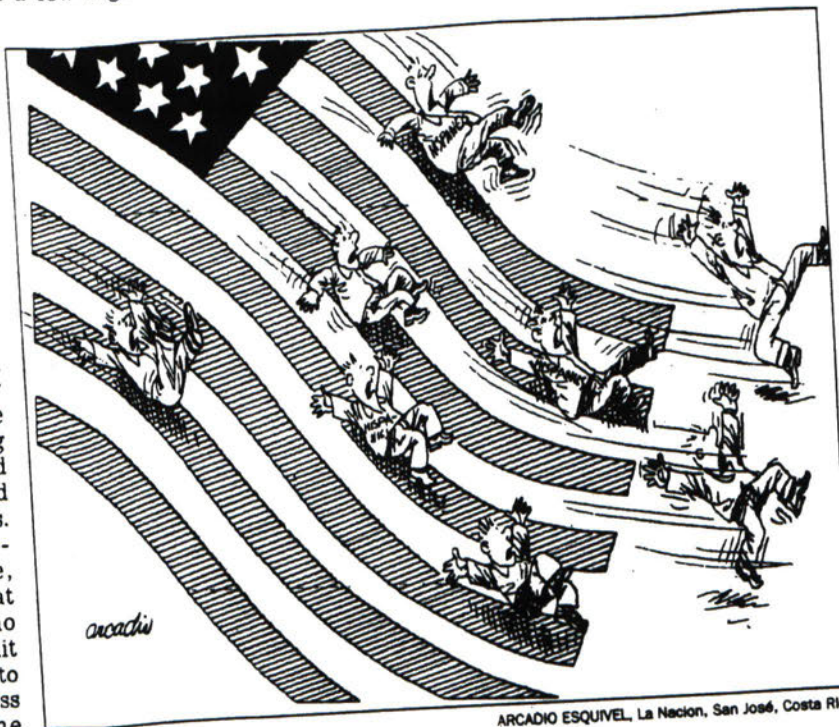
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Yet in the face of these needs, the country set about radical cutbacks in laws and programs that might help. Presidents Reagan and Bush and the judges they appointed (a substantial majority of all federal judges) set about to dismantle civil rights policies aimed at restructuring opportunity within major institutions; politicians in some key states began referendums or legislative campaigns to eliminate civil rights policies, and Congress decided to balance the budget and grant tax cuts by gutting programs critical to the working poor and to radically restrict services for millions of Latinos who were legal residents

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This is a period of grave danger for the future of Latinos in American society, perhaps on the scale of the end of Reconstruction for blacks. Before disposing of a set of relatively modest civil rights tools that might help the demographic under way, we should seriously consider the consequences.

Gary Orfield is a professor of education and social policy at Harvard and codirector of the Harvard Civil Rights Project, which cosponsored conferences on the Latino civil rights crisis in Los Angeles and Washington two weeks ago.

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# Japan Won the Film Battle, but It's Losing the War

■ **Trade:** Kodak's claim of protectionism is basically true; only real reform can save the nation from being next to fall.

By **KARL SCHOENBERGER**

The World Trade Organization made the right decision this month when it rejected allegations by Eastman Kodak that archrival Fuji Photo Film conspired with the Japanese government to concoct nontariff barriers limiting sales of foreign film in Japan.

Evidence in Kodak's case was weak. The American company's complaint, originally filed with the U.S. trade representative's office in 1995, relied too heavily on decades-old articles from the Japanese trade press describing government-industry collusion. Kodak had no smoking gun.

But the WTO ruling was a pyrrhic victory for Japan, because the substance of Kodak's claim is essentially true. A delayed reckoning with this truth about embedded protectionism in the Japanese economy can only prolong a painful process of badly needed free-market reform. The much ballyhooed "big bang" reforms of Japan's sclerotic financial system may be doomed to whimpering paralysis.

The Japanese government actively cooperated with major industries in the postwar period to boost their capabilities and insulate them from international competition. As global pressure forced an increasingly affluent Japan to reduce tariffs on imports in the 1970s, so-called liberalization countermeasures were put in place to limit the damage to domestic players. Strategic bonds were developed between manufacturers and distributors; major corporations closed ranks with cross-shareholdings; powerful industry associations lobbied and schemed; bureaucrats flouted maddening red tape.

An exasperating list of American products has collided against these nontariff barriers over the years—semiconductors, rice, metal baseball bats, cell phones, shoes and insurance, to name a few. In each case, the Japanese market had to be crowbarred open in stormy bilateral trade negotiations, often under the threat of punitive sanctions.

Kodak's complaint is a textbook case in how an amorphous resistance to foreign imports can persist long after official "administrative guidance" has been withdrawn from the marketplace. Since

Japanese bureaucrats rule informally, without a transparent administrative procedure, no documents can be found spelling out an anti-Kodak strategy. The Ministry of International Trade and Industry can now accurately disclaim overt interference in free-market capitalism.

But Kodak's trade lawyers contend that state protectionism has been "privatized" to the point where many markets—the one for color photo film in particular—remain difficult to penetrate because of the long-lasting effects of past government policies. Proving that allegation, however, is tantamount to nailing a cube of soft tofu to the wall.

The film-war story is further clouded by Fuji's counterargument that it faces barriers in the U.S. market, where Kodak is the consumers' preference and enjoys a 70% share, roughly equivalent to Fuji's position in Japan. Kodak responds that its piece of the pie in Japan has remained stagnant at about 10% while Fuji has gained ground in the United States, which does not protect itself with an anti-competitive distribution system.

The charges and countercharges have multiplied over the past two years to the point where it's hard to imagine any panel of trade experts digesting the thousands of pages of reports and documents and adjudicating the case rationally.

For Kodak, certain damning facts ring out from this morass of public relations hyperbole: The U.S. film giant clearly made grave errors in the effort to expand its share of the Japanese film market before it went whining to the U.S. trade representative.

The real loser in this trade dispute, however, is Japan itself. While Kodak is beset with a host of problems, mostly unrelated to Fuji and its protective home market, the U.S. economy is still in pretty good shape. Yet Japan continues to flounder in search of its future. Its financial system is sitting on a time bomb of bad debt, which some analysts think could make the world's second-largest economy the next victim in the financial crisis that is spreading like wildfire through Asian markets. An honest appraisal of economic policy failures will be essential before market-opening reforms can succeed, and Fuji's triumph at the WTO only sweeps a damaging legacy of latent protectionism under the rug.

Karl Schoenberger is a Koret Foundation teaching fellow at UC Berkeley's Graduate School of Journalism. He is a former Tokyo correspondent for the Los Angeles Times and the Wall Street Journal.

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# Both U.S., Asia Must Take Medicines

■ We can't expect Korea and Japan to embrace open markets when we've nixed fast-track.

All the world is suddenly saying that Asia isn't what it used to be, but only a cold heart could laugh at Asia's ordeal. Through much of this shaken region, businesses open for decades or generations face closure; people accustomed to job security face the foreseeable future without paychecks in societies with little safety net other than family. Yes, Asians will blame their politicians for the mess. But they will blame outside forces as well.



CALIFORNIA PROSPECT  
By Tom Plate

They will note that the pain they will have endured in return for the bailout money was imposed on them. William Itoh, U.S. ambassador to Thailand and America's sole top-level diplomat of Asian heritage, explains: "It's a natural human tendency to look for reasons for your failure outside yourself. Asians just wish it were someone else's fault."

Itoh continues: "Remember Malaysian Prime Minister Mahathir's comments blaming the West? They had more resonance than we might have thought they would. Even in pro-American Thailand, at first people thought we were trying to destabilize the country with our calls for more market opening. Hey, they say, it was financial liberalization that got us into this mess."

Itoh reports that Thailand has made peace, however superficially, with the International Monetary Fund's reform-for-dollars program. But South Korea, in the home stretch of a wrenching

presidential election, is bridleing. For years it has done much of what America asked, abandoning dictatorship and opening markets. Now, thanks to its own inept regulation and oversight, Seoul is facing the unthinkable: national bankruptcy. So what does the IMF require from what was once the world's 11th-largest economy in return for the life-saving \$57-billion credit line? Further market openings and deregulation. That's where Korea can't follow the logic. As a quietly sympathetic report from the Federal Reserve Bank of San Francisco notes: "Openness has exposed Asian economies to sudden shifts in market sentiment, which can disrupt economic activity by triggering large changes in exchange rates. . . . The experience apparently has made some Asian policymakers very wary [and] raised the stakes in the debate."

Economic stability isn't the only thing at stake. Says U.S. Trade Representative Charlene Barshefsky, one of America's most internationally respected voices: "I just hope these Asian economies get on their feet rapidly. At a time when our relations with Asia are absolutely critical, it's going to be very tough to keep the political balance if they fail." I just hope America and the West don't unintentionally wind up destroying Korea in their effort to save it.

Even in America, there's more than a little Korean-style skepticism about financial and trade openness, is there not? After all, Congress stunned President Clinton and the world by denying the administration fast-track authority. And earlier this month, when giant Kodak lost Round 1 in its World Trade Organization dispute with giant Fuji over open markets in Japan, many Americans sulked and complained. Cracked a U.S. official, noting that whenever America emerges victorious in WTO disputes (as in no less than the 15 prior cases), it emphatically urges the losers to accept the WTO's wisdom without whining:

"Americans are great at dishing it out, but we can't take it."

That could prove a serious handicap, because until this Asian crisis is played out, it looks like there will be a great deal to take. If recession-engulfed Japan, the world's second-largest economy, falls on its face, prepare for a worldwide economic downturn. Certainly Washington has little confidence in the Hashimoto government's economic smarts or the calcified Japanese system's ability to move quickly. "There's a growing sense in Washington that Hashimoto doesn't get it," says one top official, "at the very time that their economy is in big trouble. They have got to wake up."

Perhaps America does too. President Clinton needs to be more masterful as Great Communicator to get Americans to understand that free trade is a job creator, not a job destroyer. The president should point out that it is no coincidence that as imports are at an all-time high, U.S. unemployment today stands at its lowest since 1973. "It is so easy to demonstrate the down side," admits a top administration official. "One picture of a factory closing, and people hate free trade."

Blunt-speaking Alexander Downer, Australia's foreign minister, warns that in Asia and elsewhere "there will be a sense of very great disappointment if Congress does not approve American fast-track legislation in the spring. America then would have abrogated the leadership role on economic trade issues it has had since 1945." This would be a great irony for an administration whose foreign policy vision has been based on world trade and whose surrogates at the IMF are telling Asia to open up or else. Before long, it could just be that the rest of the world will be laughing at America. And that would not be funny.

Times columnist Tom Plate is a professor of policy and communication studies at UCLA. E-mail: [tplate@ucla.edu](mailto:tplate@ucla.edu)

## LOS ANGELES TIMES EDITORIALS



# That Smell at the ATF Is More Than Gunpowder

*Laxity on assault gun importation calls for a housecleaning*

**A** month ago, the White House said that a "rogue operation" within the Bureau of Alcohol, Tobacco and Firearms played a big role in the staggering number of assault weapons imported with the approval of the agency over the past year. The reality might be far worse. It now appears that the ATF's penchant for rubber-stamping assault weapon permits is long-standing and practically institutional in nature. Some sort of housecleaning at the ATF is in order.

The evidence of laxity predates the 1994 federal assault weapons law, pressed by Sen. Dianne Feinstein (D-Calif.), that banned certain types of the weapons and generally prohibited some military-style features.

A 1989 report obtained by Times reporters revealed the agency's then-restrictive interpretation of federal law. The document said foreign firearms must be limited to "sporting purposes only," that sporting weapons do not have assault weapon characteristics and that those characteristics could be grounds for rejecting permits.

It turns out that the ATF has ignored these standards. The agency has approved copycat weapons for import that have more killing

power than the banned assault rifles that they mirror in all but a few design details.

Moreover, the federal agency appears to have provided technical advice to would-be importers on how to meet the requirements of the 1994 law without affecting the firepower of the weapons. This overly friendly relationship is shown in a January 1997 letter (obtained by The Times) to gun importers from the head of the ATF's import branch for firearms. The official writes, "One of the main goals of this branch is to find ways we can improve the level of service we provide to you, our customers." Just what is going on here?

Part of the problem may be that Washington has had to make do with a law that deep-sixed specific assault weapons, such as the AR-15 and the Belgian FN-FAL, without fully banning weapons in the distinctive AR-15 or FN-FAL style. That was the fault of a heavily lobbied Congress that left the law with many loopholes.

However, it seems that the ATF itself must answer for what appears to be an ingrained leniency that may have turned a serious anti-assault weapons law into little more than an inside joke. Not so funny for the many Americans killed by assault weapons each year.

## Cloud Over S. Korea Election

*Ability of the next president to cope with fiscal crisis is in doubt*

South Koreans will go to the polls Thursday far more worried about their economic security than who their next president will be, and little that the two major candidates are saying has eased that fear. Neither Kim Dae Jung, the longtime opposition leader, nor Lee Hoi Chang, a former administration figure, has outlined anything as a coherent response to the economic

while favoritism in allocating credit kept small and medium-size companies from developing. Today's crisis was long in the making.

How long it will take to resolve depends on the next president's courage and vision. What the times cry out for is a leader unafraid to challenge the traditional basis of

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# Cisneros Will Stand Tall

## When the Dust Settles

THE PRESIDENT WAS SEEN  
12-18-97

■ **Scandal:** The former HUD secretary's indictment isn't as important as his record of achievement in public service.

By FRANK del OLMO

Earlier this year, shortly after Henry Cisneros moved to Los Angeles to become president of the Univision TV network, he was commuting to his new office in Century City and, quintessential policy wonk that he is, listening to National Public Radio.

"NPR was going on and on about some controversy inside the Beltway," Cisneros told me later, "and I was trying to pay close attention. . . . But then I looked out at the bright sunshine, and all the other people and cars around me," he added, flashing a broad grin, "and I thought how unimportant all the to-and-fro back in Washington must seem to them."

"And suddenly," he added, breaking into a full laugh, "it didn't seem so important to me, either."

I came away from that conversation hoping I'd seen the start of a new life for Cisneros. I even thought he could become like many other Californians—aware of what goes on in Washington, mindful of its importance, but able to keep whatever the hot issue is back there in proper perspective.

That is the mind set everyone should try to maintain now that the former Housing and Urban Development secretary has been indicted by a federal grand jury.

Cisneros is accused of having lied in the course of his confirmation in 1992 by misstating how much money he paid his former mistress, Linda Jones, after breaking off with her a few years earlier when he was mayor of San Antonio. He also stands accused of having paid Jones hush money to help ensure his Cabinet job.

To be sure, a special prosecutor's 18-count indictment of Cisneros, Jones and two others is not much ado about nothing. But it is much ado about something that isn't as important as it looks right now.

To understand why, one needs to look back to the last major scandal to rock HUD—the criminal convictions of a dozen people, including top HUD officials, in the 1980s. Back then, HUD was being maladministered by Samuel R. Pierce, who had been appointed by that sworn enemy of government waste, fraud and inefficiency, Ronald Reagan.

Pierce himself was never indicted, but two of his personal assistants, the No. 3 man at HUD and several agency

contractors were. Details of the cases are far too dreary to bore readers with here, but they mostly involved steering millions of dollars in government contracts to developers with Republican connections.

The scandal became so wide-ranging that it eventually claimed another former Reagan Cabinet member, James T. Watt, one-time Interior secretary. After leaving government, Watt helped steer a HUD contract to a developer in the Virgin Islands for a project that was never built. For his trouble, Watt got a \$300,000 fee and a 25-count federal indictment accusing him of perjury, obstruction of justice and hiding subpoenaed documents.

Watt, proclaiming his innocence, fought the indictments, and in 1993 the criminal charges that could have sent him to prison for 125 years were reduced to a single misdemeanor by a federal judge. Watt got five years' probation and a \$5,000 fine.

The judge explained the light sentence by saying he found that Watt's actions were "out of character."

Don't be surprised to hear another federal judge come to a similar conclusion with Cisneros some day. For as time passes, people will barely recall the personal problems that led him to this public humiliation, and will focus instead on the good that Cisneros has done in public life.

At a minimum Cisneros deserves credit for having run HUD a lot more effectively than Pierce did. Cisneros also had the class—all too rare in modern politics—to publicly share credit for HUD's improved performance with the Republican who preceded him in the job and began cleaning up Pierce's mess, Jack Kemp.

Cisneros was also the right mayor at the right time for San Antonio, helping bring a once provincial city to international prominence. He did so while helping keep that city's ethnic and social divisions from exploding, as has happened in other cities undergoing similar transitions.

Most important, as a college professor, big city mayor and Cabinet secretary, Cisneros was the role model for a rising young generation of Latino leaders. Like him, they are smart, idealistic and better prepared for public service than most of their predecessors were.

Long after Cisneros and his sad little scandal have faded from memory, I worry that the only lasting effect will be to further discourage young people of all ethnic backgrounds from even considering public service careers. Given our current obsession with dissecting the private lives of our public officials, who could fault them? Not Henry Cisneros.

Frank del Olmo is assistant to the editor of *The Times* and a regular columnist.

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THE PRESIDENT HAS SEEN  
12-18-97  
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## On My Mind

A. M. ROSENTHAL

# Freedom of Corruption

International freedom of trade has taken on new important meanings, three of them.

It now means the freedom of Asian leaders, bankers and business executives, working in tight partnership, to drive their countries into chaos through institutionalized corruption, nepotism and crony capitalism.

It means the freedom of foreign investors to throw money at Asian banks without making sure of their long-term solvency, and to gamble risk free in local currencies.

They acted surprised when the inherently rotten machinery collapsed. Maybe they were. They never looked carefully into the kind of governments and business types they were

own hides peeled off. Corruption and the bailout to pay for it will force them to wait for more decades to get the medical care, social insurance and housing that their own skills and diligence had earned long ago.

But supporters of real free trade can take some heart — its perversion can be stopped, maybe.

Two ways exist for the International Monetary Fund to make sure that penalty-free bailouts of economies destroyed from within do not happen yet again. They should be conditions of the \$100 billion-plus Asian bailout.

The I.M.F. should appoint international investigation commissions for each sacked country, to dissect the endemic corruption in the former Asian tigers. Countries crying to be bailed out would have to promise to follow the investigations with trials.

Investigations await in fine variety. In Indonesia, we have the deals arranged by and for the Suharto family, their courtiers and agents abroad. In Thailand, we have the falsification of foreign reserves. In South Korea, the central bank arranged a pre-bailout bailout — drawing down its reserves by secret loans to faltering Korean banks.

Japan has its problems, but it was quite open about the alliance among the banks, government and bureaucracy. When that anti-free-trade partnership wounds the economy, foreigners cannot pretend surprise.

And, spare us astonished cries from foreign investors when China's economy is destroyed by its very special Mafia — the same combination as in other Asian countries, but with the Communist Party, police and army added on.

Now, as for foreigners who threw money at Asian banks, bought into crumbling companies or gambled in Asian currency, they deserve no compensation. At most, the insurance Americans get when they lose their money in a savings account should do — \$100 thousand for each American investing company.

These companies should have to send checks to each stockholder, dividing the money. The company would have to throw in whatever was needed to make the check at least a nickel apiece.

Then, stockholders could keep the same company officers. Or they could choose officers who might look hard enough, and care enough, not to invest in organized, sanctioned corruption and then cry to the world, alms, alms.

## Roots of the Asian bailout.

supporting or the choke hold the government-business alliances put on the economy. Just the thought of that happening at home would have driven American investors into ecstasies of fury and sent out Federal prosecutors in battalion.

They did not see because they did not care. Interest rates were deliciously high. The currency game looked real profitable. They bought the blather about "Asian values" somehow eliminating the need for open dealing, inspection and auditing. Meanwhile, Asian leaders ruled their countries by economic dictates and personal regulations, from forbidding large families to forbidding chewing bubble gum.

Sophisticated, aloof study of Asian business-government partnerships would have shown the dangers. But investors danced right in. No, the foreign investors were not complete fools. They remembered Mexico and knew that if Asian economies collapsed, another bailout would be arranged, paid by U.S. and other taxpayers from international funds.

The Clinton Administration boasts that Mexico has repaid the bailout of foreign peso-gamblers. Mexican workers are not as jovial. Repayment came out of their hides.

So, the third new international trade freedom is the right of citizens of Indonesia, Thailand, Japan, Malaysia and Korea to have more of their

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THE WHITE HOUSE  
WASHINGTON

December 18, 1997

MEMORANDUM FOR MIKE MCCURRY

THROUGH: TODD STERN/PHIL CAPLAN

FROM:  DAN BURKHARDT

SUBJECT: Hanukkah 1997

Attached is the President's message for Hanukkah, 1997, which you may want to release to the media.

THE WHITE HOUSE

WASHINGTON

HANUKKAH 1997

Warm greetings to everyone celebrating Hanukkah.

The Festival of Lights is a powerful reminder each year that the age-old struggle for religious freedom is not yet over. From the days of the ancient Maccabees down to our present time, tyrants have sought to deny people the free expression of their faith and the right to live according to their own conscience and convictions. Hanukkah symbolizes the heroic struggle of all who seek to defeat such oppression and the miracles that come to those full of faith and courage. This holiday holds special meaning for us in America, where freedom of religion is one of the cornerstones of our democracy.

The coming year will mark the 50th anniversary of the State of Israel, where the story of the first Hanukkah took place so many centuries ago. As families come together in prayer for the eight nights of Hanukkah, to reaffirm their hope in God and their gratitude for His faithfulness to His people, may the candles of the menorah light our way to a true and lasting peace for the people of the Middle East.

Hillary and I extend our warmest wishes to all those celebrating Hanukkah, all those who work for religious freedom, and all those who devote themselves to the cause of peace throughout the world.

*Bar Clinton*

THE WHITE HOUSE  
Office of the Press Secretary

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For Immediate Release

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WILLIAM J. CLINTON

# # #

THE LAST WORD

# A GI BILL FOR MOT

At last, an idea to pour progress into the often hollow phrase

BY GEORGE F. WILL

**A**LTHOUGH HIS CULTURED DESPISERS ARE LOATH TO admit it, and he was probably ambivalent about it, Richard Nixon skimmed more cream off the American professoriate than most presidents have done, packing his administration with, among others, Henry Kissinger and Pat Moynihan (Harvard), James Schlesinger (University of Virginia), George Shultz (University of Chicago) and Arthur Burns (Columbia). Yet Moynihan, Nixon's urban aff-



fatherless, will now not even be raised by their mothers."

Wilson's ameliorative ideas for American families include making adoption easier in order to minimize foster care. ("The average foster child lives with three different families, and ten or more placements are not rare.") Another idea is to require unmarried teenage mothers to live with their babies in a home supervised by experienced mothers. A third idea is this: given that religiosity and decency are correlated, and given that it is a reasonable surmise that the former causes the latter, remarkable success of a religious-based program nymous, and given the evidence that religious reduce recidivism—given all this, large cities "religious equivalent of the United Fund" to de- underclass through churches. st intriguing idea suggested by Wilson, which and Grandon Gill, pertains to parents out- the underclass. It would offer the equivalent a parent—usually a mother—who will until children reach school age. says, can "have it all," and in the clash work, the former must be favored. "If we care re raised in their early years, and if, as is now e raised is left to overwhelmed women or nents, the only way we can restore the ing money to the task of inducing actions products of spontaneous arrangements."

Hence a GI Bill-style educational entitlement that would enable a parent who stays home with a young child to finish school, attend college or graduate school, or take technical training courses after the child's most formative years.

The original GI Bill's benefits were entitlements of a sterner sort than we have become used to. They were linked to services rendered—services of the most serious sort, involving war. A new version of that entitlement would compensate a parent who foregoes earnings in order to render the vital social function of

path to social competence. seem demoralizingly disconnected from lers have been unable to connect their They have failed to find ways for on the nation's principal problem—the that is produced by the brew of toxic th family decomposition. With reference on and the social scientists he cites are political class to reacquire relevance.

ed by drugs, preoccupied with respect, and indifferent to the future. Its children crowd our schools and fill our streets, armed and dangerous." It is dominated by "young, marginally employed, sexually adventuresome, socially aggressive young men who reject the idea of hard work and social conformity that made their elders successful." As "bastardy has become more common, children more criminal, and marriages less secure," policymakers have tried this and that. "Much has happened but little has changed."

However, Wilson does note one change: more than half the public, and 70 percent of Americans under 35, think no shame should attach to having children out of wedlock. That fact is surely related to this one: social pathologies have multiplied during a burst of wealth-creation without precedent in world history. America's poverty problem is not one of material scarcities but of abundant bad behavior. Wilson, seconding William Galston, says there are three simple behavioral rules for avoiding poverty: finish high school, produce no child before

MR. PRESIDENT!

WHEN GEORGE WILL IS CITING JAMES Q. WILSON, CITING BILL GALSTON. SOMETHING REMARKABLE IS GOING ON. SOME OF THESE IDEAS MAY BE IMPRACTICAL, BUT I LIKE SEVERAL OF THEM. YOU OUGHT TO BE IN THE MIDDLE OF THIS DISCUSSION.

- Begala.

Paul B. — Good!

I like this and would like to put in my last point — discussion of Bland / Balun / Ben

THE PRESIDENT HAS SEEN  
12-17-97

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# A GI BILL FOR MOTHERS

At last, an idea to pour programmatic content into the often hollow phrase 'family values'

BY GEORGE F. WILL

**A**LTHOUGH HIS CULTURED DESPISERS ARE LOATH TO admit it, and he was probably ambivalent about it, Richard Nixon skimmed more cream off the American professoriate than most presidents have done, packing his administration with, among others, Henry Kissinger and Pat Moynihan (Harvard), James Schlesinger (University of Virginia), George Shultz (University of Chicago) and Arthur Burns (Columbia). Yet Moynihan, Nixon's urban affairs adviser, insistently, and for a long time unsuccessfully, urged Nixon to consult with another professor, then at Harvard. Finally Moynihan prevailed by exclaiming, "Mr. President, James Q. Wilson is the smartest man in the United States. The president of the United States should pay attention to what he has to say."

Since then, many officials, from mayors through presidents, have done so, and recently the large Washington audience at the American Enterprise Institute's annual Francis Boyer Lecture did so. Wilson, who has recently retired from UCLA, gave Washington, a proudly practical city, a demonstration of the unity of theory and practice. He offered a theory about why America is materially better off but spiritually worse off than it was not long ago. And he suggested programmatic responses, one of which has the potential to make "family values" a matter for practical rather than merely rhetorical treatment by the political class.

Wilson's worry, and much of the reason why he is so popular, is that America is being poisoned by a subculture that is the product of many children's being born to unwed mothers, where there are more male social pathologies, more thug, and who matriculate, as it were, into gang life, protection and self-advancement. It is a subculture "armed to the teeth, excited by drugs, preoccupied with respect, and indifferent to the future. Its children crowd our schools and fill our streets, armed and dangerous." It is dominated by "young, marginally employed, sexually adventuresome, socially aggressive young men who reject the idea of hard work and social conformity that made their elders successful." As "bastardy has become more common, children more criminal, and marriages less secure," policymakers have tried this and that. "Much has happened but little has changed."

However, Wilson does note one change: more than half the public, and 70 percent of Americans under 30, think the shame should attach to having children out of wedlock. That fact is surely related to this one: social pathologies have multiplied during a burst of wealth-creation without precedent in world history. America's poverty problem is not one of material scarcities but of abundant bad behavior. Wilson, seconding William Galston, says there are three simple behavioral rules for avoiding poverty: finish high school; produce no child before

marrying and no child before age 20. Only 8 percent of families who conform to all three rules are poor; 79 percent of those who do not conform are poor.

In recent decades there has been some pertinent social learning. We have learned that the trajectory of a child's life is largely determined in the earliest years. "The human personality emerges early; if it is to be shaped," Wilson says, "it must be shaped early." The best predictor of a child's flourishing is the fervent devotion of two parents. Wilson warns that if the work requirements of the 1996 welfare reform are implemented, young mothers will be told to spend much of each week away from their children who, "already fatherless, will now not even be raised by their mothers."

Wilson's ameliorative ideas for American families include making adoption easier in order to minimize foster care. ("The average foster child lives with three different families, and ten or more placements are not rare.") Another idea is to require unmarried teenage mothers to live with their babies in a home supervised by experienced mothers. A third idea is this: given that religiosity and decency are correlated, and given that it is a reasonable surmise that the former causes the latter,



and given the remarkable success of a religious-based program like Alcoholics Anonymous, and given the evidence that religious programs in prisons reduce recidivism—given all this, large cities should have "the religious equivalent of the United Fund" to deliver services for the underclass through churches.

However, the most intriguing idea suggested by Wilson, which he credits to Richard and Grandon Gill, pertains to parents outside as well as inside the underclass. It would offer the equivalent of the GI Bill for a parent—usually a mother—who will postpone a career until children reach school age.

No parent, Wilson says, can "have it all," and in the clash between family and work, the former must be favored. "If we care about how children are raised in their early years, and if, as is now the case, how they are raised is left to overwhelmed women or institutional arrangements, the only way we can restore the balance is by committing money to the task of inducing actions that were once the products of spontaneous arrangements." Hence a GI Bill-style educational entitlement that would enable a parent who stays home with a young child to finish school, attend college or graduate school, or take technical training courses after the child's most formative years.

The original GI Bill's benefits were entitlements of a sterner sort than we have become used to. They were linked to services rendered—services of the most serious sort, involving war. A new version of that entitlement would compensate a parent who forgoes earnings in order to render the vital social function of putting children on the path to social competence.

Politics has come to seem demoralizingly disconnected from practicality because leaders have been unable to connect their rhetoric with programs. They have failed to find ways for government to get a grip on the nation's principal problem—the coarsening of the culture that is produced by the brew of toxic behaviors associated with family decomposition. With reference to "family values," Wilson and the social scientists he cites are pointing to a way for the political class to reacquire relevance.

THE PRESIDENT'S OFFICE  
12-18-97

THE WHITE HOUSE  
WASHINGTON

December 17, 1997

MR. PRESIDENT:

Attached is an well written memo from Chuck Ruff on pending litigation in federal district court relating to your authority under the Line Item Veto Act (Act). The Justice Department must file its brief in the case by Thursday.

In short, Chuck believes we should defer to Justice and permit them to enter into a consent judgement stipulating that your cancellation of a pension provision in the Treasury/Postal Appropriations Bill exceeded your *statutory* authority under the Act. Justice has serious reservations about the statutory issue and believes defense of this cancellation would harm its broader, constitutional defense of the Act.

Chuck has also attached a memo from the Attorney General and a memo from the Solicitor General, but I think you only need to read Chuck's memo. It is of a length that I would normally summarize for you, but the memo is well reasoned and a fairly quick read.

**Views.** Erskine asked *John Podesta* to read the memo; John concurs with Chuck's recommendation, but he thinks it's a very close call. *Frank Raines* disagrees with Chuck and feels Justice should defend the cancellation.

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THE WHITE HOUSE  
WASHINGTON

December 16, 1997

THE PRESIDENT WAS SEEN  
12-18-97

MEMORANDUM FOR THE PRESIDENT

THROUGH: ERSKINE BOWLES

FROM: CHARLES F.C. RUFF *CR*

SUBJECT: LINE ITEM VETO LITIGATION

Litigation is pending in the federal district court relating to three instances in which you exercised your authority under the Line Item Veto Act (Act). The three cases have been consolidated before Judge Hogan. One of these cases involves a challenge by the National Treasury Employees Union (NTEU) to your use of the line item veto to cancel Section 642 of the "Treasury and General Appropriation Act, 1998." Section 642 would have allowed federal employees to switch retirement coverage to the Federal Employees Retirement System (FERS) from enrollment in the Civil Service Retirement System (CSRS).

In all three cases, the plaintiffs are challenging the constitutionality of the Act. The NTEU also contends, however, that the cancellation of Section 642 exceeded your statutory authority under the Act because it canceled lost receipts (in the form of reduced employee contributions to federal trust funds caused by the provision) rather than appropriated funds. Senate Counsel, who supports our position on the constitutionality of the Act, has signaled that it is likely to file on the side of the NTEU on the statutory claim. The parties do not dispute that Section 642, if implemented, would have had negative budget consequences.

The Office of Management and Budget (OMB) strongly asserts that the cancellation is valid and wants to defend it. The Department of Justice (DOJ) has very serious reservations about the statutory issue and believes that the defense of this cancellation would harm its broader, constitutional defense of the Act. DOJ, therefore, proposes to enter into a consent judgment that the 642 cancellation falls outside the scope of the Act.

We have had extensive discussions with OMB and DOJ in an effort to develop an approach that would enable DOJ to defend your use of the line item veto in this case without endangering the defense of the Act's constitutionality. Justice must file its brief in response to plaintiff's motion for summary judgment by December 18. Memoranda of the Attorney General

and of the Solicitor General, setting out their recommendations, are attached for your reference. We believe that we should defer to DOJ's conclusion that defending this provision would undermine the constitutional defense of the Act, but want to make you aware of the issue before any formal action is taken.

#### A. BACKGROUND

The Act allows the President to cancel "any dollar amount of discretionary budget authority" but requires him to specify the dollar amount canceled in a Special Message to Congress. In this case, your Special Message specified \$854,000,000 (over five years) as the amount canceled. This figure was based on OMB's estimates of the amount of federal receipts from employee contributions that would be lost if employees were allowed to switch from CSRS to FERS. OMB's decision to treat these lost receipts as "discretionary budget authority" was in accord with its customary practice and was based on its understanding of the statutes and rules governing budget scoring.

An alternative measure of Section 642's cost is the amount of additional federal outlays to employee trust funds that would have been required if employees were allowed to switch from CSRS to FERS. In accordance with its customary practice, OMB did not estimate the cost of increased outlays and your Special Message, therefore, did not directly reference such a cost. The Congressional Budget Office, however, relied upon this cost, and not upon the reduction of employee receipts, in its report concluding that the cancellation of Section 642 would constitute a reduction in budget authority that would reduce the deficit as required by the Act. (The difference in approach between OMB and CBO, in this respect, is attributable to differing understandings of budgetary scoring rules.)

The statutory question raised by this cancellation is whether the Act authorizes the President to cancel a provision (other than a limited tax benefit) whose budgetary effect consists of a loss of federal receipts rather than an outlay of federal funds. A secondary issue is whether this cancellation can be defended on the grounds that the effect of Section 642 would be to increase federal outlays even though that rationale was not presented to the Congress in the Special Message.

#### B. ARE LOST RECEIPTS CANCELABLE UNDER THE ACT?

##### 1. The Position of OMB

OMB argues that the Act must be interpreted, and was intended to be interpreted, in light of the Congressionally mandated rules governing budget scoring. Those rules, according to OMB, require that the lost employee contributions be scored as positive budget authority. Thus, even though the Act does not explicitly allow for the cancellation of lost receipts (other than in the context of a limited tax benefit), OMB's contention that the Act incorporates the budgetary scoring rules leads to the conclusion that the lost employee contributions at issue are cancelable.

OMB also asserts that, as the agency charged with estimating the budgetary effects of laws and applying budgetary scoring rules, its expertise in interpreting the statutory language is entitled to judicial deference. Finally, OMB contends that Section 642 is the exact type of legislation that should be subject to cancellation because it 1) was essentially a pay raise; 2) was added to the Appropriations Bill at Conference without debate by either the House or the Senate; and 3) would have a substantial budgetary effect.

## 2. The Position of DOJ

DOJ views the Act as an outgrowth of the President's limited power to impound appropriated funds and not as an extension of budgetary enforcement legislation. Accordingly, it does not read the Act as incorporating budgetary scoring rules. Rather, it contends that the Act must be strictly construed in light of its historical antecedents -- the President's historical power to impound funds. DOJ, therefore, stresses that because the Act does not contain explicit language authorizing cancellations of the kind at issue in this case, that power can not be inferred. Moreover, DOJ argues that because the Act explicitly allows cancellations based upon lost receipts only in very highly specified circumstances (limited tax benefits), Congress did not intend for the President to have a broad authority to cancel such lost receipt provisions outside the limited tax benefit context.

Finally, DOJ is concerned that a broad reading of the President's statutory powers to cancel receipt-reducing provisions would be inconsistent with the position it has taken in its constitutional defense of the Act. Throughout the line item veto litigation, DOJ has argued that the Act grants only very modest, and clearly defined, powers to the President. Arguing that the line item veto power extends beyond the express wording of the statute would undercut its previous position.

## C. RE-CHARACTERIZING THE CANCELLATION

OMB and DOJ also disagree as to whether the cancellation of Section 642 could be defended as a cancellation of future outlays in order to avoid, or to supplement, the argument that the Act allows for the cancellation of lost receipts. As noted previously, allowing federal employees to switch enrollment from CSRS to FERS will lead to additional outlays in future years and the Congressional Budget Office (CBO) relied on this fact in its review of the budgetary effect of the cancellation. Arguably, therefore, the cancellation would have been proper if the Special Message set forth these estimated future outlays rather than the lost receipts as the items to be canceled. OMB asserts that the cancellation could also be justified on this ground. OMB submits that, if the Court rejects its scoring as the appropriate standard for evaluating what is cancelable under the Act, the CBO position (and the common sense position) that increased outlays are cancelable items should provide the governing standard.

DOJ raises several objections. First, DOJ argues that, technically speaking (and consistent with its constitutional theory), a line item veto does not cancel a provision. It cancels the funds to be expended under that provision. If this is true, then the item that was canceled in this case was the \$854,000,000 in lost receipts. Substituting a new dollar amount based upon amounts of future outlays, therefore, would not simply "amend" the previous cancellation; but would instead constitute an entirely new cancellation. Second, DOJ is troubled by an argument that would suggest you made specific determinations (as the Act requires) about the effects of canceling one item (future outlays) when in fact you specified another (lost receipts). Although a "functional" argument can be made suggesting that the two items (future outlays and lost receipts) are equivalents, DOJ is concerned that such an argument would appear disingenuous. Finally, DOJ is uncomfortable with relying on the future outlay theory when OMB did not rely upon that theory in the first instance.

D. WOULD DEFENSE OF THIS PROVISION HARM THE BROADER, CONSTITUTIONAL ARGUMENT?

DOJ rightly asserts that, even in the best case scenario, the constitutionality of the line item veto is precarious. DOJ is, therefore, understandably wary about any statutory construction that would appear to stretch the President's powers under the Act beyond a narrowly confined authority analogous to impoundment. DOJ has acknowledged to the Supreme Court, for example, that the provision authorizing the President to cancel limited tax benefits is on less firm historical footing than is the cancellation of a typical appropriation, and is constitutionally sustainable only because that power is carefully limited under the statute. Supporting the cancellation of the lost receipts in this case, DOJ fears, would not only be viewed by the Court as an expansion of the President's power beyond traditional boundaries, but also as an expansion that would occur in a seemingly boundless manner. (In this respect, DOJ is also concerned that the cancellation of Section 642 is particularly problematic because it encompasses a cancellation of a non-budgetary provision of law -- the right of employees to switch pension programs.)

DOJ also believes that its constitutional case would be harmed if the Senate Counsel files on the side of the NTEU on the statutory issue. It is concerned that if the President and the Congress do not agree on the powers the Act gives to the President, the Court might void the legislation entirely in order to avoid a series of inter-branch disputes raising intractable separation of powers issues.

Finally, DOJ is concerned that the secondary argument (that the cancellation could be recharacterized as a line item veto of future outlays rather than lost receipts) could harm the constitutional defense by suggesting that the provisions of the Act directing the President to make specific findings about the nature and impact of the cancellation are not mandatory. DOJ has argued that the findings provisions confine the power of the President and, therefore, serve to refute the plaintiffs' contention that the Act improperly delegates broad and unchecked powers to the Executive. Accordingly, DOJ believes that if it now asserts that the findings provisions are not mandatory, its position on the improper delegation claim will be weakened.

While DOJ's position has force, there are some competing considerations. First, the scoring rules OMB employed in this case do not give unlicensed authority to the President. Rather those rules are Congressionally mandated provisions designed to measure compliance with the Congressional Budget Act and constrain budgetary scoring decisions. Although the power conferred to the President, under OMB's approach, is broader than the statutory construction offered by DOJ, that power is not unlimited. For example, the scoring rules would not authorize the President to cancel a broad tax benefit. Additionally, while the power to cancel lost receipts is broader than the President's historical impoundment prerogative, it is not considerably greater than that granted to the President in the Act's provision that allows for the cancellation of limited tax benefits.

Second, OMB argues that if the Act were not construed to allow the cancellation of provisions such as 642, its value as a budget enforcement tool would be seriously diminished because so few provisions worth canceling fit the model of a simple dollar appropriation.

Third, in its response to the findings-recharacterization issue, OMB would contend that requiring strict adherence to the findings requirements of the Act is also problematic. The Act provides only five days in which to cancel an item, and demanding precision in the findings would be both impractical and unrealistic. Indeed, even DOJ concedes that the Act would not require that the exact dollar amount of a cancellation be established in order for a cancellation to be upheld. Accordingly, OMB argues, if the Act does not require an exact dollar determination, there is no reason to concede that the Act does require an exact determination as to the specific source of the cancelable budget authority.

Finally, OMB notes that DOJ's constitutional concerns would be triggered only if the district court upheld your statutory authority to effect this cancellation. If the lower court invalidated the cancellation on statutory grounds, that decision would strengthen, rather than weaken, the constitutional case. OMB, therefore, concludes that the risk in litigating the statutory issue in district court is not as substantial as DOJ would suggest.

#### E. RECOMMENDATION

In my judgment, the arguments advanced in support of your statutory authority to cancel Section 642 are stronger than DOJ believes them to be, and the legitimacy of the cancellation could be appropriately defended in district court, albeit with no guaranty of success. In addition, Frank Raines strongly believes that the cancellation was valid under the Act and that it furthered important budgetary and policy interests. He also disagrees with the Solicitor General's position that defending the cancellation would undermine the broader, constitutional defense of the Act; and he would, therefore, request that you direct DOJ to defend the cancellation in district court..

I believe, however, that we must give great weight to the Solicitor General's fear that to defend the cancellation in the case that will trigger the Supreme Court's first ruling on the constitutionality of the Act would undermine the government's constitutional position. Although

I am reluctant to acquiesce in a decision to assert error in the exercise of the veto, I have concluded that we should, in the final analysis, give dispositive weight to the views of the Solicitor General. I respect his assessment of the litigation risks posed in the Supreme Court even though I disagree with DOJ's position on the merits of the Section 642 cancellation. I recommend, therefore, that we allow DOJ to consent to judgment in this case.



Office of the Attorney General  
Washington, D.C. 20530

December 16, 1997

The President  
The White House  
Washington, DC 20500

Dear Mr. President:

This letter outlines the issues related to the defense of your exercise of the Line Item Veto Act to cancel the budget authority contained in Section 642 of the Treasury and General Government Appropriations Act of 1998, enacted October 10, 1997. The Department of Justice believes that defense of this cancellation would be a mistake for several reasons, including the following:

- The Solicitor General has advised me that defense of this cancellation would severely undermine our constitutional defense of the Act.
- The defense of this cancellation will require us to advance an extremely broad interpretation of the Line Item Veto Act, which finds very little support in the statutory text.
- Defense of this cancellation will undermine the inter-branch unity we have enjoyed with the Congress on issues concerning the Act because the Senate will file a brief against us.

We have had extensive consultations with the Office of Management and Budget ("OMB") concerning this cancellation. As a result of those discussions, we have formulated an argument that comports with OMB's theory. If directed, we will defend the cancellation on this basis in the district court. We believe, however, that such a defense is not legally correct, and is not in the best interests of the Executive Branch, and thus we believe that the United States should accept a consent judgment that the cancellation was invalid.

Overview of the Case

Section 642 allows individuals subject to the Civil Service Retirement System ("CSRS") to switch to the Federal Employee

Retirement System ("FERS") during an open season to be conducted by the Office of Personnel Management ("OPM") in 1998. In the cancellation message transmitted to Congress pursuant to the Line Item Veto Act, you specified you were cancelling \$854 million of "discretionary budget authority" contained in that provision "due to reductions in employee contributions to the Civil Service Retirement and Disability Fund" over the next five years. The message also explained that you had made the findings required by the Line Item Veto Act. The report attached to the special message explained how the \$854 million in reduced employee contributions was calculated.

The National Treasury Employees Union ("NTEU") and two of its members have challenged the cancellation. National Treasury Employees Union v. United States, Civ. Act. No. 1:97CV02399 (D.D.C.). They claim that reduced employee contributions are not "discretionary budget authority" under the Line Item Veto Act, or, in the alternative, that the Line Item Veto Act is unconstitutional.

#### Overview of the Line Item Veto Act

The Line Item Veto Act authorizes the President to "cancel," as prescribed by the Act, "any dollar amount of discretionary budget authority," "any item of new direct spending," or "any limited tax benefit." 2 U.S.C. § 691(a). Each of those terms has a distinct meaning. The term "dollar amount of discretionary budget authority" is defined, among other things, to include "the entire dollar amount of budget authority . . . specified in an appropriation law, or the entire dollar amount of budget authority required to be allocated by a specific proviso in an appropriation law for which a specific dollar figure was not included." 2 U.S.C. § 691e(7)(A)(i).

In making a cancellation under the Act, the President must make express findings that the cancellation will reduce the federal deficit, not impair any essential government functions, and not harm the national interest. The President must, within five days of signing the law, transmit a "special message" to Congress that specifies, among other things, the "dollar amount of discretionary budget authority, . . . which has been canceled," the "account, department, or establishment of the Government for which such budget authority was to have been available for obligation and the specific project or governmental functions involved," and adjustments to be made to the federal government's discretionary spending limits. 2 U.S.C. § 691a.

Cancellation of a dollar amount of discretionary budget authority acts to "rescind" that authority. 2 U.S.C.

§ 691e(4) (A). Pursuant to the Act, the caps established by the Budget Enforcement Act are reduced by the canceled dollar amount so that the funds may not be spent on other projects. 2 U.S.C. § 691c(a) (1) (B).

### Defending the Cancellation

If so directed, we propose to defend the cancellation on two grounds. First, applying OMB's interpretation of the scoring rules that Congress has adopted for purposes of the Budget Enforcement Act, we will argue that reductions in governmental receipts, such as the lost employee contributions to the retirement fund in this case, are "discretionary budget authority" within the meaning of the Line Item Veto Act if the reductions are the result of substantive provisions of law inserted into an appropriations law. We will argue that OMB's interpretation of the Act is entitled to deference, and that OMB properly followed the scoring rules.

Second, we will argue that, irrespective of what the cancellation did or what OMB did, Section 642 does contain budget authority because employees who switch retirement programs trigger a series of government outlays, including permanent appropriations to cover the fund's unfunded liability and additional agency contributions to the CSRS/FERS fund. Moreover, both NTEU and the Congressional Budget Office ("CBO") have admitted that there is budget authority triggered by Section 642. Although CBO's estimate of the financial impact of the cancellation is different from the figure given in your cancellation message to Congress, we will argue that this discrepancy does not invalidate the cancellation.

### Reasons Why This Cancellation Is Unlikely to Stand

Although we believe that this argument is not altogether unreasonable -- and that it is the best that can be made under the statute -- we believe that it is legally incorrect and has little chance of ultimate success. To defend this cancellation, we must argue either that reductions in income are "budget authority" or that the cancellation should be upheld even if the special message identified the wrong "budget authority" and the wrong "dollar amount." Neither approach is promising.

With respect to the first argument, the statute was plainly designed to apply to legislated spending (and "limited tax benefits"). To argue that it permits cancellation of a reduction in income gives every appearance of unjustifiably expanding the President's powers under the Act. The plain language of the Act

appears to preclude treating reductions in governmental income as "budget authority," and Scoring Rule 3 does not, by its plain terms, support the broader construction of "budget authority" that OMB favors. Moreover, Section 642 is significantly different from the examples of cancelable provisions discussed in the legislative history of the Act.

It would also be problematic to rely on scoring rules developed under the Budget Enforcement Act to control interpretation of the Line Item Veto Act. The scoring rules are subject to frequent change and are interpreted differently by OMB and CBO; in this situation, one would not expect the Line Item Veto to be subject to such variations. Significantly, any argument relying on OMB's interpretation of the scoring rules will provoke a sharp response from Congress; the Senate Legal Counsel has informed us that he will file a brief against us if we pursue this argument.

The second possible argument -- that Section 642 contains budget authority because it triggers additional government payments -- is flawed because such payments are not directly mentioned in your special message to Congress concerning the cancellation. There is no evidence to indicate that the findings required by the Line Item Veto Act were made with respect to those payments, and it is clear that the \$854 million identified in the message does not correlate with those payments.

Cancellation of Section 642 raises other, very thorny problems. For example, under the Act, cancellation of discretionary budget authority operates to "rescind" the funds allocated; it does not repeal the provision of law. This cancellation, however, does not purport to rescind any funds allocated; it effectively seeks to repeal the provision of law. Nevertheless, there is a strong argument that, even though the lost employee contributions were "canceled," OPM will still have to run the open season because some employees may want to switch programs.

Defense of This Lawsuit Will Jeopardize Our Defense of the  
Constitutionality of the Line Item Veto Act

The single most important reason not to defend this cancellation is the impact that it is likely to have on a defense of the constitutionality of the Line Item Veto Act. As the Solicitor General explains in the enclosed memorandum to me, defense of this cancellation will jeopardize our constitutional arguments in several ways:

- Our best chance to defend the constitutionality of the Act is by arguing that the President's cancellation authority is narrow and closely analogous to his historic discretion to decline to spend appropriated funds. This cancellation cannot be defended on that narrow basis, because it involves reductions in receipts.
- Our best chance to defend the constitutionality of the Act depends on the support of the Congress, who can argue to the Court that their power is not infringed by the Act. They will oppose the lawfulness of this cancellation.
- Defense of this cancellation will leave us susceptible to the argument that the President's cancellation authority is being exercised without consideration of all of the effects of the canceled provisions. This will undermine our central argument that the Act's requirements of formal presidential findings and a special message place meaningful constraints on the President's discretion.

### Conclusion

In sum, we believe that the chances of winning this lawsuit are slim because the Line Item Veto Act should not be read to extend to cancellation of provisions such as Section 642. Moreover, the expansive reading that we will be forced to give the Act in defense of this cancellation will make the Solicitor General's efforts to defend the constitutionality of the Act dramatically more difficult, and could cost us critical votes in the Supreme Court. For these reasons, we strongly urge that the United States not defend the cancellation of Section 642, and instead submit to a consent judgment in the district court.

Sincerely,



Janet Reno

Enclosure



U. S. Department of Justice  
Office of the Solicitor General

*The Solicitor General*

*Washington, D.C. 20530*

December 15, 1997

MEMORANDUM TO THE ATTORNEY GENERAL

FROM: THE SOLICITOR GENERAL *SGW*

Re: NTEU Line Item Veto Case

I understand that the Civil Division and OMB have concluded that a statutory defense in the NTEU line item veto case is at least theoretically possible. For the reasons that follow, however, I urge you and the President not to defend this cancellation -- even in the district court -- but, instead, to accept a consent judgment. I firmly believe that attempting to justify the NTEU cancellation as a proper exercise of the President's authority would seriously undermine our ability to defend the Line Item Veto Act against constitutional challenge.

The Theory of Defense

This case involves the President's effort, pursuant to his authority under the Line Item Veto Act, to cancel a provision of law that would have established an "open season" during which certain federal employees could have switched their retirement coverage from CSRS to FERS. The President's special message stated that he was cancelling a "dollar amount of discretionary budget authority" totalling \$854 million. That amount represented the reduction in employee contributions to the retirement fund that was expected to occur during the five-year period following the cancellation if the option to switch from CSRS to FERS became available. The cancellation message itself did not make clear whether the President intended to cancel the entire open season provision or only the reduction in employee contributions. We know from OMB, however, that the intent was to prevent the open season from going forward.

To understand the theory of defense, it is necessary to understand something about "scoring rules" OMB uses to carry out its responsibilities under a different statute, the Budget Enforcement Act (BEA). Under that Act, OMB is required to provide an "estimate of the amount of discretionary new budget authority and outlays" contained in an

appropriations law. 2 U.S.C. 901(a)(7).<sup>1</sup> OMB's established practice (based on its interpretation of "Scoring Rule 3") is that a substantive provision of law that is inserted into an appropriations law to reduce the government's income will be "scored" as "discretionary new budget authority."<sup>2</sup> Consistent with its general practice, OMB "scored" the loss of employee contributions that was expected to result from the CSRS/FERS open season provision as "discretionary new budget authority."

The Civil Division has prepared a draft brief that attempts to defend the cancellation at issue on two alternative theories. The draft argues, first, that because Congress was aware of OMB's scoring practices when it enacted the Line Item Veto Act, therefore since OMB "scored" the reduced employee contributions as "discretionary new budget authority" for BEA purposes, the reduced contributions should likewise be regarded as "discretionary budget authority" subject to cancellation under the Line Item Veto Act. Significantly, the draft brief does not argue that the reduced contributions satisfy the definition of "budget authority" contained in 2 U.S.C. 622(2)(A)(i) -- a provision that expressly applies to the Line Item Veto Act. The draft brief does contend, however, as an alternative theory, that because certain outlays that would result from the open season provision do fall within the Section 622 definition, the cancellation may be upheld on that basis if the court concludes that the Section 622 definition of "budget authority" is controlling.

### **Reasons Not To Defend the CSRS/FERS Cancellation**

The theory of defense reflected in the draft brief is extremely weak, even as a statutory matter. What is more, the defense rests upon an expansive interpretation of presidential power under the Line Item Veto Act that is inconsistent with the arguments we have made in favor of the Act's constitutionality. At this critical stage, establishing the constitutionality of the President's cancellation authority under the Line Item Veto Act is simply too important a goal to jeopardize with a dubious and immoderate assertion of statutory authority.

- 1. Cancellation of the CSRS/FERS provision cannot credibly be analogized to any power the President has historically exercised.**

Opponents of the Line Item Veto Act have contended, inter alia, that it results in an unconstitutional delegation by Congress to the President of legislative power because the President's cancellation authority is broad and standardless. Our brief in Raines v. Byrd responded to that constitutional attack by arguing that the President's authority under the Act (at least as applied to spending items) is closely analogous to the discretion Executive Branch officials have historically possessed with respect to the decision whether or not to spend appropriated sums. Indeed, our brief essentially equated the cancellation of "discretionary

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<sup>1</sup> Such estimates might ultimately trigger a "sequestration" under the BEA if discretionary spending caps for the fiscal year are exceeded.

<sup>2</sup> The Congressional Budget Office does not agree with that interpretation of Scoring Rule 3.

budget authority" -- the category invoked by the President's cancellation message in this case -- with decisions historically made by Presidents (in the nature of impoundments) not to spend money appropriated to an agency.

That analogy will be wholly undercut if we construe the Act (and particularly its provision for cancelling "discretionary budget authority") as permitting the President to invalidate an entire substantive provision of law simply by identifying some form of "budget authority" contained in or affected by the provision. The reduction in employee contributions to the retirement fund is only one of a number of substantive provisions of law that are triggered by the special open season Congress enacted, and it is only one of many financial consequences that follow from an employee's decision to switch from CSRS to FERS. The authority to cancel the open season provision therefore cannot plausibly be compared to any power the President has traditionally exercised to decline to spend the full amount of funds that Congress has appropriated to a particular agency, or for a particular purpose, for a fiscal year. Rather, our defense of the cancellation will (necessarily) blur the line between the refusal to spend appropriated funds and the invalidation of substantive provisions of law.<sup>3</sup>

**2. Defending the CSRS/FERS cancellation will jeopardize our alliance with Congress in the constitutional defense.**

In defending the Line Item Veto Act against the claim that the Act violates separation of powers principles by authorizing the President to "repeal" Acts of Congress, it will be very important to have the full support of the Senate and House as amici curiae, arguing that Congress does not regard the Act as an infringement on its constitutional prerogatives. If we defend the cancellation on the theory described above, the Senate Legal Counsel is expected to file an amicus brief arguing that the cancellation was improper. (Such an argument would be consistent with the Congressional Budget Office's longstanding view that reductions in governmental income resulting from provisions contained in appropriations laws should not be scored as "discretionary new budget authority.") Such a filing would impair the image of interbranch unity we need to project, and might lead the Supreme Court to conclude that if the Act is sustained, the judiciary will be required (in the course of ruling on challenges to individual cancellations) to resolve disputes between the political branches concerning arcane budgetary matters.

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<sup>3</sup> Cancellation of limited tax benefits is also concededly different from the authority that the President has historically possessed to decline to spend appropriated funds. The President's authority to cancel tax provisions, however, is subject to limitations of its own -- most obviously, the requirement that no more than 100 taxpayers be affected. The President's power to cancel limited tax benefits, moreover, is clear on the face of the Line Item Veto Act, while the contention that the President may cancel entire provisions of law based on relatively modest budget impacts has no apparent textual basis (and no apparent stopping point). Finally, invalidation of the President's authority to cancel limited tax benefits would (assuming that authority to be severable) leave the core of the Line Item Veto Act intact. The provisions governing discretionary budget authority, by contrast, have always been regarded as the most important and most defensible feature of the Act.

3. **Defending the CSRS/FERS cancellation is inconsistent with our prior representations that the President will exercise his authority narrowly and with care and circumspection.**

The President has tried, in a variety of ways, to convey the message that he regards the cancellation authority under the Line Item Veto Act as an especially important presidential prerogative, to be exercised with particular care and circumspection. It is quite important that we do all we can to persuade the Court that the Act is in fact being administered on that basis. The Supreme Court's decisions during the last Term suggest a particular aversion to anything that smacks of "symbolic legislation," and we should make every effort to prevent the Court from regarding the Line Item Veto Act in that light.

To defend the CSRS/FERS cancellation -- even in the district court -- would significantly undermine that effort. The draft brief does not contend that the reduction in employee contributions that the President's special message identified as the cancelled item falls within the definition of "budget authority" contained in 2 U.S.C. 622(2)(A)(i). Instead, the draft brief argues (in essence) that established OMB scoring practices can be used to replace rather than to elucidate the statutory definition. OMB sincerely regards the various scoring rules (and its own construction of them) as substantial constraints on its own discretion. The contention that the President's cancellation authority extends beyond items covered by the statutory definition, however, is likely to strike the Supreme Court as an extraordinary assertion of executive power.

Similarly, to defend the cancellation on the alternative theory that the "open season" provision of the Treasury Appropriations Act triggers certain provisions of other laws that might fit the definition of "budget authority" in 2 U.S.C. 622(2) would require us to offer a rationale that is not set forth in the President's cancellation message -- suggesting that the President may rely on statutory provisions and financial consequences that are far afield from the appropriations provision that he purported to cancel. That alternative would undermine another important point we made in Raines v. Byrd in defense of the Act: that the President is subject to important procedural limitations on the exercise of his cancellation authority by the requirements that he (a) make specific determinations and (b) include particular information about the cancellation in his cancellation message, both of which are lacking here with respect to the suggested alternative rationale.

At worst, a defense of the cancellation along the lines set forth in the draft brief may suggest to the Court that the President's authority is being exercised cavalierly or carelessly. Even if the Court does not regard our position as wholly unreasonable, however, it will surely conclude that the President is intent on construing his own cancellation authority under the Line Item Veto Act in the broadest possible manner. That perception cannot help but lessen the Court's willingness to sustain the Act against constitutional challenge.



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STATE HOUSE

P.O. BOX 40530

NAIROBI, KENYA

2nd December, 1997

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Mr. President,

Thank you for your letter of 3rd July, 1997 which was delivered to me by Congressman Donald Payne. Although I received your letter in good time, and appreciated your views conveyed in the letter, it was not possible to reply the letter immediately due to the prevailing situation in Kenya at the time. I am pleased to let you know that since that time so much which is positive has happened and I am personally happy to say that relations between my Government and your Government have improved greatly.

Your Excellency, I am grateful to you for sending your Special Envoy for the Promotion of Democracy in Africa, the Reverend Jesse L. Jackson to Kenya to consult with us. Jesse Jackson and I discussed a number of issues at length including the development of the democratic process in Kenya as well as the economic and political reforms which my party has effected since 1991.

In the last five years and especially within the last four months, the political reforms we have carried out have propelled Kenya to such a high level of democracy from which there will be no return. At the dawn of Kenya's Independence I was in the opposition in the first Parliament and being a true believer in democracy, I have personally ensured that Kenya will remain a democratic State in the future by institutionalising democracy.

...2..



In consultation with the World Bank and the International Monetary Fund (IMF) my Government has carried out far reaching reforms which as expected have liberated the economy to advance but at the same time caused difficulties for those members of the society who are economically disadvantaged. This was foreseen and in discussions with IMF and World Bank I did ask them to make Kenya a model of the Bretton Woods success in Africa by creating safety nets for the economically disadvantaged. In this context, my Government designed Programs to address the Social dimensions of Structural Adjustment Programmes. I expected the Bretton Woods Institutions and Governments such as yours to adopt some of these programmes to elevate levels of poverty. In a fragile young society like Kenya without a Social Security System, instability could easily result from social and economic hardship.

Your Excellency, I still hope that your Government will look at this matter keenly and assist us through the World Bank and IMF or in a bilateral manner.

One of the social ills which continues to bedevil Kenyan society is corruption. Having a liberalised economy is one way of minimising the problem but on my part, I have worked hard to put legal machinery in place to eliminate corruption in Kenya. I have just recently appointed an Anti-Corruption Board as a result of an enabling act of Parliament. This Board will start work immediately. I have discussed this matter at length with the Reverend Jesse Jackson and I hope he will brief you further.

...3..



Mr. President, we are pleased about prominent Americans who continue to visit Kenya but have not in recent times received visitors of a certain level from your Government. I am sure that Kenyans would like to have more of your Government people at a higher level visit us. I know how busy you must be but your party and the People of Africa have been friends for such a long time that it would enhance our relations if you were to visit Africa. It would please me and the people of Kenya greatly if you were to visit Kenya. Your visit would give us a much desired opportunity to review not only our bilateral relations but African issues such as Sudan and Somalia whose problems I continue to grapple with as a neighbour as well as other International issues such as terrorism and fundamentalism which threaten all of us today.

I am convinced that if you visited us, you would carry back with you a more clearer picture than what the media and other people tell you. Seeing is believing.

Mr. President, accept the assurances of my highest consideration.

*Yours Sincerely*  
*Daniel T. Arap Moi*

**DANIEL T. ARAP MOI**  
**PRESIDENT OF THE REPUBLIC OF KENYA**



STATE HOUSE

P. O. BOX 40530

NAIROBI, KENYA

**H. E. WILLIAM J. CLINTON,  
PRESIDENT OF UNITED STATES OF AMERICA,  
THE WHITE HOUSE,  
WASHINGTON D.C.**

THE PRESIDENT HAS SEEN  
12-18-97

*Budget  
Water Group  
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(merged)*

H.E. WILLIAM J. CLINTON,  
PRESIDENT OF UNITED STATES OF AMERICA,  
THE WHITE HOUSE,  
WASHINGTON D.C.

December 17, 1997

MEMORANDUM

TO: The President

FROM: Nancy Hernreich *NH*  
Rebecca Cameron

SUBJECT: Message from Anita Baker and Walter Bridgeforth

Anita Baker and Walter Bridgeforth called this morning to let you know that they support your efforts with the discussion on race and the Town Hall meeting in Ohio. If there is any way Anita can help, please let them know.

Home: 313-886-7023  
Pager: 800-931-5175

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12-18-97

*To Burkhardt for  
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12-18-97

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*copied  
J. Winston  
Mathews  
COS*

*12-18-97*

*To Burkhardt for  
response after you have  
seen.*

*B.*