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PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, FIRST SESSION

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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Dear Father, we confess our total dependence on You, not only for every breath we breathe but also for every ingenious thought we think. You are the source of our strength, the author of our vision, and the instigator of our creativity.

We begin this day with praise that You have chosen us to serve You. All our talents, education, and experience have been entrusted to us by You. Today, the needs before us will bring forth the expression of Your creative, divine intelligence from within us. Thank You in advance for Your provision of exactly what we will need to serve You. We trust You completely. This is Your day; You will show the way; we will respond to Your guidance without delay. Through our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the distinguished Senator from Oklahoma, is recognized.

SCHEDULE

Mr. INHOFE. Mr. President, this morning the Senate will be in a period of morning business until 11 a.m. At 11 a.m. the Senate will proceed to the cloture vote on H.R. 2646, the A-plus education savings account bill. If cloture is not invoked, the majority leader hopes consent will be granted to set the cloture vote on a motion to proceed to S. 1269, the fast-track legislation, at 2:30 p.m. If that is not possible, the Senate will recess following the 11 a.m. vote until 2:30 p.m. Otherwise, under the consent the Senate will recess from 12:30 p.m. to 2:30 p.m. for the weekly policy luncheons to meet. When the Senate reconvenes at 2:30 p.m., the Senate will proceed to the cloture vote on the motion to proceed to S. 1269, the fast-track legislation. If cloture is invoked, the Senate will begin debate on the motion to proceed to S. 1269.

In addition, the Senate may also consider and complete action on the D.C. appropriations bill, the FDA Reform conference report, the Intelligence authorization conference report, and any additional legislative or executive items that can be cleared for action. Therefore, Members can anticipate rollcall votes throughout Tuesday's session of the Senate.

As a reminder to all Members, the first rollcall vote will occur at 11 a.m.

Mr. President, I ask unanimous consent that Senators will have until the time of the vote for filing of second-degree amendments to H.R. 2646, the A-plus Education Savings Act.

The PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business until the hour of 11 a.m., with Senators permitted to speak for up to 5 minutes, with the following exceptions: Senator HATCH for 20 minutes; Senator COVERDELL for 15 minutes; Senator ROBERTS for 20 minutes; Senator DODD for 5 minutes.

The able Senator from Utah is recognized for 20 minutes.

THE NOMINATION OF BILL LANN LEE

I. INTRODUCTION

Mr. HATCH. Mr. President, I rise this morning to discuss the nomination of Mr. Bill Lann Lee of California to be President Clinton's Assistant Attorney General for Civil Rights. Let me say at the outset that, in my 5 years as the senior Republican on the Judiciary Committee, I have been proud to have advanced no less than 230 of President Clinton's nominees to the Federal courts. After a thorough review of these nominees' views and records, I have supported the confirmation of all but two of them. In addition, I have also worked to ensure that President Clinton's Justice Department nominees receive a fair, expeditious, and thorough review. Without question, the Senate's advice and consent responsibility is one that I take very seriously. This nomination is no exception.

While I have the highest personal regard for Bill Lann Lee, his record and his responses to questions posed by the committee suggest a distorted view of the law that makes it difficult for me in good conscience to support his nomination to be the chief enforcer of the Nation's civil rights laws. The Assistant Attorney General must be America's civil rights law enforcer, not the civil rights ombudsman for the political left. Accordingly, when the Judiciary Committee votes on whether to report his nomination to the full Senate, I will regretfully vote ''no''.

At the outset, I want to say that no one in this body respects and appreciates the compelling personal history of Mr. Lee and his family more than I. Mr. Lee's parents came to these shores full of hope for the future. They believed in the promise of America. And despite meager circumstances and the scourge of bigotry, they worked hard, educated their children, and never lost faith in this great country.

Yet, what we must never forget as we take up this debate is that the sum of our experiences says less about who we become than does what we take from those experiences. For example, my good friend Justice Clarence Thomas was, like Mr. Lee, born into a circumstance where opportunities were

unjustly limited. Nevertheless, Clarence Thomas worked hard, and has devoted his career to ensuring that the law protects every individual with equal force. The same can be said of another African-American, Bill Lucas, who was nominated by President Bush for the same position as Mr. Lee, but whose nomination was rejected by my colleagues on the other side of the aisle.

Bill Lann Lee is, to his credit, an able civil rights lawyer with a profoundly admirable passion to improve the lives of many Americans who have been left behind. His talent and good intentions have taken him far. But his good intentions should not be sufficient to earn the consent of this body. Those charged with enforcing the Nation's laws must demonstrate a proper understanding of that law, and a determination to uphold its letter and its spirit. Unfortunately, much of Mr. Lee's work has been devoted to preserving constitutionally suspect race-conscious public policies that ultimately sort and divide citizens by race. To this day, he is an adamant defender of preferential policies that, by definition, favor some and disfavor others based upon race and ethnicity.

At his hearing before the Judiciary Committee, Mr. Lee suggested he would enforce the law without regard to his personal opinions. But that cannot be the end of our inquiry. The Senate's responsibility is then to determine what the nominee's view of the law is. That question is particularly important for a nominee to the Justice Department's Civil Rights Division.

II. CIVIL RIGHTS DIVISION

As I have made clear in the past, it is my view that the Assistant Attorney General for Civil Rights is one of the most important law enforcement positions in the Federal Government. No position in Government more profoundly shapes and implements our Nation's goal of equality under law.

The Civil Rights Division was established in 1957 to enforce President Eisenhower's Civil Rights Act of 1957, the first civil rights statute since Reconstruction. Since the appointment of the first Assistant Attorney General for Civil Rights, Mr. Harold Tyler, the Division has had a distinguished record of enforcing the Nation's civil rights laws, often against perilous political odds. With great leaders like Burke Marshall, John Doar, and Stanley Pottinger, the Civil Rights Division emphasized the equality of individuals under law, and a commitment to ensuring that every American—regardless of race, ethnicity, gender, national origin, or disability—enjoys an equal opportunity to pursue his or her talents free of illegal discrimination. That is a commitment that I fundamentally share, and take very seriously as I consider a nominee to this important Division.

Today, however, the Civil Rights Division, and the Nation's fundamental civil rights policies, stand at a crossroads. In recent years, the Nation's courts have underscored the notion that the constitutional guarantee of equal protection applies equally to every individual American. Consistent with that principle, they have placed strict limitations on the Government's ability to count among its citizens by race. Nevertheless, many among us who lay claim to the mantle of civil rights would have us continue on the road of racial spoils—a road on which Americans are seen principally through the looking glass of race. I regret to say that Bill Lee's record suggests that he too wishes the Nation to travel that unfortunate road.

The country today, however, demands a Civil Rights Division devoted to protecting us all equally. It cannot do that when it is committed to policies that elevate one citizen's rights above another's. Let me share one example of what results from the race-consciousness that some, Bill Lann Lee among them, would have us embrace.

Earlier this year, the Judiciary Committee held a hearing to examine the problem of discrimination in America. One story, that of Charlene Loen was particularly moving. Ms. Loen is a Chinese-American mother of two who lives in San Francisco. Ms. Loen's son Patrick was denied admission to a distinguished public magnet school in San Francisco, pursuant to the racial preference policy contained in a consent decree which caps the percentage of ethnic group representation in each of the city's public schools. The cap has the effect of requiring young, Chinese students to score significantly higher on magnet school entrance exams than students of other races. While young Patrick scored higher than many of his friends on the admissions exam, he was denied admission, while other children who scored less well were admitted. Ms. Loen sought to have Patrick admitted to several other public magnet schools in the city, and time after time she was told in no uncertain terms that because he was Chinese, Patrick need not apply.

So you see, a policy that prefers one, by definition disfavors another. In this case, the disfavored other has a name, Patrick. The law must be understood to protect Patrick, and others like him, no less than anyone else. What matters under the law is not that Patrick is ethnic Chinese, but that he is American. Affirmative action policies as originally conceived embraced that ideal. Recruiting and outreach that ensures broad inclusion is one thing; racial and gender preferences that enforce double standards are quite another.

But the case against Bill Lee is broader, and more fundamental, than his aggressive support for public policies that sort and divide by race. What Bill Lee's record fundamentally suggests is a willingness to read the civil rights laws so narrowly—and to find exceptions so broad—as to undermine their very spirit, if not their letter. Let me share a few cases to illustrate the point.

III. ADARAND

At his hearing, Mr. Lee was asked about the Supreme Court's holding in the case of Adarand Constructors versus Pech, in which the Supreme Court held that State-sanctioned racial distinctions are presumptively unconstitutional. When asked to state the holding of the case, Mr. Lee said that it epitomizes the Supreme Court's view that racial preference programs are permissible if ''conducted in a limited and measured manner.'' That is, arguably, a narrowly correct statement. But it purposefully misses the mark of the Court's fundamental holding that such programs are presumptively unconstitutional. Imagine if a nominee had come before this body and stated for the record that the Court's first amendment cases stand for the proposition that the state can interfere with religious practices if it does so carefully. Such a purposefully misleading view would properly be assailed as a fundamental mischaracterization of the spirit of the law. So, too, is Mr. Lee's view of the Supreme Court's statements about racial distinctions enforced by the Government.

In addition, Mr. Lee stated for the record his personal opposition to Adarand. He then said that in spite of that, he would enforce the law, if confirmed. Fair enough. But, in response to a written question from Senator ASHCROFT, Mr. Lee's narrow view of what the law is becomes astonishingly clear. Senator ASHCROFT asked Mr. Lee whether the program at issue in the Adarand case is unconstitutional. Mr. Lee noted that the Supreme Court in Adarand remanded the case to the district court in Colorado. He further noted that the district court just this summer held that the programs in question are not narrowly tailored and are therefore unconstitutional. In so holding, the court stated in its opinion that

> [c]ontrary to the [Supreme] Court's pronouncement that strict scrutiny is not ''fatal in fact,'' I find it difficult to envisage a race-based classification that is narrowly tailored.

But despite the court's strong pronouncement, Mr. Lee asserts in his response to Senator ASHCROFT that he believes ''this program is sufficiently narrowly tailored to satisfy the strict scrutiny test.'' Apparently, then, Mr. Lee is prepared to support racial preference programs until every possible exception under the law is unequivocally foreclosed by the Supreme Court, despite the Court's view that such programs are presumptively unconstitutional and may only be used in exceptional circumstances. Mr. Lee's view of the law, it seems to me, is exceedingly narrow and violative of the Court's rulings and holdings. We must expect more of the Nation's chief civil rights law enforcer.

IV. PROPOSITION 209

I realize that some still embrace policies that divide and sort by race. And

given the court's narrow exception in Adarand, I am willing to consider a nominee who believes such policies may be constitutional in limited circumstances. It is fair that that view is heard. Yet, it is quite another matter altogether when a nominee takes the position that the contrary view—that racial preferences should be prohibited—is unconstitutional. Such a view of the law effectively silences dissenting voices on this, the most important civil rights issue of our day.

Mr. Lee and his organization, the Western Office of the NAACP Legal Defense & Educational Fund, have led the opposition to California's proposition 209, which said simply that no Californian can be discriminated against or preferred by the State on the basis of race, gender, or national origin. He has also challenged the University of California's efforts to comply with its colorblindness mandate, by complaining to the Federal Department of Education that the University's race-neutral use of standardized tests and weighted grade point averages violates the civil rights laws. Even the anti-209 director of admissions at the UCLA School of Law, Michael Rappaport, has described the NAACP's complaint as ''frightening'' for universities wishing to employ rigorous academic standards. That complaint is only part of a comprehensive effort by Mr. Lee and his organization to undermine the people of California's political judgment that their government should respect the rights of citizens without regard to race.

Soon after 54 percent of Californians voted to pass proposition 209, Mr. Lee's office filed a brief in the Federal court action challenging the constitutionality of the initiative, relying on the cases of Hunter versus Erickson—fair housing legislation—and Washington versus Seattle—busing—to allege that 209 was an unconstitutional restructuring of the political process because minorities are no longer permitted to petition local governments for preferential treatment. Of course, the Ninth Circuit Court of Appeals—perhaps the most liberal circuit court in the Nation—forcefully and unequivocally rejected that argument, noting that governmental racial distinctions are presumptively unconstitutional, and concluded:

> As a matter of ''conventional'' equal protection analysis, there is simply no doubt that Proposition 209 is constitutional. . . . After all, the ''goal'' of the Fourteenth Amendment, ''to which the Nation continues to aspire,'' is ''a political system in which race no longer matters'' (citation omitted). . . . The Fourteenth Amendment, lest we lose sight of the forest for the trees, does not require what it barely permits.
>
> (Coalition for Economic Equity, et al. v. Wilson, 122 F.3d 692 [9th Cir. 1997].)

Earlier this year, the Clinton administration filed an amicus brief in the ninth circuit supporting the constitutional challenge so decisively rejected by the appeals court. I asked Mr. Lee whether, given the Supreme Court's holding in Adarand and the forceful statement of law by the ninth circuit, he would argue against the administration's continued challenge to prop 209's constitutionality. He said he would support the administration's position.

After Mr. Lee's hearing, I took it upon myself to offer an olive branch to the administration. I emphasized the fundamental problem I have with Mr. Lee's and the administration's view of the Constitution as it relates to racial matters. I suggested that if this White House could find its way to put aside the now-discredited argument that efforts like prop 209 actually violate the Constitution, that it would be much easier for my colleagues and me to support this nomination. It certainly would be something that would be helpful.

On Wednesday of last week, I received a letter from Mr. Lee explaining that he would recuse himself from the administration's deliberations about its policy in the specific prop 209 case. And just yesterday, of course, the Supreme Court declined to grant certiorari in the 209 case. But, important as they are, those gestures do not lessen my fundamental concern about Mr. Lee's view on the matter. Those developments do nothing to preclude the administration from challenging future colorblindness efforts in the States, or in the Congress—including my and Senator MCCONNELL's Civil Rights Act of 1997; they do nothing to provide much needed leadership within the Department on this most important policy issue—creating yet another leadership void within the Department; and at bottom, Mr. Lee's letter seems little more than a cynical ploy by the administration to momentarily ease Mr. Lee's way to confirmation, while doing nothing to address my underlying, substantive concerns about his interpretation of the law. In the final analysis, my concerns about Mr. Lee's record are vastly broader than simply how he might counsel the administration in one discrete case.

V. PRISON LITIGATION REFORM ACT

Mr. Lee was also asked for his views on the Prison Litigation Reform Act, a piece of legislation that I sponsored and worked hard to pass in the last Congress. In response to written questions from Senator ABRAHAM about the Department's enforcement of the PLRA, Mr. Lee either defended unjustified Department positions, or evaded the questions altogether.

The PLRA establishes a 2-year limitation on most consent decrees governing prison operations. If after the 2 years, a constitutional violation continues to exist, the law provides that a prisoner may petition a court to extend the term of the decree. When asked whether the Department was correct to argue that PLRA places the burden of proof on a defendant seeking to be relieved from a prison consent decree to prove that constitutional violations no longer exist, rather than on a prisoner seeking extension of a decree to show that violations continue to exist, Lee argued that the Department's ''approach seems sensible to me.'' But the Department's approach undermines the spirit of the law, which places limits on judicial control of our prisons absent proof of a continuing constitutional violation.

Mr. Lee's support for the Justice Department's efforts to undermine the effectiveness of the Prison Litigation Reform Act further justify opposition to his nomination. This view is yet another example of Mr. Lee's approach to the law, which suggests that when confronted with a law he doesn't like, he creatively interprets the law in the narrowest possible fashion, to allow him to pursue his ends contrary to the spirit, if not the letter, of the law. That is unacceptable for one seeking to enforce the Nation's civil rights laws.

VI. LOS ANGELES CONSENT DECREE CASE

I am also troubled by Mr. Lee's involvement in an apparent effort to rush through a consent decree in Los Angeles that would have bound the city to racial and gender hiring goals for 18 years. Mr. Lee and other attorneys in the case sought to have the proposed consent decree approved by the city council and then by a magistrate judge on the very day that the citizens of California were voting on proposition 209. Proposition 209 would quite likely prohibit enforcement of the goals in the proposed decree. But by its terms, the proposition does not apply to consent decrees in force prior to its effective date. The decree was taken to the magistrate without notice to the district judge presiding over the case, as was required by local court rules; and more importantly in my view, Mr. Lee sought to have the decree approved without a fairness hearing to assess the impact of the decree on individuals who might in the future be affected by its terms, but who were not represented in the negotiations.

It should be noted that even Los Angeles Mayor Richard Riordan, a supporter of Mr. Lee's nomination, and then-Los Angeles Police Commission President Raymond Fisher, the President's nominee to be Associate Attorney General, both opposed the proposed decree. Mayor Riordan expressed concern about the scope of outside enforcement authority under the decree, and Mr. Fisher called the decree ''extremely intrusive to the operations of the [police] department.'' To seek even partial approval of a decree raising such concerns, without benefit of a fairness hearing, raises legitimate questions.

The district court judge, learning of the parties' ploy through media accounts, resumed control over the case, citing the significance of a decree that would bind a government for 18 years, and remarked that the decree ''may present substantial constitutional questions.'' The judge later noted in a memorandum order that

> . . . the unusual procedures employed by the existing parties in this case—seeking

same-day approval of the Proposed Decree and requesting that no fairness hearing be held—certainly raise alarm bells about the adequacy of their representation [of potentially affected individuals not represented in the negotiations].

Mr. President, the very core of what we must expect of an Assistant Attorney General for Civil Rights is a steadfast concern that every individual be treated fairly—equally—under our laws. Mr. Lee's involvement in an effort to lock in 18-year racial hiring goals for public employment without an opportunity first to consider the impact of that race consciousness on individuals who may fall on the wrong side of those goals, suggests a willingness to place group representation above the rights of individuals to be treated equally under the law. As Senators sworn to uphold the Constitution, we have a responsibility to reject that priority for the Nation's defender of civil rights. While I do not question Mr. Lee's integrity, I am concerned about his commitment to serve every citizen of the Nation in equal measure.

Selecting an Assistant Attorney General for Civil Rights should not be a simple coronation of an effective civil rights litigator for a leading activist organization. Enforcing the Nation's laws on behalf of every American citizen is a profoundly different role. Despite that, Mr. Lee seems simply unable to distinguish his role as NAACP activist litigator, and the role of Assistant Attorney General. When asked by the Judiciary Committee to list cases he filed at the LDF which he would not file as Assistant Attorney General, Mr. Lee simply replied that, as a jurisdictional matter, he could not bring State law claims as Assistant Attorney General. Everything else is apparently fair game. Clearly then, Mr. Lee is unable to distinguish the substantive role of law enforcer for all citizens from that of a private activist litigator charged with pushing the limits of the law. That is unacceptable for an individual seeking to take the reins of the Civil Rights Division's massive enforcement apparatus.

VII. DEVAL PATRICK AND CONSENT DECREE ACTIVISM

Mr. Lee's supporters have characterized him as a ''pragmatist''—a ''practical litigator,'' rather than a pro-preference ideolog. That is a familiar tune in this debate. Three years ago, the President nominated another individual who was widely hailed as a pragmatist. Deval Patrick, another man for whom I have a high personal regard, was described by one paper as ''a practically oriented working lawyer.'' Based upon those assurances, I resolved to set aside my concerns about Mr. Patrick's views, gave him the benefit of the doubt, and supported his nomination.

But upon assuming the reins of the Civil Rights Division, Mr. Patrick revealed himself to be a liberal civil rights ideolog. He used statistical racial imbalances and the vast resources of the Justice Department to extract race-conscious settlements from businesses and governments, large and small. For example, he undertook a credit-bias probe of Chevy Chase Savings & Loan in Maryland based largely on the fact that the bank had opened branch offices in the District of Columbia suburbs, but not in the city itself. There was no evidence that the bank had discriminated against qualified individuals seeking bank services. Nevertheless, Mr. Patrick entered into a consent decree that essentially forced the bank to open a branch in a low-income District neighborhood, and measures the bank's compliance with the decree by assessing whether the the bank achieves a loan market share in minority neighborhoods that is reasonably comparable to its share in nonminority neighborhoods. Mr. Patrick's Civil Rights Division took it upon itself to decide where a bank must do business, and then implemented dubious statistical measurements to determine whether the bank's efforts stayed clear of the division's view of the law.

Mr. Patrick also forced municipalities across the country to abandon tests used to evaluate candidates for local police forces. In Nassau County, NY, Patrick entered into a consent decree that forced the county to abandon a rigorous test that yielded a differential passage rate for different ethnic groups. The test now used by the county, after the expenditure of millions of dollars in the action, is so weak that the reading portion of the exam is now graded on a pass/fail basis. A candidate passes the reading test if he or she reads at the level of the lowest 1 percent of existing officers. So much for high standards.

In another case, Mr. Patrick ordered Fullerton, CA to set-aside 9 percent of its police and fire department positions for African-Americans, despite the fact that fewer than 2 percent of the city's residents are black.

These cases suggest the damage that can be done when the resources of the Justice Department are brought to bear to force defendants into consent decrees. Such decrees are often attractive to both parties. Preference ideolog in the Justice Department win so-called voluntary commitments to undertake constitutionally suspect race-conscious action to eliminate racial disparities; defendants save millions of dollars in legal fees and receive a public disclaimer of liability. Everyone wins, except for consumers and individuals on the losing end of the racial or gender goals and preferences.

Given Deval Patrick's excesses in the Department, I am unprepared to again give the benefit of the doubt to a liberal activist nominee described by political allies as a pragmatist and a conciliator. When asked at his hearing how he would differentiate his views from those of Mr. Patrick, Bill Lee was unable to muster a response.

VIII. CONCLUSION

I am sad to say, Mr. President, that Bill Lann Lee has fallen victim to President Clinton's double-talk on the issue of racial and gender preferences. In the wake of the Adarand decision, the President pledged to ''mend it, not end it.'' In practice, however, the President's policy on preferences can more accurately be described as ''don't mend it, extend it.'' In fact, while the Congressional Research Service tells us that there are at least 160 Federal programs containing presumptively unconstitutional racial preferences, the President has seen fit to eliminate fewer than a handful of them. When Mr. Lee was asked to suggest real or hypothetical Federal programs that may not meet constitutional muster, he was able to come up with a whopping one—one that the Clinton administration had already seen fit to eliminate. In fact, the Clinton administration has sought to pitch Mr. Lee, and itself, as something they simply are not—centrists on civil rights policy.

In the end, my decision today is an unhappy one. It brings me no pleasure to oppose the nomination of this fine activist lawyer and this very fine human being. But fine human beings—and certainly fine lawyers—can make mistakes. And they can approach the law in a way that is flawed, and that disserves the laws they are sworn to uphold. That is the case with this nomination. Bill Lann Lee's long record of public service must ultimately be reconciled with the role he seeks. The Assistant Attorney General is America's civil rights law enforcer, not an advocate for the political left.

Unfortunately, Mr. Lee's understanding of the Nation's civil rights laws is sufficiently cramped and distorted to compel my opposition. The Assistant Attorney General for Civil Rights must abide by the law. In matters ranging from racial preferences, to proposition 209, to the Prison Litigation Reform Act, Mr. Lee has demonstrated a decided reluctance to enforce our Nation's civil rights laws as intended, and in some cases his litigation efforts expose an outright hostility to it. The Civil Rights Division requires a better approach, and our courts, the Senate, and the Nation demand it. It is for that reason that I must oppose this unfortunate nomination.

Mr. President, I ask unanimous consent that I be permitted to enter into the RECORD several items that echo my concerns about Mr. Lee's record. I would like to enter a letter from 16 Republican members of the California congressional delegation; a statement from California Gov. Pete Wilson; and letters from Mr. Ward Connerly of the American Civil Rights Institute in California, and Ms. Susan Au Allen, president of the U.S. Pan-Asian American Chamber of Commerce.

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

CONGRESS OF THE UNITED STATES,
Washington, DC, October 30, 1997.

Hon. ORRIN G. HATCH,
Chairman, Senate Committee on the Judiciary, Washington, DC

DEAR MR. CHAIRMAN: We, the undersigned members of the California Congressional delegation, wish to express our deep concern regarding the confirmation of Mr. Bill Lann Lee as the Assistant Attorney General for Civil Rights. This confirmation is of particular concern to California.

California Governor Pete Wilson said, ''All of the relevant evidence suggests that Mr. Bill Lann Lee will not enforce the civil rights laws as defined by the courts but as desired by special interest advocates of unconstitutional and unfair preferences. It is time we had a civil rights enforcer who enforced the law, not distorted it.''

We find it very disturbing that Mr. Lee has actively advocated quotas and preferences. He attempted to force through a consent degree mandating racial and gender preferences in the Los Angeles Police Department. The Washington, DC-based Institute for Justice issued a twenty-page report on Lee's litigation for the NAACP Legal Defense Fund, which has furthered legal action challenging the California Civil Rights Initiative and supported racial preferences and forced busing. The study's author and Institute director Clint Bolick stated, ''Lee's assault on Proposition 209 and his support of racial preferences raises serious questions about his suitability as the nation's top civil rights official.'' Mr. Bolick further stated, ''Unless Lee makes clear he will not transfer his personal agenda to the Justice Department, the Senate should not confirm him.''

It appears to be fundamentally incompatible for the Senate to confirm as the Assistant Attorney General for Civil Rights an individual with a record of advocating racial discrimination through quotas and preferences. We respectfully urge the Senate Judiciary Committee to carefully and thoroughly review Mr. Lee's philosophy on basic civil rights issues before voting on his confirmation.

Sincerely,

HOWARD ''BUCK'' MCKEON.
DANA ROHRABACHER.
KEN CALVERT.
JAMES E. ROGAN.
ED ROYCE.
FRANK RIGGS.
ELTON GALLEGLY.
DAVID DREIER.
JERRY LEWIS.
WALLY HERGER.
RON PACKARD.
SONNY BONO.
JOHN T. DOOLITTLE.
BRIAN BILBRAY.
TOM CAMPBELL.
''DUKE'' CUNNINGHAM.

AMERICAN CIVIL RIGHTS COALITION,
Sacramento, CA, October 23, 1997.

Hon. ORRIN G. HATCH,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: I watched with interest yesterday's hearing on the nomination of Bill Lann Lee as Assistant Attorney General for Civil Rights. Prior to the hearing, my organization hesitated in taking a formal position on his nomination.

However, his comments of yesterday—namely, that he believes Proposition 209 is ''unconstitutional'' and that he disagrees with Adarand v. Pena—lead us to believe the most powerful civil rights law enforcement position in the United Stares belongs not to Mr. Lee, but to a nominee who respects the law of the land.

As of today, the American Civil Rights Institute is formally opposing Mr. Lee's nomination to this post and encourages your leadership in rejecting this nomination. An individual who neither understands or respects the people's and the court's commitment to race-neutral laws and policies does not deserve this important position.

Sincerely,

WARD CONNERLY,
Chairman.

STATE OF CALIFORNIA,
GOVERNOR'S COMMUNICATIONS OFFICE,
September 25, 1997.

[Memorandum]

To: John Kramer, Institute of Justice.
From: Kim Walsh.
Subject: Statement from Governor Wilson.

Summary: Below is a statement from Governor Pete Wilson regarding the nomination of Bill Lann Lee as Assistant Attorney General:

''All of the relevant evidence suggests that Mr. Bill Lann Lee will not enforce the civil rights laws as defined by the courts but as desired by special interest advocates of unconstitutional and unfair preferences. It is time we had a civil rights enforcer who enforced the law, not distorted it.''

UNITED STATES PAN ASIAN
AMERICAN CHAMBER OF COMMERCE,
Washington, DC, October 28, 1997.

Re: Nomination of Bill Lann Lee as Assistant Attorney General for Civil Rights.

Hon. ORRIN HATCH,
Chairman, Senate Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR CHAIRMAN HATCH: Please vote against the nomination of Bill Lann Lee as Assistant Attorney General for Civil Rights. I enclose a copy of the actual testimony I gave at Mr. Lee's nomination hearing before the Senate Committee on the Judiciary Last week.

Mr. Lee believes the California Civil Rights Initiative (Proposition 209) is unconstitutional. Thus, he is the wrong person to hold the nation's top civil rights enforcer position.

Proposition 209 mirrors the language of the Civil Rights Act of 1964. Mr. Lee's latest assertions during his nomination hearing, of his opposition against Proposition 209, adds to our apprehension that he will further divide America along racial lines because of his conviction that civil rights are not for all Americans, but select Americans based on their race and gender. Should he become the nation's top civil rights enforcer, he will have 250 lawyers to help him do the job. This must not happen. America cannot afford it.

I ask you to vote against his nomination as the Assistant Attorney General for Civil Rights.

Sincerely,

SUSAN AU ALLEN.

Mr. HATCH. Mr. President, I yield the floor.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Kansas is recognized.

WAIVING MANDATORY QUORUM IN RELATION TO H.R. 2646

Mr. ROBERTS. Mr. President, I ask unanimous consent, pursuant to rule XXII, that the mandatory quorum in relation to H.R. 2646 be waived.

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

UNITED STATES PRESENCE IN BOSNIA

Mr. ROBERTS. Mr. President, yesterday those who cover national security policy and issues within our Nation's press reported the best-kept nonsecret in Washington; namely, what has already been discussed or leaked or trial ballooned or decided upon and reported for weeks in the United States and the international media has finally become public—sort of.

In the last days of this session, the administration apparently will now consult with the Congress and today announce what has been obvious, and that is, Mr. President, that the United States has no intention of leaving Bosnia by the once stated deadline of the 8th of June of next year.

President Clinton has not said this outright. The position to date is that he has not ruled out staying beyond June 8. However, given the overall goals of the Dayton accords in juxtaposition with the ongoing ethnic apartheid reality in Bosnia, the concern of our allies, the coming of winter in Bosnia, and the crucial and obvious need for U.S. and allied commanders to have enough time for central planning have all forced the administration's hand.

Simply put, the clock is moving toward the stated deadline to have the SFOR mission in Bosnia completed. And simply put, whatever that mission is and despite recent and obvious changes under our stated mission, it is not complete.

It is long past the time for the President and his national security team to simply tell it like it is. Despite the past promises to limit our engagement to 1 year, and then 2 years, and now indefinitely—I might add, promises that should not have been made and could not be kept—we are in Bosnia, for better or worse, for the long haul.

First of all, our commanders and troops in the field know there are many actions that need to take place now or should have already taken place if, in fact, we are serious about ending the commitment in Bosnia in June 1998. From a military point of view, we have established significant infrastructure in Bosnia to support the SFOR troops, and unless we just intend at great cost to abandon what we have established—and we are not going to do that—the military needs a plan and time to remove equipment, to disassemble buildings, to conduct the environmental cleanup and a myriad of other tasks.

Several months ago, I visited Bosnia, and I saw firsthand the extent of our involvement and developed an understanding of the complexity required to extract the SFOR troops should that decision be made. On that same trip, I visited Taszar, Hungary, the staging base for U.S. troops going into and coming out of Bosnia. Taszar also provides operational support for logistics in Bosnia.

I asked the commanding general in Taszar, what is the drop dead time to support an orderly withdrawal from Bosnia and fully restore the facilities in country? And his answer was, 9 to 10