

Since May 1996, Clinton has pledged to find alternatives to all mines this country uses, and the Pentagon has been studying various approaches. In January, when Clinton announced he would not sign an international treaty banning land mines, he directed the Defense Department "to develop alternatives to antipersonnel land mines, so that by the year 2003 we can end even the use of self-destruct land mines."

He also directed the Pentagon to find alternatives to the mines used on the Korean Peninsula by 2006.

At the same time, Clinton redefined the only type of antipersonnel land mine used by U.S. troops outside Korea—mines that are scattered around anti-tank mines to protect them from being breached by enemy troops. This is called a "mixed system" of anti-tank and antipersonnel mines. The administration now calls these antipersonnel land mines "devices" and "submunitions."

The practical result of this definitional change is that the Pentagon is no longer actively trying to come up with an alternative for these mines, of which the United States has more than 1 million.

"We are looking for alternatives to the Korean situation," said Pentagon spokesman Kenneth Bacon. "The mixed packages are not a humanitarian threat."

The reason the mixed packages are not a humanitarian threat is because they turn themselves off after a set period of time, usually three hours. Even so, from May 1996 until this January, Clinton still wanted to find alternatives to them in hopes of inducing countries that use the troublesome non-self-destructing mines to give them up.

Non-self-destructing mines, also known as "dumb mines," are responsible for injuring or killing 25,000 people a year, many of them civilians.

U.S. negotiators working on the Ottawa treaty tried unsuccessfully to convince other countries to create an exemption for the antipersonnel mines used in anti-tank minefields.

Abandoning the search for alternatives, said Bobby Muller, president of the Vietnam Veterans of America Foundation, would make it impossible for the United States to ever sign the treaty as it is written.

"Our bottom line is for the U.S. to sign the treaty," said Muller, who also is part of the International Campaign to Ban Landmines, which won the Nobel Peace Prize this year. "We are going to be in his [Clinton's] face. We are not going away."

Yesterday the international campaign began airing eight days of Washington-broadcast television ads aimed at pressuring Clinton to sign the treaty or to pledge to sign it at a specified date.

Mr. LEAHY. Mr. President, let us hope that the Pentagon's pledge today to help lead an international demining effort is a lot longer lasting.

Mr. President, I have spoken on this subject so many times. I think of when I went to Oslo recently when governments were meeting there to talk about an international ban. And I was joined by Tim Riesen, of my staff, who has worked so hard on this, and David Carle. I met with the American negotiators who were there and had a chance to speak to the delegates and the NGO's and others who had gathered.

And I said: I dream of a world, as we go into the next century, a world where armies of humanity dig up and destroy the landmines that are in the ground and when no other armies come and put new landmines down.

If we did that, Mr. President, if the world did that, removed the landmines that are there, banned the use of new landmines, we would give such great hope to people everywhere.

Today, there are countries where families literally have to tether their child on a rope near where they live because they know within the circle of that rope is one of the few areas that is free of landmines. And the child can play only on the end of a leash like a dog.

These are the same places where people often go hungry. They cannot work in their fields without risking their lives. And they often have no choice. And when one of them loses a limb, or his or her life, the whole family suffers. That is the reality for millions of people, and that is why this demining initiative is so important.

Mr. President, I yield the floor.

Seeing nobody else seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SUPPORT OF NOMINATION OF BILL LANN LEE

Mr. LEAHY. Mr. President, I have spoken many times on the floor about the nomination of Bill Lann Lee to be the Assistant Attorney General in charge of the Civil Rights Division of the U.S. Department of Justice.

Mr. Lee testified before the Judiciary Committee. It was really the culmination of the American dream. A son of Chinese immigrants who went from living at the family laundry upon his father returning from World War II and then on to achieving one of the highest academic records ever, and ends up dedicating his life to protecting the civil rights of all Americans. At a time when we are discussing what is happening regarding the lack of civil rights in the country of his forbears—what a marked contrast.

I am concerned when I hear some Members trying to stall or defeat his nomination. They have done it by mischaracterizing Mr. Lee and his record of practical problem solving.

Yesterday, my statement pointed out that the confirmation of this son of Chinese immigrants to be the principal Federal law enforcement official responsible for protecting the civil rights of all Americans would stand in sharp contrast to the human rights practices in China.

Some are obviously trying to stall or defeat this nomination by mischaracterizing Mr. Lee and his record of practical problem solving. Bill Lee testified that he regards quotas as illegal and wrong, but some

would ignore his real record of achievement and our hearing if allowed to do so. I am confident that the vast majority of the Senate and the American people will see through the partisan rhetoric and support Bill Lee.

Bill Lee has dedicated his career to wide ranging work on civil rights issues. He has represented poor children who were being denied lead screening tests, women and people of color who were denied job opportunities and promotions, neighbors in a mixed income and mixed race community who strove to save their homes, and parents seeking a good education for their children. Mr. Lee has developed a broad array of supporters over the years, including the Republican mayor of Los Angeles, former opposing counsels, and numerous others who cross race, gender and political affiliation lines.

Senator D'AMATO spoke eloquently of Mr. Lee's qualifications and background while introducing him last week. Senator WARNER wrote to the White House in support of Mr. Lee's candidacy. Senators MOYNIHAN, INOUE, AKAKA, FEINSTEIN, and BOXER supported Mr. Lee at his confirmation hearing last week and Representatives MINK, BECCERA, MATSUI, and JACKSON-LEE all took the time to come to the hearings to show their commitment to this outstanding nominee.

To those who know him, Bill Lee is a person of integrity who is well known for resolving complex cases. He has been involved in approximately 200 cases in his 23 years of law practice, and he has settled all but 6 of them. Clearly, this is strong evidence that Mr. Lee is a problem solver and practical in his approach to the law. No one who has taken the time to thoroughly review his record could call him an idealogue.

Further evidence that Mr. Lee is the man for the job is contained in the editorials from some of our country's leading newspapers, including the Los Angeles Times, Boston Globe, Washington Post, and New York Times. I ask unanimous consent to have printed in the RECORD copies of those editorials and articles at the conclusion of my statement, and I also ask to be printed in the RECORD at the conclusion of my statement, a letter from the assistant city attorney from Los Angeles that corrects a misimpression that may have been created by a letter recently sent by NEWT GINGRICH.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

As Robert Cramer's letter establishes, Mr. Lee neither sought to impose racial or gender quota nor employed dubious means in a case in which he, in fact, was not even active as counsel. Mr. Cramer, a 17-year veteran attorney for the city of Los Angeles, concludes:

Bill Lann Lee and I have sat on opposite sides of the negotiating table over the course of several years. Although we have disagreed profoundly on many issues, I have throughout the time I have known him respected

Bill's candor, his thorough preparation, his sense of ethical behavior, and his ability to bring persons holding diverse views into agreement. He would, in my view, be an outstanding public servant and a worthy addition to the Department of Justice.

When confirmed, Bill Lee will be the first Asian-American to hold such a senior position at the Department of Justice. I am sure that any fairminded review will yield the inescapable conclusion that no finer nominee could be found for this important post and that Bill Lee ought to be confirmed without delay. I look forward to the Judiciary Committee voting on this nomination next week and am hopeful that Mr. Lee will be confirmed before the Senate adjourns.

#### EXHIBIT 1

[From the Los Angeles Times, Oct. 20, 1997]

#### FINE CHOICE FOR U.S. RIGHTS POST—L.A. ATTORNEY SHOULD BE CONFIRMED BY THE SENATE WITHOUT DELAY

Los Angeles civil rights attorney Bill Lann Lee is a smart, pragmatic consensus builder who has proven himself in fighting discrimination based on race, national origin, gender, age or disability. He has the expertise, the experience and the temperament to head the Justice Department's civil rights division. This nomination should be a slam dunk for the Senate. Instead it has become a partisan referendum on President Clinton's continued support for some form of affirmative action.

If confirmed, Lee, the western regional counsel of the NAACP Legal Defense Fund, would become the first Asian American to manage the 250-lawyer division. He would be well positioned to broaden civil rights enforcement to accommodate the nation's multicultural dynamics.

Some Republicans are seizing on Lee's opposition to Proposition 209, the anti-affirmative action ballot measure approved last November by California voters. But what else might be expected from a veteran civil rights lawyer? And during his confirmation hearing he promised to abide by the law of the land, which awaits a Supreme Court ruling on the constitutionality of Proposition 209.

Nominees to the federal civil rights post do often run into political trouble. During the Reagan administration, a Democratic majority blocked the promotion of Bradford Reynolds, who opposed busing and other traditional civil rights remedies. A Bush nominee, William Lucas, was blocked on similar grounds. Clinton's first choice, Lani Guinier, hit a wall of GOP rejection. Later, Deval Patrick was confirmed; he resigned in January.

Conservatives should love Lee. The son of poor Chinese immigrants who owned a hand laundry in Harlem, Lee made it on merit. He graduated with high honors from Yale and Columbia University Law School and could have enriched himself in private practice. Instead, he has spent 23 years in civil rights law.

Even legal adversaries admire him. Mayor Richard Riordan, a Republican, was on the other side when the NAACP Legal Defense Fund accused the MTA of providing inferior service to poor, inner-city bus riders. Lee built a strong case, then negotiated a settlement that saved the city substantial legal fees while still achieving more equitable transportation in Southern California. Riordan praised Lee for "practical leadership and expertise" that eschewed divisive politics.

Bill Lee is well qualified to become assistant attorney general for civil rights and his nomination should be approved now.

[From the Boston Globe, Aug. 27, 1997]

#### JUSTICE FOR BILL LANN LEE

Bill Lann Lee is being unjustly booed. President Clinton wants Lee to be the next assistant attorney general in charge of the Justice Department's civil rights division, but critics are branding Lee an extremist.

Such name-calling is a waste. Lee, a 48-year-old Asian-American, isn't a subversive. He's western regional counsel for the NAACP Legal Defense and Educational Fund. But that worries Clint Bolick. The director of litigation at the Institute for Justice, a conservative Washington public interest law firm, Bolick argues that Lee's organization doesn't reflect mainstream thinking on civil rights. And Senator Orrin Hatch has said he'll search to see whether Lee favors quotas.

The NAACP Legal Defense Fund isn't a fringe group. It's the organization that brought *America Brown v. Board of Education*, the 1954 Supreme Court ruling that outlawed segregation in the public schools.

As for Lee, even past legal opponents call him a pragmatic problem-solver. One example is a 1994 federal civil rights class-action suit against the Los Angeles County Metropolitan Transportation Authority. The suit charged that resources were unfairly distributed: The suburbs were overserved; the inner city was underserved. Lee focused on solving the transportation problem instead of punishing the transportation system. The resulting settlement will be worth an estimated \$1 billion over 10 years to Los Angeles bus riders.

Lee's career is a crucial reminder that the country can't let the word "quota" scare it away from addressing racial injustice. He is part of the Legal Defense Fund's tradition of tackling important but unpopular issues, including environmental racism, police brutality, and housing. And ultimately, it isn't lawyers who create change, explains Theodore Shaw, associate director and counsel for the Defense Fund: they only create a window of opportunity in which change can happen—if communities follow through. As the Senate scrutinizes Lee, it ought to see the merits of his record, one of asking everyone—plaintiffs and defendants alike—to remedy injustice.

[From the Washington Post, Oct. 24, 1997]

#### THE LEE NOMINATION

In July, the president nominated Bill Lann Lee, western regional counsel for the NAACP Legal Defense and Educational Fund, to be assistant attorney general for civil rights. The post had then been vacant for half a year. On Wednesday, Mr. Lee had his confirmation hearing. The nomination now should be approved.

The choice of Mr. Lee has drawn some limited opposition, as civil rights nominations by either party almost always seem to do these days. In this case, however, even opponents, some of them, have acknowledged that, from a professional standpoint, Mr. Lee is qualified. The issue is not his professional competence. The objection is rather to the views of civil rights that he shares with the president, and which, in the view of the critics, should disqualify him.

Mr. Lee's views appear to us to be well inside the bounds of accepted jurisprudence. He is an advocate of affirmative action, as you would expect of someone who has spent his entire professional career—23 years—as a civil rights litigator. The president has likewise generally been a defender of such policies against strong political pressures to the contrary. But Mr. Lee himself observed that the assistant attorney general takes an oath to uphold the law as set forth by the courts, and so he would. The range of discretion in

a job such as this is almost always less than the surrounding rhetoric suggests.

Mr. Lee over his career has brought a considerable number of lawsuits in behalf of groups claiming they were discriminated against, and has sought and won resolutions aimed at making the groups whole, somehow defined. It is that kind of group resolution of such disputes that some people object to, on grounds that the whole object of the exercise should be to avoid labeling and treating people as members of racial and other such groups. There is surely some reason for the discomfort this group categorizing generates. But the courts themselves continue to uphold such actions in limited circumstances. And Mr. Lee has won a reputation for resolving such cases sensibly. Los Angeles's Republican Mayor Richard Riordan is one who supports the nomination. "Mr. Lee first became known to me as opposing counsel in an important civil rights case concerning poor bus riders in Los Angeles," he has written. "The work of my opponents rarely evokes my praises, but the negotiations could not have concluded successfully without Mr. Lee's practical leadership and expertise. . . . Mr. Lee has practiced mainstream civil rights law."

There are lots of legitimate issues to be argued about in connection with civil rights law. Mr. Lee's nomination is not the right vehicle for resolving them. Senators, including some who no doubt disagree with some of his views, complain with cause about the continuing vacancies in high places at the Justice Department. This is one they should fill before they go home.

[From the New York Times, Oct. 29, 1997]

#### A CHIEF FOR CIVIL RIGHTS

The important post of Assistant Attorney General for Civil Rights has been vacant for nearly a year, sending the wrong message about the nation's commitment to enforce anti-discrimination laws. President Clinton deserves much of the blame. After the last rights chief resigned, he waited seven months before nominating Bill Lann Lee in July. But the Senate, too, has been slow to move.

Mr. Lee, currently the Western Regional Counsel for the NAACP Legal Defense and Educational Fund Inc., is a respected civil rights attorney whose efforts to reach practical solutions and build coalitions across racial and ethnic lines have earned praise even from his legal adversaries. He will bring a constructive and conciliatory voice to the national dialogue on race and affirmative action.

The opposition to Mr. Lee arises largely from resentment among various senators over the Administration's support for some affirmative action programs. There have also been attempts to portray Mr. Lee and the venerable civil rights organization for which he works as out of the civil rights "mainstream." This is a gross misrepresentation.

Mr. Lee was enthusiastically introduced to the Senate Judiciary Committee last week by New York's Republican Senator, Alfonse D'Amato. With the Senate poised to adjourn in early November, the committee should move quickly to approve Mr. Lee when it meets tomorrow. A delay is likely to kill his confirmation chances until next year.

OFFICE OF THE CITY ATTORNEY,

Los Angeles, CA, October 29, 1997.

Hon. TRENT LOTT,  
Senate Majority Leader, S-230, The Capitol,  
Washington, DC.

Re. Bill Lann Lee Confirmation.

DEAR MR. MAJORITY LEADER: As an Assistant City Attorney for the City of Los Angeles—and opposing counsel to Bill Lann Lee

in recent federal civil rights litigation—I read with concern the October 27 letter to you from the Speaker of the House of Representatives. I believe the Speaker has been misinformed about many of the facts set out in that letter, and therefore the conclusions he reaches about Mr. Lee's fitness for public office, and in particular for the position of Assistant Attorney General for Civil Rights, are unwarranted.

The Speaker's letter begins by asserting that Mr. Lee "attempted to force through a consent decree mandating racial and gender preferences in the Los Angeles Police Department." This assertion is erroneous. In the course of representing the City of Los Angeles, I have for the past seventeen years monitored the City's compliance with consent decrees affecting the hiring, promotion, advancement, and assignment of sworn police officers. I have negotiated on the City's behalf two of those decrees. Of those two, Mr. Lee was opposing counsel on the first, and was associated with opposing counsel on the second. None of these decrees mandates the use of racial or gender preferences. In fact, each of them contains provisions forbidding the use of such preferences.

For the same reasons, the Speaker's statement that the use of racial and gender preferences "would have been a back-door thwarting of the will of the people of California with regard to Proposition 209 (the California Civil Rights Initiative)" is inapposite. Because the decrees with which Mr. Lee was associated do not call for racial or gender preferences, and in fact forbid them, these decrees do not violate the requirements or the intent of Proposition 209.

Of particular concern to me is the Speaker's reference to "the allegation that Mr. Lee apparently employed dubious means to try to circumscribe the will of the judge in the case." This allegation is wholly untrue. The case being referred to is presently in litigation in the district court. Mr. Lee was not at any time a named counsel in the case, but was associated with opposing counsel because of his involvement in the negotiation of a related consent decree. Neither Mr. Lee nor any opposing counsel attempted in any fashion to thwart the will of the judge supervising the litigation. The matter had been referred by the court to a magistrate judge appointed by the court to assist in the resolution of the case. Each counsel had advised the district judge at all points about the progress of the matter. Upon reconsideration, the district judge elected to assert direct control over the litigation. Nothing in Mr. Lee's conduct reflected any violation of the court's rules, either in fact or by appearance.

Bill Lann Lee and I have sat on opposite sides of the negotiating table over the course of several years. Although we have disagreed profoundly on many issues, I have throughout the time I have known him respected Bill's candor, his thorough preparation, his sense of ethical behavior, and his ability to bring persons holding diverse views into agreement. He would, in my view, be an outstanding public servant and a worthy addition to the Department of Justice.

Very truly yours,

ROBERT CRAMER,  
Assistant City Attorney.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ANALYSIS OF DOMENICI-CHAFEE "DEAR COLLEAGUE" LETTER REGARDING ISTE A REAUTHORIZATION

Mr. BYRD. Mr. President, earlier this week, Senators received a "Dear Colleague" letter and accompanying material from my friends and colleagues, Senators CHAFEE and DOMENICI. This letter included several representations regarding the substance and effect of the Byrd-Grass-Baucus-Warner amendment in comparison to that of the Chafee-Domenici amendment to S. 1173, the ISTE A reauthorization bill.

I have already addressed a number of these issues on the floor over the last two days. However, I thought it would be valuable for Senators to review a memorandum that evaluates in detail the representations made by Senators CHAFEE and DOMENICI in their "Dear Colleague" letter. This analysis was prepared by Dr. William Buechner, Director of Economics and Research at the American Road and Transportation Builders Association.

I therefore ask unanimous consent that Dr. Buechner's analysis be printed in the RECORD at this point, and I hope all Members will carefully review this material and become cosponsors of the Byrd-Grass-Baucus-Warner amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### Memorandum

To: Senate Transportation & Budget LA's  
From: Dr. William Buechner, Director of Economics & Research American Road & Transportation Builders Association  
Date: October 29, 1997

Re: Dear Colleague by Senators Domenici and Chafee on Byrd-Grass-Baucus-Warner Amendment to S. 1173 (ISTE A II)

Yesterday, you received a dear colleague letter from Senators Domenici and Chafee claiming that forty-three states would lose highway money under the Byrd-Grass-Baucus-Warner Amendment to S. 1173. This claim was made on the basis of tables and charts prepared by the U.S. Department of Transportation under instructions from the Environment and Public Works Committee. A front page article on this memorandum appeared in the October 28 edition of Congress Daily A.M., which gives the Domenici-Chafee analysis the illusion of accuracy and authority.

#### DON'T BE MISLED

The purpose of the Domenici-Chafee dear colleague letter is to obscure the fact that the Byrd-Grass-Baucus-Warner amendment will provide \$28 billion more for highways during the next five years than ISTE A II as reported, while the proposed Domenici-Chafee amendment will not. Nonetheless, the letter suggests that it is appropriate to compare the two proposals as though both provide the same amount of funding. This creates the impression that some states would receive less under Byrd-Grass-Baucus-Warner than under Domenici-Chafee. Here are the facts:

The Byrd-Grass-Baucus-Warner amendment authorizes an increase in formula fund-

ing for highway programs of about \$28 billion over the five-year period FY 1999-2003, to be distributed among the states based on the precise distribution formula in the committee bill. Since the program authorization levels in ISTE A II will put an upper limit on the amount Congress can spend on highway during the next six years, the only way to increase highway spending is to increase the amounts authorized in ISTE A II, which is precisely what the Byrd-Grass-Baucus-Warner amendment does. The implication of the Domenici-Chafee dear colleague letter that the Byrd-Grass-Baucus-Warner amendment provides no more funding than ISTE A II as reported is simply wrong and completely misrepresents the intent of the amendment.

The Domenici-Chafee approach would lock the highway program into the inadequate authorization levels currently specified in ISTE A II in exchange for a procedure by which Congress could add more money at some future time if it so wishes. This pig-in-a-poke asks the American people to give up the higher authorizations for highways provided in Byrd-Grass-Baucus-Warner for the hope that Congress might deliver the equivalent at some future date. Of course, Congress will still have to pass higher obligation limitations and appropriations under either approach, but the Byrd-Grass-Baucus-Warner amendment lets us lock in the necessary authorization level today.

The Byrd-Grass-Baucus-Warner amendment also authorizes additional spending for the Appalachian Highway Development System and changes most of the funding for the Border Corridor program from a general fund authorization into contract authority. The Environment and Public Works Committee-directed table assumes that funds for these initiatives would be paid "off the top" and implies that states would have to give up money from other highway programs no matter what level is appropriated for the highway program. In fact, the authorization for these programs in the Byrd-Grass-Baucus-Warner amendment are fully subject to any annual obligation limitation as are other highway programs. Moreover, these programs would be funded in the same proportion as other programs in the bill.

In truth, the Byrd-Grass-Baucus-Warner amendment provides an increase in authorization for all of the highway programs in ISTE A II in the same proportion as provided for in the underlying bill. As the annual level of appropriations rise, the funds available for all states will rise with it. You cannot compare the state-by-state allocations under Byrd-Grass-Baucus-Warner versus Domenici-Chafee at the same level of spending, as the dear colleague letter attempts, because the two do not provide the same level of spending. Instead, the appropriate comparison would pit the fully-funded Byrd-Grass-Baucus-Warner against the anemic level of funding under Domenici-Chafee, in which case every state wins and wins big under the Byrd-Grass-Baucus-Warner amendment. The Byrd-Grass-Baucus-Warner amendment will make it possible to use the revenues from the recent transfer of the 4.3 cents per gallon of the Federal gasoline tax previously used for deficit reduction into the Highway Trust Fund to provide authorization for more than \$5 billion per year in new funds to allocate among all the states for highway investment.

In truth, every state stands to receive substantially more under the Byrd-Grass-Baucus-Warner amendment than under ISTE A II as reported. These additional funds are critical to meet our nation's transportation needs.

I would be happy to discuss this with you if you have questions. I can be reached at 202-289-4434.