

## Congressional Closeup by William Jones

### Senate shoots down 'racial justice' act

The Senate on May 11 rejected a bill that would have allowed those convicted of murder to use evidence of racial bias in appealing a death penalty sentence. The 58-41 vote opposed including the racial justice act in the crime bill.

The House had approved the provision that would make it easier for defendants facing the death penalty to challenge death sentences as racially discriminatory, using statistical evidence. This measure was upheld by a vote of 217-212 against a Republican challenge on April 20.

In the Senate debate, the Senate's only black member, Carol Moseley-Braun (D-Ill.), argued in support of the measure: "There are jurisdictions in this nation, including the federal government itself, where the death penalty is administered in a racially discriminatory manner."

Studies have shown that blacks and other minorities are more likely to receive the death penalty than whites, and the death penalty is imposed much more often when the victim is white. The racial justice act would have overturned a death penalty if the defendant could prove by statistical evidence that racial bias was a factor in imposing the sentence.

Opponents argued that such a measure would impose a racial quota on death sentences and could virtually end the death penalty in most states. "The so-called racial justice act has nothing to do with racial justice and everything to do with abolishing the death penalty," said Orrin Hatch (R-Utah).

Judiciary Committee members from both houses who meet to resolve differences in the two bills could decide to put the racial justice provision back in, despite the Senate vote. Both

houses must then pass the final measure before President Clinton can sign it. The death penalty is legal in 36 of the 50 states, but most of the executions in the past two decades have come in Texas, Florida, Louisiana, and other southern or western states. There is also a federal death penalty, but the federal government has not executed anyone for more than 30 years.

### Dorgan suggests interest rate, derivatives link

Sen. Byron Dorgan (D-N.D.) indicated in comments on the floor of the Senate on May 13, that the reason for the Federal Reserve's hike in interest rates may have been because of concern about the rapid growth in derivatives trading rather than the alleged fear of inflation.

"I think the Fed is taking a look at the stock market," said Dorgan. "I think the Fed is taking a look at the enormous growth of derivatives, and I think the Fed is deciding to increase interest rates. . . . The Fed is deciding they also want to try to dampen the speculation in the financial sector in this country. Meanwhile, those in the productive sector will pay the cost."

Dorgan called for opening the operations of the Fed to congressional scrutiny. "Monetary policy, the decisions about money and interest rates, is made downtown in a building by the Federal Reserve Board," Dorgan said. "That is not a part of an open society, not a part of a democratic process. It is closed, secretive, unresponsive, and unaccountable to the American people." Dorgan is preparing a bill which would restrict commercial banks that are heavily engaged in derivatives trading from having the benefit of federal deposit insurance.

### Mitchell urges sanctions on China on human rights

On May 15 on "Meet the Press," Senate Majority Leader George Mitchell (D-Me.) said that he favored punishing China with trade sanctions unless it improves its human rights record by early June. At that time, President Clinton must make a decision as to whether China should retain Most Favored Nation (MFN) trade status, which would grant Chinese goods the lowest tariff rate.

Mitchell said he believed that China had not yet met U.S. conditions for the renewal of MFN. "There has been significant progress in some respects, not in others," Mitchell said. "As of now, I don't think that the terms of the Executive Order have been met. And therefore the extension of the MFN status should be conditioned with some sanctions."

In his Executive Order last June, Clinton said he would revoke MFN this year unless China made "overall significant progress" on seven human rights issues, including freeing political prisoners, ending repression in Tibet, and easing emigration restrictions. Mitchell said Chinese human-rights policy had gone back and forth, and that a decision on extending MFN would have to be made on "the full record on all seven issues."

American business groups, among others, fear Beijing will retaliate in kind against sanctions, restricting access to one of the fastest growing markets for U.S. goods. "I think it'll be a very close call," Mitchell said regarding the outcome of a vote. "But it depends upon what the decision is at the time and what sanctions are imposed."

Senate Minority Leader Bob Dole (R-Kan.), on the other hand, believes that President Clinton should extend MFN status. Also speaking on "Meet

the Press," Dole said that if Clinton did not extend MFN, China would retaliate against U.S. exports, costing many Americans their jobs.

## **P**ressure building for Clinton to move on Haiti

Liberal Democrats are upping the pressure for President Clinton to militarily intervene to restore ousted President Jean-Bertrand Aristide, who advocates the "necklacing" of his opponents, to power in Haiti. Under congressional pressure, Clinton has stiffened the embargo against Haiti, while at the same time the administration is preparing contingencies for some form of military intervention.

In a commentary in the May 16 *New York Times*, Sen. John Kerry (D-Mass.) argued that there is "every reason to think an international invasion would succeed. . . . Haiti's 7,000-man military is hardly a formidable opponent. It is an undisciplined collection of gun-wielding bullies with little training or experience other than terrorizing poor, unarmed civilians." Kerry wrote that "a show of determined resolve from a U.S.-led international force of professional soldiers, backed up by sufficient air power . . . could quickly subdue the Haitian military."

Reflecting the pressure, U.S. Ambassador to the United Nations Madeleine Albright said on the "Today" show on May 11, that a U.N.-U.S. force would be needed in Haiti, "no matter what happens." Even if the sanctions "work" (i.e., the Haitian military leaders leave the country without an invasion), "there still will be need for some kind of a force to deal with the security issues in Haiti," she said. "There will be need for some

kind of United Nations forces, we think, with an American component of some type, no matter what happens." Pressed on the timetable, Albright answered that "a lot of contingency planning" is under way. She reiterated that the United States does not rule out going into Haiti unilaterally, but insisted that "this is not the time yet to discuss it."

## **L**each sues to get Whitewater documents

Rep. Jim Leach (R-Iowa) filed suit on May 11 to force the Resolution Trust Corp. (RTC) and the Office of Thrift Supervision (OTS), two agencies overseeing the savings and loan industry, to hand over documents relating to the Whitewater land development affair, which is dogging President Clinton. Leach, the senior Republican on the House Banking Committee, told reporters that the issue is whether Congress has the right to seek documents that might embarrass officials.

Leach has been the Republican point-man in the House for the British-controlled "Whitewater" scandal, and a regular contributor to BBC news programs.

"Shielding information to protect public officials from public accountability is simply not the American way," Leach complained. The suit, in U.S. District Court in Washington, seeks documents relating to the Madison Guaranty Savings and Loan institution of Arkansas, whose head, James McDougal, and his wife were partners with then-Arkansas Gov. Bill Clinton and Hillary Rodham Clinton in a failed vacation development called Whitewater.

Leach has charged that funds from the bank, which failed at a cost to taxpayers of about \$67 million, were funneled into Whitewater. He has not accused the Clintons of any criminality, but is attempting to create an image of culpability around the White House. The suit accuses the RTC and the OTS of "arbitrary and capricious" deviation from the custom of honoring requests by the Banking Committee's ranking minority member for documents.

The suit also asks RTC and OTS officials to admit they "violated their legal obligation to turn over the documents" under the Freedom of Information Act (FOIA). Leach said he had formally asked for OTS and RTC records on eight separate occasions beginning in December, and complained that "75% of the requests were denied, including about 99% of those records that would contain anything of interest." He said the documents are expected to disclose how much money was transferred from Madison to Whitewater, and other information.

Both the House and Senate passed resolutions calling for hearings on Whitewater, but left it up to party leaders to decide when the hearings could be held without interfering with an investigation by special counsel Robert Fiske. In his suit, Leach asked for swift action by the court.

After appearing before Judge Charles Richey, lawyers for the two sides agreed that Leach's lawyers would file a motion for summary judgment and all legal briefs would be filed by June 27. Oral arguments would then follow. The suit seeks a declaration that the defendants' actions violated the FOIA and two other laws, and asked for an injunction requiring immediate disclosure of the documents.