

of optimism and pessimism." Leon Higginbotham knew and understood the terrible history of racial discrimination in the justice system. He knew that this history could never be forgotten if black Americans ever hope to achieve equal justice under law. For this reason, Judge Higginbotham shared my dismay when former President George Bush presented Clarence Thomas as his choice to replace justice Thurgood Marshall as Associate Supreme Court Justice. On that day, independent-minded women were appalled, knowledgeable black Americans were outraged and advocates for the poor abandoned their hopes. Then, the disastrous day came when the U.S. Senate confirmed Clarence Thomas' appointment and the waves of despair washed over millions who had fought, sacrificed, and suffered to overcome centuries of discrimination and to achieve respect and quality. In Black America, six months after Thomas' appointment the attitude and sentiment toward him as a person was reflected in the words of Judge Higginbotham who wrote:

Suppose someone wanted to steal back past achievements, reign in the present gains and cutoff future expectations among African-Americans about participation in the Judicial process. That person would have found it difficult to devise a better plan than nominating Clarence Thomas to the Supreme Court which decreasing the number of African-Americans on the federal bench.

Mr. Speaker. Judge Higginbotham was devoted to educating this nation about the perils of one black man, Clarence Thomas, being misconstrued as a respectable replacement for Thurgood Marshall who was a bonafide representative of the hopes, dreams and aspirations of black Americans. In this undertaking, Judge Leon Higginbotham wrote to Clarence Thomas upon His confirmation to the Supreme Court. Higginbotham documented the legal struggles that had abolished impediments to the freedom of black people and enunciated the underlying personal values and courage which guided those who led these battles. In this letter, Higginbotham challenged Thomas to recall, to understand and to emulate the lives of those great gladiators who changed the course of history. In this open letter, Higginbotham cited the damage done to the cause of black America and the crisis in race relations spurred by Judge Thomas' confirmation. Excerpts from this letter provide the details of his message:

At first I thought that I should write you privately—the way one normally corresponds with a colleague or friend. I still feel ambivalent about making this letter public, but I do so because your appointment is profoundly important to this country and the world, and because all Americans need to understand the issues you will face on the Supreme Court. In short, Justice Thomas, I write this letter as a public record so that this generation can understand the challenges you face as an Associate Justice to the Supreme Court, and the next generation can evaluate the choices you have made or will make. . . .

By elevating you to the Supreme Court, President Bush has suddenly vested in you the option to preserve or dilute the gains this country has made in the struggle for equality. This is a grave responsibility indeed. . . . And while much has been said about your admirable determination to overcome terrible obstacles, it is also important to remember how you arrived where you are now, because you did not get there by yourself.

You can become an exemplar of fairness and the rational interpretation of the Constitution, or you can become an archetype of inequality and the retrogressive evaluation of human rights. The choice as to whether you will build a decisional record of true greatness or of mere mediocrity is yours.

Black Ivy League alumni [Higginbotham and Thomas finished Yale] in particular should never be too impressed by the educational pedigrees of Supreme Court Justices. The most wretched decision ever rendered against black people in the past century was *Plessy v. Ferguson*. It was written in 1896 by Justice Henry Billings Brown who attended both Yale and Harvard law schools. The opinion was joined by Justice George Shiras, a graduate of Yale Law School, as well as by Chief Justice Melville Fuller and Justice Horace Gray, both alumni of Harvard Law School.

If those four Ivy League alumni on the Supreme Court in 1896 had been as faithful in their interpretation of the Constitution as Justice John Harlan, a graduate of Transylvania, a small law school in Kentucky, then the venal precedent of *Plessy v. Ferguson*, which established the federal "separate but equal" doctrine and legitimized the worst forms of race discrimination, would not have been the law of our nation for sixty years. The separate but equal doctrine; also known as Jim Crow, created the foundations of separate and unequal allocation of resources, and oppression of the human rights of blacks.

The tragedy with *Plessy v. Ferguson* is not that the Justices had the "wrong" education, or that they attended the "wrong" law schools. The tragedy is that the Justices had the wrong values, and that these values poisoned this society for decades.

I have read almost every article you have published, every speech you have given, and virtually every public comment you have made during the past decade. Until your confirmation hearing, I could not find one shred of evidence suggesting an insightful understanding on your part on how the evolutionary movement of the Constitution and the work of civil rights organizations have benefited you. . . .

While you were a presidential appointee for eight years, as Chairman of the Equal Employment Opportunity Commission and as an Assistant Secretary at the Department of Education, you made what I would regard as unwarranted criticisms of civil rights organizations of the Warren Court, and even of Justice Thurgood Marshall. Perhaps these criticisms were motivated by what you perceived to be your political duty to the Reagan and Bush administrations. Now that you have assumed what should be the non-partisan role of a Supreme Court Justice, I hope you will take time out to carefully evaluate some these unjustified attacks.

But your comments troubled me then and trouble me still because they convey a stunted knowledge of history and an unformed judicial philosophy. . . . You are no longer privileged to offer flashy one-liners to delight the conservative establishment. Now what you write must inform, not entertain. Now your statements and your votes can shape the destiny of the entire nation.

During the last ten years, you have often described yourself as a black conservative. I must confess that, other than their own self-advancement, I am at a loss to understand what is it that the so-called black conservatives are so anxious to conserve. Now that you no longer have to be outspoken on their behalf, perhaps you will recognize that in the past it was the white "conservatives" who screamed "Segregation now, Segregation forever!" It was primarily the conservative who attacked the Warren Court relentlessly

because of *Brown v. Board of Education* and who stood in the way of almost every measure ensure gender and racial advancement.

Of the fifty-two Senators who vote in favor of your confirmation some thirteen hailed from nine Southern states. Some may have voted for you because they agreed with President Bush's assessment that you were "the best person for the position." But, candidly, Justice Thomas, I do not believe that you were indeed the most competent person to be on the Supreme Court. Charles Bowser, a distinguished African-American Philadelphia lawyer said: "I'd be willing to bet that not one of the Senators who voted to confirm Clarence Thomas would hire him as their lawyer."

Later, Judge Higginbotham questioned the decision of the Judicial Council of the National Bar Association which had invited Supreme Court Justice Clarence Thomas to address its annual convention. In that letter, which appeared in the September 1988 edition of *Emergence* magazine, Higginbotham explained why he was "shocked" to learn of Thomas' invitation:

I will not take a position as to whether he should be disinvited, and leave that significant responsibility to the judgment of the Executive Committee. I am not one who believes there is, or should be, a monolithic view within the African-American community on all issues; but, I do think there are certain undisputable common denominators as to what constitutes progress or regress. Within that context and from the perspective of almost every constitutional law scholar, there is no doubt that Justice Thomas had done more to turn back the clock of racial progress than has perhaps any other African-American public official in the history of this country.

Higginbotham continued, mentioning those ruling in which Thomas overlooked history to undermine the progress of black Americans in the civil rights struggle and wrote:

In view of his harsh conservative record, please explain to me why you invited Justice Thomas, who has voted consistently against the interest of African Americans, minorities and women.

Mr. Speaker, a few years ago, Judge Higginbotham underwent open heart surgery. After his recovery he wrote to his many friends thanking them for their expressions of concern and prayers. In his note, the judge quoted what a renowned heart specialist had said:

During the last twenty years, I have talked to many dying patients. I have never met one who wished that s/he had spent more time at the office, but I have met thousands who regretted that they did not spend more time enjoying their family and pursuing less stressful options.

Judge Higginbotham did reduce his voluminous schedule of activities, but fortunately he remained a powerful voice which helped to shape attitudes and influence opinions about race and racism in this country. His contributions to the civil rights movement will be forever cherished.

THE CORRECT APPROACH TO GLOBALIZATION

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 13, 1999

Mr. FRANK of Massachusetts. Mr. Speaker, no issue facing us is more important than how

we respond to the question of adapting to the new global economy. Until fairly recently, the accepted wisdom was that all governments had to do was to allow capital to find its most profitable niche, and we would all reap the benefits. Increasingly people understand that this is an incomplete approach to governance and an inadequate response to the social economic and political problems posed by the new global economy. In the interest of fostering discussion of this important set of issues, I ask unanimous consent to insert into the RECORD at this point three commentaries on this issue which while diverse in the perspective from which they are made, share a common understanding of the general direction in which we should be going, and are also distinguished by a strong intelligence.

First, I insert a speech given by John Sweeney, President of the AFL-CIO, at Davos. John Sweeney's thoughtful leadership in trying to find a way to reconcile the strengths of the market with policies that offset the negative effects of a pure market approach is a genuine asset for the United States in our efforts to deal with this matter.

Second, I insert an article by Bruce Freed who has been writing very thoughtfully in commentary aimed at the enlightened leadership of the business community.

Third, I insert a very thoughtful article by one of the most thoughtful of our contemporary journalists, E.J. Dionne, on the rhetorical aspects of this broader question.

REMARKS BY JOHN SWEENEY, PRESIDENT OF THE AFL-CIO, 1999 ANNUAL MEETING WORLD, ECONOMIC FORUM, DAVOS, SWITZERLAND, JANUARY 30, 1999

It is a delight to be here once more, and to have this opportunity to share with you some of the perspectives of the 40 million working men and women in households represented by the AFL-CIO.

We've been asked to talk about how to "manage the social impact of globalization." But let us not think of globalization as a natural phenomenon with regrettable social side effects. The forces of globalization now wracking the world are the creation of man, not of God. Our task is not to make societies safe for globalization, but to make the global system safe for decent societies.

This is not a quibble about words. As we meet, about a third of the world's economy is in recession. 100 million people who thought they were part of a growing middle class have been brutally thrust back into poverty. And, as recent events in Brazil have shown, the crisis is far from over.

Global deflation is now the nightmare of central bankers. Too many goods, too much productive capacity chasing too few consumers with too little money. In the crisis, the US is the buyer of last resort. But US consumers are already spending more than they make. US manufacturers are in recession. In recent months, 10,000 steelworkers have lost their jobs to a flood of imports, their families disrupted, their communities devastated. The US trade deficit is headed to unsustainable new heights.

The terrible human costs can have one good effect. They can sober the debate about the global economy. For two decades, conservative governments have been on a binge, dismantling controls over capital, currencies, and corporations. Now we awake the morning after, our heads aching, our hearts burdened by the destruction that we see around us.

Globalization—in the extreme, corporate dominated, de-regulated form we have witnessed—is not the scapegoat of the current

crisis; it is the cause of it. After two decades, the results are very clear. The global casino of capital and currency speculation has generated booms and busts of increasing severity and frequency, as World Bank economist Joseph Stiglitz has warned. And it has produced slower growth and greater inequality in countries large and small, developed and developing—as governments scramble to protect themselves from the global storms.

In its current form, globalization cannot be sustained. Democratic societies will not support it. Authoritarian leaders will fear to impose it. The so-called Washington consensus is no longer the consensus even in Washington.

Over the last year and one-half, workers, environmentalists, consumers—reflecting the opinion of the vast majority of Americans—came together to block the president's request for fast track trade authority not once, but twice.

We insisted that enforceable worker rights and environmental protections be central to any new round of trade negotiations.

And we were right. Now US Treasury Secretary Robert Rubin calls for a new "architecture" to limit instability. President Clinton pushes new initiatives on child labor, on core labor rights, and on the environment. America's voice, I suggest to you, will either sound a new note in any future round of trade negotiations, or it will be muted in spite of itself.

When you are in a hole, the first thing to do is to stop digging. If the newly sobered global community has stopped digging, we're still left in the hole. Working people across the world understand that if nothing is done, corporate globalization will continue, unchecked and uncontrolled. We need to go a different way.

Calls for greater transparency, better accounting and more generous safety nets are satisfying, but not sufficient. The essential building blocks of a new internationalism can be seen in the struggles of workers and citizens across the world.

People are demanding protection from the havoc caused by currency and capital speculation. If this is not done at a global level, it will be done at a national level—as we've seen from Hong Kong to Malaysia to Chile.

While curbing speculators, we must get the global economy going again. Recent efforts to lower interest rates in Europe and the United States, and to pump up demand in Japan should be seen only as first steps.

In this crisis, as the IMF recently admitted, enforcing austerity on indebted countries only makes things worse. The Fund and the Bank should help restructure debt and stimulate growth. And as the growing Jubilee 2000 movement has called for, industrial nations should move to relieve the debt burdens on the poorest nations, while increasing investment in sustainable energy, education and health care.

At the same time, we need to create the conditions for sustainable growth.

That is why it is vital to empower workers—to enforce core worker rights in the global market—the right to organize and to bargain collectively to improve one's lot, the prohibitions against child labor and forced labor, the elimination of discrimination.

Empowering workers strengthens democracy. It is also vital to sustaining prosperity, to making markets work.

When the famed US labor leader, Walter Reuther, visited Japan in the 1960s, he saw that Japanese autoworkers were riding bicycles to work. "You can't build an automobile economy on bicycle wages," he warned the Japanese. But of course they could, by exporting their automobiles to the United States.

No limits of that export-led growth model are apparent. A vibrant economy requires

consumers—workers who capture a fair share of the profits that they produce. The struggle to do just that is taking place in offices and shop floors across the world. As President Clinton has said, global rules are crucial if we are to keep the global market from becoming a race to the bottom.

Finally, this debate can no longer be contained in closed rooms in luxurious hotels. It is already being waged on the streets, the shop floors and the computer screens across the world. As the cloistered negotiators of the Multilateral Agreement on Investment discovered, trade and investment agreements must gain public support if they are to go forward at all. Open covenants, openly arrived at is not simply a slogan—it is a growing reality.

We are entering a new era. We will either build a new internationalism that empowers workers, protects consumers and the environment, and fosters sustainable growth—or we will witness a harsh reaction as desperate peoples demand protection.

I urge of all you to join us in our effort to bend the forces of globalization so they help workers everywhere build a better future.

MR. MARX, MEET MR. FRIEDMAN

(By E.J. Dionne Jr.)

PARIS—A characteristic of politics in most of the well-off democracies is that we know far better what we don't want than what we do.

The trends in most democratic countries are toward moderate governments and away from pure free-market parties. Electorates don't fully trust the global economy and want protection from its fluctuations. But to win elections, parties of the left promising those protections have to prove they're comfortable with the market and accept its disciplines.

France's Socialist Prime Minister Lionel Jospin caught the mood when he declared that he favored a "market economy" but opposed a "market society." We want capitalism, but want it tempered by other values—equity, community and compassion, for starters.

If you want to know how much has changed, consider these comments from Robert Hue, the national secretary of the once hard-line French Communist Party. "The Communists are not adversaries of the market," he declared last week. "The Communists have broken with the statist vision of things." Imagine: Karl Marx dining with Milton Friedman.

The social philosopher Anthony Giddens explains this transformation in "The Third Way," his important recent book. "No one any longer has any alternatives to capitalism—the arguments that remain concern how far, and in what ways, capitalism should be governed and regulated."

"These arguments are certainly significant," he continues, "but they fall short of the more fundamental disagreements of the past." That may explain some of the listlessness of contemporary politics. Utopias and searing critiques of the status quo are exciting. But why should progressive parties pretend to have answers they don't, or attempt to build systems that can't work?

The Third Way idea is seductive because it seems to represent realism with a heart. But Giddens—the director of the London School of Economics who's thought of as British Prime Minister Tony Blair's favorite social philosopher—tries to show that the Third Way is more than a marketing slogan.

The core problem with contemporary conservatism, he says, is an inconsistency at the heart of its creed. Its "devotion to the free market on the one hand, and to the traditional family and nation on the other, is self-contradictory."

Why? "Individualism and choice are supposed to stop abruptly at the boundaries of the family and national identity, where tradition must stand intact. But nothing is more dissolving of tradition than the 'permanent revolution' of market forces."

Giddens is perceptive on the thorny question of risk vs. security. The standard account is that if government provides too much security, no one will want to take risks. But Giddens is alive to the need for certain social protections if what you desire is a risk-taking society.

To encourage citizens to be "responsible risk-takers," he writes, "people need protections when things go wrong" and "also the material and moral capabilities to move through major periods of transition in their lives." That's the reason every party in every country is talking about education.

The upshot is we shouldn't dismantle the welfare state, but rather reconstruct it into a "social investment state" to provide "resources for risk-taking." Giddens's welfare state would also cooperate extensively with community institutions that are independent of government.

As for the global economy, Giddens sees its expansion as removing more and more activity from the regulatory reach of individual nations. In what he calls "depoliticized global space," there are no rules establishing "rights and obligations." Figuring out what those are and whether they can be enforced across national boundaries is one of the central political problems of our time.

The strongest critique of the Third Way is that its careful balancing act sounds too good to be true. Center-left parties trying to calibrate market efficiencies against concerns for social justice are not working in some sanitized laboratory. In the politics of democracies, interests and passions intervene.

That was brought home in the recent battle between Germany's Social Democratic chancellor, the centrist Gerhard Schroeder, and his left-wing finance minister, Oskar Lafontaine. Lafontaine resigned, protesting that "the heart isn't traded on the stock market yet." But where Lafontaine saw a socially minded heart beating, German business saw a statist cancer growing.

The Paris daily *Le Monde* noted archly that it was pure "coincidence" that at the moment Lafontaine quit, Anthony Giddens was visiting Bonn to unveil the German edition of "The Third Way"—of which Schroeder is a public fan.

"The Third Way" is worth finding, and Giddens makes an honorable effort to draw us a map. But as the struggles of the new German government show, the road there is still under construction.

BUSINESS MUST TAKE LEAD TO WIN FAST TRACK

Steel tops Congress' trade agenda. But just beneath the surface remains fast track, the missing critical link in long-term U.S. trade policy.

Twice in the past two years, Congress refused to give broadened authority to the president to negotiate trade agreements. With a third try being readied, the challenge for the corporate community is to provide the leadership that will finally achieve it.

The push needs to come soon. As globalization quickens, opportunities for U.S. companies to sell their products increase. However, access to foreign markets must be guaranteed, a process fast track would facilitate. "If we don't get [fast track] this year, we're not going to get it until well after the presidential election," Rep. Jennifer Dunn (R-Wash.), a member of the Ways and Means Trade Subcommittee, said in an interview.

The implications of fast track's absence are beginning to be seen. This is the case in Latin America, a key market for U.S. exports. By not being able to move forward with a Latin American free-trade agreement, the United States runs the risk of being cut out as the European Union forges closer trading ties with Mercosur, the powerful southern cone trade group.

Winning fast track, however, will require a fundamental change in the way business deals with Capitol Hill and how it approaches the politics of trade. "You've got a lot of folks stuck in a rut now," said Dunn. The problem business faces is that the Republican-anchored coalition it is looking to to pass fast track hasn't worked effectively since the passage of the North American Free Trade Agreement almost six years ago.

How does business get out of this rut and turn the fight for fast track into a winning game? Last December, this column suggested a counterintuitive trade strategy that looked center-left to offset growing Republican isolationism. Now is the time to apply it. With Congress so closely balanced, business can't afford to ignore the Democrats, including liberals, labor and the environmentalists.

Rep. Cal Dooley (Calif.), a staunch free-trade and leading pro-business Democrat, recognizes this as he pushes for a serious dialogue between business and labor and the environmentalists. Those groups have been fast track's toughest opponents. "The message I've been delivering to business is that you have to be providing the leadership and identifying the policies that address the environmental and labor issues that can broaden the base of support for fast track," Dooley told me.

Key business groups have started doing this but it needs to be done seriously in order to construct a new coalition. That coalition can be made up of Democrats and environmental, labor and internationalist Republicans. House Banking Committee Chairman Jim Leach (R-Iowa) suggested this approach a year ago as a way to break the deadlock over funding for the International Monetary Fund. Rep. Barney Frank (D-Mass.) has urged business and liberals to find ways to deal with each other on trade and other elements of their agendas.

Where do corporate CEOs fit into this new strategy? In several ways. First, they need to pledge their unwavering commitment to the effort—from start to finish—just as they do with company initiatives.

Next, they need to shape the public's perception of fast track as critical to the nation's economic growth and their personal well-being. This can only be done by leadership outside Washington that can soften the partisanship that hurt fast track previously. CEOs can do this, Dunn said, by "articulating much more in public and much more with their employees the benefits and importance of free trade."

Lastly, they need to provide the ongoing leadership of the fast-track campaign. Usually, this is done by the White House with the support of outside groups. However, long-term, proactive leadership has not been the forte of this White House as demonstrated by the last minute, ad hoc—and unsuccessful—campaign it mounted for fast track in 1997.

Business needs to be pragmatic and go where the votes are if it is to win fast track. By doing that, business leaders will have a real shot at achieving a U.S. trade policy that is truly global.

A TRIBUTE TO THE LATE JOE DIMAGGIO

HON. PETER DEUTSCH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 13, 1999

Mr. DEUTSCH. Mr. Speaker, last month the Nation lost a true American hero. I am deeply saddened that Joe DiMaggio, "the Yankee Clipper," passed away at the age of 84 in his hometown of Hollywood, Florida, on March 8, 1999. We mourn the loss of a man whose legacy will be remembered for years to come. Indeed, Joe DiMaggio has a long and storied list of athletic accomplishments, but he is also remembered for his service to the South Florida community and the Nation. Joe DiMaggio is a man who achieved greatness, and it was also the way in which he carried himself that was truly great.

Voted the "Greatest Living All-Time Baseball Player" by the Baseball Writers Association in 1969, Joe DiMaggio's impact was felt in the Major Leagues soon after his rookie season in 1936. After winning only one World Series in the seven years prior to his joining the team, the New York Yankees won four straight world championships. By the time he retired in 1951, Joltin' Joe DiMaggio's role in the dominance of the New York Yankees was undeniable: his leadership brought a total of ten pennants and nine world series to New York in the span of 13 major league seasons. Over his career, Joe DiMaggio would win three MVP awards, become the only major league player in major league history who has more than 300 home runs and fewer than 400 strikeouts, and be inducted into the Baseball Hall of Fame in 1955.

Career statistics aside, Joe DiMaggio had perhaps one of the most remarkable years ever when he won the Most Valuable Player award in 1941. That year, like Sammy Sosa and Mark McGwire did during the summer of 1998, Joe DiMaggio and Ted Williams captivated the entire Nation with two spectacular individual performances. While Ted Williams would hit .406, DiMaggio would take center stage while hitting safely in 56 straight games—an amazing record which stands today.

Though one could talk about Joe DiMaggio's greatness based on baseball statistics alone, we must not forget the service that Joe DiMaggio performed for our nation during times of war. In 1943, Joltin' Joe swapped his Yankee paycheck for a \$50-a-month private's salary as he left baseball to serve as physical trainer for Army Air Force cadets. Finishing his term of service three years later, Joe DiMaggio had risen to the rank of sergeant and, in 1974, he was awarded the Silver Helmet award from AMVETS (American Veterans of World War II, Korea, and Vietnam). Only three years after receiving this award, he would be further honored in a way that few are: he was awarded the Presidential Medal of Freedom by President Carter.

Mr. Speaker, Joe DiMaggio lived much of his life in private. Though he also performed much philanthropy work in private, he was very public about his affiliation with the Memorial Hospital which lies within my Congressional District in Hollywood, Florida. In 1992, the new children's wing of Memorial Hospital was christened the "Joe DiMaggio Children's