LCCR leads efforts to oppose the confirmation of former Senator John Ashcroft to be U.S. Attorney General.

On February 2, 2001, the U.S. Senate voted 58-42 to confirm former Missouri Senator John Ashcroft as U.S. Attorney General. At a Washington, D.C. press conference on the day of the vote, LCCR Executive Director Wade Henderson expressed his disappointment at the outcome of the vote, yet noted, "It is our clear and specific intent to hold John Ashcroft to his word that he gave to the United States Senate, the word of John Ashcroft that a number of Senators relied upon in choosing to vote for the nominee. Make no mistake about it -- this Attorney General is on record!"
Inside:

From the Cover:
page 3

The Leadership Conference on Civil Rights (LCCR) joined a broad-based coalition to mount a major campaign to oppose the confirmation of former Senator John Ashcroft to be Attorney General. The coalition included an array of civil and human rights, environmental, women’s rights and choice, gun control, labor, and religious freedom organizations.

Voting Rights Violations in the 2000 Election
page 7

For over a month issues related to Florida ballots problems in the Presidential election transfused the nation and the media. There were also substantial and credible allegations of disenfranchisement of minority voters in several Florida counties. These allegations assert that hundreds of African Americans, Haitian Americans and Puerto Ricans may have been denied their constitutionally guaranteed right to vote in the November 7, 2000 election.

Congressional Updates:

106th Congress Voting Record
page 10

The Leadership Conference on Civil Rights (LCCR) has released its Voting Record for the 106th Congress, rating both the House and the Senate on key legislative floor votes on civil rights and social and economic justice issues of concern to LCCR-member organizations.

Judicial Nominations
page 10

Judicial nominations and appointments were a hot button issue throughout the 106th Congress, with the Senate’s record on the confirmation of female and minority judicial nominations being nothing short of unacceptable. On December 17, 2000, President Clinton made a recess appointment, naming Roger Gregory to the Fourth Circuit Court of Appeals to fill a long-standing vacancy.

The Continuing Struggle for Federal Hate Crimes Legislation
page 12

The Hate Crimes Prevention Act, renamed the Local Law Enforcement Enhancement Act, received widespread bipartisan support in both the House and the Senate during the 106th Congress. Unfortunately, it was stripped from the Department of Defense Authorization Bill in the conference committee.

Elementary and Secondary Education Act [ESEA]
page 13

ESEA suffered a tumultuous journey during the 106th Congress. Controversial amendments and stand-alone negotiations prevented reauthorization of ESEA this year.

Immigration Reform Update
page 14

In the 106th Congress immigration legislation covered several areas of concern to the civil rights community, including legislative efforts to remedy the excessively harsh provisions of the Illegal Immigration Reform and Immigrant Responsibility Act (IRAIRA).

Low Power FM Radio
page 17

The Federal Communications Commission (FCC) recently launched the licensing application process for a new low power FM radio service (LPFM), a noncommercial radio service consisting of low power stations that will serve very small geographic areas (less than 3.1 miles). On December 15, 2000, the Radio Broadcasting Preservation Act (S 9202) passed both the House and Senate as part of the omnibus budget bills. This bill will drastically curtail low power radio, cutting it back by 80%.

Headlines

Leadership Conference on Civil Rights leads efforts to oppose the confirmation of former Senator John Ashcroft to be U.S. Attorney General

On February 2, 2001, The U.S. Senate voted 58-42 to confirm former Missouri Senator John Ashcroft as U.S. Attorney General. The confirmation came despite strong opposition from a broad-based coalition led by LCCR that included organizations concerned with civil and human rights, the environment, women’s rights and choice, gun control, labor, and religious freedom. The coalition faced an uphill battle, as Majority Leader Trent Lott (R-Miss) announced prior to the hearings that all fifty Senate Republicans would vote in favor of Ashcroft. Lott also predicted that the opposition would gain only thirty votes. Yet many Democrats, initially inclined to vote for a fellow senator, decided to vote against Ashcroft after learning more about his record.

At a Washington, D.C. press conference on the day of the vote, LCCR Executive Director Wade Henderson expressed his disappointment at the outcome of the vote, yet noted, “...instead of sailing through the confirmation as a former member of the Senate, John Ashcroft was challenged about his long record of opposing the very rights he will be charged with enforcing. Indeed, John Ashcroft was forced to pledge that he will uphold the laws he has spent the past 35 years fighting.”

“...Instead of sailing through the confirmation as a former member of the Senate, John Ashcroft was challenged about his long record of opposing the very rights he will be charged with enforcing. Indeed, John Ashcroft was forced to pledge that he will uphold the laws he has spent the past 35 years fighting.”

"It is our clear and specific intent to hold John Ashcroft to his word that he gave to the United States Senate, the word of John Ashcroft that a number of Senators relied upon in choosing to vote for the nominee. Make no mistake about it - this Attorney General is on record! He will be held accountable to his promises; he will be held accountable for the proper enforcement of all of our rights; and we will call upon both the President and the Congress to exercise their power of oversight.”

Weeks earlier, on January 9, 2001, as the confirmation hearings neared, Henderson was joined by the leadership of the Alliance for Justice, the Lawyers’ Committee for Civil Rights Under Law, American Association of University Women, National Association for the Advancement of Colored People, Human Rights Campaign, National Organization for Women, Feminist Majority, People
for the American Way, National Abortion and Reproductive Rights Action League, and other groups as they announced their opposition to the Ashcroft nomination, and outlined the reasons they considered this campaign a major priority. In opening the press conference, Heschl said:

"I am joined here at the podium by an extraordinary array of the leadership of the civil and human rights, environmental, women's rights and choices, gun control, labor, and religious freedom communities...to announce the formation of an unprecedented nationwide campaign of coalitions representing over 200 national organizations and growing to oppose the confirmation of John Ashcroft to be Attorney General of the United States."

"Under the umbrella of 'Stop Ashcroft!' this campaign will educate the American public, the media, and most importantly, the United States Senate about Senator Ashcroft's public record, the responsibilities of the Attorney General, and what is at stake should the Senate vote to confirm him.

"The 'Stop Ashcroft!' campaign represents the first time in years that such a broad and diverse coalition of interests has mounted a coordinated public education grassroots campaign; and the first time ever these interests have joined together to oppose an Executive Branch nominee.

"The decision to oppose the confirmation of John Ashcroft as Attorney General was not taken lightly, nor are we under any illusion about the magnitude of the challenge we face. However, we take very seriously the Constitution's promise of equal protection and fairness to all. We strongly believe that at the very least, the Attorney General as the nation's chief law enforcement official, must have a demonstrated commitment to equal opportunity...

"Simply put, John Ashcroft's views on a range of issues that would be the subjects of his work as Attorney General are just too extreme. His open hostility to the very laws and policies that protect the civil rights of all individuals in our society left the LCCR coalition, as well as the many organizations committed to equal opportunity that have joined us in this effort, no choice but to actively oppose his nomination.

"We are confident that following a thorough and fair review of Senator Ashcroft's public record, a bipartisan majority of the Senate will conclude, as we have, that Senator Ashcroft simply does not meet the standards set for the individual serving as the principal enforcer of our nation's civil rights laws and should not be entrusted with the responsibility of guaranteeing justice for all. We think the American people will agree that it's a risk too great to take.

"Lastly, there is great disappointment among many Americans that a battle over the future of the Justice Department is among the first issues demanding attention of a politically-overwrought nation after an admittedly bruising election. Some of us were hopeful that when President-elect Bush said during the campaign that he was a 'unit, not a divider,' those words had meaning. Unfortunately, John Ashcroft is a 'divider, not a uniter'; and his selection to be the Attorney General strips bare any pretense about bringing the country together.

"Only a bipartisan majority of the Senate can right this wrong by rejecting the confirmation of John Ashcroft to be the Attorney General."

Some of the issues of concern to the LCCR and other organizations are outlined below:

The Attack on Justice Ronnie White and James Hormel

Much has been written about the role of Senator Ashcroft in causing the defeat of the nomination of Missouri Supreme Court Justice Ronnie L. White for a United States District Court seat in Missouri. Justice White was the first African American appointed to the Missouri Supreme Court and the question has been raised about whether race was a factor in Justice White's treatment during Senate hearings. Racial issues aside, the LCCR and others asserted that Senator Ashcroft's opposition to Justice White's nomination, and the tactics used in defeating Justice White, were not only deeply disquieting but, once examined could ultimately disqualify Senator Ashcroft for the position of Attorney General.

Progressive organizations stated that the important issue presented by the Ronnie White defeat is whether Senator Ashcroft possesses the demeanor and integrity necessary to be Attorney General. According to numerous news accounts, Senator Ashcroft grossly misrepresented Justice White's rulings as a Missouri Supreme Court judge in his efforts to bring about the defeat of Justice White's nomination. According to the Washington Post, "Ashcroft badly distorted White's record at a time when he was looking for law-and-order issues for his reelection campaign" (Ashcroft's "99 Tactics in Spotting," January 1, 2001). Senator Ashcroft was writing in the National Journal and offering one of the more comprehensive reports on the White vote ("The Shame of the Ronnie White Vote," October 16, 1995), reports that Senator Ashcroft characterized Justice White as "pro-criminal and activist" extolling a 'serious bias against... the death penalty,' and even as exhibiting "a tremendous bend toward criminal activity."

Justice White's actual votes on the Missouri Supreme Court reflected a very different record. Justice White voted to uphold 41 of 59, or 70%, of the death sentences he reviewed while on the Court. Of the 18 cases in which Justice White voted to reverse, ten were unanimous reversals. As Taylor points out, "[t]hat's a bit below the 75 to 80 percent averages of the five current Missouri Supreme Court judges when [Senator] Ashcroft himself appointed when he was Governor ... and well above the 55 percent average of Elwood Thomas, the newly-deceased Ashcroft appointee whom White replaced in 1995."

In addition to misrepresenting Justice White's voting record, Senator Ashcroft committed what Taylor called a "categorical distortion" of one of Justice White's two lone death penalty dissenting opinions. Senator Ashcroft told his Senate colleagues that Justice White's "only basis" for recommending a new trial for the defendant in the case of State of Missouri v. Kinder was that the trial judge had left his political party "because he disagreed with their position on affirmative action." To the contrary, Justice White's dissent expressly rejects that ground, stating that the trial judge's criterion of affirmative action was "irrelevant to the issue of the [judge's] bias." Justice White's dissent clearly points to other views expressed by the trial judge which, White believed, created questions about the judge's impartiality.

Ashcroft also utilized questionable tactics in his opposition to James Hormel, an openly gay man nominated by President Clinton for ambassador to Luxembourg in 1997. Hormel was a well-qualified candidate for the position, having previously served as a U.S. Delegate to the 51st U.N. Human Rights Commission in 1995 and having been approved by a majority of Senators with no opposition from the US delegation to the United Nations General Assembly.

In Ashcroft's confirmation hearings he denied that he had opposed Mr. Hormel based on sexual orientation. In written answers, Ashcroft stated that his opposition was "Based on the totality of Mr. Hormel's record of public positions and advocacy." However, Ashcroft had previously stated that he felt it was appropriate to take sexual orientation into account when considering nominees for ambassador. And in 1998 Ashcroft said with regards to Hormel, "He's been a leader in promoting a positive lifestyle...And the kind of leadership he's exhibited there is likely to be offensive to...individuals in the setting to which he will be assigned." Ashcroft and Jesse Helms (R-North Carolina) were the only two senators to vote against Hormel in committee.

Senator Ashcroft's Embrace of Racially Divisive Institutions

Civil rights and other progressive organizations found Senator Ashcroft's praise of the journal Southern Partisan and his acceptance of an honorary degree from Bob Jones University troubling. Southern Partisan has a history of publishing explicitly racist views and has been called "the leading journal of the neo-Confederate movement" by the New Republic. In a 1996 review of a book on slavery, Southern Partisan wrote that states "refused to pay the price of emancipation of slave owners in denying them they 'a practice of breaking up slave families.' The review noted that slave owners actually 'encouraged slave families to further the slaves' peace and happiness.' Southern Partisan has also called former KKK leader David Duke "a Populist spokesman for a recapitulating of the American ideal."

Despite the extreme views exhibited by the magazine, Senator Ashcroft told Southern Partisan in a 1998 interview:

"Your magazine also helps set the record straight... You've got a heritage of doing that, of defending Southern patriots like (Robert E.) Lee, (Stonewall) Jackson and (Jefferson) Davis. Traditionalists must do more. We've got to do more. We've all got to stand up and speak in this respect, or else we'll be
taught that these people were giving their lives, subscribing their sacred fortunes and their honor to some perverted agenda.

Senator Ashcroft’s supportive statements of Southern Partisan and what it stands for pose serious questions about his willingness and ability to be a strong enforcing of our nation’s civil rights laws.

These doubts are only reinforced by his acceptance of an honorary degree from Bob Jones University in 1999, an institution which Senator Patrick Leahy (D-VT) has characterized as “a symbol of divisiveness and intolerance in our society.” When questioned, Ashcroft contended he was unaware of the university’s history of racist policies and anti-Catholic and anti-Mormon sentiments. Ashcroft had praised the university during his speech, saying “I thank God for this institution.”

Senator Ashcroft’s Willingness to Enforce the Law and to Protect Civil Rights

In the words of Senator Edward Kennedy (D-MA), “Senator Ashcroft has a long and detailed record of relentless opposition on fundamental issues of civil rights and other basic rights of vital importance to all the people of America, and the people of this country deserve better than that.” The question of the proper role of the Attorney General comes into sharper view when one considers the issue of Senator Ashcroft’s willingness to enforce federal statutes with which he fundamentally and publicly disagrees. As Attorney General, he will be charged with determining which laws are enforced, how they are enforced and perhaps more importantly, where resources and priorities are directed in the Department of Justice. His hostility to the very laws and policies that protect the rights of minorities, women, lesbian and gay people and other under-represented groups in our society has raised the central concern of whether, as Attorney General, he will be able to genuinely and vigorously enforce such laws.

In examining Ashcroft’s willingness to enforce the law, the Senate considered his record as Attorney General and Governor of Missouri in opposing a voluntary desegregation settlement agreement to the St. Louis City Board of Education and 22 suburban school districts in the early 1980’s. The plan had been developed as a cooperative way to enhance desegregation in schools that had remained segregated after the Brown v. Board of Education ruling many years earlier. Ashcroft not only opposed the plan, but used his position as Attorney General to press on with repeated appeals in the case (Lidell). He continued to appeal rulings supporting the plan despite the fact that they were continually denied and his conduct rebuked, and despite support for voluntary desegregation from the St. Louis City Board, the suburban districts, and many State education officials.

In his confirmation hearings for U.S. Attorney General, Ashcroft claimed, “in all of the cases where the court made an order, I followed the order, both as attorney general and as governor.” Yet in March 1981 the judge on the case Judge Hugate, had declared that “the State as a matter of deliberate policy, decided to defy the authority of [this] Court.” H (11) 81 at 65. Civil Rights attorney William Taylor, who represented the school children and the NAACP in the St. Louis case, echoed this sentiment in the Ashcroft hearings.

Taylor characterized Ashcroft’s conduct in the following way during his January 12, 2001 testimony: “Mr. Ashcroft used the court system to delay and obstruct the implementation of a desegregation settlement that was agreed to by all major parties except the State. In doing so, Mr. Ashcroft sought to prevent measures that were a major step toward racial reconciliation in an area where there had been much conflict and to thwart a remedy that ultimately proved to be a very important vehicle for educational progress.”

Not only did John Ashcroft continually defy the courts and the will of the people, he went on to use his opposition to the voluntary desegregation plan as a selling point in his 1984 Missouri gubernatorial campaign. In a television ad during the Republican primary race, Ashcroft accused his opponent Gene McNary of being “soft on desegregation” for not opposing the St. Louis plan, despite the fact that McNary was also a strong opponent of desegregation. Mr. Taylor, in his testimony to the Senate committee, stated, “Mr. Ashcroft sought to exploit fears and misconceptions about desegregation as a means of gaining higher political office, thereby deepening racial divisions in the St. Louis area.”

Also of great concern to LCCR and the coalition were questions regarding Senator Ashcroft’s commitment to carrying out the Voting Rights Act of 1968 that, as Attorney General, he would be responsible for enforcing. As Governor of Missouri, Ashcroft vetoed two bills that would have improved voter registration in St. Louis. At the time, regulations made it much more difficult to register to vote in the city (which had a large African-American population) than in the predominantly white suburbs. The two bills passed by the Missouri legislature would have protected voting rights for many minority individuals by making it easier for them to register to vote. However, Ashcroft vetoed both bills, thus continuing to limit the voting power of St. Louis’ minority population.

Coalition organizations also pointed to Ashcroft’s poor environmental record and his open hostility to most environmental laws, which the coalition maintained is clearly outside the nation’s mainstream and bipartisan consensus to protect our air, water, and lands. Given his extreme anti-environmental record, it is difficult to believe that John Ashcroft can be counted on to enforce environmental protection laws as the nation’s top environmental law enforcer.

LCCR and the coalition contended that Ashcroft’s public denunciation of current Constitutional precedent and established federal laws in favor of his own ideological beliefs -- beliefs that are shared only by a fraction of his party and not by the vast majority of Americans -- gives rise to serious concern. They called on the Senate to conduct a serious examination of Senator Ashcroft’s ability and willingness to vigorously enforce the nation’s civil rights laws and to advance policies to prevent discrimination and promote equality and fairness for each and every American. They asserted that the hearings should examine the extent of Senator Ashcroft’s commitment to equal justice.

Looking to the Future

Though LCCR and the coalition were unable to stop the confirmation of John Ashcroft as Attorney general, they are now well prepared to face upcoming battles. They will be paying close attention to judicial nominees and future nominations, particularly to head the Civil Rights Division of the Department of Justice. Virginia Senators have asked that Roger Gregory, Clinton’s recess appointment to the Fourth Circuit, be confirmed. Eight other Clinton judicial nominations are still pending, and how these are treated by the Bush administration and the Senate will help determine whether there is any room for accommodation.

Linda Chavez Withdraws

In a related matter, Linda Chavez, President Bush’s choice to head the in the ask that her name be withdrawn after questions were raised about whether she had violated labor and/or immigration laws in allowing an illegal immigrant to live in her home, and do jobs around the house, for two years. At the time she withdrew there was growing opposition to her nomination, particularly in the labor community, based on her stated opposition to the minimum wage and to affirmative action. Civil rights groups were also reading their case that Chavez, as staff director of the U.S. Commission on Civil Rights during the Reagan Administration, had compromised the independence of the commission and was responsible, according to a GAO report, for gross mismanagement of the agency.

Voting rights violations in the 2000 Election

For over a month after election day, issues related to Florida’s ballots and the American electorate were among the top issues both in the press and in public opinion. The Sunshine State went to the edge of the electoral vote in deciding the 2000 election. The contentious contest left the nation and the world wondering: How did this happen? How could this have happened in America? What does this mean for our democracy?

Racial Division

The Voting Rights Act of 1965 played a major role in the 2000 election. The law was passed in response to the widespread disfranchisement of African Americans in the South. It prohibited the use of literacy tests and other devices to discriminate against voters and established federal oversight of elections in areas with a history of discrimination.

Although the Voting Rights Act was an important step forward, it did not completely eliminate voting discrimination. In the years that followed, some courts ruled that certain states, including Florida, violated the Act. These cases were brought by the NAACP Legal Defense Fund, which sought to protect the rights of African American voters.

Florida’s Voting System

Florida’s voting system has been under scrutiny for years. In 2000, the state faced a unprecedented challenge when the election results were counted. The state’s voting system was accused of being outdated and unreliable, leading to discrepancies in the vote count.

The Dispute

The election results were not immediately clear. The race was so close that it took several weeks to determine the winner. The recount process was marked by controversy and legal challenges. The Supreme Court ultimately intervened, deciding the outcome of the election.

Florida’s Voting Rights

The Voting Rights Act of 1965 has had a significant impact on Florida’s voting rights. The law has protected the rights of African American voters and ensured that they can participate fully in the electoral process. However, the state has also faced challenges in ensuring that all citizens have equal access to the ballot box.

The Future

With the 2000 election behind us, the nation continues to grapple with the issues surrounding voting rights. The Voting Rights Act remains a crucial tool in protecting the rights of all citizens. As we look to the future, it is important to ensure that everyone has the opportunity to vote and that their voices are heard.
Reports indicate that in some counties, minority voters were asked for a photo ID while white voters were not. Some minority voters claimed that they were turned away even when they appeared at the polling place with both their voter card and a photo ID.

Voters who did not appear on the voting list or have a photo ID reported that they were shuttled into a "problem" line, where they waited for long periods of time after being told that election officials were trying to telephone headquarters. However, because phone lines were jammed and many of these calls never went through, many voters said they were discharged and left without voting.

Some voters told of being sent from polling place to polling place, with no real effort to determine where they actually would be permitted to vote. Some claimed to have been turned away from not just one, but three or four polling places.

Other voters reported being denied the right to vote because of minor, immaterial discrepancies in their names as they appeared on registration lists and in their proof of identification—such as their use of middle initials. Voters who were turned away said that they were not offered affidavits or challenged ballots.

Moreover, poll workers were reportedly instructed by their supervisors to be particularly strict in challenging voter qualifications because of aggressive voter registration and turnout efforts that had been made in their communities in connection with the November 7, 2000 election. Large numbers of minority voters who registered before the October 10, 2000 deadline under Florida law did not receive their voting cards before November 7. When they appeared at the polls, they were told they were not on the voting list and were not permitted to vote.

Voters who had moved since registering were not allowed to vote. Some individuals were disqualified on the basis of a felony conviction when in fact they had not committed a felony.

POLLING PLACES MOVED WITHOUT NOTICE

Witnesses also reported that one, and possibly more, polling places were moved without notice to the voters and without the placement of a sign at the site, as required by Florida law. As a result, the minority voters served by this polling place either had to overcome the barrier of locating their new polling place on their own (telephone calls to election officials were either not answered or not helpful) or were denied the right to vote because they could not locate their polling place.

INTIMIDATION, THREATS AND HARASSMENT OF AFRICAN AMERICAN VOTERS

Witnesses reported police checkpoints or police stops of voters in the vicinity of several polling places in African American neighborhoods.

ABSENTEE BALLOT IRREGULARITIES

Voters who requested absentee ballots alleged that they did not receive them and that they then were not allowed to vote when they voted in person on Election Day.

In addition, a witness has reported that, in one county, hundreds of absentee ballots of registered voters were rejected by the Supervisor of Elections and thus not counted.

FAILURE TO PROVIDE BILINGUAL BALLOTS AS REQUIRED BY LAW

Miami-Dade County passed an ordinance in 1998 requiring that ballots in Creole be provided at 47 majority-Hispanic precincts in the county. However, there are complaints that these ballots were not available at some of these precincts.

FAILURE TO PROVIDE OR ALLOW ASSISTANCE

Many Haitian American voters requested the assistance of a volunteer Creole/English speaker, who was willing to translate the ballot for those with limited English proficiency, but were denied such assistance. As a result, many Haitian American voters may have been denied the right to vote, despite Florida election-law provisions requiring that voters who are not proficient in English be permitted to take an assistant into the polling booth.

REFUSAL TO PROVIDE A SECOND BALLOT

Voters also reported being denied a second ballot to correct an error in filling out the first one. This denial of the right under Florida law to a second (or even third) ballot to correct a mistake was particularly egregious.
Congressional Updates

The Leadership Conference on Civil Rights (LCCR) has released its Voting Record for the 106th Congress, rating both the House and Senate on key legislative floor votes on civil rights as well as social and economic justice issues that are of concern to LCCR member organizations. The voting record includes votes on the reauthorization of the Elementary and Secondary Education Act, on adequate funding for a fair and equitable Census, expanding the federal role in hate crime prevention, and increasing the minimum wage.

Sixteen Democratic Senators received perfect scores (100%)—Senators Daniel Akaka (HI), Evan Bayh (IN), Joseph Biden (DE), Jeff Bingaman (NM), Tom Daschle (SD), Byron Dorgan (ND), John Edwards (NC), Bob Graham (FL), Edward Kennedy (MA), Robert Kerrey (NE), Patrick Leahy (VT), Barbara Mikulski (MD), Harry Reid (NV), Jack Reed (RI), Paul Sarbanes (MD) and Paul Wellstone (MN). The four top-ranking Republican Senators are: Senator Arlen Specter (PA) with 69%; Jim Jeffords (VT) with 69%; Olympia Snowe (ME) with 56%, and William Roth with 50%. Forty-six Senators received scores of 80% or better and 24 received scores of 70% or below.

In the House, 174 Representatives received a score of 80% or better with 54 receiving a perfect score of 100%. On the other end, 151 Representatives received voting scores of 20% or below.

To access the full results of the LCCR's 106th Congress voting record, visit: www.civilrights.org/policy_and_legislation/pl_issues/voting_records/index.html

Judicial Nominations

Recent Actions

On December 27, 2000, President Clinton made a recess appointment, naming Roger Gregory to the Fourth Circuit Court of Appeals. Gregory is the first African-American judge to be appointed to the Fourth Circuit, which has the highest percentage of African-American citizens of any Circuit. The Court hears appeals from Federal Courts in Maryland, Virginia, West Virginia and North and South Carolina. Clinton nominated the 47-year-old Gregory for the seat in June, but the Republican-controlled Senate Judiciary Committee refused to hold hearings on the nomination, despite the endorsement of Senator John Warner (R-VA).

On January 4, 2001, President Clinton resubmitted eight nominees for appellate court judgeships that had not been acted on by Republican Senate leaders. In resubmitting these nominees, President Clinton called on the Senate to depoliticize the confirmation process and work together in a bipartisan spirit to fill longstanding judicial vacancies. This group of nominees has been awaiting confirmation by the Senate for a combined total of more than 13 years. The nominees in addition to Gregory are: Judge James Wynn of North Carolina for the Fourth Circuit, Enrique Moreno of Texas for the Fifth Circuit, Kathleen McCormack Lewis and Judge Helen White, both of Michigan, for the Sixth Circuit, Bonnie Campbell of Iowa for the Eighth Circuit, Barry Goode of California for the Ninth Circuit and James Duffy of Hawaii, also for the Ninth Circuit.

Background

The Judicial Conference of the United States declared two vacancies on the Fourth Circuit Court of Appeals, which have lasted for more than six years, as "judicial emergencies." One-third of the seats on the Fourth Circuit currently remain vacant. The Gregory nomination was preceded by the nomination of three other African-American nominees to the Fourth Circuit over a period of five years. Spurred by the opposition of Senator Jesse Helms (R-NC), the Senate failed to take any action on those three nominees.

Clearly, judicial nominations and appointments were a hot button issue throughout the 106th Congress, with the Senate's record on the confirmation of female and minority judicial nominations regarded by civil rights groups as unacceptably low. Senate Committee hearings and confirmations have dramatically slowed, with some nominees awaiting confirmation for several years only to have the 106th Senate recess with no action taken. The unprecedented number of vacancies in the federal judiciary has begun to seriously impede the work of the courts and jeopardize citizens' access to justice.

In the second session of the 106th Senate, 39 nominees were confirmed, for a total of 73 for the 106th Congress. Of the forty nominees pending at the end of the session, twenty-one were women or minorities. By the end of 1999, the Senate had confirmed only 34 out of 71 judicial nominees, with more nominees left awaiting a vote than were confirmed. The 1999 Congress adjourned with 58 vacancies on the federal bench.1 The number of confirmations was lower than the previous year's 65, and also fell below the average number of judges – 54 confirmed over the past twenty years.

A recent nonpartisan report found that even as the average delay by the Senate in acting on all nominations has become greater, women and minority nominees have been delayed even longer. The study also concluded that nominations of minorities failed at a rate more than double that of white candidates. Today, there are actually fewer African American judges on the federal courts of appeals than when Jimmy Carter was president in 1980.

Ronnie White

Senator John Ashcroft (R-MO) led the campaign against Judge White by distorting his judicial record, even claiming that Judge White is "pro-criminal," in his rulings on death penalty cases, when in fact Judge White has voted far more times for the death penalty (40 times) than against it (18 times). Several Republican senators had previously supported Judge White in committee, but then switched their votes on the floor. At the same time that they rejected Judge White, the Senate approved another nominee supported by Utah's Senator Orrin Hatch for a judgeship, even though he had no prior judicial experience.

On October 5, 1999, in a strict party line vote, the Senate rejected the nomination of Judge Ronnie White, Missouri's first and only African American Supreme Court Judge. Judge White was first nominated by President Clinton in June of 1997, and then again in January 1999. The rejection of White marked the first time a judicial nominee was voted down on the Senate floor since Robert Bork was rejected in 1987 (Roll Call Vote #307).

1Including the new seats created by the 2000 Appropriations Bill, PL 106-113 would increase the number to 66.
The Richard Perez and Marsha BerzonConfirmations

On March 9, 2000, the full Senate voted in favor of the confirmation of Judge Richard Perez and attorney Marsha Berzon. Judge Perez had awaited a vote for more than four years, while Attorney Berzon had been waiting for two years.

Judge Perez was first nominated to the Ninth Circuit Court of Appeals in January 1996. Perez, the first Latino to serve on the federal district court in Los Angeles, had bipartisan support and the highest possible rating from the American Bar Association. The Judiciary Committee heard and approved his nomination in 1998, but the full Senate took no action on his nomination and it died at the end of the 105th Congress. Judge Perez was renominated last year and confirmed on March 9th by a 59-39 margin (Roll Call 40).

Marsha Berzon, a renowned California employment and labor lawyer, was first nominated in January 1998. Like Perez, she had also received the highest possible rating from the American Bar Association. Despite twice being favorably reported out of the Senate Judiciary Committee, her nomination was not confirmed until March 9th by a 64-34 margin (Roll Call 38).

The continuing struggle for Federal Hate Crimes Legislation

In 1999, of the total 7,876 hate crimes incidents reported, 4,295 were motivated by racial bias, 1,411 by religious bias, 1,171 by sexual orientation bias, 829 by ethnic bias, and 19 by disability bias. Five of the incidents were motivated by multiple biases.

The 12,122 agencies participating in hate crimes data collection for 1999 represented nearly 233 million people.

Sixty-seven percent of the 7,876 incidents reported were recorded as crimes against persons. Of these crimes, intimidation accounted for 53 percent of the total. Simple and aggravated assault accounted for 29 and 18 percent, respectively. Murder and rape each accounted for less than 1 percent.

(Preliminary reports from the FBI 1999 Hate Crimes Statistics Report)

On November 13, 1997, soon after the November 10 White House Conference on Hate Crimes, and under the leadership of Senators Edward Kennedy (D-MA), Arlen Specter (R-PA), Ron Wyden (D-OR), Diane Feinstein (D-CA) and Robert Torricelli (D-NJ), the Hate Crime Prevention Act (S. 1529) was introduced in the U.S. Senate. The Act enjoyed bipartisan support, but did not come up for a vote during the 105th Congress. The Hate Crimes Prevention Act of 1999 was reintroduced simultaneously in the House of Representatives (H.R. 1082) and the Senate (S. 622) in March 1999. It was included in the version of the Commerce State and Justice Appropriations bill passed by the Senate, but was dropped in conference.

On June 20, 2000 the Hate Crimes Prevention Act, renamed the Local Law Enforcement Enhancement Act, again passed the Senate, this time as an amendment to the Department of Defense (DoD) Authorization Act by a vote of 57-42.

On September 13, 2000, by a wide, bipartisan margin, the House passed a motion to instruct conferees to retain the hate crimes language in the DoD Authorization Bill by a vote of 232-192.

Despite overwhelming support for this legislation, the GOP leadership removed the hate crimes legislation from the DoD Authorization bill on October 5th.

A strengthened federal hate crimes law would address limitations in existing federal civil rights statutes, specifically Section 245 of Title 18 U.S. Code, one of the primary federal statutes used to combat racial and religious bias-motivated violence.

Current law prohibits intentional interference by force or threat of force on the basis of race, color, religion or national origin with regards to the enjoyment of a federal right or benefit, such as voting, going to school or holding employment.

Under the current statute, the government must prove that the crime occurred because of a person's membership in a protected group, such as a racial or religious group, while he or she was enjoying a federally protected activity. In its current form, the statute leaves federal prosecutors powerless to intervene in bias-motivated crimes if they cannot establish the victim's involvement in a federally protected activity (serving on a jury, voting, or attending public school).

Nor can federal authorities step in and act upon cases involving death or serious bodily injury based on sexual orientation, gender or disability-based bias when local law enforcement is not available or is ineffective in completing an investigation.

In 1999, the state of California passed the California Hate Crimes Prevention Act (SB 709), which was subsequently upheld by the California Supreme Court. The Act defines hate crimes as crimes motivated by bias against a person's race, religion, national origin or sexual orientation.

The House of Representatives Education and Workforce Committee, on its report, recommended that Congress establish a Hate Crimes Prevention Act, which was included in the FY 2001 Appropriations Bill. The House of Representatives, in its FY 2002 Appropriations Bill, included funding for the Hate Crimes Prevention Act.

In 2000, the Senate Appropriations Committee included funding for the Hate Crimes Prevention Act in its FY 2001 Appropriations Bill.

Elementary and Secondary Education Act (ESEA)

In pushing for reauthorization of ESEA, the goal of LCCR is to ensure that the reform and equity goals of Title I of ESEA adopted in 1994 are not lost in the reauthorization and that funding is not blocked to grants or vouchers. In addition, there is interest in securing improvements in teaching for poor and minority students through a number of vehicles. Among the provisions sought are incentives such as loan forgiveness for highly qualified people to enter teaching and to teach in low-income areas, improvements in professional development, mentoring and other supports for new teachers, and measures to ensure a fair share of certified/qualified teachers in all areas.

During the 106th Congress, there were several attempts to include education program funds in block grants and to establish federal voucher programs.

House of Representatives

On October 13, 1999, the House Committee on Education and the Workforce reported legislation to renew Title I of ESEA. By a vote of 42-6, the Committee sent H.R. 2 to the House Floor. The Committee rejected efforts to include voucher plans that would allow parents to use federal dollars for private school education, maintained the reforms included in the 1994 reauthorization, and gave children in "failing" schools the option to transfer to other public schools.

In a second action, the House Committee approved along party lines (26-19) the Academic Achievement for All Act (Straight A's), (H.R. 2300), which would give states greater flexibility in spending federal education money. Opponents argued that states would divert the federal education dollars from poor students to wealthier areas and that the goal of holding school districts accountable would be jeopardized.

Also of concern to civil rights advocates were the Committee's failure to fund the Women's Educational Equity Act Program that provides funding to help combat gender biased teaching practices and provisions restricting the entry of English language learners into bilingual programs.

On October 21, 1999, H.R. 2 passed the House of Representatives by a vote of 358-67 (Roll Call 526). Prior to passing the bill, an amendment by House Majority Leader Richard Armey (R-TX) to spend $100 million a year on vouchers to allow students to pay for tuition at private schools failed by a vote of 257-166. (Roll Call Vote 521). Another amendment by Representative Thomas Petri (R-WI) to allow for vouchers in 10 states also failed, 271-151 (Roll Call Vote 524).

The second bill, the "Straight A's" bill (H.R. 2300) was watered down to a pilot program to give ten states more latitude in spending federal monies, allowing for the combining of funds from different federal education programs and the expenditure of those funds as determined by the State. The Committee bill would have given the same flexibility to all states. Even so, the ten-state bill passed by the narrow margin of 213-208 (Roll Call Vote 532). Secretary of Education Richard Riley indicated that he would recommend that the President veto the bill if passed by the Congress.

The full House also restored the Women's Educational Equity Act, which the Committee had eliminated, through a floor amendment offered by Representatives Patsy Mink (D-HI), Lynne Woolsey (D-CA), Loretta Sanchez (D-CA), and
Connie Morell (R-MD), by a vote of 111-11 (Roll Call Vote 519).

Senate
The Senate Republican Leadership's ESEA Reauthorization proposal (S. 2) was reported by the Health, Education, Labor and Pension Committee on April 12, 2000, in a strictly party line vote. This legislation allowed for the implementation of the block grant "Straight A's" proposal and a "portability" proposal allowing students to take Title I money with them to wealthier schools or to tutoring programs. These two amendments were adopted by a 9-8 party line vote with Chairman Jeffords (D-VT) voting no, the amendments would have lost.

Other areas of concern include assuring fair and equitable treatment in schools for girls and young women, and assuring that charter schools comply with civil rights laws and policies while meeting with the high standards of performance and accountability.

With a deadlock on block grants and other matters, Congress failed to enact the ESEA reauthorization in the 106th Congress.

Immigration Reform Update
The 1996 immigration laws and their impact on Civil Rights
Ensuring fairness and justice in immigration policy has long been an important goal for the civil rights community. In recent years, however, the need to fight to protect the rights of immigrants has become especially urgent. In 1996, two major bills reforming national immigration laws were enacted: the Antiterrorism and Effective Death Penalty Act (AEDPA), and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). These bills were touted as a response to the problems of illegal immigration, terrorism on U.S. soil, and criminal behavior in general. In reality, AEDPA and IIRIRA have amounted to an assault on the basic civil and human rights of immigrants.

Specifically, the LCCR is working to eliminate a number of harsh and discriminatory elements of the 1996 laws:

Mandatory, permanent deportation proceedings that treat long-term, legal immigrants convicted of minor first offenses as hardly as more serious offenders. The 1996 laws made virtually all criminal offenses, regardless of their severity, grounds for permanent deportation. The law requires that any person committing an "aggravated felony" is to be automatically deported. The definition of aggravated felony is used to encompass a wide variety of offenses, many of which are not as serious as the classification would imply. At the same time, the law eliminated the authority that immigration judges previously held in most cases to consider the individual circumstances of the immigrant and the offense committed. An immigration judge is no longer allowed to consider whether a legal immigrant has paid his debt to society, been rehabilitated, and gone on to become a useful, constructive member of his family and community. It no longer matters if an offense was nonviolent, took place long ago, or did not even result in any time in jail. Any relief for minor offenders, no matter how much they may deserve a second chance, has been eliminated in most cases under the 1996 reforms.

Detention provisions that require jailing, with no possibility for release, of most immigrants who have been brought into deportation proceedings. Detention policies under the 1996 laws also require that individual circumstances and the nature of the underlying offense be ignored, if an immigrant is alleged to have committed a criminal offense that could result in deportation. Immigrants are now mandatorily locked up while awaiting deportation, often for years, in harsh prison-like conditions, frequently hundreds or even thousands of miles away from their families and attorneys. Again, it makes no difference under the 1996 reforms if an immigrant did not even spend a single day in jail as part of his "criminal" punishment. In many instances, immigrants who cannot be deported because their home countries will not accept deportees remain locked up indefinitely – possibly even for life – with no meaningful chance to seek release.

The elimination of the right of most immigrants to have INS decisions reviewed by federal courts. The 1996 laws severely undermined a cornerstone of the judicial system, the right to judicial review, by stripping federal courts of the authority to consider appeals of most INS rulings. As a result, the INS now has the final word on whether an immigrant will be denied benefits or deported.

Retroactive application of the harsh 1996 laws to cases in which the public interest is no longer served by deportation. In past IIRIRA, Congress imposed penalties retroactively. In many cases, immigrants are now facing deportation for conduct that was not even a deportable offense at the time. In many other cases, immigrants plead guilty to offenses committed prior to the passage of the 1996 laws, relying on the fact that they could seek waivers of deportation under the law that existed at the time – only to find now that such relief is no longer available. By applying new rules to old conduct, the 1996 laws have undermined, for immigrants, another fundamental aspect of our legal system: the ability to know what the law is and what the possible consequences of conduct under that law will be.

"Expeditious removal" procedures that provide low-level INS employees with broad discretion to deny admission summarily, even to many asylum seekers. The 1996 laws permit the INS to act unilaterally to remove aliens who arrive at the border without proper documentation. Decisions under a new process known as "expedited removal" are made without any meaningful hearing, any chance to rebut allegations of inadmissibility, and with no right to legal assistance or even administrative or judicial review. Aliens who have been denied admission under these circumstances also find themselves barred from the United States for five years. The expedited removal process is particularly unfair to asylum seekers, who are quite often forced to flee for their lives before they can adequately get their paperwork in order. When an arriving alien claims asylum but lacks proper documentation, he will be granted an interview by an INS asylum officer who has virtually unfettered discretion to decide whether the alien will even be allowed to fully present his claim to an immigration judge. The lack of due process protections which characterize expedited removal makes asylum procedures very risky, since an asylum seeker may face real danger if returned to his homeland.

Immigration Legislation in the 106th Congress
Deportation and Detention Reform Bills
The LCCR strongly supported bills that were introduced in the 106th Congress to restore the fairer deportation standards that existed before the 1996 reforms. H.R. 1485, the Family Reunification Act, was bipartisan legislation introduced by Reps. Barney Frank (D-MA) and Martin Frost (D-FL). It would have restored the discretion of immigration judges to waive orders of deportation for legal permanent residents who have committed relatively minor offenses. Even though the bill attracted more than 80 House cosponsors and widespread public support, the House Subcommittee on Immigration refused to allow it to come up for a vote even a hearing. Also introduced was H.R. 2999, the Fairness for Permanent Residents Act, by Rep. Bill McCollum (R-FL). It is worth noting that Rep. McCollum had been a strong supporter of the immigration law changes made in 1996, but changed his position on the laws as their effects became clear. While McCollum's proposal was far more limited than the Family Reunification Act in its provisions allowing deportation relief, it would have provided broad reforms to INS detention practices. Again, the Judiciary Committee never took action on the bill.

As a result of months of public pressure and intense lobbying efforts, in which the LCCR participated, the House Judiciary Committee did allow a very modest bill to come up for a vote on the House floor. H.R. 5062, introduced by Reps. Frank and McCollum, provided limited relief to legal permanent resident immigrants who were trapped by the retroactive effect of the 1996 laws and for whom relief from deportation which, available at the time of the underlying offense, no longer existed. H.R. 5062 would have helped in a small number of cases in the 1996 laws but would not have undermined the civil rights of immigrants. Given the strong political opposition to efforts to restore fairness to immigration laws, the prospect of a bill even being allowed to come up for a vote was viewed as a welcome step in the right direction. H.R. 5062 was in fact brought up for a vote on September 19, 2000, and passed the House unanimously. Unfortunately, it became clear at the end of the 106th Congress that it would not pass the Senate. Sen. Phil Gramm (R-TX) announced
that he would oppose any efforts to have it passed – even when supporters were willing to scale back on an already limited piece of legislation.

Several other “omnibus” bills, aimed at restoring due process and fairness to deportation and detention proceedings were introduced in the 106th Congress. On July 26, 2000, Rep. John Conyers (D-MI) and other House Democrats introduced H.R. 4966, the Restoration of Fairness in Immigration Law Act, the most comprehensive proposal introduced to date. On September 27, 2000, Sen. Edward Kennedy (D-MA) introduced the Immigrant Fairness Restoration Act, also with the strong support of civil and immigration rights groups as well as many Congressional Democrats. While neither bill stood a strong chance of passage in the 106th Congress, they will be reintroduced in the 107th Congress, and the LCCR will be working hard to promote them.

**Secret Evidence Repeal Act Voted on by House Judiciary Committee**

Following two legislative hearings, first in the Immigration Subcommittee on February 10, 2000, and then in the full Judiciary Committee on May 21, 2000, the House Judiciary Committee voted on October 17, 2000 to pass a compromise version of H.R. 2121, the Secret Evidence Repeal Act. This bill, introduced by Reps. David Bonior (D-MI) and Tom Campbell (R-CA), was cosponsored by 128 House members from both parties, and drew strong support from an unusual coalition of liberal and conservative advocacy groups. H.R. 2121 would have restricted the use of secret evidence; that is, evidence that is not provided to the immigrants it is used against (or their attorneys) in INS proceedings where national security concerns are alleged. This practice, made possible under HIRIRA, has largely been used in practice to target Arab-Americans, some of whom have eventually been released after spending months or years in detention based on evidence that was ultimately proven to be baseless. The House leadership, however, did not bring the amended version of H.R. 2121 to the House floor for a vote after its passage in the Judiciary Committee. A similar measure, S. 3119, was introduced in the Senate by Sens. Spencer Abraham (R-MI) and Ron Feingold (D-WI). It is likely that legislation to restrict the use of secret evidence will be reintroduced in the 107th Congress.

**Expedited Removal Reform Legislation**

On November 19, 1999, Sen. Patrick Leahy (D-VT) introduced S. 4946, the Refugee Protection Act. This bill would have eliminated some of the due process violations faced by asylum seekers who are placed in “expedited removal” proceedings. It would have prevented the INS from using expedited removal to deport any alien to any country with a poor human rights record. It also would have provided opportunities for judicial review, and would have made it easier for asylum claimants to secure legal representation. The bill was not acted on in the 106th Congress.

**Administrative and Judicial Action**

**INS Reversal of the Attorney General's "Soriano" Ruling**

The INS announced in July 2000 that, in response to several court rulings against the agency, it would reverse its position denying deportation relief to some long-term permanent resident asylum claimants. The Attorney General had ruled, in the case of In re Soriano, that immigrants who were first brought into deportation proceedings before April 24, 1996, the effective date of AEDPA, could not seek the deportation waivers available under the old pre-AEDPA law, if they had not been granted a waiver by the time AEDPA went into effect. The Soriano decision, in other words, had retroactively placed new rules on old conduct. When the INS later agreed with the courts that Congress had never intended AEDPA to apply to old cases, it proposed regulations to allow immigrants to seek waivers if they had been brought into deportation proceedings before AEDPA and their cases were still pending. The LCCR welcomed this reversal, but pointed out in written comments to the INS that the regulations were too narrow and failed to provide any relief to immigrants who had already been deported under the previous, incorrect interpretation of the law.

**INS Development of Detention Standards**

The INS also announced last fall that it has been in the process of developing uniform standards for the operation of detention centers. These standards will govern issues such as visitation, access to telephones, medical care, and disciplinary policy. How these standards are implemented will be important, because while there are already standards in place that apply to INS owned or operated detention facilities, they do not govern other facilities such as local jails, prisons, or other contract detention centers. These non-INS facilities hold more than 60% of INS detainees; many of whom, including asylum seekers, are locked up alongside criminal inmates and are treated in a similar fashion. The LCCR will monitor the implementation of the new uniform detention standards and will keep MONITOR readers informed of any developments.

**Supreme Court to Review Cases Involving "Lifers" who Remain Locked up Indefinitely in INS Detention**

Between 3,500 and 4,000 immigrants known as "lifers" are currently jailed in INS detention centers. They have already been ordered to be deported but face the prospect of remaining locked up indefinitely because they cannot be returned to their native countries for various reasons. Some of these countries, such as Cuba, do not have diplomatic relations with the United States. In some countries there is political upheaval or no functioning government, while other countries simply refuse to cooperate with the United States and issue the necessary travel documents. Current law gives the INS ninety days to implement a deportation order, and requires immigrants to remain detained during that period. Immigrants who cannot be deported to their home countries, however, often remain locked up in detention for far beyond the ninety-day period. While the INS has developed guidelines to provide for the periodic review of indefinite detention cases, some federal courts have already considered the question of whether the INS has the authority to detain immigrants indefinitely. So far the courts have been divided on the issue, and accordingly, the U.S. Supreme Court has agreed to review two conflicting cases, Zachodas v. Underwood (5th Cir. 1999) and Ma v. Reno (9th Cir. 2000), in order to settle the question. A hearing was scheduled for February 21, 2001, and a decision can be expected by June. The Monitor will provide readers with updates on this crucial case.

More information, including a summary and analysis of the decision once it is made, will be available on the LCCR web site (http://www.civilrights.org) in the coming months.

**Low Power FM Radio**

The Federal Communications Commission (FCC) launched a licensing application process for a new low power FM radio service (LPFM). The LPFM service would have allowed a non-commercial radio service consisting of low power stations that would serve very small geographic areas (less than 3.5 miles).

The LPFM licenses were to be available to noncommercial government or private educational organizations, associations, or entities, and government or non-profit entities providing local public safety or transportation services. The Leadership Conference on Civil Rights (LCCR) believes that this new radio format is critical to ensure all segments of society are able to participate fully in the emerging communications environment.

Following the FCC’s announcement, the Leadership Conference and its member organizations received numerous inquiries from local civil and human rights organizations across the country. These local organizations believe that this new FM service represents the best opportunity in years to foster local ownership and further local community building.

**Congressional Attacks on the Service**

On February 10, 2000, Senator Judd Gregg (R-NH) introduced the Radio Broadcasting Preservation Act of 2000 (S.2688) to eliminate low power radio entirely.

On April 13, 2000, the House passed (274-110) the Radio Broadcasting Preservation Act of 2000 (H.R. 13430), to require the FCC to revise its regulations authorizing the operation of new, low-power FM radio stations (Roll Call Vote 130).

On July 27, 2000, Senators John McCain (R-AZ) and Robert Kerrey (D-NE) introduced the Low Power Radio Act of 2000 (S. 2980), to allow low power radio to move forward and ensure that the FCC will respond to legitimate concerns about interference.

On September 7, 2000, Senator Rod Grams (R-MN) introduced the Radio Broadcasting Preservation Act (S.1020), to drastically curtail low power radio. It required the FCC to conduct limited low power radio experiments, and required
further Congressional action to authorize the full low power radio project created by the FCC.

On October 27, 2000, Congress added anti-LPFM language to the Commerce, Justice, State Appropriations Bill (H.R. 4942), that would cut back 80 percent of low power FM radio stations. This is the same language included in Senator Grams' proposal (S. 1820) and the version of the Radio Broadcasting Preservation Act (H.R. 3439) which passed the House.

On Friday, December 15, 2000, language contained in Grams legislation passed both the House and Senate as part of the omnibus budget bills. Under the legislation, the previous interference rules will go into effect. Thus, there will be some low power radio, but it will be cut back by 80 percent.

When President Clinton signed into law provisions of the omnibus budget bills that curbed the development of low power FM on December 21, 2000, he stated: "...this bill greatly restricts low-power FM radio broadcast. Low power radio stations are important tools in fostering diversity on the airwaves through community-based programming. I am deeply disappointed that Congress chose to restrict the voice of our nation's churches, schools, civic organizations and community groups. I commend the FCC for giving a voice to the voiceless, and I urge the Commission to go forward in licensing as many stations as possible consistent with the limitations imposed by Congress."

On the same day, the FCC announced that 235 noncommercial educational applicants in 20 states are eligible for new low power FM (LPFM) licenses. The FCC said that, pursuant to provisions of the Commerce, Justice, State Appropriations Bill, applicants are only eligible for LPFM licenses if the stations proposed in their applications do not interfere with other FM stations and the applicants do not engage in the unlicensed operation of any broadcast station.

For further information on low power FM, visit the Media Access Project on the web at http://www.mediacenter.org/programs/lpfm/rap2000.html