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Senator Danforth. Twice the President of the United States asked Senator Jeffords and Senator Specter and me to come to the White House to visit with him on the subject of civil rights. Twice the President in the Oval Office looked us in the eye and told us that he wanted us to try to work out a compromise. There was absolutely no question in my mind last year, and there is absolutely no question in my mind this year, that President Bush wants Congress to pass civil rights legislation which he could sign.

The issue has become enormously divisive, seemingly more divisive with every passing day. But it is important to recognize that there truly is a common ground between advocates of civil rights legislation in the House of Representatives and the Bush Administration.

As Attorney General Thornburgh said just a few days ago, there was agreement on about 80 percent of the issues. What the nine Senators who are involved in this enterprise are attempting to do is to try to build on that common ground and develop a legislative package which has some chance of becoming law.

The President has sent to Congress his legislative ideas. I compliment him for that. But I believe there is virtually no chance that the President's legislation will be enacted into law in its present form.

...I want to again say that people who have been involved in this issue for a long period of time have, in my opinion, been involved for the best of motives...I am absolutely convinced that the President of the United States wants to pass a civil rights law. And we hope to help him do just that.

Statement by Senator John C. Danforth
June 4, 1991

I am joining today with a number of my colleagues to introduce civil rights legislation. I am doing so for the following reasons:

First, I do not agree with the decisions by the Supreme Court in Wards Cove and other cases related to fairness in employment. I believe the bills we are introducing are good policy and can become law.

Second, I believe there is a national consensus on fairness in employment. The American people want the law to ensure that people are treated fairly in decisions about hiring, promotion and similar matters. They do not want discrimination against, or in favor of, people on the basis of race, religion, gender, or disability. They want a fair chance to right wrongs in court, and they want businesses to have a fair chance to defend themselves without quotas.

Third, I know the President wants a bill. He tried very hard to get a bill last year, and continues to want to sign civil rights legislation. He has sent up his own bill, which reverses many of the same cases.

Fourth, I believe civil rights should not be fodder for partisan cannons, and am concerned the debate is headed in that direction. There are some who argue that being "against quotas" is politically helpful for Republicans. There are some on the other side, I suppose, who argue that having a civil rights bill vetoed is politically helpful for Democrats, and sharpens a charge that Republicans are "against fairness." If there is an issue where political consultants should get lost, this is it. Do Americans want an important part of the nation's commitment to fairness to be an annual partisan jousting match? I believe they do not.

The time has come to enact legislation. Our purpose today is to help create the conditions for success. We are introducing bills to provide, among other things, that hiring will be based on merit; that victims of discrimination will have redress in the courts; and that victims of discrimination based on gender, or other factors not related to race, will have access to damages.

We are introducing three bills. This is because we believe the issues in last year's bill, which proved to be an indigestible lump, can be addressed more readily if they are separated into readily distinguishable areas.

The first bill would reverse five cases on which there is very little disagreement. This bill should be handled relatively easily, perhaps in a matter of a few weeks. The second bill reverses Wards Cove. It would shift back to employers the responsibility to show business necessity. It would provide that hiring will be on the basis of merit. It requires as a general rule that plaintiffs specify a practice or practices they are challenging. The third bill provides women and others injured by non-racial discrimination with access to damages, and with caps in certain circumstances.

This proposal will not be difficult to criticize. It is, after all, intended to find a consensus that moves the law forward. Finding

consensus means the proposal will meet no one's definition of a "pure" bill. Moving the law forward means passing legislation, so there is no comfort here for those who want an issue, not a bill.

The time has come to pass solid, bipartisan civil rights legislation. We have a duty to the American people to make the laws fairer and better than they are today.

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT'S CIVIL RIGHTS BILL

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Education Reform vs. Civil Rights Agendas

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Sure, it's important to get a diploma. But among those who complete high school, it matters little which courses they take, how hard they study or what grades they earn.

The reason, said the Commission on the Skills of the American Workforce in its 1990 report, is that employers have come to see the diploma as more a clue to character than to learning. "They realized long ago," the commission tartly notes, "that it is possible to graduate from high school in this country and still be functionally illiterate."

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Open access to higher education is a prized feature of American society. But what message does it send to the 11th grader deciding whether to stay home on Tuesday night to revise his chemistry lab report or go out and party with his friends?

President Bush's new education strategy, introduced last month, would change all this. The plan, developed by Secretary of Education Lamar Alexander and a group of advisers (myself included), proposes to set world-class standards in English, math, science, history and geography, and to accompany these with new national tests that colleges and

employers will use in their admissions and hiring decisions.

When that day dawns, young people will have incentives to study. Admissions and personnel offices will confer real rewards on those who attain the new, higher standards in school and will levy unwelcome consequences on those who don't. In response, millions of students will alter their behavior. Americans, regardless of background, will take learning seriously because it will make a practical difference in their lives.

What happens in the meantime, however, if those new standards and tests yield results that differ by gender, race or ethnic group? Will any college or employer dare to use them?

Federal law already makes it difficult for employers to require any educational credentials or test scores that have a "disparate impact." Pending civil rights legislation would make this harder still. The Democrats' bill requires employers to prove that tests bear a "significant relationship to successful performance of the job." Even the Administration's milder version expects any education credentials to show a "manifest relationship" to the job.

How many personnel directors will be able to convince a Federal enforcer or judge that a young person's

command of science and geography is germane to the work of a forklift operator or receptionist? Yet so long as employers are inhibited from examining a candidate's test scores, "rational" students will see no payoff for buckling down to learn such subjects. High marks won't matter.

Colleges could easily justify stiffer academic prerequisites. But few campuses can afford to be persnickety in their admissions decisions — and virtually all are determined to enroll more minority students at any cost. Never mind that the soaring dropout rate among minority college students is a sign of the weak educational foundation that reformers hope to strengthen.

A thoroughly revamped education system would help end this paralysis. Each year we would have millions more young Americans schooled to world standards as proved by test results that are indistinguishable by race, gender or ethnicity.

Today, however, we face a Catch-22 situation in which few students are apt to change their study habits because neither employer nor colleges reward academic achievement. The President is urging them to do so. Yet any that respond may be accused of discriminating. Is that any way to reach our national education goals?

THE NEW "ANTI-QUOTA" AMENDMENT TO H.R. 1 IS ACTUALLY A PRO-QUOTA PROVISION

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For example, suppose an employer decided he did not want more than 3% Jews working in his company. All he has to do is adopt a quota of 97% Christians. This would not be outlawed by the new amendment so long as all those he hired were minimally qualified.

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H.R. 1 "Compromise"

H.R. 1375 President's Bill

A 21 year old Hispanic woman applies to be a fire fighter. Because of a court approved quota system created when she was a child, the job goes to someone with a much lower score on the exam. She wants to challenge the quota scheme in court. Can she do it?

NO

YES

She goes to court and her case is thrown out. Other civil rights plaintiffs must pay their own lawyers, but not their opponents'. Is she treated the same?

NO. SHE MUST PAY
ALL LAWYERS.

YES. SHE PAYS
ONLY HER LAWYER.

A lawyer wants to hire law students as interns because she chooses new lawyers based on their performance as interns. Can she do this?

NO

YES

A black-owned business, located in a white suburb where there is prejudice against working for blacks, hires mostly blacks by word-of-mouth from a nearby city. EEOC sues. What happens next?

EMPLOYER MUST
PROVE HE DID NOT
CAUSE THE
PROBLEM

EEOC MUST
IDENTIFY WHAT
THE EMPLOYER DID
WRONG

The American Cancer Society refuses to hire smokers. Can this meet the "business necessity" test?

NO

YES

A factory is located near a bus stop for a line that goes to a mainly white area but not to any black neighborhoods. The factory has three criteria for new hires:

COURT FINDS HIGH
SCHOOL DEGREE
NOT REQUIRED BY
"BUSINESS
NECESSITY."
EMPLOYER GUILTY.

PLAINTIFF MUST
IDENTIFY WHICH OF
THE SIX PRACTICES,
IF ANY, CAUSED
"BAD NUMBERS."

1. High School Degree.
2. Must be 18.
3. No drug use.

No intentional discrimination takes place, but the factory winds up with "bad numbers."

The lawyer wants to hire only law students as interns, the black businessman wants the best workers he can find, the Cancer Society wants to avoid smokers, and the factory owner wants to keep its three criteria. But each is determined to avoid lawsuits. How?

QUOTAS

HIRE ON MERIT

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She goes to court and her case is thrown out. Other civil rights plaintiffs must pay their own lawyers, but not their opponents'. Is she treated the same?	NO. SHE MUST PAY <u>ALL</u> LAWYERS.	YES. SHE PAYS ONLY HER LAWYER.
A lawyer wants to hire law students as interns because she chooses new lawyers based on their performance as interns. Can she do this?	NO	YES
A black-owned business, located in a white suburb where there is prejudice against working for blacks, hires mostly blacks by word-of-mouth from a nearby city. EEOC sues. What happens next?	EMPLOYER MUST PROVE HE DID NOT CAUSE THE PROBLEM	EEOC MUST IDENTIFY WHAT THE EMPLOYER DID WRONG
The American Cancer Society refuses to hire smokers. Can this meet the "business necessity" test?	NO	YES
A factory is located near a bus stop for a line that goes to a mainly white area but not to any black neighborhoods. The factory has three criteria for new hires: 1. High School Degree. 2. Must be 18. 3. No drug use. No intentional discrimination takes place, but the factory winds up with "bad numbers."	COURT FINDS HIGH SCHOOL DEGREE NOT REQUIRED BY "BUSINESS NECESSITY." EMPLOYER GUILTY.	PLAINTIFF MUST IDENTIFY WHICH OF THE SIX PRACTICES, IF ANY, CAUSED "BAD NUMBERS."
The lawyer wants to hire only law students as interns, the black businessman wants the best workers he can find, the Cancer Society wants to avoid smokers, and the factory owner wants to keep its three criteria. But each is determined to avoid lawsuits. How?	QUOTAS	HIRE ON MERIT

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For example, suppose an employer decided he did not want more than 3% Jews working in his company. All he has to do is adopt a quota of 97% Christians. This would not be outlawed by the new amendment so long as all those he hired were minimally qualified.

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Suppose, for example, that a company decides to have a quota of 50% minority hires. The company then tells its managers that if they don't meet the 50% quota for their department, the managers will not be eligible for promotions. This would not be a "quota" under the amendment since the managers are not required to adopt quotas (unless they would like to be eligible for promotions).

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Why the Latest Democratic "Compromise" Version of H.R. 1 Is Still a Quota Bill

Situation

H.R. 1 "Compromise"

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The reason, said the Commission on the Skills of the American Workforce in its 1990 report, is that employers have come to see the diploma as more a clue to character than to learning. "They realized long ago," the commission tartly notes, "that it is possible to graduate from high school in this country and still be functionally illiterate."

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employers will use in their admissions and hiring decisions.

When that day dawns, young people will have incentives to study. Admissions and personnel offices will confer real rewards on those who attain the new, higher standards in school and will levy unwelcome consequences on those who don't. In response, millions of students will alter their behavior. Americans, regardless of background, will take learning seriously because it will make a practical difference in their lives.

What happens in the meantime, however, if those new standards and tests yield results that differ by gender, race or ethnic group? Will any college or employer dare to use them?

Federal law already makes it difficult for employers to require any educational credentials or test scores that have a "disparate impact." Pending civil rights legislation would make this harder still. The Democrats' bill requires employers to prove that tests bear a "significant relationship to successful performance of the job." Even the Administration's milder version expects any education credentials to show a "manifest relationship" to the job.

How many personnel directors will be able to convince a Federal enforcer or judge that a young person's

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A thoroughly revamped education system would help end this paralysis. Each year we would have millions more young Americans schooled to world standards as proved by test results that are indistinguishable by race, gender or ethnicity.

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DRAFT PRESS STATEMENT

On June 19 & 20, Governor Sununu received letters (attached) from Senator Danforth proposing a new definition of "business necessity." On Friday, June 21, the Attorney General signed a letter (attached) explaining why this proposed definition was unsound. This letter was delivered to Senator Danforth on Monday, June 24. The same day, June 24, Senator Danforth requested a meeting with Governor Sununu and the Attorney General.

The meeting took place the following day, June 25, a little after 11:00 a.m. During this meeting, Senator Danforth proposed two new definitions of business necessity. He asked for an extremely rapid response.

After the proposals were reviewed by the Attorney General, the Counsel to the President, and their staffs (a process that was completed within 2 hours), Governor Sununu called Senator Danforth and asked whether it would be acceptable to replace a 9-word phrase from the first proposal with a 7-word phrase from the second proposal. Senator Danforth said this was acceptable to him, and that he would recommend that it be accepted by the other 8 co-sponsors of his bills. Governor Sununu indicated that the proposal had not been approved by the President.

That evening, Senator Danforth informed Governor Sununu that he and his co-sponsors had voted 9-0 to accept the proposal; Senator Danforth also said that Senator Kennedy would like to see other changes in the definition. Governor Sununu then interrupted the President's dinner to brief him on the issue. The President was told that Administration attorneys had reservations about the definition accepted by Senator Danforth and his co-sponsors, but were not strongly opposed to it. The President decided to accept the proposal as agreed to by Senator Danforth and his co-sponsors.

The Attorney General and the Counsel to the President reviewed the suggestions made by Senator Kennedy and concluded that they were not appropriate. The next morning, June 26, Governor Sununu called Senator Danforth to let him know that the President had accepted the proposal agreed to by Senator Danforth and the other 8 co-sponsors of the bill, and that the changes suggested by Senator Kennedy could not be adopted. Governor Sununu expected that he and Senator Danforth would then discuss procedures for addressing the numerous remaining issues raised by the bills introduced by Senator Danforth.

Much to Governor Sununu's surprise, Senator Danforth indicated that he was ^{no longer} willing to accept the definition of business necessity to which he and his co-sponsors had agreed the previous day.

JOHN C. DANFORTH
MISSOURICOMMITTEES:
COMMERCE, SCIENCE,
AND TRANSPORTATIONFINANCE
INTELLIGENCE

United States Senate

WASHINGTON, DC 20510-2502

DATE: 6/27/91

FAX TRANSMISSION SHEET

TO: Governor SarnauFROM: Senator Jack Danforth

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): _____

COMMENTS:

*additions from last draft
outlined in blue.*

102D CONGRESS
1st SESSION

S. _____

To provide for damages in cases of intentional employment discrimination, and for other purposes.

IN THE SENATE OF THE UNITED STATES

June __, 1991

A BILL

To provide for damages in cases of intentional employment discrimination, and for other purposes.

BE IT ENACTED IN THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights and Remedies Act of 1991."

SEC. 2. FINDING AND PURPOSE.

(a) FINDING.-- Congress finds that additional remedies under Federal law are needed to deter unlawful harassment and intentional discrimination in the workplace.

(b) PURPOSE.-- The purpose of this Act is to provide appropriate remedies for intentional discrimination and unlawful harassment in the workplace.

SEC. 3. DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION

The Revised Statutes are amended by inserting after section 1977 the following new section:

"SECTION 1977A DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION IN EMPLOYMENT.

"(a) RIGHT OF RECOVERY.--

"(1) CIVIL RIGHTS.-- In an action brought by a complaining party under section 706 of the Civil Rights Act of 1964 (42 USC 2000e-5(e)) against a respondent who intentionally engaged in an unlawful employment practice prohibited under section 703 ~~or 704~~ of the Act (42 U.S.C. 2000e-2, ~~2000e-3~~) ~~and engaged in the practice on the basis of the religion, or sex, or national origin of an individual, the complaining party, and provided that the~~

complainant party cannot recover under section 1977 of the Revised Statutes (42 U.S.C. 1981), the complainant party

"(A) may recover the compensatory and punitive damages described as allowed in subsection (b), in addition to any relief authorized by section 706(g) of the Civil Rights Act of 1964, from the respondent; and

"(B) may request that a court impose the equitable civil penalty described in subsection (c) against the respondent.

"(2) DISABILITY. -- In an action brought by a complainant party under the powers, remedies, and procedures set forth in section 706 of the Civil Rights Act of 1964 (as provided in section 107(a) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12117(a))) against a respondent who intentionally engaged in a practice that constitutes discrimination under section 102 of the Act (42 U.S.C. 12112), other than discrimination described in paragraph (3)(A) or (6) of subsection (b) of the section, subsection (b) paragraphs (3)(A), or other than discrimination described in subsection (b) paragraph (6) (except for practices intended to screen out individuals with disabilities), against an individual, the complainant party

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"(3) NOTICE. -- a complainant party who requests that a court impose an equitable civil penalty under subsection (c) shall provide notice of the request to the Chairman of the Equal Employment Opportunity Commission and the Secretary of Health and Human Services. REASONABLE ACCOMMODATION AND GOOD FAITH EFFORT. -- In cases where a violation involves the provision of a reasonable accommodation pursuant to section 102(b)(5), damages may not be awarded where the covered entity demonstrates good faith efforts in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide such individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

"(b) COMPENSATORY AND PUNITIVE DAMAGES. --

(1) DETERMINATION OF PUNITIVE DAMAGES.-- ~~A complaining party may recover compensatory damages under subsection (a) if it is determined that the complaining party has demonstrated the existence of injury requiring compensation by clear and convincing evidence. A complaining party may recover punitive damages under this subsection if the complaining party demonstrates that--~~

~~(A) the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the federally protected rights of an aggrieved individual; and~~

~~(B) the award of punitive damages is necessary to deter the respondent from engaging in such a discriminatory practice or discriminatory practices in the future.~~

(2) EXCLUSIONS FROM COMPENSATORY DAMAGES.-- Compensatory damages awarded under this section shall not include back pay, interest on back pay, or any other type of relief authorized under section 706(g) of the Civil Rights Act of 1964.

(3) LIMITATIONS.-- The ~~sum of the~~ amount of compensatory damages awarded under this section against a ~~respondent who is not a government, government agency, or political subdivision,~~ for ~~future pecuniary losses,~~ emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses, ~~and the amount of punitive damages awarded under this section,~~ shall not exceed --

(A) in the case of a respondent who has ~~more than~~ 100 ~~or fewer~~ employees in each of 20 or more calendar weeks in the current or preceding calendar year, ~~\$50,000;~~ and

(B) in the case of a respondent ~~not described in~~ subparagraph (A), who has more than 100 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, ~~\$100,000;~~ and

(C) in the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, ~~\$300,000;~~

(4) PREJUDGMENT INTEREST.-- ~~The court described in paragraph (1) shall not award prejudgment interest to a complaining party on compensatory damages awarded under this section in an action in which the aggrieved individual is an~~

1 ~~employee or applicant for employment described in section~~
2 ~~717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-~~
3 ~~16(a)). CONSTRUCTION. Nothing in the amendments made by~~
4 ~~this section shall be construed to limit the scope of, or~~
5 ~~the relief available under, section 1977 of the Revised~~
6 ~~Statutes (42 U.S.C. 1981).~~ } New

7
8 "(C) ~~EQUITABLE PENALTY DETERMINATION.~~

9
10 ~~(A) IN GENERAL. A court shall impose an equitable~~
11 ~~civil penalty on a respondent under subsection (a) if the~~
12 ~~court finds that~~

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14 ~~"(i) the respondent engaged in a discriminatory~~
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27 ~~practices in the future.~~

28
29 ~~"(2) EQUITABLE CONSIDERATIONS. In making the finding~~
30 ~~described in paragraph (1)(A), a court may consider~~

31
32 ~~"(A) the nature of the discriminatory practice or~~
33 ~~practices that are the subjects of the action described~~
34 ~~in subsection (a);~~

35
36 ~~"(B) the efforts of the respondent to instruct the~~
37 ~~managers, supervisors, and employees of the respondent~~
38 ~~about legal requirements regarding employment~~
39 ~~discrimination;~~

40
41 ~~"(C) the nature of compliance programs, if any,~~
42 ~~established by the respondent to ensure that~~
43 ~~discriminatory practices do not occur in the workplace;~~

44
45 ~~"(D) any lawful affirmative action under taken by the~~
46 ~~respondent with respect to the group injured by the~~
47 ~~discriminatory practice or practices that are the~~
48 ~~subject of the action described in subsection (a);~~

49
50 ~~"(E) the availability to the aggrieved individual of an~~
51 ~~internal grievance procedure or remediation policy~~
52 ~~established by the respondent;~~

1 ~~"(F) whether the respondent made a prompt investigation~~
2 ~~of the discriminatory practice or discriminatory~~
3 ~~practices;—~~

4
5 ~~"(G) the efforts of the respondent to correct the~~
6 ~~discriminatory practice or practices; and—~~

7
8 ~~"(H) the size of the respondent and the effect of the~~
9 ~~equitable civil penalty on the economic viability of~~
10 ~~the respondent.—~~

11
12 ~~"(3) LIMITATIONS. The amount of an equitable civil~~
13 ~~penalty imposed under subsection (a) shall not exceed—~~

14
15 ~~"(A) in the case of a respondent who has more than~~
16 ~~100 employees in each of 20 or more calendar weeks in~~
17 ~~the current or preceding calendar year, \$[insert~~
18 ~~amount]; and—~~

19
20 ~~"(B) in the case of a respondent not described in~~
21 ~~subparagraph (A), \$[insert amount].—~~

22
23 ~~"(4) RECOVERY OF COSTS.—~~

24
25 ~~"(A) AWARD OF FEES. If a court imposes an~~
26 ~~equitable civil penalty in a case brought under this~~
27 ~~section the court shall award reasonable attorneys' and~~
28 ~~expert witness fees incurred by the complaining party~~
29 ~~in seeking the penalty.—~~

30
31 ~~"(B) RELATIONSHIP TO PENALTY. The court shall~~
32 ~~not subtract the amount of the fees described in~~
33 ~~subparagraph (A) from the amount of the equitable civil~~
34 ~~penalty imposed against a respondent under this~~
35 ~~section.—~~

36
37 ~~"(5) APPLICATION OF PROCEEDS OF PENALTY.—~~

38
39 ~~"(A) CORRECTION OF DISCRIMINATORY PRACTICES. If~~
40 ~~a court determines, in the discretion of the court,~~
41 ~~that an equitable civil penalty imposed under this~~
42 ~~section is needed to correct discriminatory practices~~
43 ~~at the place of employment, or in the community, in~~
44 ~~which the discriminatory practice described in~~
45 ~~subsection (a) occurred, the penalty shall be expended~~
46 ~~all or in part, as directed by the court, to correct~~
47 ~~the discriminatory practices. The penalty may be~~
48 ~~expended to undertake actions such as public awareness~~
49 ~~or education programs regarding discrimination on the~~
50 ~~basis of race, color, religion, sex, or national~~
51 ~~origin, in order to eliminate future discrimination.—~~
52

~~"(B) TRUST FUND.~~

~~"(i) FULL PAYMENT. If a court does not make the determination described in subparagraph (A), the penalty shall be deposited in the Equal Employment Enforcement Trust Fund, established in section 9511 of the Internal Revenue Code of 1986.~~

~~"(ii) PAYMENT IN PART. If a court directs that part of the penalty shall be expended as described in subparagraph (A), the remainder of the penalty shall be deposited in the Fund.~~

~~"(C) DETERMINATION. In making the determination described in subparagraph (A), the court may consider~~

~~"(i) anti-discrimination and anti harassment policies and procedures established by the respondent, prior to the practice that is the subject of the action described in subsection (a), to ensure that discriminatory practices would not occur;~~

~~"(ii) corrective actions taken by the respondent on becoming aware of a claim that a discriminatory practice had occurred; and~~

~~"(iii) policies and procedures established by the respondent after the claim to ensure that discriminatory practices do not occur again.~~

~~"(d) JURY TRIAL.--~~

~~"(1) IN GENERAL.-- (A) If a complaining party seeks compensatory or punitive damages under this section, any party may demand a trial by jury.~~

~~"(2) DETERMINATIONS. If a party requests a trial by jury in an action brought under this section~~

~~"(A) the jury shall determine all factual issues related to liability; and~~

~~"(B) if the determination described in subsection (b)(1) is made~~

~~"(i), the jury shall determine the amount of compensatory damages awarded to the complaining party; and~~

~~"(ii) (E) the court shall not inform the~~

jury of the limitations described in subsection (b)(3).

"(e) ~~(d)~~ DEFINITION.--As used in this section:

"(1) ~~ACCRIEVED INDIVIDUAL.~~ The term 'aggrieved individual' means a person who has been subjected to a discriminatory practice.

"(2) ~~COMPLAINING PARTY.~~--The term 'complaining party' means--

"(A) in the case of a person seeking to bring an action under subsection (a)(1), a person who may bring an action or proceeding under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.); or

"(B) in the case of a person seeking to bring an action under subsection (a)(2), a person who may bring an action or proceeding under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

"(3) ~~(2)~~ DISCRIMINATORY PRACTICE .-- The term 'discriminatory practice' means a practice described in paragraph (1) or (2) of subsection (a).".

~~"SEC. 4. EQUAL EMPLOYMENT ENFORCEMENT TRUST FUND.~~

~~(a) ESTABLISHMENT.~~ Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

~~SEC. 9511 EQUAL EMPLOYMENT ENFORCEMENT TRUST FUND~~

~~"(a) CREATION OF FUND.~~ There is established in the Treasury of the United States a fund to be known as the Equal Employment Enforcement Trust Fund (referred to in this section as the 'Fund'), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

~~"(b) TRANSFERS TO FUND.~~ There are appropriated to the Fund amounts equivalent to the additional revenues received in the Treasury as the result of the amendments made by section 3 of the Civil Rights and Remedies Act of 1991.

~~"(c) EXPENDITURES.~~

~~"(1) PURPOSES.~~

~~"(A) CIVIL RIGHTS ENFORCEMENT.~~ Fifty percent of the amounts in the Fund shall be available, to the

~~extent provided in appropriation Acts, for the purposes of making expenditures to carry out section 706 of the Civil 21 Rights Act of 1964 (42 U.S.C. 2000e-5).~~

~~"(B) FAMILY VIOLENCE PROTECTION. Fifty percent of the amounts in the Fund shall be available, to the extent provided in appropriation Acts, for the purposes of making expenditures to carry out section 303 of the Family Violence Prevention and Services Act (42 U.S.C. 10402).~~

~~"(2) PAYMENTS BASED ON ESTIMATES. Payments under paragraph (1) shall be made on the basis of estimates by the Secretary of the Treasury. Proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred."~~

~~(b) CONFORMING AMENDMENT. Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended in the table of sections by adding at the end the following new item:~~

~~"Sec. 9511. Equal Employment Enforcement Trust Fund."~~

Sec. 4. ATTORNEYS' FEES

The last sentence of Section 722 of the Revised Statutes (42 USC 1988) is amended by inserting ", 1981A" after "1981".

SEC. 5. COVERAGE OF CONGRESS AND THE AGENCIES OF THE LEGISLATIVE BRANCH.

(a) COVERAGE OF THE SENATE.--

(1) APPLICATION TO SENATE EMPLOYMENT.-- The rights and protections provided pursuant to the amendment made by this Act shall, subject to paragraphs (2) through (5), apply with respect to any employee in an employment position in the Senate and any employing authority of the Senate.

(2) INVESTIGATION AND ADJUDICATION OF CLAIMS.-- All claims raised by any individual with respect to Senate employment pursuant to the provision described in paragraph (1) shall be investigated and adjudicated by the Select Committee on Ethics, pursuant to S. Res. 338, 88th Congress, as amended, or such other entity as the Senate may designate.

(3) RIGHTS OF EMPLOYEES.-- The Committee on Rules and Administration shall ensure that Senate employees are informed of their rights under the provisions described in

paragraph (1).

(4) APPLICABLE REMEDIES.-- When assigning remedies to individuals found to have a valid claim under the provisions described in paragraph (1), the Select Committee on Ethics, or such other entity as the Senate may designate, shall to the extent practicable apply the same remedies applicable to all other employees covered by the provisions described in paragraph (1). Such remedies shall apply exclusively.

(5) EXERCISE OF RULEMAKING POWER.-- Notwithstanding any other provision of law, enforcement and adjudication of the rights and protections referred to in paragraph (1) shall be within the exclusive jurisdiction of the United States Senate. The provisions of paragraphs (2), (3), and (4) are enacted by the Senate as an exercise of the rulemaking power of the Senate, with full recognition of the right of the senate to change its rules, in the same manner, and to the same extent, and to the same extent, as in the case of any other rule of the Senate.

(b) COVERAGE OF THE HOUSE OF REPRESENTATIVES.--

(1) IN GENERAL.- Notwithstanding any other provision of law, the purposes of this Act shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) EMPLOYMENT IN THE HOUSE.--

(A) APPLICATION.-The rights and protections under the amendment made by this Act shall, subject to subparagraph (B), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(B) ADMINISTRATION.--

(i) IN GENERAL.-- In the administration of this paragraph, the remedies and procedures made applicable pursuant to the resolution described in clause (ii) shall apply exclusively.

(ii) RESOLUTION.-- The resolution referred to in clause (i) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House

1 Resolution 558 of the One Hundredth Congress, as
2 agreed to October 4, 1988).

3
4 (C) EXERCISE OF RULEMAKING POWER.-- The provisions
5 of subparagraph (B) are enacted by the House of
6 Representatives as an exercise of the rulemaking power
7 of the House of Representatives, with full recognition
8 of the right of the House to change its rules, in the
9 same manner, and to the same extent as in the case of
10 any other rule of the House.

11
12 (c) INSTRUMENTALITIES OF CONGRESS.--

13
14 (1) IN GENERAL.-- The rights and protections under the
15 amendment made by this Act, shall, subject to paragraph (2),
16 apply with respect to any employee in an employment position
17 in an instrumentality of the Congress and any chief official
18 of such an instrumentality.

19
20 (2) ESTABLISHMENT OF REMEDIES AND PROCEDURES BY
21 INSTRUMENTALITIES. -- The chief official of each
22 instrumentality of the Congress shall establish remedies and
23 procedures to be utilized with respect to the rights and
24 protections provided pursuant to paragraph (1). Such
25 remedies and procedures shall apply exclusively.

26
27 (3) REPORT TO CONGRESS. -- The chief official of each
28 instrumentality of the Congress shall, after establishing
29 remedies and procedures for purposes of paragraph (2),
30 submit to the Congress a report describing the remedies and
31 procedures.

32
33 (4) DEFINITION OF INSTRUMENTALITIES.-- For purposes of
34 this section, instrumentalities of the Congress include the
35 Architect of the Capitol, the Congressional Budget Office,
36 the General Accounting Office, the Government Printing
37 Office, the Office of Technology Assessment, and the United
38 States Botanic Garden.

39
40 SEC. 6. SEVERABILITY

41
42 If any provision of this Act, or an amendment made by this
43 Act, or the application of such provision to any person or
44 circumstances is held to be invalid, the remainder of this Act
45 and the amendments made by this Act, and the application of such
46 provision to other persons and circumstances, shall not be
47 affected.

THE WHITE HOUSE
Office of the Press Secretary

PRESS BRIEFING
BY
MARLIN FITZWATER

June 25, 1991

The Briefing Room

12:20 P.M. EDT

INDEX

SUBJECT

Page

ANNOUNCEMENTS

President's Schedule.....1-3
Visit of Korean President Roh Tae Woo
Phone Call to Chancellor Kohl
Meeting with Soviets

DOMESTIC

H.R. 5, Striker Replacement Bill.....3-4
Civil Rights Bill.....6-9
Children's Commission Report.....11-12
Recession/Durable Goods.....12

FOREIGN

London Economic Summit.....1-2
NATO Meeting in Rome.....3
South Africa/Meeting With Congressional Black Caucus..4-11
Cuba/Cienfuegos Nuclear Power Plant.....11
NATO/Meeting with Manfred Woerner.....11
Philippines.....12-13
Middle East.....13-14

1:00 P.M. EDT
#370-06/25

THE WHITE HOUSE
Office of the Press Secretary

PRESS BRIEFING
BY
MARLIN FITZWATER

June 25, 1991

The Briefing Room

12:20 P.M. EDT

MR. FITZWATER: I'll just start with some announcements here. On Thursday, June 27th at 2:00 p.m. there will be a background briefing on the upcoming state visit of Korean President Roh Tae Woo. The briefer will be Assistant Secretary of State for East Asian and Pacific Affairs Richard Solomon.

The President yesterday afternoon called Chancellor Helmut Kohl. The two leaders discussed European security issues, the Chancellor's upcoming trip to the Soviet Union, and the situation in Eastern Europe with particular emphasis on their concerns about the situation in Yugoslavia. I don't have any other details on the call. I think the President wanted to touch bases with him primarily before his trip to the Soviet Union and before the Economic Summit in London.

Q When does he go?

MR. FITZWATER: He goes to -- his meeting with President Gorbachev is in Kiev on July 5th.

Q Is it true that Gorbachev is soliciting from Kohl advice on how to make his presentation at the summit?

MR. FITZWATER: I don't know about that, but I'm sure President Gorbachev would be interested in the advice of any of the Western leaders in that regard. So, that's entirely possible, but I don't know specifically.

Q Did Kohl indicate to the President that he had advised Gorbachev to be more specific in order to sell this idea at the summit? Did he discuss at all what he had told him?

MR. FITZWATER: No, but I think the members are fairly united in wanting a good representation of the economic reform program in the Soviet Union, the progress that they've made, what President Gorbachev sees as his commitment and the chances for success, the course they want to take. But we don't expect him to come in asking for specific amounts of money.

Q While we're in the general neighborhood of the Soviet Union, any guidance on when to expect MFN?

MR. FITZWATER: No, I don't. I do know it's still in the works, but I don't know. I think it will be before we go to London, but that's the best I can do at this point.

Q You doubt it will be this week?

MR. FITZWATER: I doubt it.

Q Well, Marlin, the reports out of Germany about

MORE

#370-06/25

Kohl's upcoming trip to Kiev are that Kohl is really going to the Soviet Union to prime Gorbachev on how to get the utmost in Western aid out of the London summit. As long as Kohl is sort of taking this tack knowing the President's reluctance to commit large amounts of Western aid, wouldn't it have been better form, wouldn't it behoove Kohl to take the initiative and call Bush, rather than Bush having to call Kohl? (Laughter.)

MR. FITZWATER: First of all, I would argue with your characterization of the meeting. I think President Gorbachev and Chancellor Kohl are going to discuss the summit and the presentation, but I've never heard the description that they're going to talk about how to make a request for money. I don't think that's the purpose at all.

Q That's what German officials are telling reporters in Bonn, that Kohl is going to tell Gorby to provide as specific an agenda for reform as he can in London in order to get specific commitment of Western aid.

MR. FITZWATER: That's different than the way you put it the first time. I have no doubt that they're going to talk about specific reform efforts and that's what we want to hear, too.

Q But coupled with reciprocity from the Western powers to give them aid.

MR. FITZWATER: Well, we'll have to wait and see how they respond.

Q Do you have a Moscow summit date?

Q But you're saying Bush called Kohl and not the other way around?

MR. FITZWATER: That's my understanding, yes.

Q Was it a -- call, Marlin?

Q Is he going to call all the seven leaders? I know he's seeing Kaifu; is he going to consult with everybody before London?

MR. FITZWATER: I don't think so.

Q Marlin, can you be more specific on what Kohl and the President had to say about the situation in Yugoslavia?

MR. FITZWATER: I don't have anything on that, really. We have press reports of change there today, but I don't have any specifics at this point. We're hoping for clarification from State, but just don't have it at this time.

Q Is the United States concerned about the plans of Croatia and Slovenia to declare independence?

MR. FITZWATER: I'm going to have to refer you to State on that, Gene; I just -- I don't have the right guidance.

At 1:15 p.m. the President will meet in the Oval Office with NATO Secretary General Woerner. The President will discuss with the Secretary General the two recent NATO ministerials and exchange views on how to ensure a successful summit in Rome this November.

As you'll recall at the summit in London last year, the participants issued a mandate to transform the NATO alliance to take into account changing East-West relations and the dramatic changes in Eastern Europe. We'll have a written readout at the end of that meeting and a photo op at the top.

You just finished the photo op with -- pardon?

Q Is that a heads of state meeting in November?

MR. FITZWATER: Yes, it is, in Rome.

Q Is the President going?

MR. FITZWATER: I would expect so.

You just completed the President's -- the photo op luncheon with federal law enforcement agencies, so you're all aware of that.

This afternoon at 2:00 p.m. the President will meet with select democratic members of Congress to discuss striker replacement legislation.

Q The scab bill.

MR. FITZWATER: This is H.R. 5, the striker replacement bill which bans employers from hiring permanent replacements for striking workers. The President will meet -- we'll have a photo op at the top of that meeting. It's 30 minutes.

Q What's the President's position?

Q -- with all the enemies today.

MR. FITZWATER: We're opposed to the legislation. This is due to come up this summer in the House and then be taken up by the Senate. The bill would ban businesses from hiring replacement workers on a permanent basis to continue operations during a strike. The administration supports the right of employees to strike over unfair labor practices such as the failure to bargain in good faith. In a case like this, employees cannot be replaced. The administration does not support workers who walk off the job because a salary demand has not been met with the consequences of closing the business and potential total job loss. This is what the collective bargaining system is for.

Q Is that a quantum leap, asking for a wage increase to closing the business?

MR. FITZWATER: The Supreme Court, in a 1938 decision, guaranteed the right to hire replacement workers in order to continue business operations. If enacted, H.R. 5 and S-55 would upset the balance of economic power in private sector collective bargaining established over a 50-year period. The union's right to strike is counterbalanced by the employer's equally lawful right to continue its operations with replacement employees.

Q Marlin, why are you having this meeting?

MR. FITZWATER: To urge them to vote against the bill.

Q Are these people who are on the fence or are they Republicans, Democrats? Who are they?

MR. FITZWATER: These are all Democrats, and they are people who are interested in this issue and who we are hopeful to convince.

Q Can you give us a couple of sample names?

Q States?

Q What time, Marlin?

MR. FITZWATER: Two o'clock p.m. These are all

congressman: Rick Boucher, Bill Brewster, Beverly Byron, Jim Chapman, Jim Cooper, Bud Cramer, Kika de la Garza, Ben Erdreich, Pete Geren, Sam Gibbons, Charles Hatcher, Jimmy Hayes, Ed Jenkins, Martin Lancaster, Romano Mazzoli, Stephen Neal, Solomon Ortiz, Owen Pickett, J.J. Pickle, John Spratt and Billy Tauzin.

Q Also on the Hill tomorrow is the labor appropriations, HHS appropriations, and in that is the repeal of the --

Q Marlin, before we get off this striker bill --

Q Yes.

Q -- the repeal of the gag rule on abortions -- is the President going to veto that bill?

MR. FITZWATER: That's the one -- you know, I don't think we -- do we have a veto threat on it? We do have a veto threat on it.

Q You've got a veto threat on this strike-breaker bill too, I presume?

MR. FITZWATER: We do.

Q Wasn't the -- you said since 1938 clearly the unions would have the right to strike, but management has had the right to replace them. But hasn't it traditionally been management replaces workers during a strike with temporary labor that then is released and the permanent workers come back -- the union members come back?

MR. FITZWATER: You're talking about practices, and practices vary from one case to another. But the law is in terms of the rights, and the rights are for replacements. That's the way the Supreme Court ruled in 1938.

Q Isn't it only recently, though, that managements have chosen to replace striking workers permanently to lock them out of their own jobs and to essentially fire them and replace them permanently with scab labor?

MR. FITZWATER: I don't think so. I think there have always been attempts at that sort of thing, just like there have always been -- there have been attempts at strikes to close down businesses. The fact is that this has always been a delicate balance in labor-business relations and in collective bargaining and one that the courts have dealt with time and again over the last 50 years. And it's that balance that we think is worth keeping. It's not an easy one; it's a difficult one that's been challenged on both sides both by practice and by law, but we think it's worth keeping.

Q What do you say to workers who say you're abolishing the right to strike, because if we go out on strike, we'll lose our jobs permanently; we don't have a right to strike anymore?

MR. FITZWATER: I'd say it's not true. We're trying to preserve the collective bargaining rights, and those are the ones that have been established over this long period of time, both in practice and in law.

Q Congressman Dellums said that he thinks the President is leaning toward the lifting of sanctions. Can you give us your assessment?

MR. FITZWATER: The President met for an hour and a half with the Congressional Black Caucus this morning. They discussed principally the civil rights bill and South Africa sanctions.

On South Africa sanctions, Congressman Dellums was quite eloquent in presenting his view of the five or six conditions that

must be met in the law before the sanctions can be lifted, his view being that the conditions have not been met. The President listened, said he appreciated hearing his views and would like to have him submit those in writing in even greater detail if he chooses, and that we would certainly pay attention to his views in making any decisions.

The President said he believed that four out of the five sanctions had been met at this point, that progress had been made in South Africa and that he was encouraged by the progress that President de Klerk had shown in this area.

Q What's the discrepancy on, the count? Dellums kept talking about six. Did that become clear in the meeting, what he meant?

MR. FITZWATER: There's five in terms of the law specifically, but there is a sixth one that's often added that is kind of -- it's not really one of the official conditions, but it relates to whether or not a determination of progress has been made in dismantling apartheid. So you can count it either way.

Q Well, on that point, Marlin, that would appear to be the loophole that the President could use if, in fact, he wanted to escape this strict interpretation of the law. He could say that even the other five were all met, but in his opinion if progress was not being made toward dismantling apartheid, he could keep the sanctions in place. Does he see that he has that option?

MR. FITZWATER: As they pointed out, there are judgments to be made in all five of them in terms of the exact amount of compliance and so forth, but we don't look at that as a loophole, we look at ways to judge the overall process and whether or not the terms of the law have been met. That's what the President will have to do.

Q Is it the administration's position -- does it continue to be -- that the progress that has been made toward political freedoms for blacks in South Africa are now irreversible?

MR. FITZWATER: There again, there's a judgment that has to be made in all of these kinds of questions. I don't know that we have a conclusion on that word.

The five sanctions -- maybe I should go through those with you.

Q Marlin, can you say what the administration's assessment is on each one as to whether it's met or not?

MR. FITZWATER: Well, yes. The preliminary assessment at this point is that four out of the five have been met.

Q But you just said there were judgments to be made on all of them.

MR. FITZWATER: That was their -- we haven't made the final judgment yet; and in our judgment at this time, four out of the five have been met. That includes: repeal the state of emergency and release all detainees, unban political parties and permit free political activity, repeal the Group Areas Act and the Population Registration Act and agree to enter into good-faith negotiations with truly representative members of the black majority without preconditions.

The first, in addition to those four, is: release all political prisoners. In our judgment, the first four that I went through have been met, and we are making a determination at this time on the first one, which is the release of all political prisoners. The Black Caucus takes the view -- they take a unanimous view that

the sanctions should not be lifted; they take individual views as to which of these conditions have not been met and the reasons why. Congressman Dellums generally believes none of them has been met or at least made that argument; many of the other ones say, well, one's been met, two has been met, three has been met, et cetera.

Q Marlin, according to Congresswoman Norton she said the President told the Caucus members that he was not the one who authorized the White House Attorney Boyden Gray and Mr. Sununu to supposedly derail the talks with the Business Roundtable and the Civil Rights leaders. If this is true, can you possibly maybe explain the latitude that Mr. Gray and Mr. Sununu have to negotiate or to come into agreement to work out the civil rights legislation that's now in the Senate?

MR. FITZWATER: Sure. They are negotiating with various members of the Congress and the Senate as well as the leadership of civil rights organizations and others for provisions of the civil rights bill. That negotiation has taken many different forms over the last year or so. The most disappointing to us was when we had agreement reached in negotiation with Senator Kennedy and then was pulled back by members of -- leaders of some civil rights groups who wanted to try to get more. We then had negotiations sometimes directly with civil rights leaders, Bill Coleman, Vernon Jordan, John Jacobs and others, sometimes with members of the Black Caucus that were here today, sometimes with Ralph Neas and others involved in the leadership and directly with senators.

Most recently, at least in the last few weeks, a lot of the negotiations are related to Senator Danforth and his bill, which is a compromise bill that's been put forth. So there have been negotiations with many parties, but essentially all on the same piece of legislation, H.R. 1, and those negotiations continue today. We have sent letters as recently as the last day or two to Senator Danforth from the Attorney General spelling out language changes that we would like to see or that we think we would find reasonable. We've had letters from him on various language. So we're back in the business of trying to find acceptable provisions.

Hopefully we would like to see our bill become the basis of the final bill. But the Danforth bill and, I think, two others are also serving as a basis for compromise. So I think there's a good chance that another bill will be put together.

Q He's asking you about the White House torpedoing the negotiations between civil rights leaders and the Business Roundtable or Council.

MR. FITZWATER: We didn't. And the President told them to call up Mr. Allen and ask him; call up Drew Lewis and ask him.

Q So basically you're saying that it was C. Boyden Gray and Mr. Sununu who took it upon themselves to initiate this relationship with Allen and to basically torpedo --

MR. FITZWATER: They didn't. They weren't negotiating with Mr. Allen. And there was no end to the negotiations. I invite you to call AT&T and ask him; he'll be glad to tell you.

Q Marlin, when you talk about the language that you've sent over to -- that the Justice Department has sent over to the Hill, are you talking about -- is that what President Bush meant when he said that they will take four steps out of five, that they will settle for four? He said that the other day in the --

MR. FITZWATER: On the civil rights bill?

Q He said that if they take four out of five we can have a bill, we can make a deal.

MR. FITZWATER: I don't know. I'll have to ask him what he was referring to. But we are working on language right now. Senator Danforth and the Attorney General and Governor Sununu met this morning to talk about the language of a compromise bill.

Q When you say there's a good chance another bill will be put together, are you referring to a compromise bill that will be acceptable to Democrats as well as Republicans on the Hill?

MR. FITZWATER: Well, hopefully.

Q Congressman Lewis asked the President to avoid using the words "quota" and "quota bill" which he characterized as "fanning the flames." Does the President have any expectation of doing that, avoiding those words?

MR. FITZWATER: No, we don't. If it's a quota bill, we'll call it a quota bill.

Q You said the President met with Danforth this morning to talk about this bill.

MR. FITZWATER: Yes.

Q And does that -- is the President thinking that the Danforth --

MR. FITZWATER: No. Did you say the President?

Q Yes.

MR. FITZWATER: The President did not, no.

Q Sununu did.

MR. FITZWATER: Sununu and the Attorney General.

Q And is there some thought that the Danforth measure proposal provides a kind of framework for a compromise bill that might be acceptable to everyone?

MR. FITZWATER: Well, I wouldn't put it that way, but I'd say that it offers opportunity for compromise and discussions and, hopefully, a bill that the President can sign will emerge from that. But again, we are using our bill as the basis for discussions, the Democrats are using theirs, and we've got three new ones in the middle; and we'll see what we get.

Q One of the members of the Black Caucus indicated that at present they believed they did get an agreement from the President on a cease-fire at least over war of words, that he would allow his negotiators to go in and negotiate and wouldn't hinder them, something to that effect. Is there kind of a freer reign than there was before the meeting this morning?

MR. FITZWATER: Well, I mean, we have never found any trouble with language or the tenor of the debate, that sort of thing. I mean, I don't know what they're talking about.

Q Wait a minute, Marlin. The President was plainly offended by the remarks that were made about Bull Connor and George Wallace and the schoolhouse door. I mean -- and he's made it clear that he was upset about that.

MR. FITZWATER: Is that what they're talking about?

Q I assume. They're talking about quotas being waved in their face on one side and them talking Bull Connor and George Wallace on the other side.

MR. FITZWATER: Well, I heard the discussion of quotas, but I must have missed anything broader than that.

Q Well, was there a moratorium --

Q It came out -- said that there is.

MR. FITZWATER: I'll ask and see. They discussed the words quotas and the fact is, we said if it's a quota bill, we'll continue to call it a quota bill.

Q Did the President say that?

Q They said that they believed that the President had agreed to a cease-fire in a war of words. Quote, "he will not interfere with the negotiations." Is that a fair -- did they come away with a fair understanding?

MR. FITZWATER: No, because we don't believe we've ever interfered with negotiations. We have conducted the negotiations -- ever since Ted Kennedy, as I just went through. From our standpoint, there's no need to discuss getting back to negotiations; we've been in them ever since last summer.

Q Was the --

MR. FITZWATER: I'll ask if there's some other cease-fire that I'm not aware of, but I didn't hear any lengthy discussion on that point. Everybody's -- they wanted to get a bill. The President emphasized that he wants a bill he can sign. There was some mention of the quota language, as I said, and so forth, and somebody said, well, we all ought to lower the rhetoric and so forth, but there was nothing very formal.

Q Was there an agreement to lower the rhetoric?

MR. FITZWATER: I didn't hear it all. I'll ask and see. From our standpoint, I think, we don't feel like we've been raising the rhetoric at all.

Q What did he say, though, when they said to him, we don't want you to use this phrase anymore? We, at least, feel, we perceive this as being divisive, which is what they told us.

MR. FITZWATER: He said that it's a quota bill, we have to continue to say it's a quota bill.

Q So he says forget it, but I'm going to say it anyway?

MR. FITZWATER: No, I don't --

Q Is he the one who said that? Who said it?

MR. FITZWATER: I don't have the President's words, exact words, but he indicated to them that this is not a problem of language, it's a problem of the content of the bill. That if you don't like it being called a quota bill, then change it. It's as simple as that.

Q When you've said several times the phrase, "if it's a quota bill, we'll call it a quota bill," who said that?

MR. FITZWATER: Me. Marlin Fitzwater.

Q In the meeting?

MR. FITZWATER: No; right here.

Q Did the President say anything like that going into

that meeting?

MR. FITZWATER: The President said that if you don't like it being called a quota bill, change the bill. Our bill is not a quota bill. Here's the language, here's what we're trying to do. If there's no reason to be upset over the word, "quota," simply take the language out of the bill.

Q But the Democrats, I think, have already changed the bill. In fact, they say this very bill is so watered down you can barely call it a civil rights bill, so how much changing do you really see needed to be before you could abolish the word "quota"?

MR. FITZWATER: There's legal language that would change those provisions of the bill that we think require quotas, and that's been spelled out very specific to them orally and here. This was not a contentious meeting. It is not a meeting that dwelled on name-calling or words or stop calling each other things; we're going down the wrong track here.

Q Have you all decided if the Danforth bill is acceptable yet?

MR. FITZWATER: We've said that it's a basis for compromise, but we still find our own bill as the acceptable one.

Q Does that mean that you've decided since it's a basis for compromise it would not be a quota bill?

MR. FITZWATER: Well, we aren't going to pass a judgment on it as a bill. We're saying our bill we know is not a quota bill, and we're willing to talk about various provisions. We're in a state of negotiation and we're going to be purposefully vague.

Q I want to go back to that earlier question about Dellums saying the President is leaning toward lifting sanctions. Would you call that a fair characterization of where the President is right now?

MR. FITZWATER: Well, we've had four out of the five conditions met. The President has said that he wants to encourage further reform and move toward constitutional democracy in South Africa, and the law is very specific about lifting the sanctions. But I'll let you characterize as how that looks.

Q Can I follow that? The South African government says that this political prisoner issue will be resolved literally in a matter of a few weeks. And if that's true and you decide that, then will the President lift sanctions in that circumstance?

MR. FITZWATER: Well, we'll just have to wait and see. I won't prejudge it.

Q Apart from whether the spirit of this law that established the sanctions has been met or not, is the President satisfied that, by lifting these sanctions, that his leverage is going to be gone to force change in South Africa? Is he satisfied with what they've done so much at this point that he feels he can lift that leverage?

MR. FITZWATER: The President points out, first of all, that this bill was passed in 1986 over the objections of the administration. In fact, it was vetoed by President Reagan. It was overridden by the Congress and that the conditions and the "shall terminate" section was designed by the Congress as a way of stimulating reform and encouraging reform in South Africa.

The President intends to implement that law to the best of this ability, he will make the judgments that are called for, and we are moving down that road with four out of the five sanctions now

met. But by the same token, we want to keep our options open in terms of making the final decision, so I'm not going to speculate on what he's going to do until he does it.

Q Does the administration believe that the sanctions had any positive effect on the changes that have happened since '86?

MR. FITZWATER: We think they've had some impact, but we've also seen studies --

Q Positive?

MR. FITZWATER: Positive. We've also seen some studies that show a negative impact and studies that show that the political pressure on South Africa was far more efficient than the sanctions. So we believe it's a mixed kind of picture in terms of the results of the sanctions.

Q Dellums draws a distinction between technical compliance with the law and meeting what he calls the spirit of the law. Is that a distinction you recognize?

MR. FITZWATER: We recognize that there are subjective judgments that have to be made in making these determinations. But when Congressman Dellums talks about the spirit of the conditions, we are very concerned that we don't move the goalposts, so to speak, in terms of what the Congress wanted the bill to do. It was pointed out in this meeting the legislative history of this bill was not that these were to be rewards given at the end of a process once South Africa had reached constitutional democracy, that these conditions were ones that were designed to further encourage, to be met in terms of the process of moving towards democracy in that country and that they should be judged in that sense. So we have to take a pretty strict interpretation in terms of judging the exact provisions of the law.

Q Can you tell us, Marlin, if the U.S. government and the South Africa government agree on what a political prisoner is, if you agree yet on the definition? Is there a conclusion to that sort of discussion?

MR. FITZWATER: I don't know how the South Africa government feels about it. I gave you our definition the other day and we'll make judgments in accordance with our definition.

Q And you're still reviewing those prisoners that presumably will be released at some point this summer?

MR. FITZWATER: Right.

Q To see if they're -- okay. That's not finished, though?

Q As you've said before, Dellums is planning to deliver the data on why they feel the points haven't been met. But he also said that he asked that Bush "consult with us prior to the decision." Did the President commit to do that, or does he plan to do it?

MR. FITZWATER: Yes, he did. Today was the first day we had consultations. They were very good. It went on for an hour and a half, he got to hear their views quite in-depth, and I think they were generally appreciative of that possibility.

The President also invited them to submit more detailed views on the matter -- particularly Congressman Dellums wanted to address each of the five or six conditions. The President invited him to do that, and the President said he would continue to consult with him.

Q Do you expect at least one more consultation prior to the decision to remove sanctions?

MR. FITZWATER: There may not be a meeting. I mean, I don't know what you're expecting there.

Q I said consultations. I don't know what it means. How would you define it?

MR. FITZWATER: I couldn't give a definition because it could happen so many different ways.

Q But there will be one, whatever it is.

MR. FITZWATER: There might be 100. Consultations are consultations.

Q This morning the chief of the Cuban Interest Section had a press conference and said that the United States hadn't made any formal proposals to Cuba about the safety of this nuclear reactor near Cienfuegos on the southern coast. He was asked about this because the State Department did have Assistant Secretary Kozak up on the Hill a couple of weeks ago, saying that they are concerned and so forth. But he said there has been no proposals from the United States government. Is the administration satisfied that there is no problem with this Cienfuegos nuclear reactor --

MR. FITZWATER: I think I'm going to have to refer you to the State Department.

Have you seen anything? Do I have anything on it, Roman?

MR. POPADIUK: -- we've said we've got concerns and --

MR. FITZWATER: The State Department apparently does have a response to that; I just don't have it with me. I don't know what that position is.

Q Marlin, what's the latest on START and a Soviet summit?

MR. FITZWATER: Bartholomew leaves today for the Soviet Union or for Geneva.

Do you know which he's going to?

MR. POPADIUK: Geneva is --

MR. FITZWATER: I think it's Geneva for START talks. He's taking a delegation with him. That includes our arms control experts, NSC staff and Arms Control Disarmament Agency and so forth. So --

Q Are they carrying any reaction to the Gorbachev letter?

MR. FITZWATER: They'll be able to respond to that at the table in Geneva, yes. We now have a situation where we've laid out our position in a letter to President Gorbachev; President Gorbachev's laid out his position in a letter to us. He and President Bush have discussed this on the telephone, and now our negotiators will sit down at the table and start haggling over the fine points.

Q Is that at all -- to come up at the Woerner meeting today? Does he have any input?

MR. FITZWATER: I don't think so.

Q On the Children's Commission report, Congresswoman

Waters said that she urged the President to consider revisiting the Budget Reconciliation Act in order to redirect some resources toward children's programs. Is the President at all willing to tamper with last year's budget --

MR. FITZWATER: He pointed out, as I did yesterday, that there are many aspects of the report that we agree with and appreciate. We certainly are in agreement with much of the problem and the analysis that was done there, but the report is flawed in the sense of not giving any detailed way of raising \$56 billion in the first year, that that remains a problem and we'll continue to press for solutions. But the exact problem that -- or the exact solution that's proposed in this report constitutes a cost that we don't really know how to pay for, and the report doesn't tell us.

Q Would you reopen the budget reconciliation act --

MR. FITZWATER: No, we don't intend to. The budget agreement is a very important one from the standpoint of holding down spending, and we don't intend to reopen it.

Q Durable goods orders were up 3.8 percent in May and 3.6 percent in April. This follows increases in the auto industry, housing industry. Is the recession over?

Q I just happen to have something on that.

MR. FITZWATER: Your question is too easy, Dave.
(Laughter.)

Q Yes or no?

MR. FITZWATER: Let me go back to the hard part first.

Durable goods rose 3.8 percent in May, following a 3.6 percent increase in April. The increases in May and April follow three consecutive monthly declines. The increases in orders and shipments point to a strengthening of the manufacturing sector. So we are encouraged by this. Your question goes to, does this mean the recession is over. I don't think we can proclaim that, but it is another one of the continuing building blocks that are piling up that show a recession is ending and that we are slowly crawling out of this.

Q How concerned is the President about the situation at Clark Air Force Base in the Philippines and the reports about the \$300 million it's going to take to even just to begin to repair the damage? Is there any type of feasibility study that's looking into the possibility of not even keeping it open at this point?

MR. FITZWATER: We are concerned about it, particularly the enormous costs associated with cleanup and a return to operation there. Evacuation operations are near an end, and according to our latest report, some 17,683 people have been evacuated from Subic Bay. At Clark, essential services have been restored to all occupied living areas. At Subic Bay, power has been restored to most facilities.

But there is an analysis going on of the costs of cleaning up and reconstructing the base. As you know, we were in the midst of base negotiations with the Philippine government when this occurred. It seems clear that those costs and how long it would take to repair these damages and so forth will have to be considered in light of our base negotiations. At this point we just can't say what impact that will have, but it's bound to have some impact.

Q So there's a possibility, then, you all may pack up and just make it basically a skeletal base.

MR. FITZWATER: Well, at least when our analysis is done,

we'll have to take into account the costs and then make judgments about the negotiations in terms of how much we're willing to pay or about alternative uses.

Q Marlin, had Syria replied yet to the letter the President sent out last month urging compromise to bring the Middle East peace process back from the dead?

MR. FITZWATER: I don't believe so, but I should check with State because I haven't checked in a couple of days. Have you heard, Roman?

MR. POPADIUK: No, I haven't --

MR. FITZWATER: Yes, I don't believe they have.

Q The Israeli ambassador has another meeting here, I think, Defense Minister Arens is here. There's been suggestions that the Israelis have become -- they've begun to recognize that if they don't stop putting settlements into occupied territories that we may withdraw aid for housing and that sort of thing. Was there some kind of condition laid down by Baker to Shamir on that last trip, and is this the fruition of that? Is this actually occurring? Have we given them some kind of ultimatum?

MR. FITZWATER: I don't believe so. Our policies are well-known. We are opposed to the settlements. We think they are an obstacle to peace. That has been a difficult issue to deal with throughout the efforts to get the peace process going, but I don't believe there have been any special conditions. We don't really approach that issue again until the fall when there will be another request for housing assistance, but I don't think that's right.

I'd like to go back just a minute to an earlier discussion. I worry that Frank or -- somehow we got caught up in this debate over a quota and lowering the rhetoric, because that was not an issue. And I would hate to see that overshadow this meeting, because it really was not discussed in any length or with any special emphasis at all. In fact, the emphasis was on that we are negotiating, that Danforth is down here, that we do have language going back and forth and that we're trying to get a compromise bill. So I think the members left that meeting with more hope than concern.

Q No, that's what they were saying. They were saying he agreed to lower the rhetoric, that they felt better about it.

MR. FITZWATER: Well, that's fine then. I don't want to discourage that.

Q But you're saying he didn't agree to lower it.

MR. FITZWATER: From our standpoint, the rhetoric has not been high. There was no special discussion of it. It was not an issue. From our standpoint, we are negotiating; both sides, we believe, are in good faith. There's not a rhetoric problem.

Q You said there's a better chance that that bill will be put together. Is that based on sort of touchy-feely stuff or because Danforth came down here with some better ideas this morning or what?

MR. FITZWATER: It's based on language going back and forth, very specific kinds of debates that -- for those, let me just show you. What? I'm losing them? Tell me if they leave.
(Laughter.)

Q Listen to your radio this afternoon, Marlin.

MR. FITZWATER: Huh?

Q Ooooh.

MR. FITZWATER: Ooooh. Nobody likes a threat, Bob.
(Laughter.)

Q It's promise, not a threat. (Laughter.)

Q I've forgotten what he's looking for. I don't know what he's doing.

MR. FITZWATER: Anyway, I have a series of long letters here that have gone back in the last two or three days that lay out specific language that is acceptable that is of concern to us. And so I just want to show you that good-faith negotiations are going on right now.

Q Can you make those available?

MR. FITZWATER: I'll check and see.

THE PRESS: Thank you.

END

1:00 P.M. EDT
#370-06/25



UNITED STATES SENATE
WASHINGTON, D. C.

JOHN C. DANFORTH
MISSOURI

June 12

THE CHIEF of STAFF
has seen

Dear John -

More good news from
Operation Soft Soap.

Please note the
highlighted portion.

Jack

- Tuesday, June 11, 1991

PBS's "MacNeil/Lehrer": Sen. John Danforth

Transcript ID: 720577 (237 lines)

MACNEIL/LEHRER NEWSHOUR
INTERVIEW WITH:

SENATOR JOHN DANFORTH (R-MO)

JUNE 11, 1991

MR. LEHRER: That brings us to Senator Danforth. He joins us from Capitol Hill. Senator, welcome.

SEN. DANFORTH: Thank you, Jim.

MR. LEHRER: First, how does your bill differ from this one that passed the House last week?

SEN. DANFORTH: I'm not sure how badly you want to know because this is lawyers stuff largely, very, very technical.

What we tried to do, the basic strategy, is to hit the reasonable middle, to have a balanced proposal that gives employees who have been discriminated against a reasonable opportunity to make their case in court and if they've been injured, to recover.

On the other hand, to give employers an opportunity to defend themselves without resorting to quotas.

MR. LEHRER: Well, let me ask --

SEN. DANFORTH: So the basic strategy was to hit the middle.

MR. LEHRER: And you feel you have?

SEN. DANFORTH: I feel that we have, and I think one of the gratifying things is that since last week when we introduced the legislation we received a lot of positive comments from a whole variety of people, Republicans and Democrats, who think that we're trying to do the right thing.

MR. LEHRER: Is your bill a quota bill?

SEN. DANFORTH: Our bill is definitely not a quota bill. We are trying to make it clear that under no set of circumstances would we favor a quota bill or do we want that kind of result.

We want it possible for aggrieved people who have been discriminated against to make a case. We don't want them to be shut out of the courthouse. On the other hand, we want employers to be able to defend themselves, to show that their practices are matters of business necessity, that whatever they're doing is justified without having to resort to quotas.

MR. LEHRER: Well, the Republicans, your colleagues in the House, said the Democratic version, the one that passed last week, left the employer with no other choice than to instill or to institute quotas if in fact they wanted to avoid having to pay off under that law.

Does your bill change that in some way?

SEN. DANFORTH: Well, I think it does. Without getting into a characterization of what the House bill did or did not do, what we are trying to do is to allow the employers to be able to demonstrate that whatever their employment practices are, they are justified by business necessity, that their business practices have a manifest relationship to the effectiveness of a person in doing the job or to the interests of the business.

So the idea is to have a balanced approach. If the employee is truly being discriminated against, then the employee should have his or her day in court. On the other hand, the employer should not have to have very artificial hiring practices in order to create some numerical balance.

MR. LEHRER: Senator, why are you trying so hard to reach a compromise?

SEN. DANFORTH: I think that there is a very widespread view in this country on the question of fairness in employment. People want to be hired and want others to be hired on the basis of how they can do the job, not on the basis of race or religion or gender.

And they also don't want to be shut out of the workplace or be discriminated either for or against on the basis of those reasons.

So I think that when we have a broad national consensus, we should try to remove the issue from partisan politics. We should try to resolve it in a way that I think meets the national consensus.

I think this is a case where the politicizing of the issue, instead of building on the national consensus, has tended to fragment the country, and I think that's the worst thing politicians can do.

I think the basic task for us in the public forum in elective politics is to try to build bridges and to try to build a consensus in the country and to build on that consensus in an attempt to create issues or take advantage of issues that may be polarizing and may be of advantage politically but that are very bad for the country.

MR. LEHRER: I take it, then, that you believe that this debate that has gone on these last few weeks, particularly in the last several days, has not been good for the country?

SEN. DANFORTH: I think that the debate has been very bad for the country, and there are very few debates that I would say that about but this is a case where it has been bad.

This country really depends on all kinds of people, all kinds of groups and races and religions having a reasonable accommodation to each other and have a basic standard to fairness in dealing with each other.

One of the pieces of conventional wisdom in elective politics is that the more that you try to strongly define a position, take a position which is extremely clear, the better off you are. So the polarizing issues the political consultants tell you, the polarizing issues are advantageous. Be clear, be combative, hit the hot buttons, win the election, Press RETURN for next screen, (or 'BACK' or 'MENU')...

But I think that in the case of race or religions or gender or disability, in the case of the basic fairness of the system, that kind of polarizing issue is a very big problem and is very bad for the country.

MR. LEHRER: So when in this case both sides accuse the other of trying to make political hay out of this, what you're suggesting is that there is political hay to be made because the issue is so divisive. Is that correct?

SEN. DANFORTH: There is political hay to be made and I have heard people say that this shows up in the polls. We can win seats in the House and seats in the Senate by playing the race card, or by playing the quota card in politics.

I think it's not worth the seats. I think that it's just too much damage to the country.

I want to say this also, Jim. I am absolutely convinced that the President wants to resolve this. I think that he is making a very good faith effort. I think that his own legislation, while it's not going to become law, is a serious effort to try to resolve this.

And from my discussions with the President while this was a live issue last year, I think he also wants to get it out of partisan politics.

MR. LEHRER: Has he signed on to your bill?

SEN. DANFORTH: No, but the good news is that there was a very extensive discussion at the staff level that began at 1:00 this afternoon and lasted almost five hours.

MR. LEHRER: This afternoon?

SEN. DANFORTH: Yes. And it will resume again tomorrow. Going into, with very great detail, line by line into the proposed legislation.

I think that that's constructive. I think that we're now at a point where we're trying to work out the differences.

MR. LEHRER: The word has been, as you know, Senator, that the President hasn't been the complete problem, that two of his key staff members, chief of staff John Sununu and his White House counsel Boyden Gray have been the real stumbling blocks. Can you confirm that?

SEN. DANFORTH: Well, I've spoken with Governor Sununu a number of times in general terms. I mean, we have not gone into the details, but in very general terms. And I also worked with him last year in considerably more detail about the legislation and he has encouraged me to try to work something out.

That doesn't mean that he has signed on. That clearly is not the case. He's representing the President. He represents him very ably. But Governor Sununu last year put a lot of time into working something out and he has been very encouraging in my efforts to far. Not signing on but at least in trying to accomplish something.

MR. LEHRER: How would you read the sentiment on the other side, your fellow Missourian -- we just saw him on a clip -- the House Majority Leader Richard Gephardt, in the Senate, Senator Kennedy, who's leading the other side -- how do those people -- how are they reacting to your bill?

SEN. DANFORTH: Senator Kennedy has used the word "constructive." He has some problems with some of the points in the bill and I would expect that and I would expect that also from the White House. But he has said that it's constructive.

Congressman Gephardt spoke to me about this late last week, very warmly about it. The good news is that we've received such favorable comments from Democrats and Republicans, and really from all kinds of people.

I think that there is a generally held view in the country and here in Washington as well -- generally held, not universally -- that we should try to resolve this issue, that we should try to come up with balanced legislation that deals with the problems that were created by the Supreme Court, that we should not favor an approach that discriminates against people or in favor of people because of their race or other reasons.

So I think it's been a very positive response. That's not to say that there aren't mountain ranges to cross in the future. There certainly are, but it's been very positive.

MR. LEHRER: Finally, how are you going to resolve this political thing? How are you going to get political people to back off of a political advantage that they might otherwise get?

SEN. DANFORTH: Well, it's a very fluid situation. I'm not really sure what the answer to that is. It's a bit of one step at a time. We started out with 9 Republican Senators who have co-sponsored this, and they have really been heroes. And then we move on from them, step by step.

There has been some interest among some Democrats into possibly joining on, or at least being supportive. The discussions are going forward with the administration and somehow we hope it all works out.

MR. LEHRER: And shame each person as you go, one step at a time.

SEN. DANFORTH: One step at a time.

MR. LEHRER: Senator, thank you very much.

END

OPTION 2

THE CHIEF of STAFF
has seen

The term "required by business necessity" means --

(1) in the case of employment practices primarily used for measuring qualifications for or ability to do the job, the challenged practice must bear a manifest relationship to the employment in question.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

ISSUE #2: DEFINITION OF BUSINESS NECESSITY**OPTION 1**

The term "required by business necessity" means-- the challenged practice must bear a manifest relationship to the employment in question.

OPTION 2

The term "required by business necessity" means--

(1) in the case of employment practices primarily measuring qualifications for or ability to do the job, the challenged practice must bear a manifest relationship to the requirements for effective job performance.

(2) in the case of employment practices not described in (1) above, the challenged practice must bear a manifest relationship to a legitimate business objective of the employer.

The term "requirements for effective job performance" includes--

(1) the ability to perform the actual work activities required by the employer for a job or job family; and

(2) any requirement related to work behavior that is important to the performance of the job, but may not comprise actual work activities.

CURRENT LANGUAGE

The term "required by business necessity" means--

(1) in the case of employment practices involving selection, that the practice or group of practices bears a manifest relationship to the requirements for effective job performance; and

(2) in the case of other employment decisions not involving employment selection practices as described in paragraph (1), the practice or group of practices bears a manifest relationship to a legitimate business objective of the employer.

The term "requirements for effective job performance" includes--

(1) the ability to perform competently the actual work activities lawfully required by the employer for an employment position; and

(2) any other lawful requirement, that is important to the performance of the job, including, but not limited to, factors such as punctuality, attendance, a willingness to avoid engaging in misconduct or insubordination, not having a work history demonstrating unreasonable job turnover, and not engaging in conduct or activity that improperly interferes with the performance of work by others.

THE CHIEF of STAFF
has seen

From the desk of
George Bush

cc John S

24579

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CAREY WAGNER
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SUSAN STOLL ZEDECK
MICHAEL R. ZIENTS

WRITER'S DIRECT NUMBER:

June 11, 1991

The Hon. George Bush
President of the United States
The White House
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Mr. President:

It was very kind of you to send me the pictures of my recent visit with you at the White House and, of course, they now adorn my office wall. I am grateful.

I am very happy with my professions as a lawyer, a television, radio and newspaper commentator and lecturer at New York University.

I have stayed in touch with Governor Sununu on H.R.1 and am doing my best to support your position on that legislation. You are absolutely correct: H.R.1 is legislation which would encourage racial, ethnic, religious and gender quotas.

I thought you would be interested in my recent column pointing out how foolish some of the editorial writers are.

All the best.

Sincerely,

Edward I. Koch

June 7, 1991

ED KOCH



AS Jimmy Cannon used to say, nobody asked me, but . . .

The New York Times demonstrated a lack of logic with its recent editorial supporting race norming, a race-driven test process that has been denounced across the board.

To quote columnist Carl Rowan, "I don't want anybody's formula for automatically enhancing the scores of blacks, Hispanics or any other minority. I don't want to hear anyone say, 'We'll only judge whites against whites, blacks against blacks and Hispanics against Hispanics.'" How

can The New York Times say, as it continually has, that it doesn't believe in quotas, yet supports race norming?

Getting a grip on the issues of the day

Last week, Newsday editorially denounced President Bush for opposing the proposed civil-rights bill, saying he was engaging in "race baiting." Is it race baiting to oppose a bill that you feel will encourage racial, ethnic, religious and gender quotas?

Isn't it curious that Ted Kennedy felt he needed to call his lawyer three times during the two days following the alleged rape involving his nephew? Can you believe that when police asked him why he called the first time he said, "... to wish him happy holiday... Passover"?

Isn't it wonderful that Ted Kennedy is so solicitous of his lawyer's religious sensibilities?

David Dinkins' strong defense of Winnie Mandela after her recent criminal conviction was not duplicated in the black community in South Africa. The international press covering the trial thought it was conducted fairly, yet Dinkins rejected the verdict and announced in New York that it had not been a fair trial.

How bizarre. Remember, this is the "mother of necklac-ing" we're talking about.

Everyone who is upset with the U.S. Supreme Court ruling barring abortion advice by federally funded clinics shouldn't simply hope for Congress to change the law. They should put their money where their mouth is.

I am. Send a check to Planned Parenthood.

Is Times losing its grip on logic?

Did the Reagan/Bush ticket scheme with the Iranians to delay the release of American hostages until Reagan took office? Columnist Jonathan Schell has called for an investigation, while admitting it is all speculation.

If we are going to conduct investigations based on speculation, why don't we look into the rumor that Joe Kennedy

stuffed ballot boxes in Chicago to elect son John, and, if true, declare Nixon the winner?

Or even more interesting, find out what state secrets, if any, John Kennedy gave the two Mata Hari-type spies he was dating.

Will the Democratic Party ever concede it was wrong to have opposed Contra aid and to have supported the Boland Amendment? Without the U.S. military support delivered to the Contrás by Reagan, Violeta Barrios de Chamorro wouldn't have won the presidency and both Ortega and the Sandinistas would still be in power. When she recently addressed a joint session of Congress, Democrats interrupted her with thunderous cheers and applause many times.

The White House and Ollie North and company shouldn't have violated the law and subverted the Boland Amendment. Question: Whose actions saved or harmed more people?

When I was the congressman from the Silk Stocking District on Manhattan's East Side, my mail would overwhelmingly read, "Save the whales," "Save the dolphins," "Save the Jews," — in that order.

Now, 20 years later, we have progressed and are saving all three. Israel and the U.S. deserve enormous praise for having saved the black Jews of Ethiopia. Saving Jews was at least among the top priorities, even if it was not the first.

Thirty years ago, historian Arnold Toynbee referred to the Jews and their culture as a "fossil." Some fossil. After all, the Jews, while never numbering more than one-third of 1 percent of the world's population, produced: monotheism; Moses, the lawgiver; Jesus, God to more than a billion Christians; Marx, God to more than a billion communists; fewer each day; Freud, God to the rest of humanity with some people having multiple commitments; Einstein, God to the cerebral and 16 percent of all Nobel Prize winners. A lively fossil indeed.



UNITED STATES SENATE
WASHINGTON, D. C.

JOHN C. DANFORTH
MISSOURI

June 4, 1991

Honorable John H. Sununu
Chief of Staff to the President
The White House
Washington, D. C. 20500

Dear John:

As promised, I send you the following:

1. Comparative drafts of two of the three bills which have been highlighted to show changes made at the suggestion of Senator Dole.
2. A copy of my statement at the news conference, highlighted to show the paragraph mentioning the President.
3. Excerpts from various statements at the press conference and later on the floor of the Senate concerning the President's efforts.

Thanks, John, for all you are doing to help resolve this issue.

Sincerely,

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

Enclosures