

GOP scrutinizes nominee

Civil rights officer designation opposed

WASHINGTON (AP) — President Clinton's nomination of Bill Lann Lee as the nation's top civil rights officer appeared in serious trouble Tuesday after a key Senate Republican criticized the Los Angeles lawyer's views on affirmative action.

Several other Republicans on the Senate Judiciary Committee said they also opposed Lee, casting further doubt over whether or not the panel will approve the nomination this week and forward it to the full Senate for confirmation.

The White House, no stranger to battles over President Clinton's nominees, said it had no plans to withdraw the nomination. Officials arranged a strategy meeting with civil rights groups and accused the Senate of playing political games with Clinton's appointments.

Judiciary Committee Chairman Orrin Hatch, R-Utah, told the Senate that Lee's devotion to "preserving constitutionally suspect race-conscious policies that ultimately sort and divide citizens by race" made him an unacceptable choice for the post.

Hatch, along with other Republicans and conservatives, wants to end affirmative action and opposed the administration's position in a case challenging California's Proposition 209, which recently was upheld by a federal appeals court. The Supreme Court declined Monday to hear further appeals in the case.

The Utah Republican also is the sponsor of similar anti-affirmative action legislation that would apply to the federal government.

Lee, the Los Angeles-based counsel for the NAACP Legal Defense and Educational Fund since 1988, supported the administration's arguments against Proposition 209 and disagreed with the Supreme Court ruling in 1995 in the much-watched affirmative action case, *Adarand vs. Pech*.

Hatch said Lee's answers to questions from the committee suggested that his "understanding of the nation's civil rights laws is sufficiently cramped and distorted to compel my opposition."

"The assistant attorney general must be America's civil rights law enforcer, not the civil rights ombudsman for the political left," he said.

Clinton said he was disappointed in Hatch because "everybody who knows Bill Lann Lee knows he is superbly qualified." He added that the White House would begin to lobby senators for their support.

"How could anybody in good conscience vote against him if they believe our civil rights laws ought to be enforced?" he said. "That is the question we will be pressing to every senator without regard to party."

Senate Democratic leader Tom Daschle of South Dakota said Hatch did a "real disservice to Mr. Lee," but didn't necessarily kill the nomination.

"There are times when other issues have been proclaimed dead and we've been able to revive them, and I'm hopeful we can do that with the Lee nomination," Daschle told reporters.

Lee, a 48-year-old New York native and son of Chinese immigrants, would be the first Asian-American to hold the post if confirmed by the full Senate.

Clinton has had previous problems with Congress over his choices for this particular Justice Department post. He was forced to withdraw Lani Guinier, his first choice, in 1993 when faced with a GOP filibuster in what then was a Democratic-controlled Congress. Republicans opposed her views on affirmative action and derided her as a "quota queen."

The Senate confirmed his second choice, Boston attorney Deval Patrick. He returned to private practice this year after three years in the post.

Others nominees who have

encountered Republican resistance include Labor Secretary Alexis Herman, Transportation Secretary Rodney Slater, Dr. David Satcher, the surgeon general nominee, and Nancy Ann Min DeParle, the nominee to become administrator of the Health Care Finance Agency.

But all of Clinton's choices for the civil rights post share a bond — employment by the NAACP Legal Defense and Educational Fund, which is disliked by conservatives for its staunch defense of affirmative action.

"We're gratified that Senator Hatch is standing up for the principle of equality under the law and opposing the nomination," said Clint Bolick, vice president for litigation at the Institute for Justice, a conservative group that opposes Lee. "We feel confident that if the administration persists with this nomination it will be defeated."

The Senate Judiciary Committee planned to vote Thursday on Lee's nomination, which needs at least 10 votes to get to the Senate floor. Lee was believed to have the panel's eight Democrats on his side, but six of its 10 Republicans said they were inclined to or would vote 'no.'

A White House official, speaking on condition of anonymity, said two other senators — Charles Grassley of Iowa and Fred Thompson of Tennessee — could provide the Republican votes needed to move the nomination forward. Both declined to comment Tuesday when asked how they would vote.

Sen. Don Nickles, R-Okla., the assistant Senate majority leader, said: "I don't think he'll get out of the committee but if he does I don't think he'll be confirmed."

Some of Lee's supporters said he was being unfairly held to a standard that requires him to disagree with the president who nominated him. He also has support among some Republicans, including Los Angeles Mayor Richard Riordan and Sen. Alfonse D'Amato of New York.

Court fends off challengers

(U-WIRE) BERKELEY, Calif. — Despite the decision Monday by the U.S. Supreme Court to uphold the constitutionality of Proposition 209 — officially making it a law — opponents say they will continue to challenge its implementation.

Monday, the U.S. Supreme Court refused to grant a review of the 9th U.S. Circuit Court of Appeals decision, which earlier this year deemed Proposition 209, which bans race and gender preferences in state hiring practices, constitutional.

The move concluded a yearlong legal battle that began after last November's elections, in which California voters approved Proposition 209.

The ACLU of both Northern and Southern California, along with a coalition of civil rights groups, filed an initial lawsuit to block the implementation of the proposition on Nov. 6, 1996, the day after the elections.

A series of legal decisions on the case followed. On Dec. 23, 1996, a U.S. District judge issued a preliminary injunction which barred state and local governments from enforcing the measure.

But after proponents of Proposition 209 appealed to the 9th Circuit, a three-judge panel decided on April 8, 1997 to reverse the district court decision and rule the proposition constitutional.

Upon hearing Monday's decision, many affirmative action supporters said that they will continue to challenge the legal status of Proposition 209 and any similar legislation.

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ANN GONZALEZ-KRAMER
member of the American Civil Rights Institute

the same thing as an actual decision on whether Proposition 209 is constitutional," said Mark Rosenbaum, who led the prosecution against the proposition. "The question can and will be raised again in national court."

Yet opponents of affirmative action disagreed, saying that the Supreme Court's decision put the issue of the proposition's legality at rest.

"We are elated that this issue is finally being put to rest and the will of the people will finally be a voice in this state," said Ann Gonzalez-Kramer, a member of the American Civil Rights Institute. "The Supreme Court has ruled indirectly on the proposition's constitutionality."

Though members of the prosecution's legal counsel said they did not know why the Supreme Court denied their petition to review the 9th Circuit's decision, some speculated that the justices would rather look at the case in another format.

"No other law in the nation's history has stripped the government of authority to implement remedial race and gender programs," said Edward Chen, a staff attorney for the ACLU of Southern California. "It is conceivable

that the court decided not to hear the case because it is waiting for a split of authority between courts of appeal.

"The state argued that the court should not hear the case at this early stage but should instead wait for a case regarding the applicability of 209 to a particular program," Chen added.

Opponents of the proposition said they would combat any forthcoming efforts to eliminate race and gender-specific programs.

"Our organization will be monitoring cities and counties to be sure that Proposition 209 is implemented," Gonzales-Kramer said. "Those that do not (implement the law) will be taken to court."

But affirmative action supporters said they would fight such measures.

"The struggle to break down the barriers facing minorities and women will continue," said Oren Sillstrom, a staff attorney for the Lawyers Committee for Civil Rights, which aided the prosecution. "We certainly plan to help promote and defend affirmative action, and if particular programs are challenged, we will assist in defending them."

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