

in maintaining this power in the House of Representatives and in the Senate.

The court ruled that it just is not constitutional for a President to be able to rescind an appropriation or specific tax or a specific tax benefit, or for even that matter, a regulation. This is far and beyond anything intended by the writers of the Constitution. I am convinced the founders of this country, the writers of our Constitution, would have been proud of this ruling.

The line-item veto gives too much power to the President. It gives the President political power. It gives him the chance to lobby for his particular piece of legislation with the threat that if you do not vote for what I want, I can line-item veto that special thing that you like for your district.

Having been in the Congress prior to this term for several years, I had been lobbied on a few occasions by conservative Presidents, and the only time they ever called was for me to vote for more spending, never less spending. So I see the line-item veto as something a President can use actually to enhance or increase spending, not to reduce spending, which is the intent.

The line-item veto will still be ruled on again in the Supreme Court. I am sure it will be appealed. I will be anxiously awaiting to find out exactly what occurs there, but already in the corridors I hear a fair amount of grumbling among our fellow Members, Members who are saying, I wonder what the President is going to do. Is he going to take his veto pen out and line-item out a special project. I think that is a justifiable concern.

I think it is important that we concern ourselves about these issues because the main goal that we ought to have is to follow our oath of office, which is to obey the Constitution, and we should not be passing legislation that disregards the Constitution.

When the judge ruled, he had a statement that was somewhat out of the ordinary, but to me rather profound. He said that it is critical that we maintain the separations of powers in order to preserve liberty. That is the purpose of the separation of powers. It is to preserve liberties. It was designed deliberately, specifically, and we must cherish it.

I have to compliment those individuals from the other side of the aisle who brought suit, took it to court, and insisted that this be ruled on with the sincere belief that it is unconstitutional to have a line-item veto. I appreciate that very much.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. MCINTOSH] is recognized for 5 minutes.

[Mr. MCINTOSH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

#### NOMINATION OF ALEXIS HERMAN AS SECRETARY OF DEPARTMENT OF LABOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, very soon the other body will vote to confirm Alexis Herman as Secretary of Labor. I am sure that the Senators will vote almost unanimously for her because no one has been asking the tough questions that need to be asked about this nomination, yet the liberal magazine, *The New Republic*, has a scorching article about Ms. Herman in its current issue.

The *New Republic* would ordinarily be one of the strongest supporters for someone like Ms. Herman, but listen to what *The New Republic* has to say about her. "It would not be quite accurate to say that Herman's political career has been tainted by cronyism. Her political career is cronyism. For Herman, it seems government has meant little more than a way to enrich herself and her friends."

The President should reconsider this nomination in light of all of the reports in *The New Republic*, *The Washington Times*, and other publications concerning questionable financial dealings. It appears that Ms. Herman has spent her career doing political wheeling and dealing at great expense to the American taxpayer. Let me mention just two examples.

Ms. Herman was paid \$600,000 simply for advising on hiring minority firms for construction of the Federal Triangle project in Washington, DC. Six hundred thousand dollars is an unbelievably exorbitant fee for this type of work. Then the project was criticized for its very poor job in hiring minority firms, the very thing for which Ms. Herman was being paid. The Senate should have subpoenaed Ms. Herman and her records and questioned her in great detail about exactly what she did to get all of this money. This project, with interest, financing and all of the sweetheart deals, is going to cost \$2 billion, according to the GAO, and be the most expensive Federal building project in history.

Then there is the Market Square project, also in Washington, DC. According to *The Washington Times*, Ms. Herman was reportedly given a 1-percent ownership primarily because of her connections to Washington, DC Mayor Marion Barry. This 1-percent interest may now be worth as much as \$500,000, which she got to be a minority partner, even though she never invested any of her own money.

There are other examples, Mr. Speaker, and every Member of the other body should read this article in the current issue of *The New Republic* before they vote to confirm Ms. Herman. The title of the article is "Dishonest Labor." I will be sending every Member of the other body a copy of this article tomorrow.

I have no illusions, Mr. Speaker. I know she will be overwhelmingly confirmed, but the Senate should not confirm someone who has gotten rich for very little work or investment at great expense to the taxpayer. No one should be put in charge of a major department of the Federal Government who has such a cavalier disregard for the taxpayer.

At the very least, Mr. Speaker, I certainly hope that when she is confirmed that she stops all of this cronyism and political and financial wheeling and dealing while she is in office. Also, I hope the national news media will stay on guard and closely question every single contract the Department of Labor enters into under her leadership. Is she going to give all the contracts to her friends and pals and political buddies?

I close, Mr. Speaker, by repeating the words from *The New Republic*, not my words, but theirs. "It would not be quite accurate to say that Herman's political career has been tainted by cronyism. Her political career is cronyism. For Herman, it seems government has meant little more than a way to enrich herself and her friends." Not my words, Mr. Speaker, but those of *The New Republic*. Surely we can do better for one of the highest offices in our land.

[From *The New Republic*, April 28, 1997]

#### DISHONEST LABOR

(By Jonathan Chait)

Richard Shelby has distinguished himself in the United States Senate mainly by his passionate and oft-professed hatred for the Clinton administration. Indeed, he has made a career out of Clinton-hating, once proclaiming gleefully that his animosity for the president formed the basis of his popularity in his home state of Alabama. In February 1993, before other Democrats had even polished off the leftover champagne from Clinton's inauguration, Shelby attacked the White House for raising taxes. Clinton retaliated by moving ninety NASA jobs out of Alabama. The relationship went downhill from there. Just after the 1994 elections, Shelby shed his last Democratic vestiges and joined the Republican Party. Like Strom Thurmond and other Dixiecrat-turned-Republicans, Shelby took to the GOP faith with more fervor than most lifetime believers. As a reward, his new party handed him the chairmanship of the Intelligence Committee, from which Shelby resumed his antipathetic ways: over the last two months he almost single-handedly harangued Anthony Lake into forsaking his nomination for CIA director.

On March 19, still basking in the afterglow of Lake's demise, Shelby spoke before the Senate Labor and Human Resources Committee, which had gathered to decide the fate of another controversial Clinton nominee, Labor Secretary-designate Alexis Herman. On this occasion, however, Shelby came to praise, not bury, a Clinton nominee. In proud, almost pious tones, he introduced Herman as if she were a conservative convert. "She's worked in the vineyards," he declared. "She's worked in the Democratic Party. She's worked in the White House. She has earned her way the hard way: by hard work." Shelby wasn't the only senator

cooing. Other, normally belligerent Republicans burlbed equal goodwill. Their few forays into the known areas of controversy regarding Herman were so polite as to be almost apologetic. The four-and-a-half-hour love-in ended in smiles and mutual praise, the prelude to an expected overwhelming confirmation by the Senate.

How striking is the contrast between Herman's cruise to confirmation and the experiences of other Clinton appointees. Nomination struggles have plagued Clinton from the beginning. Lake's ordeal providing only the most recent example. To be sure, the Senate has given a bye to a few Clinton nominees. But those exceptions, like Madeleine Albright or William Cohen, arrived with impressive résumés, untainted by scandal. Herman, by marked contrast, is perhaps the least qualified—and certainly the most scandal-plagued—nominee that Clinton has put forth over the course of his presidency. Her harmonious confirmation is not merely curious, but perverse: the intellectual and ethical debasements that ought to have disqualified Herman are the very things that have saved her.

It would not be quite accurate to say that Herman's political career has been tainted by cronyism. Her political career is cronyism. For Herman, it seems, government has meant little more than a way to enrich herself and her friends. Herman's Washington career dates back to the Carter administration, where she headed the Women's Bureau of the Department of Labor. There she linked up with Little Rock civil rights pioneer and Clinton friend Ernest Green, who ran the department's Employment and Training Administration (and who is currently playing a supporting role in the Clinton fundraising scandals). Following the 1980 presidential election, the department frantically shoveled millions of dollars in grant money out the door before the Reagan administration could take over. The largest grants went to two sources: a training program that employed Green and Herman before their Labor tenure, and a youth training program run by Jesse Jackson, a close Herman friend. In 1981, Green and Herman formed a diversity consulting firm, Green-Herman & Associates Inc., which got a quick boost from Jackson. In those years, the reverend frequently threatened boycotts of companies he deemed insufficiently diverse. When Jackson's targets sued for peace, according to media accounts, he recommended that they hire Green-Herman & Associates.

The diversity consulting business proved lucrative for Green & Herman. Corporations hire diversity consultants mainly to avoid lawsuits. Thus, the two enjoyed a particular advantage: as consultants, they could sell advice on complying with the affirmative action laws that, as government officials, they had enforced.

One way to comply with those laws, it turned out, was to give Alexis Herman a great deal of money. Bob Mendelsohn, a real-estate developer who had met Herman while he was working for the Interior Department under Carter, quickly figured this out. In 1986, he gave her a 3.34 percent stake in his venture to build a complex of offices and condominiums in downtown Washington. Herman sold part of her holding and recently valued the rest at somewhere between \$500,000 and \$1 million, a strong return for an investment of zero dollars. Mendelsohn handed out similar deals to two other limited partners, bringing the minority ownership to 10 percent, in order to comply with federal affirmative action guidelines. Mendelsohn could have bestowed this windfall upon any number of more needy black Washingtonians. But Herman had something that escaped her less fortunate cohabitants: a tight

relationship with Washington Mayor Marion Barry, who held considerable sway over which firms received building contracts in the district. Mendelsohn later insisted that Herman's clout played no part in his decision.

In 1989, Herman became chief of staff at the Democratic National Committee, working directly under another mentor, Ron Brown, then party chair, later secretary of Commerce. Her firm, now A.H. Herman & Associates (Green had gone into investment banking), remained under her control. The next year Mendelsohn hired her firm to help him win an even bigger contract. For \$600,000, A.H. Herman designed Mendelsohn's affirmative action plan. Mendelsohn won the fiercely contested contract, although his company had been underbid by hundreds of millions of dollars and had given what one knowledgeable insider described as a vastly inferior proposal. Mendelsohn claims that Herman's post at the DNC played no role in either his decision to hire her or the government's decision to award the contract to Mendelsohn.

Later, the Mendelsohn-Herman building deal came under fire in Congress—because, ironically, some congressmen thought its affirmative action program was not aggressive enough. According to numerous press accounts at the time, Herman took her DNC clout to the Hill to lobby for continued funding, a move widely criticized as a conflict of interest. Herman recently wrote to the Senate Labor Committee that she has “no recollection of lobbying either Members of Congress or their staffs.” Her spokesman, Joe Lockhart, has denied outright that she lobbied for Mendelsohn. But, according to a 1990 article in *The Washington Business Journal*, “sources at the House Government Operations Committee” maintained that Herman “did not hesitate to appear at meetings between legislative aides and the Delta Team [Mendelsohn's group].” The article reported that Mendelsohn had “said he had asked Herman to go to the Hill to address concerns about minority participation in the project because she had written the plan.” Mendelsohn now denies having asked Herman to lobby and insists the 1990 article “got a lot of things wrong.”

Despite the alleged conflict of interest, Herman's political stock continued to rise. With Ron Brown devoting much of his time to fund-raising, Herman ran the day-to-day operations of the 1992 convention. It was not unrewarded labor. A U.S. News & World Report story the following year reported that she enjoyed frequent limousine service—over \$6,000 worth during one two-week stretch alone—and \$3,500-per-month rent, all on the party's dime.

In late 1993, after becoming White House director of public liaison, Herman sold her firm to longtime friend Vanessa Weaver. Then, while working at the Office of Public Liaison, Herman recommended—as she later admitted in a written response to the Senate Labor Committee—that both Weaver and Weaver's sister be included on a trade mission to Mexico. The sisters were so included, and later donated \$25,000 apiece to the DNC.

But the business relationship between Herman and the Weaver sisters apparently goes back even further. According to payroll documents, the DNC paid Weaver \$15,000 in consulting fees during the 1992 convention run by Herman. Neither several former convention staffers nor Lockhart were able to say, when asked, what precisely Weaver did to earn her money. According to the 1992 DNC Employee Handbook, Herman had responsibility for reviewing all contracts, meaning that, at minimum, she approved hiring Weaver. Why does this matter? Because it appears to contradict her written responses to

questions posed by the Senate Labor Committee. When asked if she had “extend[ed] any courtesy or provide[d] any benefit” to Weaver before or after the selling of A.H. Herman & Associates, Herman replied that she had not. Lockhart, questions, argued that it didn't matter if Herman had misstated the truth to the Senate. “If you contract someone and they do the work,” he said, “I don't see how that's a benefit.” Herman declined, through Lockhart, to be interviewed prior to confirmation.

Herman won the nomination for secretary of Labor from Clinton at least in part for the same reason she got her first big deal from Mendelsohn: the president needed to fill a quota. Ron Brown's unexpected death in April 1996, and the departure of Hazel O'Leary and Mike Espy, had left the Clinton Cabinet with just one African American, and no black women. But, as in her building deal, Herman and more than her sex and race going for her. She benefited, once against, from political cronyism. In this instance, her old friend and consulting ally Jesse Jackson lobbied Clinton to pick her.

Herman's nomination represents a marked ideological shift in the administration's economic thinking. During the first term, Labor Secretary Robert Reich's liberalism counterbalanced the moderate Wall Street impulses of Treasury Secretary Robert Rubin. Reich's influence stemmed from both his academic heft and from his long-standing relationship with Clinton. Herman, with neither, could not dream of challenging Rubin. “It's like the New York Yankees against ‘Farm Team To Be Determined.’” laughs an administration official.

Its seat at the table sacrificed for the sake of diversity, organized labor went through the classic stages of grievous loss. First, denial. Labor leaders, refusing to accept the finality of Clinton's choice, preferred former Pennsylvania Senator Harris Wofford as an alternative. When Wofford didn't fly, labor threw its support, in quick succession, behind Esteban Edward Torres and Alan Wheat, both minorities with pro-union records in Congress. These progressively more humiliating failures hastened the second stage: anger. “The not-for-attribution comments of labor leaders I talked to the day of Herman's appointment ranged from rage to—well, rage,” wrote liberal columnist Harold Meyerson in *The Sacramento Bee*. The third stage: bargaining. AFL-CIO President John Sweeney met with Jackson and Clinton. Though none could confirm it, several labor officials privately expressed a belief that the administration had granted Sweeney more say in staffing lower-level jobs at Labor. This led, at last, to: acceptance. “Once it became clear that the administration chose Herman, there was no point in opposing her,” sighs one labor official. AFL-CIO officials now maintain, somewhat ahistorically, that their support for Wofford are based on a big misunderstanding: they would have picked Herman first if only they had known she wanted the job.

With the Democratic coalition in line, Herman's fate now rested with the Senate. Nominally, her key hurdle was the Senate Labor Committee, chaired by Jim Jeffords of Vermont. In reality, it was up to Majority Leader Trent Lott, who initially resisted granting the chairmanship to the moderate Jeffords. Jeffords won the chair, which he had earned by seniority, only by agreeing to defer to the leadership's wishes on any important matters. In February, Lott bottled up Herman's nomination in order to force Democrats to allow a vote on a “comp time” bill that would permit employers to substitute extra vacations for overtime pay.

Seeking a pretext for delaying Herman's hearings, Lott ruminated publicly over her

role in organizing White House coffee sessions with potential donors. Many of those donors were black. When a reporter questioned McCurry about this, he pounced: "I can't believe the majority leader would suggest she's disqualified from serving as secretary of Labor because she attempted to encourage African Americans to participate in the political life of this nation." Lott, who had suggested nothing of the sort, fumed. But the White House had Lott where it wanted him. The Herman nomination became a civil rights issue. They had thrust Lott into his nightmare role of George Wallace, blocking the doorway of the Labor Department. African American and feminist organizations rushed to the White House to attack Republican delays. Even the AFL-CIO chimed in, demanding "immediate hearings on the nomination of this African American woman."

Republicans, it turns out, were all too happy to oblige. And here lies the true perversity of Herman's nomination: Congress, in the position of helping to select its foe, wants a pathetic Labor secretary. The previous one, Reich, helped Clinton push through a higher minimum wage, which most Republicans consider the low point of their last Congress. Reich's successor will be charged with fighting Republican efforts to pass legislation limiting unions' powers to negotiate in the workplace and organize politically. Therefore, the worse the secretary, the more scandal-plagued and the less policy-focused, the better. Herman's lack of qualifications became, ironically, her strongest qualification. "She will be an ineffective Labor secretary," explains a conservative activist who works closely with Senate Republicans. "There's just a general view that 'What damage can she do us? If we put somebody else in there who's effective, it'll be a much bigger headache.'"

Indeed, Republicans are happy to support Herman's sort of liberalism because it restricts government largesse to ever fewer, ever less-deserving beneficiaries. It costs much less to enrich a tiny coterie of well-connected African Americans than to improve ordinary black lives. Clinton's relegation of Reich's chair to a quota slot is itself an act of Hermanism. The Labor Department won't do much for the working poor, but it will at least do well by Alexis Herman.

#### TIME TO TAKE THE TERROR OUT OF TAX TIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, today, April 15, brings terror across the land to all kinds of Americans who have spent hours and hours filling out their tax forms, Americans who want to pay their fair share, Americans who know April 15 is coming on, and yet, at the same time, are very frustrated by the fact that they cannot figure out what their tax forms are.

A study showed that businesses have spent on an average each year 3.6 billion manhours a year filling out and complying with tax forms. American individuals spend 1.8 billion hours filling out tax forms.

So in total, Mr. Speaker, we have approximately 3 million Americans working 40 hours a week, 12 months a year, just to comply with the IRS. Today the IRS has 200 tax forms, 400 forms that tell you how to fill out the 200 forms,

and 111,000 IRS employees who do not know which forms are correct and which forms are not.

Another study showed that last year on questions to IRS agents, over 8 million of the questioners were given wrong answers. It is time to change our tax system.

We have, I think, a lot of good employees at the IRS, and yet in the same hand we have a system that is impossible for them to work with, a system that cannot be audited. Congress has sent in auditors to the IRS, and their books are not in good enough order for us to audit.

Now, what would happen to the businesses back home if the IRS agents came to their door and said, "We want to see your books," and they would say, "Well, we cannot be audited, our books are in too much disarray"?

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Yet that is the standard that the IRS has. We have spent \$4 billion on a tax automation system for the IRS, and they are no more automated now than they were 10 years ago when we started.

Mr. Speaker, I believe that the time is right for us to vigorously engage in a debate on tax simplification or in a debate on a consumption tax. It is time for us to say that the current tax system is impossible, it is counterproductive. Businesses and individuals are spending too much time trying to avoid tax considerations, rather than just doing their daily chores.

For example, if we have a widget company, the business of a widget company is to manufacture, produce, and sell widgets. It is not to avoid taxes and try to figure out IRS compliance. Yet that seems to be the custom these days.

I had one constituent call me, Mr. Speaker. She had gotten a letter from the IRS saying that she had overpaid her taxes one year and was entitled to a \$1,000 return. But in order to get the \$1,000 return, she needed to send an additional copy of her tax return for that year. No big deal.

Now, in this particular case, the woman did her tax form herself. She did not use an accountant. She did not have a Xerox machine at home. All she did was filled out her original form with ink, and then a copy of the original with pencil. So the only thing she had was a penciled copy of her tax form. But the IRS letter was pretty explicit. Just send in your old tax form and we will send you the \$1,000 that you have overpaid in the past.

She sent that in. Lo and behold, her next letter from the IRS, instead of saying here is your \$1,000, the next letter from the IRS says, you are just now paying your taxes from 2 years ago, and inasmuch as you are, you owe a penalty plus all the taxes due that year.

I got involved in it. We fought in a tug of war for a long time. Finally she ended up not getting the \$1,000, not

having to pay the taxes twice, but she did have to pay a penalty. The IRS brought the whole matter up. She was fine.

Again, Mr. Speaker, it is just a matter of the system is too chaotic, too confused for IRS agents to fairly administer it themselves. So the time to debate a flat tax, and the Armeys flat tax proposal is that you pay 20 percent, basically, of what you earn. The only deduction, I believe, that the gentleman from Texas [Mr. ARMEY] is proposing is for dependents, but no other deductions. You can fill out your tax form on a postcard. How many Americans sitting at home tonight wished they had that option?

The other proposal I understand is for a consumption tax. It is a tax system that rewards savings and it taxes consumers when they spend money. I believe both these proposals are good. I believe both should vigorously be debated. I look forward to the debates. As far as I am concerned, the time has come. Let us get it done.

#### THE INTERNAL REVENUE SERVICE

The SPEAKER pro tempore (Mr. LUCAS). Under a previous order of the House, the gentlewoman from Washington, [Mrs. LINDA SMITH] is recognized for 5 minutes.

Mrs. LINDA SMITH of Washington. Mr. Speaker, sometimes we come to the end of the day and we just talk about the things that went wrong, the votes that were lost, or we decry the votes that did not go the way we want.

But today, the American people can feel good. This morning while they were at work, or while they were busy with their children, there was a vote that is really significant, that Americans need to watch in the Senate.

Over my life, my past job was working with the Internal Revenue Service, not as an agent but helping people with their problems. They would come to me if they were in trouble with the IRS or with the taxes, or ask me to help them keep out of trouble. Over the years what I found, though, was a significant uneasiness within me, that I felt Internal Revenue often knew more about my clients than they really should know. I could not prove it, but I felt they were into areas they should not be in. Again, I could not prove it, but that uneasiness persisted.

Today, this morning, we rectified a problem that has been going on. Just a few years ago there was a report from the Internal Revenue Service that said that agents were browsing through computer files, private files on citizens, and often in areas they had no right to be in. The IRS said, we will never do that again. We will have a policy of no tolerance. But this last week we got another report from Internal Revenue. They had 1,515 documented cases of what we would consider violations of our personal liberties and freedom of privacy. In this country that is really important.