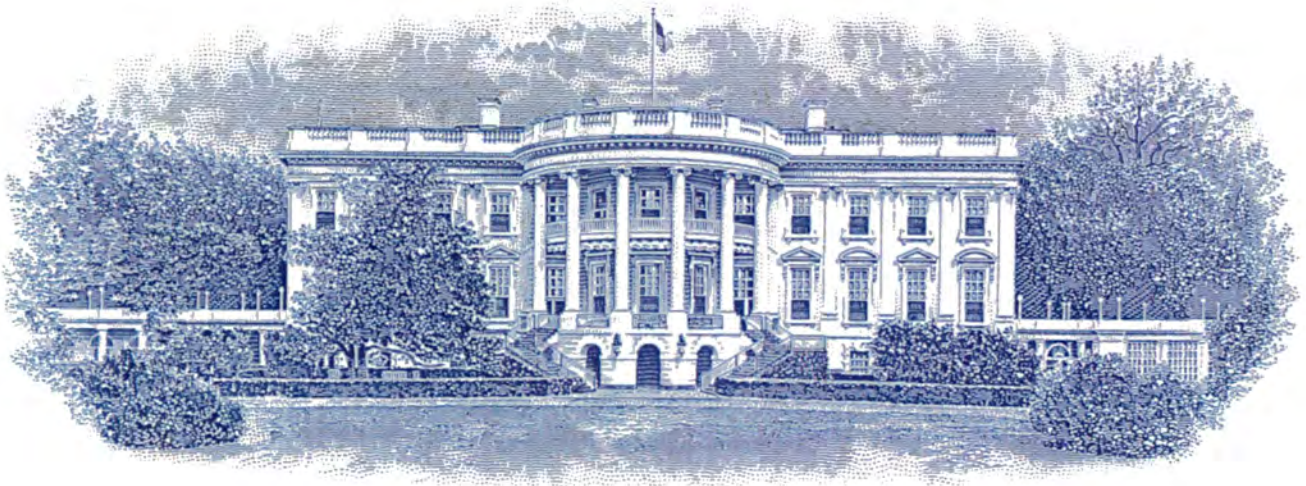




The White House



THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

June 28, 1993

PRESIDENT NAMES GOULD TO NLRB

(Washington, DC) President Clinton announced today that he intends to nominate law professor and arbitrator William Gould to the National Labor Relations Board.

"William Gould has a tremendous amount of both practical and scholarly experience in labor law," said the President, "and stands for the principles I want the NLRB to uphold -- the rights of all workers to participate in labor organizations, and the need for labor and management to work together to increase our nation's competitiveness in a global marketplace. I think that he will be an excellent addition to the Labor Relations Board."

Gould has been a professor at Stanford Law School since 1972 and a member of the National Academy of Arbitrators since 1970. In the latter capacity, he has arbitrated or mediated more than 200 labor disputes, with the most prominent including a dispute involving the Detroit Federation of Teachers and the 1992 salary disputes in Major League Baseball. He has also focused on labor issues in his academic work. Among the books that he has authored are, A Primer on American Labor Law, Black Workers in White Unions: Job Discrimination in the United States, Japan's Reshaping of American Labor Law, and Strikes, Dispute Procedures and Arbitration: Essays on Labor Law.

Before joining the Stanford faculty, Gould taught at Wayne State Law School and was a Visiting Professor at Harvard Law School. He also worked as an Attorney for the National Labor Relations Board, represented management in labor law matters for a private firm in New York, and was Assistant General Counsel to the United Auto Workers. Gould has also taught in visiting capacities at a number of overseas institutions, including the University of Tokyo, Cambridge University, and the European University Institute.

Gould holds an A.B. from the University of Rhode Island and an LL.B. from Cornell Law School, and studied at the London School of Economics. He is 56 years old.

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WILLIAM BENJAMIN GOULD IV

William B. Gould is currently the Charles A. Beardley Professor of Law at Stanford University where he has taught labor law since 1972. After graduating in 1961 from Cornell Law School, Professor Gould studied comparative labor law at the London School of Economics. In the course of his distinguished academic career, Professor Gould has taught at Harvard Law School, Howard Law School, and Wayne State University, and has been a visiting scholar at Churchill College, Cambridge, England, the University of Tokyo Law Faculty, the Australian National University Faculty of Law, the European University Institute, and the University of Witwatersrand Law Faculty in Johannesburg, South Africa.

Professor Gould is the author of six books and more than sixty scholarly articles covering all areas of labor law, as well as the author of a regular newspaper column on baseball. His most recent book, Agenda for Reform: The Future of Employment Relations and the Law (1993) is a comprehensive analysis examination of the National Labor Relations Act. An earlier book, Black Workers in White Unions (1977), is one of the leading studies of race relations in American labor unions.

A member of the National Academy of Arbitrators since 1970, Professor Gould has arbitrated and mediated more than 200 labor disputes, including the 1989 wage dispute between the Detroit Federation of Teachers and the Detroit Board of Education and the 1992 and 1993 salary disputes between the Major League Baseball Players Association and the Major League Baseball Player Relations Committee.

In 1990-91, Professor Gould served as Chairman of the City and County of San Francisco Task Force on Collective Bargaining, appointed by then-Mayor Agnos of San Francisco. He has served as Secretary of the American Bar Association Labor and Employment Law Section, and as a Member of the Advisory Committee to the New York State School Industrial and Labor Relations at Cornell University.

Before entering academia, Professor Gould was Assistant General Counsel of the United Auto Workers, from 1961 to 1962, served as an attorney for the National Labor Relations Board in Washington, D.C., from 1963 to 1965, and represented management in labor law disputes with the New York firm of Battle, Fowler, Stokes & Kheel from 1965 to 1968.

Professor Gould is married to Hilda Elizabeth Gould and has three sons, William Benjamin Gould V, 29, Timothy Samuel Gould, 27, and Edward Blair Gould, 24.

SENATE CONFIRMATION HEARINGS ON PROFESSOR WILLIAM B. GOULD IV

CHAIRMAN OF THE NATIONAL LABOR RELATIONS BOARD

William B. Gould IV
Charles A. Beardsley Professor of Law
Stanford Law School
Stanford, California

Statement to:

United States Senate Labor and Human Resources Committee
Dirksen Office Building
Room 430
Washington, D.C.

October 1, 1993
10:00 AM

Embargoed until October 1, 10:00 AM

October 1, 1993

STATEMENT TO THE UNITED STATES SENATE LABOR AND HUMAN
RESOURCES COMMITTEE

Senator Kennedy and other members of the United States Senate
Labor and Human Resources Committee:

Senators, my name is William Benjamin Gould IV. It is a
pleasure and honor to be here with you today.

As you know, President Bill Clinton nominated me to be a
Member of the National Labor Relations Board on August 5, 1993. He
has also expressed his intention to name me as Chairman of the
Board if and when I am confirmed by the United States Senate.

I am honored by President Clinton's expressions of confidence
in me and I am grateful to him for nominating me. If I am
confirmed as Chairman, I shall do my best to leave a 5 year record
at the Board which is of the highest quality, professional
competence and dedication--in short, one which will reflect well
upon the Clinton Administration and its own professional judgment.

So that you will know better who you have before you, I should
like to provide you with some information about me, my views, and
my aspirations for my tenure at the Board.

I was born in Boston, Massachusetts on July 16, 1936. I was
raised in Long Branch, New Jersey from 1940 through 1954 and prior to
residing in California, I have lived in Detroit, Michigan, New
York and Washington, D.C. I have resided in Stanford, California
since 1972.

My great-grandparents, the first William Benjamin Gould of
Wilmington, North Carolina and Cornelia Read of Charleston, South
Carolina, were slaves. My great-grandmother fled from South
Carolina to Nantucket, Massachusetts in the 1850's before the Civil
War and my great-grandfather set sail from Wilmington with 7 other
"contrabands" to board the Union ship, the U.S.S. Cambridge on
September 22, 1862, was mustered into the United States Navy on
October 1 of that year, and served with the Navy until his
honorable discharge in Charlestown, Massachusetts on September 26,

1865.

From 1871 onward until his death in 1923, he resided in Dedham, Massachusetts. A mason by trade, he was one of the founders of the Episcopal Church of The Good Shepherd in Dedham, where I was baptized. His six sons, my grandfather, William B. Gould Jr., and five great uncles, followed in his footsteps in the U.S. military--my grandfather as a Sergeant in the Sixth Regiment of the Massachusetts Volunteers in the Spanish-American War and my great-uncles as officers in France in World War I.

These men were the backbone of the country and their commitment to our nation, their views about religion and life here on this earth have shaped my views and philosophy since I was a small child.

In truth, their views, particularly as reshaped and transmitted to me by my parents, induced me to focus upon the law as a career in the early 1950's. If I have contributed anything of value to my fellow man and woman, it is because of my parents, Mrs. Leah Felts Gould and William B. Gould III, now deceased. They provided me with unqualified love, an understanding of how they would not allow the racial discrimination visited upon them and their forbears to defeat them, and the sense that the horizon was boundless if I applied myself.

No event has been more professionally significant for me than the Supreme Court's declaration that the segregation of public schools was unconstitutional while I was a high school senior. Then, as now, the law has been a significant vehicle to diminish inequity and unfairness in our society. I came to the law as a profession because no rule of law has represented a beacon of hope against centuries of injustice in our country and because I see it as principled decisionmaking above and beyond day to day immediate political passions.

In my adult professional life, I have practiced law, representing both labor and management, as well as individual employees. In this connection, I have been involved in proceedings before the National Labor Relations Board, arbitrators, and both federal and state court judges. I have argued before the United States Circuit Court of Appeals for the District of Columbia, the Third, Sixth, and Ninth Circuits. I have represented both sides labor and management--in the negotiation of collective bargaining agreements.

I have also served with the National Labor Relations Board in Washington, D.C. on the staffs of both Chairman Frank W. McCulloch and Member Howard Jenkins, Jr., a Democrat and Republican respectively. I have taught and lectured on Labor Law, Employment Discrimination Law, Constitutional Law and other subjects since

1968. I have been a tenured member of the Stanford Law School faculty since 1972. I have held the Charles A. Beardsley Professorship, an endowed Chair, since 1984.

Prior to moving from the role of private practitioner to the academic arena, I began to arbitrate and mediate a wide variety of labor-management disputes in both the private and public sector. I have been an arbitrator, mediator and factfinder in more than 200 labor disputes since 1965 and I have written opinions and awards in approximately 140 cases. I have ruled in favor of management in approximately 59% of the cases where the award was clearly in favor of one side or the other and in approximately 54% of the cases in toto.

I have served on permanent arbitration panels established by the San Jose Mercury News and the San Jose Newspaper Guild, Local 98; the American Federation of Government Employees and McClellan Air Force Base; California State Employees' Association and the California State University; Communication Workers of America and Pacific Bell (earlier Pacific Telephone and Telegraph Company); Stokely-Van Camp, Inc. and Cannery Warehousemen; Auto Specialties Manufacturing Company and UAW Local 793.

A genuine highlight of my arbitral career was my role in resolving baseball salary disputes in 1992 and 1993. Baseball salary arbitrators are instructed to conclude the cases expeditiously and I have done so. But I must confess to this Committee that it has been my desire to hold these cases forever, so fascinating is the statistical treasure trove of evidence presented and the use to which it is put by the very skilled advocates for the parties, the Major League Player Relations Committee and the Major League Baseball Players Association.

These arbitrations, along with my baseball journalism of these past 7 years, have permitted me to obtain proximity to both management and players of the team that I have passionately supported since 1946, the Boston Red Sox. Should the Senate confirm me, it would bring me within real striking distance of Fenway Park - the beauteous ballpark that I have adored since I was a sandlot youngster participating in family summer excursions to Dedham and listening to the short wave radio that my father fixed up for me in New Jersey so that I could hear first hand the feats of Williams, Doerr, Pesky and Dominic Di Maggio and the fans' reactions as an Eddie Pelligrini foul ball would climb the screen behind homeplate.

In all industries--in baseball, automobile factories or high tech Silicon Valley plants--certain principles remain constant in the arbitration process. Because an arbitrator is a creature of the parties to the collective bargaining agreement, labor and management, the arbitrator must be careful not to exceed the boundaries established in that contract by the parties themselves. Above all else, the arbitrator must be faithful to the intentions

of the parties who have appointed him or her to interpret their agreement.

As the members of this Committee, you are familiar with the fact that practically all arbitrations and mediations result from labor and management voluntarily selecting a third party neutral for the role which I have filled. The test of success is the market. As the Committee members know from correspondence sent to it by those who have represented both labor and management when appearing before me as an arbitrator during the past quarter of a century, I have been viewed by the parties--labor and management as acceptable to both sides as a neutral in a wide variety of industrial relations conflicts between labor and management. In only two instances that I am aware of have my awards been challenged in the courts--two cases in which I ruled in favor of an employer.

When I was invited to join the blue ribbon professional arbitrators' association, the National Academy of Arbitrators, in 1970, at the age of 33, I was one of the youngest arbitrators ever to join that group. My work at the Board in the '60's, my role as an arbitrator and my immersion in labor law for these past 30 years have all made me well aware of the limitations defining the role of a Board member.

My work as Chairman of the Board will be of a quasi-judicial nature and will involve me as an impartial--the same role that I have played as an arbitrator--to resolve conflicts arising under that statute in a fair and even-handed manner within the limits of the law established by Congress.

In the past, I have written a number of books and articles for professional journals, periodicals and newspapers, extensively expressing my views on the shape that labor policy should take if Congress should amend the National Labor Relations Act or other statutes. If confirmed by the Senate as one of five voting members, in my new role, my charge is to interpret existing law. The critical difference between Professor Gould and Chairman Gould is that in the latter capacity, my responsibility as one of five decisionmakers is concerned solely with the interpretation of the law as it is presently written.

More than a quarter of a century of arbitral experience makes me familiar and comfortable with the distinction between the role of law reform proponent, on the one hand (the role of the professor) and a neutral finder of fact and applier of existing law, on the other, the role of the Chairman of the National Labor Relations Board and its other Members--the latter being more akin to the arbitral process.

Both as an arbitrator and as Chairman of the Board, my role is to decide cases based upon the facts and relevant law. In neither capacity is the fashioning of legislation part of the job description. That is the appropriate role for Congress.

As Chairman, I plan to reach out to both sides evenhandedly and to consult with labor and management representatives about a wide variety of procedural matters so that the Board may serve the public interest more effectively.

If I am confirmed by the Senate, I will have a number of priorities as Chairman. The first is to make the Board a more efficient administrative agency and to expedite both the representation and unfair labor practice case handling process. I shall consider the use of firm timetables and shall attempt to lead by example and encourage Board members to spend the overwhelming portion of their time in Washington, D.C. at work on the business at hand. I believe that my Chairmanship will usher in an environment of collegiality and civility in which respect for the views of one another and the values of hard work are both promoted.

A second priority will be informal dispute resolution. The Board has always had a very good rate of informal settlement or conciliation of cases as a general proposition--but the success of the Board has been substantially limited to the time period prior to the issuance of a complaint by the General Counsel in an administrative unfair labor practice proceeding. I would like to see more effective discovery and settlement efforts by the Administrative Law Judges subsequent to the issuance of a complaint--the ALJ's being directly responsive to the Board side. I plan to initiate discussions to this end with other Board members as well as the Chief Administrative Law Judge immediately after my confirmation. An increase in the rate of settlement once the case is before the Administrative Law Judge could be a factor in reducing delay in the case handling process.

If confirmed by the Senate, a third objective would be to continue with the difficult task of assuring that the Board's credibility in the courts and with the public is the very best possible. My overriding objective during the coming five years is to eliminate or substantially diminish polarization and to make the Board into an agency which has the full confidence of both labor and management, the federal judiciary, as well as the general public.

The Board, like arbitrators, must be perceived to be impartial and neutral. I shall bring to bear the skills that I have employed during the past quarter of a century as a third party neutral in arbitration, mediation and fact-finding. In this connection, although I am only one of five, I shall attempt to lead the way in achieving as much unanimity as possible.

Senator Kennedy and members of the Committee, I welcome your questions, comments and advice today. I look forward to working with you in the future.

BACKGROUND ON

William Benjamin Gould IV Nominee for the National Labor Relations Board

"His background, keen intellect and outstanding leadership qualities will serve our country well"

--Anna G. Eshoo, Member of Congress, 14th CD, CA

Professor William B. Gould is a prominent scholar in the field of labor law and is an accomplished labor arbitrator. If confirmed, Professor Gould will be the first African-American Chair of the National Labor Relations Board.

EXCEPTIONALLY QUALIFIED

"Within this single nomination, you have the combined independence of the scholar and the practical experience of the negotiator. He will bring intelligence and a sense of fairness to the NLRB."

--Barbara Boxer, U.S. Senator, CA

Named to the Charles A. Beardsley Professor of Law endowed chair in 1984, William Gould has been a professor of law at Stanford University since 1972. Gould specializes in labor law and discrimination law.

He has also been a professor of law at Wayne State Law School, a visiting professor at Harvard Law School, Howard Law School, and a visiting scholar at law schools throughout the world.

A graduate of the University of Rhode Island and Cornell Law School, Gould has studied comparative labor law at the London School of Economics.

Professor Gould is one of the nation's leading labor law scholars. Author of six books and more than sixty scholarly articles, Gould has written on all areas of labor law.

His most recent book, Agenda for Reform: The Future of Employment Relations and the Law (1993), is a comprehensive study of the strengths and weaknesses of the National Labor Relations Act. An earlier book, Black Workers in White Unions (1977), is one of the leading studies of race relations in American Labor Unions.

IMPARTIAL FACT-FINDER

"Over and over, both labor and management have placed their trust in Bill Gould to resolve their disputes. That is the most persuasive evidence the Senate could have that Bill Gould will be a fair, impartial and judicious Chairman of the National Labor Relations Board."

-- Edward M. Kennedy, U.S. Senator, MA

As a prominent arbitrator, Professor Gould has been selected by labor and management to resolve over 200 labor disputes. Professor Gould has been a member of the blue-ribbon National Academy of Arbitrators since 1970, and, at the age of 33, was one of the youngest arbitrators ever to be invited to join the group. Professor Gould has been called upon repeatedly by both employers and unions to put his neutral, fact-finding skills to work, and the breadth of his experience in this field reflects the confidence labor and management place in him.

Prior to his academic career, he was a practicing attorney with experience in representing the entire spectrum of participants in labor-management relations. Professor Gould was elected by his American Bar Association peers to serve as Secretary of its Labor and Employment Section.

INTEGRITY BEYOND QUESTION

"This is a gentleman who brings exceptional intellect and a body of experience in this arena that is without peer. We say without reservation that his record can withstand the scrutiny and challenge of every standard of fairness and objectivity. The Congressional Black Caucus expresses our unequivocal and enthusiastic support for his nomination."

-- William Clay, Member of Congress, 1st CD, MO, speaking on behalf of the Congressional Black Caucus.

Throughout his distinguished career as scholar and arbitrator, Professor Gould's balanced, even-handed judgment has marked his work. His commitment to the rule of law is beyond challenge.

Gould has successfully represented clients against both employers and unions in major employment discrimination class actions. He has been a volunteer attorney for the NAACP Legal Defense Fund and is a member of the NAACP.

NATIONAL LABOR RELATIONS BOARD

The National Labor Relations Board (NLRB) is an independent agency created by the National Labor Relations Act of 1935 (Wagner Act) (29 U.S.C. 167), as amended by acts of 1947 (Taft-Hartley Act), 1959 (Landrum-Griffin Act), and 1974 (Health Care Amendments). The act affirms the right of employees to self-organization and collective bargaining through representatives of their own choosing, to engage in other protected, concerted activities, or to refrain from such activities. The act prohibits certain unfair labor practices by employers and labor organizations or their agents. It authorizes the Board to designate appropriate units for collective bargaining and to conduct secret ballot elections to determine whether employees desire representation by a labor organization.

Under the act, NLRB has two principal functions: preventing and remedying unfair labor practices by employers and labor organizations or their agents, and conducting secret ballot elections among employees in appropriate collective-bargaining units to determine whether or not they desire to be represented by a labor organization in bargaining with employers about their wages, hours, and working conditions. The agency also conducts secret ballot elections among employees who have been covered by union-security agreement to determine whether or not they wish to revoke their union's authority to make such agreements. In jurisdiction disputes between two or more unions, the Board determines which competing group of workers is entitled to perform the work involved. Secret ballot elections are conducted among NLRB employees concerning employers' final settlement offers in national emergency labor disputes. Two major, separate components comprise NLRB. The Board itself has five members appointed by the President and primarily acts as a quasi-judicial body in deciding cases on the basis of formal records in administrative proceedings. The General Counsel, also appointed by the President, is independent from the Board.

In unfair labor practice cases, the General Counsel has final authority to investigate charges, issue complaints, and prosecute such complaints before administrative law judges and the Board. The General Counsel, on behalf of the Board, prosecutes injunction proceedings; handles courts of appeals proceedings to enforce or review Board decisions and orders; participates in miscellaneous court litigation; and obtains compliance with Board orders and court judgements. The General Counsel is responsible for supervising personnel who process unfair labor practice charges and election petitions.

NLRB can act only when it is formally requested to do so. Individuals, employers, or unions may initiate cases by filing charges of unfair labor practices or petitions for employee representation elections with the Board field offices serving the area where the case arises.

In the event that a regional director declines to proceed on a representation petition, the party filing the petition may appeal to the Board. When a regional director declines to proceed on an unfair labor practice charge, the charging party may appeal to the General Counsel.

Administrative law judges conduct hearings in unfair labor practice cases, make findings of fact and conclusions of law, and recommend remedies for violations found. Their decisions can be appealed to the Board for a final agency determination. The Board's decisions are subject to review in the Federal courts.

[Source: U.S. Government Manual, 1992-93]

QUESTIONS AND ANSWERS ON WILLIAM B. GOULD IV

Professor William Gould IV, President Clinton's nominee to Chair the National Labor Relations Board, has been the target of a concentrated campaign of misinformation in the press.

Professor Gould is one of our nation's most respected authorities on labor law. Even though the reforms he has advocated in the past are firmly within the mainstream of labor law scholarship, Professor Gould stated at his October 1 confirmation hearing: "The critical difference between Professor Gould and Chairman Gould is that in the latter capacity, my responsibility as one of five decisionmakers is concerned solely with the interpretation of the law as it is presently written." William Gould's understanding of this distinction is fundamental. Nonetheless, it is important to correct any misperceptions about his legislative proposals.

Below are some of the more egregious examples of misconceptions about Professor Gould's stances, and the truth about Professor Gould's positions:

Does William Gould advocate the abolition of secret ballots?

No. In fact, Professor Gould would expand the use of secret ballot elections. He does suggest that for recognition elections, a practice similar to the Canadian system of recognition should be considered where authorization can be granted only if 60% or more of employees in a unit sign authorization cards and pay union dues.

Would Professor Gould recognize non-majority unions?

Professor Gould has never advocated sweeping change to the current practice of recognition. As a matter of clarification to current law, Professor Gould has suggested remedies to egregious unfair labor practices that include the recognition of minority bargaining units where it is clear that employers have illegally interfered with the ability of employees to hold free and fair elections, and that that interference deprived the union of majority status and clearly influenced the course of the election.

As part of his proposals for law reform -- recognizing that this is for Congress and not for the Board -- Gould has advocated a statutory amendment providing for "members only" bargaining for consenting workers where a substantial number of employees desire such representation.

Does Professor Gould believe in preventing employees from resigning from unions?

Professor Gould clearly respects the rights of workers to enter and resign from unions of their own free will. In an article in 1980, Professor Gould suggested that there might be circumstances in which members of a union would agree in advance not to allow resignations in the crucial 60 days prior to the expiration of a collective bargaining agreement, and in some circumstances, during the strike itself.

Does Professor Gould believe that unions should have unlimited access to confidential employer information?

Absolutely not. Professor Gould has suggested reforms to the current system of disclosure, but believes that confidential information must continue to be protected.

Does Professor Gould advocate restricting employer access to employees prior to a union certification vote?

As with many charges against Professor Gould, this is entirely false. The truth is that Professor Gould urges the expansion of employer free speech rights in union organizational efforts.

Would Professor Gould change striker replacement laws?

Professor Gould has stated frequently and forcefully that the role of the Chairman of the NLRB is to interpret the law -- not change it. Any change in the current law relating to striker replacement would have to take place in Congress, and Professor Gould clearly understands this distinction.

Would Professor Gould force employers to bargain with unions on all subjects, not just formerly "mandatory" subjects?

No. Professor Gould clearly understands the proper bounds of topics over which to bargain. The Board has no authority to overturn current law on this topic and Professor Gould clearly understands that the Board has no role in this issue.

Does Professor Gould support unlimited access by union organizers to employers' property?

No. Professor Gould understands that there is a balance between the right of employees to organize and the property rights of employers. He recognizes that the Supreme Court has ruled on this issue, and he would follow that precedent.

Would Professor Gould impose "pattern contracts"?

No. Professor Gould has made no such suggestion.

National Right To Work Committee



A COALITION OF EMPLOYEES AND EMPLOYERS

REED LARSON, President

February 22, 1994

The Honorable Harris Wofford
United States Senate
521 Senate Dirksen Office Building
Washington, DC 20510

Dear Senator:

On behalf of the 1.8 million members of the National Right to Work Committee, I urge you to take whatever actions are necessary, including a filibuster, to stop each of President Clinton's current nominees to the National Labor Relations Board (NLRB).

In William B. Gould IV, Frederick Feinstein, Margaret Browning and Charles Cohen, President Clinton has put forth a group of nominees who, based on their respective records, uniformly adhere to the doctrine of compulsory unionism.

None of the four nominees has shown any sympathy for -- or even understanding of -- the principle, embraced by the overwhelming majority of Americans, that workers should be free to choose whether or not to join or pay dues to a union.

Confirmation of the President's appointees would further tilt the already biased NLRB in favor of compulsory unionism and turn this most powerful labor law tribunal into little more than a bureaucratic extension of Organized Labor.

Allow me to review the records of the nominees:

The President's choice to chair the NLRB, Professor William Gould, has been among the most prominent academic apologists for compulsory unionism over the last two decades.

In his extensive writings and in public comments, Mr. Gould has advocated radical changes in labor law which would severely undermine the already weakened rights of individual employees.

Gould has said he would force representation on employees without even a secret ballot election. Furthermore, in addition to advocating forced-union dues for all "represented" employees, Gould would expose them to harsh union discipline by stripping them of their right to resign formal union membership.

Together, such misnamed reforms would destroy the few defenses available to workers who are subjected to forced-union

"representation."

As Board chairman, Professor Gould would have the administrative and regulatory clout to wipe out the minimal protections now afforded to individual workers. And he is likely to be assisted by President Clinton's other nominees.

As you know, the general counsel is perhaps the most powerful NLRB official because of his non-reviewable authority to accept or ignore individual cases.

Hence, the general counsel, as the NLRB's "gate keeper," ought to be free of any political or ideological bias.

Judging by his record, however, General Counsel-designate Frederick Feinstein fails to meet this standard.

--- Mr. Feinstein, longtime chief counsel to the House Subcommittee on Labor/Management Relations, has been intimately involved in promoting nearly every major piece of forced-unionism legislation introduced in Congress over the past decade.

His subcommittee, which refused to allow me as a representative of 1.8 million Committee members to testify on the Pushbutton Strike Bill (H.R. 5/5. 55) in hearings earlier this year, is the spawning ground for many forced-unionism measures.

The strike bill, which would hand union officials new strike powers to force workers to pay union dues, is but one example.

Another is the Construction Forced Unionism Bill (H.R. 114), which would impose compulsory-unionism contracts on hundreds of thousands of independent construction workers without even giving them a chance to vote.

Feinstein's subcommittee also produced a legal brief, to which he presumably contributed, arguing against then-President Bush's meager 1992 attempt to enforce the Beck decision.

Can Mr. Feinstein be trusted to properly enforce the law of the land as embodied in the Beck prohibitions on the seizure of union dues for politics if, as appears to be the case, he was recently involved in an attempt to block its enforcement?

Feinstein's record offers no evidence that he will give a prompt and fair hearing to individual workers who turn to the NLRB for protection from union coercion.

Similarly, President Clinton's choice to fill one of the other open seats on the NLRB, Margaret Browning, has a long association with the Big Labor legal establishment.

Browning is a founding member of the Philadelphia law firm of Wilderman Borish Edny Browning and Spear, whose client list reads like a Big Labor rogues' gallery.

Browning's firm has represented officials from numerous

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unions, including the Service Employees International, the American Federation of State, County, and Municipal Employees, the Oil, Chemical, and Atomic Workers and the Sheet Metal Workers, to name just a few.

In recent years, credible evidence has implicated high-level officials of all of these unions in a variety of crimes against worker rights, ranging from embezzlement to illegal use of compulsory dues for politics to attempted murder.

During her legal career, Browning has repeatedly served as an advocate for union officials who use violence and intimidation to take control of workers and businesses.

In 1984 and 1985, Browning defended construction union officials who conspired to exclude contractors who didn't force their employees to join a union from working in Philadelphia.

These construction union officials had embarked on a campaign of "threats of violence and actual violence at various job sites," against Altemose Construction Co. and other area contractors, according to the appeals court which heard the case.

Browning's claim that antitrust law did not apply to her union-boss clients was rejected by the court.

Of course, the U.S. Constitution entitles everyone, including the most unsavory characters, to a lawyer. But Browning's narrow legal experience ought to raise serious doubts about her ability to act impartially on the NLRB.

Years of advocacy for union officials who have manifestly violated workers' rights -- with no experience defending workers whose rights have been violated by Big Labor -- is not an appropriate resumé for membership on the NLRB.

And finally, President Clinton's Republican nominee, Charles Cohen, supposedly picked to provide "balance" on the Board, is unlikely to offer more than a quiet echo of the compulsory-unionism advocates who will control the NLRB from top to bottom.

Cohen has never, to our knowledge, publicly stated support for the Right to Work principle despite numerous opportunities during his career to do so.

Indeed, Mr. Cohen has represented an employer who entered into an illegal pre-hire agreement, a standard technique for requiring workers to pay union dues.

At the very least, Mr. Cohen's nomination represents a monumental gamble with the rights of individual workers.

Senator, when a worker takes a case to the NLRB, he or she should have no doubts that the highest labor law tribunal in the land will hear the case with an open mind and with every intention of acting as an unbiased arbiter of labor disputes.

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Collectively, the records and backgrounds of President Clinton's current nominees to the NLRB indicate that their judgement would be guided by an agenda that gives short shrift to the rights of individual workers.

Furthermore, there's ample evidence that this is precisely what the Clinton Administration wants.

It was Labor Secretary Robert Reich himself who publicly hinted last year that carrying out Big Labor's agenda "might not require legislative action but could be resolved by change in regulation."

This is the same Robert Reich who, in a 1985 Associated Press story, suggested the NLRB needed to give greater weight to "the necessity for coercion" in American labor policy. "In order to maintain themselves, unions have got to have some ability to strap their members to the mast," Reich said.

From the nature of President Clinton's appointees to the NLRB, it's clear that Mr. Reich was not making idle chatter but was, instead, issuing marching orders.

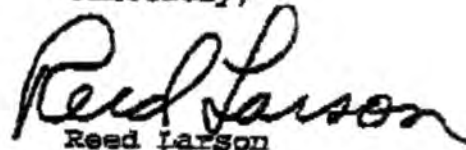
Senator, our members do not view the Right to Work as a curiosity or a legal technicality. We consider the Right to Work to be a fundamental principle that is at the center of this nation's legal, intellectual and moral heritage.

Consequently, supporters of worker freedom cannot sit idly by while the agency charged with protecting the rights of all American workers is stacked with compulsory-unionism supporters.

The NLRB must serve as an objective enforcer of America's labor laws -- not as a bureaucratic power base for Organized Labor or as a protector of the privileges of the union elite.

Therefore, on behalf of the Committee's 1.8 million members, I strongly urge you to take whatever steps are necessary, including a filibuster, to stop each of President Clinton's current nominees to the NLRB.

Sincerely,


Reed Larson

RL/wp

STANFORD LAW SCHOOL

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NLRB GENERAL COUNSEL OUTLINES POSSIBLE CHANGES FOR LABOR BOARD TO BETTER MEET STATUTORY GOALS

NEW YORK—Several administrative changes are under active consideration in the general counsel's office of the National Labor Relations Board that are aimed at better meeting the statutory goals of promptness and fairness in resolving labor-management disputes, the NLRB's acting general counsel reported Jan. 20.

The possible changes are being outlined in anticipation of Senate confirmation later this year of the Clinton administration's nominee for the general counsel position, according to Daniel Silverman, the NLRB Region II director who is serving as acting general counsel. The goal, Silverman said, is to have the plans ready for action by the new appointee—Fred Feinstein, currently chief counsel of the House Education and Labor Subcommittee on Labor-Management Relations—when he takes office.

Speaking informally to a predominantly labor union audience at a Cornell University School of Industrial and Labor Relations conference on reforming the law of organizing, Silverman said that some of the suggested changes would be "somewhat responsive" to concerns raised by union organizers earlier in the conference. The organizers, backed by accounts from workers with discrimination charges pending before the board, charged that structural delays have blocked their access to justice.

"Many things can be done within the NLRB without statutory changes to make the process of organizing more fair," Silverman commented.

Delays in the NLRB hearing process would be a primary target of the changes being considered, Silverman suggested. "It's obvious that the use of the hearing is a major delaying tactic to proceeding to a prompt election," he said. "Parties are raising issues that really don't need to be litigated at a hearing."

One tack for dealing with the delays would be to bar parties from raising issues to be decided in litigation without themselves taking a position on them, Silverman suggested. Another would be for the regional director to allow an election to go forward without deciding the issues raised for pre-election hearing, he said. That way, the parties would put their positions on record, the election would be held, and rulings on eligibility questions would then only be necessary if they would determine the election's outcome, he suggested.

A-14 (No. 14)

CURRENT DEVELOPMENTS

(DLR) 1-24-94

"The point is to get the board in and out quickly on eligibility questions and limit the issues to be litigated," he said.

Another tool that might be used more widely is requiring the parties to make an "offer of proof" to the regional director laying out their case, Silverman argued, adding that he found that approach useful in Region II. "If the evidence doesn't measure up, there's no reason for us to take the case, even if the evidence itself may be true," he said.

One "small" change being considered in the organizing area that could make a difference in reducing delays would be to reverse the currently permitted practice of listing employees by their first initials, rather than their first names, in rosters provided by employers to unions, Silverman said. The practice "has no purpose but to obstruct organizing" by making it harder for the union to identify the employees, he maintained.

Revising Performance Standards

Revising performance standards for career NLRB employees would be another tack for reducing delay at the board, Silverman said, arguing that in some respects the current standards are inconsistent with statutory objectives. The board now uses a median to measure the efficiency of board employees, for example, which encourages an "inherent structural delay," he said.

Greater use of mail ballots in representation elections is another practice under consideration, Silverman said, possibly as a pilot project. Mail ballots could be introduced in situations where it could be argued that the worksite carries an "aura of coercion," he said.

In the unfair labor practice area, one change being considered is to introduce a "fast-track" proceeding system available to resolve cases presenting an immediate need for relief, as an alternative to the current "first-in, first-out" regimen, Silverman said. A statutory basis could be found for giving a higher priority to discharge cases, for instance, he added.

Under the fast-track system, the administrative law judge would "control the calendar" in certain expedited cases by permitting, for instance, only two weeks for briefs with no extensions except for extraordinary cause, Silverman suggested. "The goal would be to get the case to the board in a few months, not a few years, through a faster, less legalistic approach," he said.

The general counsel's office is also reviewing its standards for issuing investigative subpoenas to obtain the testimony of reluctant witnesses, Silverman reported. In the current "centralized" system, he said, subpoenas "must be approved at the top." But it is possible that approval could just as well come from a regional director or the board's office of appeals, he continued.

Lifting administrative disincentives to seeking injunctive relief under Section 10(j) of the National Labor Relations Act is another step under consideration, Silverman said. "That whole system is so heavily laden with incentives to delay that it becomes difficult to get effective relief," he remarked. "A 10(j) injunction should not be such a major event."

In general, Silverman continued, the board is "trying to cut down on memos and paperwork." At present, "too much goes to the office of advice," he said. "We need to change the culture, to be more mission-oriented, to emphasize both timeliness and quality."

The general counsel's office is also "revisiting" several legal issues with "new views," including those surrounding the U.S. Supreme Court's *Beck* decision on use of union dues for lobbying and other political activities not directly linked to collective bargaining or grievance adjustment, Silverman said.

Among the issues that "definitely" will be reconsidered is the previous general counsel's finding that organizing was not related to collective bargaining, Silverman reported. Also due for reconsideration is a previous finding that accounting of union lobbying expenses must be conducted unit by unit, as opposed to "across the board," he said. Supreme Court precedent exists that points against the unit-by-unit approach, he maintained.

1-24-94 (DLR)

CURRENT DEVELOPMENTS

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"There's a certain amount of room for me to responsibly look at some of the issues," Silverman said, "so when the new general counsel comes in, a new position will already be before the board."

Worker Participation

Speaking earlier at the conference, a member of the federal Commission on the Future of Worker-Management Relations advocated using public policy to overcome "significant obstacles to the continued diffusion" of genuine forms of worker participation across the U.S. workforce.

Programs that use the most effective forms of worker participation are "relatively rare," according to commission member Thomas Kochan, who is the George M. Bunker professor of management at Massachusetts Institute of Technology. Kochan specified that he was voicing his views and not those of the commission.

"We need to find ways of encouraging these programs, in both the union and the non-union sectors, without undermining worker rights to organize or raising concerns about company-dominated labor organizations," he said.

The commission met all day Jan. 19 on the status of worker participation programs under NLRA Section 8(a)(2) in the wake of the board's *Electromation* decision. Kochan reported (13 DLR A-9, 1/20/94). He pointed to four options being considered for recommendation:

- "Let it alone, don't worry about it," on the theory that Section 8(a)(2) violations are so rare that they require no special action. The problem with this approach, Kochan said, is that "there is a lot of [workplace] committee activity in the nonunion area that, if challenged, would be found to be outside the law."

- Tighten and enforce the current law. But that option raises the "danger of putting the brakes on innovation that is perhaps in our interest," Kochan said, suggesting that any statutory modification should be designed to encourage genuinely participatory programs.

- Set standards and rules for worker participation programs. That approach brings with it a risk of hindering good programs with administrative and regulatory programs, he warned.

- Require worker participation committees by law, as in the European Union work councils system or the safety and health committee approach envisioned in current Occupational Safety and Health Act reform proposals.

"None of these options in their pure form will be the most sensible approach," Kochan commented. "We will need some kind of combination."

Worker participation and union organizing are "tightly intertwined," Kochan continued. "I'm not sure where we're going in this issue," he said. "We need to make sure that there is a real choice, that workers are not forced into some bogus participation arrangement. But the system is clearly broke. We've got to do something that significantly changes the experience of the last 10 years."

During a discussion period, Kochan also speculated that the time may have come to adapt the concept of exclusive representation. "Do the laws of the 1930s cover the workplace of today?" he asked. "Are we prepared to walk away from exclusive representation as the cornerstone of labor law?"

But Silverman expressed discomfort with the idea, saying that "people should be wary of doing away with exclusive representation." He characterized the concept, as embedded in the law, as "the only way to balance employer power."

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IN OUR OPINION

LABOR BOARD

Senate roadblock holds up an outstanding nominee

If the U.S. Senate ever gets around to acting on his nomination, William Gould IV has the stuff to become an eminently distinguished chairman of the National Labor Relations Board.

In the last half-century, no nominee for NLRB chair has arrived with a comparable record for scholarship and evenhandedness on labor-management issues. Mr. Gould — formerly a Wayne State University Law School professor, now at Stanford — has been a lawyer and negotiator on both sides of the labor-management table.

Detroiters with long memories will remember him as the litigator who won a landmark discrimination suit against Detroit Edison in 1973, gaining for black employees hiring and promotional opportunities and a record \$5.5-million settlement. He has spent the last 20 years as a respected law professor and arbitrator, in cases ranging from teacher contract disputes to the salary hassles between major league baseball players and owners.

The right-to-work lobby is beating its drums against Mr. Gould, willfully distorting his proposals for reform of U.S. labor laws. But Mr. Gould is less of an

ideologue or partisan than the typical NLRB nominee.

What's really holding up his confirmation is a Republican squeeze play on Clinton administration nominees. GOP senators are holding Mr. Gould hostage, partly to harass the president, partly to dictate who gets the traditionally Republican seats on the NLRB and other quasi-independent agencies.

If you're a tough, mean GOP partisan, maybe you think this is a great way to increase the minority party's leverage. If you want government to work, it's much less of a good idea.

Twelve years of hard-line, anti-union Reagan-Bush appointees have jerked the NLRB far to the right. It's about time for the board to be nudged back to the fair and moderate center. And it's past time for the NLRB to shake off its torpor and clear up its messy backlog of cases.

But with three vacancies on a five-member board, the NLRB is, for all practical purposes, closed for the duration. It will remain that way — and Professor Gould will remain in undeserved limbo — until key Republican senators relent.

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To: PROF. WM. GOULD	From: MARK L. KAHN		
cc: Stanford Univ.	Phone: 313 832 0682		
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STANFORD LAW SCHOOL 94 FEB 15 P3:29
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SCHOOL OF LAW
STANFORD UNIVERSITY, STANFORD, CALIFORNIA 94305

WILLIAM B. GOULD IV
CHARLES A. BEARDSLEY PROFESSOR
OF LAW

February 15, 1994

Mr. John Podesta
Fax No. 202 456 2702 or 456 2215

Dear John:

This is what my speech in Florida was really about. This guy captured the main points. I expect that it will appear sometime next week.

Sincerely yours,

A large, stylized handwritten signature in black ink, consisting of a large initial 'W' followed by a series of loops and a long, sweeping tail.

William B. Gould IV

A View From the Chairman-Designate

"It is time for mature industrial relations to replace industrial strife," stated NLRB Chairman-designate William B. Gould IV, Charles A. Beardsley Professor of Law, Stanford University Law School, in his luncheon address. Mr. Gould was appointed to the Commission on the Future of Worker-Management Relations and was nominated to the NLRB by President Clinton on August 6, 1993.

Outlining his vision of a revamped NLRB, Mr. Gould suggested that ADR procedures should be used at the ALJ level to encourage the voluntary resolution of disputes. If confirmed, he would seek to expedite the administrative process in unfair labor practice and representational disputes because "justice delayed is justice denied," he stated. Mr. Gould also favors the increased use of rulemaking under Section 9.

He suggested that the Board become more interactive with the public through more frequent oral argument ~~outside of Washington DC~~ in an effort to "repair a decline in confidence in the Board" experienced by the American public and the judiciary. Additionally, Mr. Gould would seek to establish new mechanisms for the intake of new ideas.

A member of the National Academy of since 1970, Professor Gould has arbitrated and mediated more than 200 labor disputes. Responding to criticism that his reform proposals were one-sided, he suggested instead that his writings over the past thirty years "attempt to strike a balance between the competing interests of management, unions, and individual employees."

Bar Talk

Gay Bar Group Asks What's In a Name

In September, Bay Area Lawyers for Individual Freedom director Kevin McCarthy sparked a lively internal debate over whether to come out and adopt a banner that more closely reflects its group's constituency. Some have suggested something along the lines of the Bay Area Gay and Lesbian Law Association might be appropriate.

"It is worth asking whether . . . we are inadvertently sending a message to others that being gay, lesbian or bisexual is something to be camouflaged," McCarthy, an assistant public defender in Alameda County, wrote in the September newsletter.

Over the last five months, some members brood that such a move could deal a "death blow" to an organization that, after more than 13 years, enjoys some hard-won recognition as local freedom-fighters. Others, meanwhile, say that the debate itself is trivial in the face of larger crusades to be waged.

"If any of us think for one minute that we can lighten up on our main task of eliminating homophobia, even with Clinton in office, think again," Guerneville's Karen Anderson Ryer wrote in. "We have no time to be arguing over a name."

Others are keeping a sense of humor. "The current acronym makes us sound like sheriffs in semi-retirement," Catherine Steane, a staff attorney with Oakland's Environmental Defense Fund, wrote in a recent BALIF newsletter. "Out and inclusive are great, but above all else we must insure that the new name has a cool acronym."

No problem there. Berkeley's Alice Philipson suggested BaBaQ (try pronouncing it with three syllables). to stand for Bar

7-Month Limbo Coming to End for Stanford Law Prof

Seven months after he was nominated, Stanford law professor William Gould IV's confirmation as chairman of the National Labor Relations Board may finally be at hand.

Gould's appointment has languished because of Republican opposition led by Kansas Sen. Nancy Kassebaum, the ranking Republican on the Senate Labor and Human Resources Committee. But President Clinton's appointment last week of Charles Cohen, a Republican, to fill a vacant seat on the board is expected to smooth the way for Gould's confirmation, according to a committee staffer.

Cohen, a partner at Washington, D.C.'s Ogletree, Deakins, Nash, Smoak & Stew-

art, was an NLRB attorney during the 1970s.

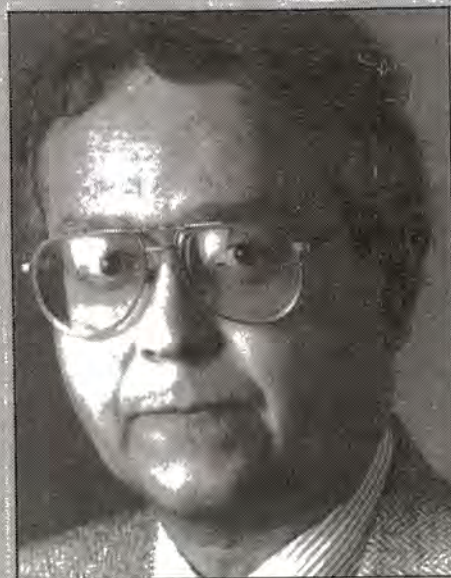
Gould, who appeared before the Senate labor panel in October, declined to comment Friday on the drawn-out confirmation process but was quoted in the *San Francisco Chronicle* accusing his critics of "terrible distortions of my record." *New York Times* columnist Anthony Lewis wrote that Gould was a "victim of slow confirmation torture."

Neither the White House nor Kassebaum's office could be reached for comment Friday.

Gould said that since September he has been on sabbatical, doing research in preparation for confirmation and working on a book about legal and other changes in professional baseball since World War II.

A nationally known labor law expert, Gould has taught at Stanford since 1972 and mediated numerous prominent labor disputes over the last 20 years.

— Mark Walsh



RECORDER FILE (1989)

CONFIRMATION TORTURE: William Gould's confirmation as chairman of the National Labor Relations Board seems nigh.

McCutchen Avoids Bonuses, Cuts Raises

McCutchen, Doyle, Brown & Enersen has bucked one trend and followed another in setting salaries for associates. Unlike many of its competitors, it has decided against bonuses based on profit-sharing or merit, opting for traditional seniority raises instead.

But like other firms, associates say McCutchen is not giving full seniority raises to all its associates. Those in the younger classes, while still earning more in 1994 than 1993, will not get as big a raise as they would have in prior years. Second-years, for example, would ordinarily have jumped from \$67,000 to \$72,000, but instead will go to \$70,000, one associate says. More senior classes will get the usual increases.

led to believe that everything would be as usual, which we took to mean the step increases would happen," says a junior associate, speaking on condition of anonymity.

But another junior associate says McCutchen was ahead of other firms' pay scales. "I hardly notice it in my paycheck," this associate says. "I think junior-level big-firm lawyers are overpaid anyhow."

Associates seemed to welcome the decision against merit bonuses.

"People were very nervous about a merit-based system, because it would be so subjective," says one. "I think people need more predictability."

The firm still has a bonus for associates who work extraordinary hours and has not

Nardi, who co-chairs the personnel committee. In fact, only a handful of the Bay Area's biggest firms currently lack merit or profit-sharing bonuses.

"There's pros and cons," Nardi says. "There's really good arguments to be made on both sides of the issue." The view of the firm was it was not a good time to introduce profit-sharing, which can also be risk-sharing, Nardi says. Associates worried that merit bonuses might be divisive, and concerns arose over how much administrative time it would take to handle fairly.

"We did discuss this at some length with associates," Nardi says. "We certainly will continue to talk about this." Neither she nor the other head of the personnel committee, Stephen Zovickian, would comment on changes in step raises, and chairman David

PR (from JP)

Pillsbury Considers Reducing Associate Step Increases . . .

While several Bay Area firms have raised associate salaries in recent weeks, Pillsbury Madison & Sutro is likely to reduce most step increases, according to an internal firm notice.

Associates are less than pleased.

"Decisions like this by the firm are kind of foisted on associates and no one feels good about it," said a San Francisco associate who spoke on condition of anonymity. Pillsbury appeared to be going in the opposite direction of pay at competing firms, he said. "Something like this only puts us a step further behind the Wilson, Sonsinis of the world."

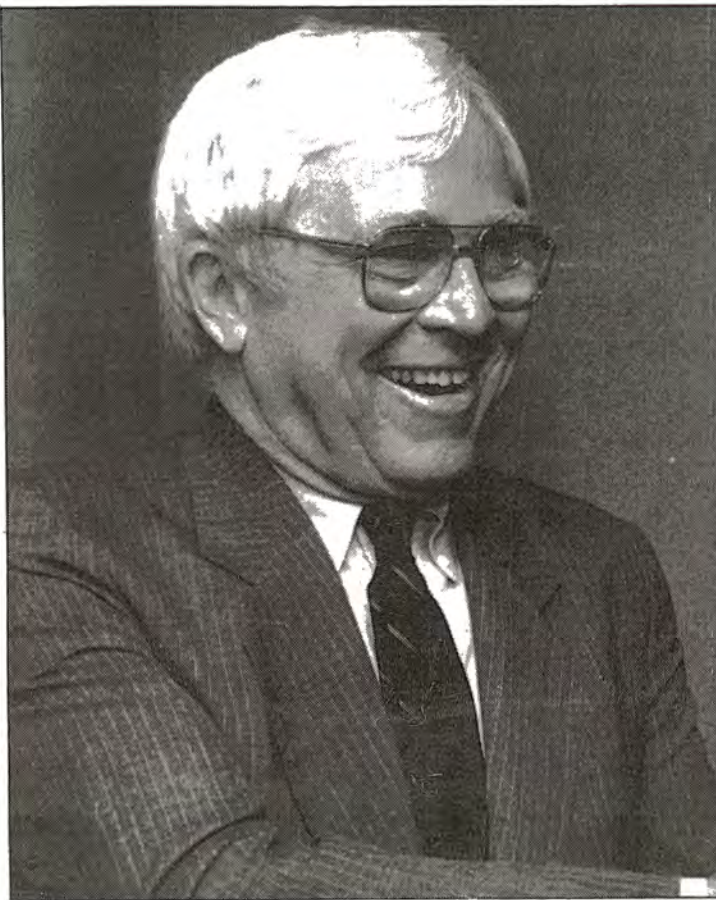
Wilson, Sonsini, Goodrich & Rosati; Brobeck, Phleger & Harrison; and Cooley Godward Castro Huddleson & Tatum have announced pay hikes for associates in recent weeks.

"The more junior associates would experience the greatest reduction because associates in their first couple of years are not profitable for the firm," according to an electronic-mail message circulated among Pillsbury associates. Salaries for first-years will hold steady at \$65,000. No other salary figures were disclosed in the notice, which said the adjustments would be in Feb. 15 checks, retroactive to Jan. 1.

The notice also indicates that second-year associates will become eligible for bonuses for the first time.

Sarah Flanagan, the executive committee's liaison to the associates' advisory committee, said she was unaware of the e-mail message regarding associate compensation and that it did not reflect official firm policy. She declined comment on the subject until 1994 salaries are announced this week.

A Los Angeles associate said, however, that at a meeting with management,



RECORDER FILE (1990)

PROUD PAPA:

Pillsbury chairman T. Neal McNamara announced formation of a Washington management committee that includes some high-profile former government lawyers.

several associates to New York-based Kelley Drye & Warren, and George Sugiyama, an environmental partner, joined the Washington office of Minneapolis-based Dorsey & Whitney. In addition, several government contracts lawyers left over the past month. They had been notified last year of the firm's decision to terminate their practice. The office now has 27 lawyers.

The new Washington management committee includes white collar crime specialist Jay Stephens, the former U.S. Attorney for the District of Columbia; Terry Calvani, an antitrust specialist and erstwhile member of the Federal Trade Commission; environmental lawyer Julia Epley, formerly the chief environment, health and safety officer for the University of California-Berkeley; and former Treasury Department official Thomas Terry, a tax specialist in the employee benefits and health care group.

"It just so happens that those are important areas in the Washington office — antitrust, litigation with an emphasis on white collar, environmental law and tax," said chairman T. Neal McNamara.

Stephens called the new management roster an effort to put "aggressive leadership in place in this office, to reach out and establish a real presence in Washington for Pillsbury and also to recognize that the Washington office is our East Coast presence."

A few months ago, the firm began renting a small New York office — McNamara prefers the term "facility" — to service Nomura Securities International Inc. The resident lawyer is of counsel James McLaughlin, a recent recruit from New York's Rogers & Wells who specializes in derivative securities.

McNamara said Pillsbury is still looking for an East Coast merger partner.

— Jennifer Thelen

associates were told that step increases could be cut by half in that office.

In response to the expected news, associates in Pillsbury's L.A. office, where first-years earn \$70,000, have begun an informal survey of associate salaries at competing firms in the local market.

"Associates believe that there should be a relationship between how the firm does and how salaries are affected," said a Los Angeles associate who also spoke on condition of anonymity. He pointed out that although firm revenues were basically flat last year, profits were slightly up. The 582-lawyer firm had revenues of \$213.9 million and profits of \$75 million in 1993.

— Mark Walsh

. . . Installs New Management Team in Washington

While Pillsbury Madison & Sutro considers a change in its salary structure, its Washington, D.C., branch is going through some transformations, too. Since the start of the year, the office has shrunk by eight lawyers and installed a high-profile group of Washington, D.C., partners with government backgrounds to chart the firm's expansion there and in New York.

Antitrust partner Kevin Sullivan took

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National Right to Work Committee



A COALITION OF EMPLOYEES AND EMPLOYERS

REED LARSEN, President

February 22, 1994

TO - MR
President

The confirmation of the President's nominees to the National Labor Relations Board will be a disaster for working men and women across America and it should be opposed.

But now adding insult to injury, I have just learned the nominations of Charles Cohen and Margaret Browning to the Board, as well as the nomination of Fred Feinstein to General Counsel, will not even receive a hearing in the Senate Labor and Human Resources Committee.

And further, this three-nominee package will be voted on under a unanimous consent agreement all at once.

Certainly, the Senate, in its duty to advise and consent on Presidential nominations, has a duty to hear the views of these three nominees to such important positions.

The NLRB governs the working lives of tens of millions of Americans and, through its actions, affects the economic health and well-being of the entire nation.

I urge you to do everything possible to oppose these nominations.

Your action is needed at once.

Reed Larsen

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National Right To Work Committee



A COALITION OF EMPLOYEES AND EMPLOYERS

REED LARSON, President

February 22, 1994

The Honorable Harris Wofford
United States Senate
521 Senate Dirksen Office Building
Washington, DC 20510

Dear Senator:

On behalf of the 1.8 million members of the National Right to Work Committee, I urge you to take whatever actions are necessary, including a filibuster, to stop each of President Clinton's current nominees to the National Labor Relations Board (NLRB).

In William B. Gould IV, Frederick Feinstein, Margaret Browning and Charles Cohen, President Clinton has put forth a group of nominees who, based on their respective records, uniformly adhere to the doctrine of compulsory unionism.

None of the four nominees has shown any sympathy for -- or even understanding of -- the principle, embraced by the overwhelming majority of Americans, that workers should be free to choose whether or not to join or pay dues to a union.

Confirmation of the President's appointees would further tilt the already biased NLRB in favor of compulsory unionism and turn this most powerful labor law tribunal into little more than a bureaucratic extension of Organized Labor.

Allow me to review the records of the nominees:

The President's choice to chair the NLRB, Professor William Gould, has been among the most prominent academic apologists for compulsory unionism over the last two decades.

In his extensive writings and in public comments, Mr. Gould has advocated radical changes in labor law which would severely undermine the already weakened rights of individual employees.

Gould has said he would force representation on employees without even a secret ballot election. Furthermore, in addition to advocating forced-union dues for all "represented" employees, Gould would expose them to harsh union discipline by stripping them of their right to resign formal union membership.

Together, such misnamed reforms would destroy the few defenses available to workers who are subjected to forced-union

"representation."

As Board chairman, Professor Gould would have the administrative and regulatory clout to wipe out the minimal protections now afforded to individual workers. And he is likely to be assisted by President Clinton's other nominees.

As you know, the general counsel is perhaps the most powerful NLRB official because of his non-reviewable authority to accept or ignore individual cases.

Hence, the general counsel, as the NLRB's "gate keeper," ought to be free of any political or ideological bias.

Judging by his record, however, General Counsel-designate Frederick Feinstein fails to meet this standard.

Mr. Feinstein, longtime chief counsel to the House Subcommittee on Labor/Management Relations, has been intimately involved in promoting nearly every major piece of forced-unionism legislation introduced in Congress over the past decade.

His subcommittee, which refused to allow me as a representative of 1.8 million Committee members to testify on the Pushbutton Strike Bill (H.R. 5/5. 55) in hearings earlier this year, is the spawning ground for many forced-unionism measures.

The strike bill, which would hand union officials new strike powers to force workers to pay union dues, is but one example.

Another is the Construction Forced Unionism Bill (H.R. 114), which would impose compulsory-unionism contracts on hundreds of thousands of independent construction workers without even giving them a chance to vote.

Feinstein's subcommittee also produced a legal brief, to which he presumably contributed, arguing against then-President Bush's meager 1992 attempt to enforce the Beck decision.

Can Mr. Feinstein be trusted to properly enforce the law of the land as embodied in the Beck prohibitions on the seizure of union dues for politics if, as appears to be the case, he was recently involved in an attempt to block its enforcement?

Feinstein's record offers no evidence that he will give a prompt and fair hearing to individual workers who turn to the NLRB for protection from union coercion.

Similarly, President Clinton's choice to fill one of the other open seats on the NLRB, Margaret Browning, has a long association with the Big Labor legal establishment.

Browning is a founding member of the Philadelphia law firm of Wilderman Borish Edny Browning and Spear, whose client list reads like a Big Labor rogues' gallery.

Browning's firm has represented officials from numerous

unions, including the Service Employees International, the American Federation of State, County, and Municipal Employees, the Oil, Chemical, and Atomic Workers and the Sheet Metal Workers, to name just a few.

In recent years, credible evidence has implicated high-level officials of all of these unions in a variety of crimes against worker rights, ranging from embezzlement to illegal use of compulsory dues for politics to attempted murder.

During her legal career, Browning has repeatedly served as an advocate for union officials who use violence and intimidation to take control of workers and businesses.

In 1984 and 1985, Browning defended construction union officials who conspired to exclude contractors who didn't force their employees to join a union from working in Philadelphia.

These construction union officials had embarked on a campaign of "threats of violence and actual violence at various job sites," against Altamose Construction Co. and other area contractors, according to the appeals court which heard the case.

Browning's claim that antitrust law did not apply to her union-boss clients was rejected by the court.

Of course, the U.S. Constitution entitles everyone, including the most unsavory characters, to a lawyer. But Browning's narrow legal experience ought to raise serious doubts about her ability to act impartially on the NLRB.

Years of advocacy for union officials who have manifestly violated workers' rights -- with no experience defending workers whose rights have been violated by Big Labor -- is not an appropriate resumé for membership on the NLRB.

And finally, President Clinton's Republican nominee, Charles Cohen, supposedly picked to provide "balance" on the Board, is unlikely to offer more than a quiet echo of the compulsory-unionism advocates who will control the NLRB from top to bottom.

Cohen has never, to our knowledge, publicly stated support for the Right to Work principle despite numerous opportunities during his career to do so.

Indeed, Mr. Cohen has represented an employer who entered into an illegal pre-hire agreement, a standard technique for requiring workers to pay union dues.

At the very least, Mr. Cohen's nomination represents a monumental gamble with the rights of individual workers.

Senator, when a worker takes a case to the NLRB, he or she should have no doubts that the highest labor law tribunal in the land will hear the case with an open mind and with every intention of acting as an unbiased arbiter of labor disputes.

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Collectively, the records and backgrounds of President Clinton's current nominees to the NLRB indicate that their judgement would be guided by an agenda that gives short shrift to the rights of individual workers.

Furthermore, there's ample evidence that this is precisely what the Clinton Administration wants.

It was Labor Secretary Robert Reich himself who publicly hinted last year that carrying out Big Labor's agenda "might not require legislative action but could be resolved by change in regulation."

This is the same Robert Reich who, in a 1985 Associated Press story, suggested the NLRB needed to give greater weight to "the necessity for coercion" in American labor policy. "In order to maintain themselves, unions have got to have some ability to strap their members to the mast," Reich said.

From the nature of President Clinton's appointees to the NLRB, it's clear that Mr. Reich was not making idle chatter but was, instead, issuing marching orders.

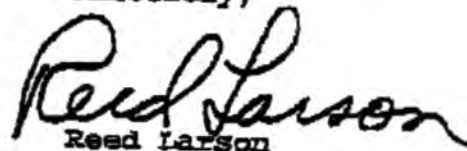
Senator, our members do not view the Right to Work as a curiosity or a legal technicality. We consider the Right to Work to be a fundamental principle that is at the center of this nation's legal, intellectual and moral heritage.

Consequently, supporters of worker freedom cannot sit idly by while the agency charged with protecting the rights of all American workers is stacked with compulsory-unionism supporters.

The NLRB must serve as an objective enforcer of America's labor laws -- not as a bureaucratic power base for Organized Labor or as a protector of the privileges of the union elite.

Therefore, on behalf of the Committee's 1.8 million members, I strongly urge you to take whatever steps are necessary, including a filibuster, to stop each of President Clinton's current nominees to the NLRB.

Sincerely,


Reed Larson

PL/wp

February 17, 1994

MEMORANDUM FOR JOHN PODESTA

FROM: Richard Socarides

RE: National Labor Relations Board update for 2\1\

* The group meetings with minority staff went extremely well. Our nominees were prepared and articulate. Peggy Browning was particularly impressive. Most important: no one said anything which would raise any new issue or controversy. Based on what we have learned this week, I suspect that the vote in committee on Browning, Cohen and Feinstein will be overwhelmingly positive.

* We have reached agreement with committee staff to mark-up the remaining nominees next Wednesday, February 23rd. Thereafter, we are hoping for (and Kennedy's staff will be pushing for) debate time and a full Senate vote sometime during the following week, commencing Monday, February 28th, although no votes will be scheduled until Tuesday, March 1st. At some point early next week it may be helpful to have you speak to Senator Mitchell's office to underscore the importance of getting this done promptly.

* A transcript of Gould's Florida speech (he says it is roughly accurate) is circulating among Senate republicans. Copy attached.

* We need to prepare talking points for the debate. One line of questioning explored during the meetings with minority staff was the role of the Chairman versus regular members. Gould's opponent's may argue that while he might be a fine Board member, he is too partisan to be Chair. In fact, the role of the Chair is largely ceremonial and that point should be driven home, perhaps with quotes from former Chairs (republicans?). We should talk about which other points should be stressed during debate. Should we re-issue the White House\ Gould packet, which was never widely distributed.

* Have we followed-up with the AFL-CIO? Have they been contacting labor friendly republican Senators? This weekends upcoming Florida meeting is probably a good time to make this point.

* Did the Vice-President talk with Senator Mathews?

* We are working with Kennedy's staff to release a "Dear Colleague" letter (working draft attached) soon after the committee vote.

* At what point should we do a vote count?

* Gould remains in fairly good spirits and we are in contact many times each day. He is fully up to date.

cc: Tom Glynn
Steve Rosenthal

Transcribed Remarks of William B. Gould IV
Stetson University College of Law Annual Conference
January 27, 1994

It's a pleasure to be back here and be the driver for the organizers of this conference and talk to you a little bit about the Board. Initially the people who invited me here thought that I was going to be speaking as Chairman of the Board. As Charlie has mentioned, I have been nominated, but not confirmed by the United States Senate. There is an article in today's *Wall Street Journal* about the most recent chapter in this story. I thought I would talk to you a little bit, in general terms, about my odyssey which began in the early part of 1993. And then talk to you, as I talked to the Senate Labor & Human Resources Committee on October 1st, about some of the ideas that I have for the Board in the future.

I must say that this odyssey Ed Miller warned me about it when we met in Portland, OR last summer, and I didn't fully appreciate it when he talked to me about the frustrations of waiting. I must say that there have been many frustration in this process and probably the foremost of them is the fact that I have an arbitrator in baseball disputes, salaried baseball disputes, over these past couple of years and of course the baseball people said that you might be serving on the Board in February so we can't have you come back again and do these disputes again. I must say that was the unkindest cut of all in this entire process to lose out being involved in these very interesting disputes that I have been involved in these past couple of years. Although, it is great to be down here in Ted Williams country, the great man of Western civilization, not withstanding his republican party affiliation.

My odyssey really begins, I suppose, in the early part of 1993 when various articles began to appear saying that I would be named as Chairman of the Board by President Clinton. In May, I got a telephone call from the White House inviting me to come and talk about this. I was asked to accept this position and I said that I would. On June 28th, the President announced his intent to nominate me. Only on August 5th were the actual nomination papers signed and transmitted to the Senate on August 6th.

Throughout the summer months, a drumbeat of opposition began to be heard, although, significantly, not from any of the major groups that I have had familiarity with over the years. Here, I refer to the organizations like the National Association of Manufacturers or the Chamber of Commerce. But rather, it came from what I saw as predictable sources the National Right to Work Committee and the Labor Policy Association — who I must confess, I was not really very familiar with prior to this particular experience. You may know that I am a member, although I am inactive at this particular point, of the so-called Dunlop Commission. When I went on that Commission, I began to receive many things in the mail from this Labor Policy Association.

So far as I have been able to ascertain, as of this moment, the opposition to me which has slowed the confirmation process has come from Washington based organizations and parties who had never met me or known me prior to this process. It is a strictly inside the beltway job. I am not aware of, I could be wrong in this regard, of any lawyer of any consequence

representing management or labor who has spoken against my nomination, nor am I aware of any labor law academic or labor arbitrator.

To the contrary, many lawyers representing both employers as well as unions have written letters to the Committee both prior to my hearing and subsequently to it, in support of my nomination. Most and perhaps all of the past Presidents of the National Academy of Arbitrators, as well as many other members of the National Academy of Arbitrators have written similar letters as have academics — 75 academics signed a letter circulated by Professor Herman Levy.

The opposition to me has proceeded on both a personal as well a professional level. Various reports have been made to the Republican members of the Committee about me on a personal level and we have had to go through this process and rebut those. I will be free to talk more about those things subsequent to my confirmation. The attack on me professionally, appears to rest upon the view that the law reform proposals that I have made for amending labor law in this country in particular the National Labor Relations Act are one sided. Time doesn't permit a full examination of all of these issues, except that it is of interest to know that those proposals that I have made that seem to have drawn the greatest amount of fire have been proposals which in my judgement would enhance the voluntary system of collective bargaining in the U.S. which is still a part of our federal labor policy as contained in the preamble to the National Labor Relations Act. That is to say, the preamble to the Act promotes the collective bargaining process. It has been of some interest to me to note that those who have attacked me for making proposals which would enhance the collective bargaining process were silent and indeed may have promoted the candidacy of others who have attacked the very idea of the collective bargaining process itself.

My writings over a period of more than 30 years have attempted to shape a balance between the competing interest of labor, management and individual employees, and have spoken of rights and obligations for all parties, and have advocated a mature industrial relations system in which rationality can be substituted to the extent that it can for strife and where the parties respect one another and accord one another despite their inevitable differences with some measure of dignity. I have spoken of labor law reforms, many of which would impose obligations upon unions, as well as employers, both in the area of the National Labor Relations Act and the area of wrongful discharge. Interestingly enough, I have written at length about individual rights against unions. The National Right to Work Committee does not seem to be very interested in the democratic rights of union members *vis-a-vis* the union leadership or in eradicating the cancer of racial and sexual discrimination when practiced by unions as well as employers in our country.

Let me just mention however that a couple of specific points because, you know it's the old story that if you say something often enough people will begin to believe it. The White House counseled me initially to remain completely silent in the face of attacks that were made upon me. I did that and one thing I discovered was that if you say it often enough some people will begin to believe it. So I began, a month or so ago, to speak out and just the other day I saw a circular by the NAM which repeats things that were said by the Labor Policy Association last summer which are a complete distortion. One of the reasons I came

here was that I hope you actually read what it is that I have written, because clearly the people who are writing many things about me have not read things.

For instance, they say in this NAM circular that I saw the other day that I advocate the elimination of the secret ballot box election. Completely false. I have never advocated the elimination of the secret ballot box election of the National Labor Relations Act. On the contrary, I have come forward with proposals and agenda which would expand and enhance the use of the secret ballot box as a franchise, as a basis, for determining free choice among employees. There are of course the *Gissel* lot of cases under which the authorization card obligations would be imposed upon employers where they engage in unfair labor practices. I have not advocated an abandonment of *Gissel* and perhaps I have advocated retention of *Gissel*. Even in connection with my law reform ideas, I have advocated procedures which would enhance the secret ballot box election, not diminish its role.

It has been said that I would expand the right to strike into areas where unions are protesting over non-mandatory subjects of bargaining. False. I have never advocated the expansion of the right to strike in the mandatory/non-mandatory area beyond its present demarcation line. I have advocated, by way of law reform, a change in the statute which would eliminate the permanent replacement tactic as a basis for combatting the right to strike.

It is difficult to know whether so many of the things that have been said about my views proceed from simply sloppiness and carelessness, or simple ineptitude and ignorance. Let me give you one example of this. The Labor Policy Association distributed a 60 page booklet last summer to correspondence throughout the United States about my views. In this booklet, it says that Professor Gould would change the *Borg-Warner* rule. The *Borg-Warner* rule as you know, establishes a demarcation line between mandatory and non-mandatory subjects of bargaining. You must bargain to impasse on mandatory subjects of bargaining, you may not with regard to non-mandatory subjects of bargaining. This booklet says that Gould as Chairman of the Board would reverse the *Borg-Warner* rule relating to the demarcation line between mandatory and non-mandatory subjects of bargaining.

Well, how could this be since the Supreme Court has spoken about this and since the Board cannot alter Supreme Court rules. Well this is so says LPA's booklet, because the Supreme Court has simply interpreted the Act. It has put gloss upon the statute and there is nothing explicit in the statute about a demarcation line between mandatory and non-mandatory subjects of bargaining. Therefore, says the LPA booklet, because the Supreme Court's decision is based upon its interpretation of the Act and not the explicit language of the statute, the way is open for a new chairman of the Board to reverse the law. It is difficult to know. I catch some of your reactions. This would get an F grade in the first year at any accredited law school in the United States. But this is the king of thing, if these people are putting this forward in good faith and really believe this. These views which misinterpret, which contain a basic misunderstanding about not simply labor law and not simply our legal system in the United States and it is no wonder that they can't get my views right when they can't get the law right and any notion about what our basic system of law is.

As it has been noted by Charlie, the hearings have been completed before the Senate Labor & Human Resources Committee and the Senate Labor Committee on October 20th reported me out. Ten members voting for me, 5 members against and two abstaining. Two of the moderate Republicans, Jeffords and Durenberger, abstaining. The matter stands there as of this time, because what has been reported in the press as a threatened filibuster over my nomination. The nomination was not brought forward in November in the most recent session of the Congress. It will be before the Senate in the upcoming session.

On October 1st, I pointed out to the Committee, and I think that it bears reiteration today, and also in written answers that I provided to written questions subsequent to the hearing put to me by the Republican members of the Committee, that my role as Chairman of the Board is kin to my role as arbitrator under collective bargaining agreements these past thirty years. I have been arbitrating labor-management disputes in this country since 1965 and have been a member of the National Academy of Arbitrators since 1970. In that role and as my role as Chairman, my role is carefully circumscribed by, in the case of being an arbitrator, the collective bargaining agreement, the parameters of the agreement — regardless of my views about the wisdom or lack of wisdom of the agreement, and under the National Labor Relations Act by the statute so far as its intent can be ascertained by the language of the statute, by the statements of the drafters of the statute, and by the general philosophy manifested in the statute.

I will be the first chairman of the Labor Board to come to that position with a background as an impartial and a neutral since Professor Harry Millis of the University of Chicago was nominated by President Franklin Roosevelt in 1940. I think that the role of impartiality is extremely important to the effective functioning of the Board.

Now let me just provide for you, as I did for the Senate on October 1st, a few comments on my views on what I would like to be doing as Chairman of the Board once the Senate confirms me.

1. Expedite the Administrative Process. Speed the system so that there will not be a calling to impose timetables. Examine the use of rulemaking.
2. Greater use of informal dispute resolution procedures or other procedures which enhance voluntary resolution of disputes.
3. Make Board more accessible. Find ways to make the Board function more effectively. Increase the use of oral arguments. Decrease the partisan spirit and polarization of the Board itself and between labor and management.

I believe that my views and my experience have been lost in the babble of the scurrilous lies that have been told about me both professionally and personally over these past eight or nine months. I want to move ahead during the next four and a half years that will be left to me as chairman to establish the kind of procedures that I have outlined to you. I look forward to

working with you and others toward this end. I thank you very much for this opportunity to speak with you today.

Note: Text printed in this font is not the transcribed remarks of Prof. Gould, but notes taken from his remarks.

Doc #: 2867_1

*Edward M. Kennedy***United States Senate**

WASHINGTON, DC 20510

November 19, 1993

Dear Colleague:

We are writing to express our enthusiastic and unequivocal support for President Clinton's nomination of Stanford Law School Professor William B. Gould IV to be the chairman of the National Labor Relations Board. The Committee on Labor and Human Resources has favorably reported this nomination, and we urge prompt confirmation.

By any standard, Professor Gould is a nominee of outstanding achievement in the labor relations field. As a practicing attorney, he has represented business, labor and government in labor relations matters, and he has attained national prominence as a leading arbitrator and scholar. His record demonstrates that, once on the Board, he will seek to enforce the law in a fair and impartial manner, so as to promote labor relations stability and cooperation rather than the interests of any one side.

The high regard in which Professor Gould is held by the labor-management community is demonstrated by the outpouring of letters in support of his nomination received by the Committee. These letters -- a sampling from which is attached -- testify that Professor Gould is viewed not only as a prominent arbitrator and academic, but also as a responsible, fair and practical person who will promote respect for the NLRB and the law, and will generate a much needed atmosphere of even-handedness in this overly contentious field.

Some of the most effusive praise for Professor Gould has appeared in the more than two dozen letters received from representatives of management -- many from senior attorneys at leading management labor law firms or from senior officers of prominent corporations that have used Professor Gould as an arbitrator. The comments of the chief human resources officer of a Fortune 500 corporation are typical:

[Professor Gould] is well respected in both employer and union circles . . . [with] a solidly established reputation for being fair and practical, while being responsive to the requirements of the law and the provisions of the labor contract. His appointment to the National Labor Relations Board would enhance the effectiveness of collective bargaining in the United States, and be responsive to American industry's need to remain competitive in a world economy. Perhaps most importantly, he would protect the freedom of choice of the American worker.

Even the briefest review of Professor Gould's outstanding career makes clear the reasons why he is so widely respected. He is:

An Accomplished Arbitrator. Over the past 30 years, Professor Gould has earned a reputation among both business and labor advocates as a fair and thoughtful arbitrator. A member of the prestigious National Academy of Arbitrators since 1970, he has been selected by management and labor to settle more than 200 labor disputes, involving every sector of the economy -- including, in recent years, player salary disputes in major league baseball. In the words of the current President of the National Academy of Arbitrators, Professor Gould's record as a successful and respected arbitrator demonstrates that he "possess[es] a judicial temperament" and has earned "the acceptance of both the labor and management communities."

Broadly Experienced in Labor Relations. Earlier in his career, Professor Gould was a labor relations attorney representing management at one of the nation's most prominent labor law firms, Battle, Fowler, Stokes & Kheel (1965-1968). Prior to that, he served as an attorney for the NLRB (1963-1965), and before that, as an attorney for the United Auto Workers (1961-1962). More recently, Professor Gould has represented individual workers on a pro bono basis in a series of significant race discrimination suits against both unions and employers. No prior nominee to the Board has had this breadth of perspectives and experiences, having represented, at one time or another, all the interests that come before the Board: employers, unions, individual workers, and the NLRB itself.

A Respected Labor Law Scholar. As a professor at Stanford Law School since 1972, with an endowed chair since 1984, Professor Gould has authored six books and more than 60 scholarly articles in the labor law area. His work establishes him as a leading expert on a wide variety of labor law issues, including the NLRA and NLRB practice and procedure. Indeed, more than 75 labor relations academics have supported his nomination, calling him an "outstanding leader in labor relations ... uniquely qualified for this critical position."

Unfortunately, several business organizations have expressed opposition to Professor Gould's confirmation on grounds that his scholarly writings reflect an "anti-business bias," or mark him as an advocate of "radical labor law reform" who is therefore unqualified to serve on the NLRB. These concerns are without merit.

In his writings, Professor Gould has suggested a variety of possible legislative changes to our labor law system -- as have many scholars in the labor law field. Some of his suggestions would enhance the rights of labor, some would enhance the rights of business, and many would be difficult to characterize in such simplistic terms. However, it is clear from any fair analysis of his writings that the goal of his scholarly work has been not to enhance the power of any one group over another, but rather to explore what kinds of labor relations institutions and legal rules would promote more cooperative, productive and mutually beneficial labor-management relations. As recently stated by Republican NLRB Member John Raudabaugh -- who, prior to his appointment by the Bush Administration, was a prominent management attorney -- Professor Gould's writings reflect that as a labor law academic he "was simply doing what academics do best -- writing and theorizing about structural changes that might

improve the state of labor relations." We agree with Member Raudabaugh on this point, and with his prediction that Professor Gould "is going to be a great chairman" of the NLRB.

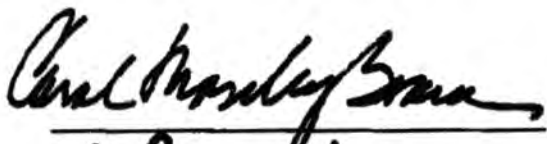
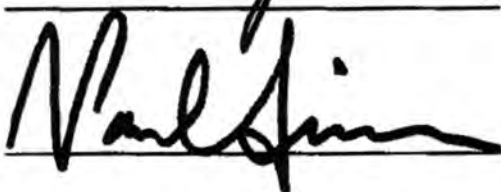
In this regard, we also note that Professor Gould's specific suggestions regarding how the labor laws might be restructured by Congress do not indicate that he would attempt any such alterations in current law as a member of the NLRB. Throughout the confirmation process, Professor Gould made clear that as a member of the Board, he would feel bound to apply the current law as written, attempting to administer the policy preferences of Congress, not his own. Indeed, he has explained that in his view, one of the most important steps to achieving a more productive system of labor-management relations is to provide parties with the assurance that the current law will be faithfully enforced.

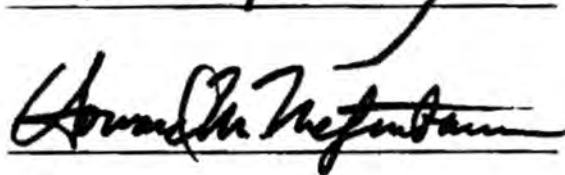
As an arbitrator, Professor Gould has repeatedly demonstrated his ability to resolve labor disputes according to legal rules, rather than according to his own policy preferences. His record in this regard has earned him the respect and widespread support of the parties who have selected him and of his peers. There is no reason to believe he will act less honorably now.

Ultimately, Professor Gould's record demonstrates that he has been an independent thinker who has catered neither to the agenda of labor nor to the agenda of business. As a scholar, he has conscientiously contemplated the law in this area from the standpoint of seeking to promote more peaceful and productive labor relations. As an arbitrator, he has demonstrated his fervent belief that the law be fairly and impartially applied to all parties. In the words of Tom Campbell, a fellow labor law academic and a former Republican Congressman from California, "[h]e is superbly qualified . . . has the deepest respect for the rule of law . . . has a brilliant mind . . . [and] . . . will carry out the National Labor Relations Act as it has been interpreted by the courts and as it was enacted by the Congress."

The nation will be well-served by the confirmation of such an individual for service on the National Labor Relations Board, and we urge you to support his nomination.

Sincerely,

Janie Feinstein

Paul Wellston

Chin. D.M.

Barbara Boyer

Clair Pell

January 24, 1994

John:

I spoke with Bill Gould over the weekend. He suggests the following for the article we discussed on Friday:

Lea VanderVelde, Iowa
Cornelius Peck, Washington
Wayne Estes, Pepperdine (conservative)
Samuel Estreicher, NYU (conservative)
James Allesson, SUNY-Buffalo (critical
legal studies, so may not be
appropriate)
Gary Minda, (critical legal studies)
John Pemberton, USF
Jayne Zangli, Texas Tech
Florian Bartosic, UC, Davis
Ken Dau-Schmidt, Indiana, Bloomington

December 6, 1993

To: Tom Glynn
From: Richard Socarides
Re: Gould Chronology



- o June 10th -- Gould decision memo signed by the President.
- o June 28th -- the President announces his intention to nominate Gould.
- o August 6th -- the President nominates Gould.
- o October 1st -- Senate Labor Committee holds hearing.
- o October 20th -- Gould voted out of Committee.

December 6, 1993

To: Tom Glynn
From: Richard Socarides
Re: Gould Chronology

RL

- o June 10th -- Gould decision memo signed by the President.
- o June 28th -- the President announces his intention to nominate Gould.
- o August 6th -- the President nominates Gould.
- Congressional recess - Labor calendar full in Sept.
- o October 1st -- Senate Labor Committee holds hearing.
- o October 20th -- Gould voted out of Committee.

- Do a POTUS/ Gould clutch (DC)

DENNIS M. DEVANEY

President George Bush nominated Dennis M. Devaney to the five year term of office expiring December 16, 1994 as a Member of the National Labor Relations Board. Mr. Devaney was confirmed by the Senate on August 3, 1990. He was initially recess appointed by Presidents Reagan and Bush to the Board.

Mr. Devaney came to the NLRB from the Federal Labor Relations Authority, where he was serving as General Counsel. As General Counsel of the FLRA, Mr. Devaney was responsible for investigation, filing complaints, and prosecuting charges involving unfair labor practices in the federal sector. He had direct authority and responsibility for employees in the national office at Washington, D.C., as well as for employees in nine regional and two subregional offices.

Prior to serving with the FLRA, Mr. Devaney was a Member of the U.S. Merit Systems Protection Board, the highest administrative tribunal for federal personnel appeals. As a Member of the relatively new three-member board, Mr. Devaney helped formulate precedential opinions involving security clearances, off-duty misconduct, performance-based personnel actions, and air traffic controller appeals. The Board also hears cases dealing with whistleblowers and alleged Hatch Act violations.

From 1979 to 1982, Mr. Devaney was in private practice in Washington, D.C. Prior to that he had been Counsel for the Food Marketing Institute and Assistant General Counsel for the U.S. Brewers Association. Mr. Devaney graduated from the University of Maryland in 1968 and received a Master's Degree there in 1970. He served in the U.S. Navy from 1970 to 1972. In 1975, he received a J.D. Degree from the Georgetown University Law Center.

STANFORD LAW SCHOOL

FAX TRANSMITTAL

DEC 6 P4:17

FROM: William B. Gould IV
Stanford Law School
Stanford, CA 94305-8610

(415) 723-2979 Telephone
(415) 725-0253 Fax

DATE:

12/6

NUMBER OF PAGES: COVER+

*For Richard
Michael Waldman*

DOCUMENTS BEING SENT TO:

NAME:

John Podesta

FIRM:

FAX NUMBER:

*202 456 2702
2215*

KAYE, SCHOLER, FIERMAN, HAYS & HANDLER
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November 29, 1993

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WRITER'S DIRECT DIAL NUMBER

(212) 836-8558

The President
 The White House
 Washington, DC 20500

Re: **William B. Gould, IV Nominee to Chair**
the National Labor Relations Board

Dear Mr. President:

I am writing in support of William B. Gould, the Administration's nominee to chair the National Labor Relations Board. By way of my background, I am a partner in the law firm of Kaye, Scholer, Fierman, Hays & Handler and co-chair of its Labor and Employment Law Department, where I have practiced for over 21 years representing corporate clients. I am also the immediate past chair of the Committee on Labor and Employment Law of the Association of the Bar of the City of New York (1990-93). It was in my capacity as Committee chair that I wrote on January 14, 1992 to President Bush to stress the importance to the American system of industrial governance and to the rule of law of filling promptly the vacant and soon-to-be vacant positions on the Board. A copy of my 1992 letter is attached, and I take this opportunity to reemphasize the critical importance of filling these Board positions with highly qualified professionals.

I am pleased with the Administration's nomination of Professor Gould, principally because it signaled its commitment to fill this significant position with Professor Gould, a person of superior credentials as a labor law professional. Bill has an unparalleled national reputation for personal integrity, neutrality, objectivity, intellect and professional excellence. I have had occasion to discuss in depth Bill's qualifications with leading international labor union officials and with knowledgeable representatives of management, and I have reached the conclusion that Bill is well-suited for the position of NLRB chair. Although some management quarters have criticized certain of Bill's views, I am assured that Bill will bring a balanced perspective to his responsibilities as NLRB chair and that his enforcement of the National Labor Relations Act will be in conformance with established principles of law.

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KAYE, SCHOLER, FIERMAN, HAYS & HANDLER

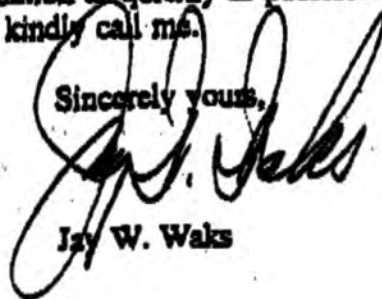
The President

2

November 29, 1993

With these points in mind, it is my pleasure to endorse Bill Gould for the position of NLRB chair and to urge his confirmation as quickly as possible. If you or your staff should have any questions on this matter, kindly call me.

Sincerely yours,



Jay W. Waks

JWW:erb
Attachment

cc: Jack Sheinkman, Esq.
Bruce Raynor
Robert S. Giolito

OF THE CITY OF NEW YORK
42 WEST 44TH STREET
NEW YORK, N.Y. 10036-6890

COMMITTEE ON LABOR AND EMPLOYMENT LAW

JAY W. WAKS
CHAIR
426 PARK AVENUE
NEW YORK, N.Y. 10022
(212) 836-8668
FAX # (212) 836-8889

January 14, 1992

AMY L. BABAT
SECRETARY
426 PARK AVENUE
NEW YORK, N.Y. 10022
(212) 836-8014
FAX # (212) 836-8889

The President
The White House
Washington, D.C. 20500

Re: National Labor Relations Board

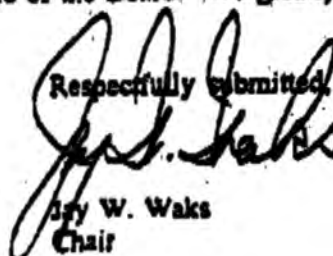
Dear Mr. President:

I am writing to address an issue -- the vacancy on the National Labor Relations Board -- of critical concern to members of the Committee on Labor and Employment Law of the Association of the Bar of the City of New York, and undoubtedly to virtually all labor-management professionals throughout the United States. By way of background, this Committee is comprised of 30 attorneys, roughly divided among management and union practitioners and neutrals, and represents the broadest spectrum of interests and experience among labor lawyers in this City. Currently, the National Labor Relations Board consists of only four members. There is a likelihood of significant delay in the issuance of Board decisions on important labor-management issues if the vacancy in the fifth position is not promptly filled.

The seat formerly held by Mary Miller-Cracraft has remained vacant since the expiration of her term on August 27, 1991. Although Member Cracraft was nominated by the Administration for reappointment, she was not confirmed. After the Senate adjourned in December, her name was not resubmitted. In addition, the seat currently held by Member John N. Raudabaugh will expire on December 16, 1992. Historically, the closer it is to a presidential election, the more doubtful it becomes that the confirmation process will be timely completed. The harm which would be caused by such delay would be significant. Should the Board continue to operate at less than full capacity, delays in its decision-making will likely develop, especially in cases requiring full Board participation. Typically, during such delay important matters in the conduct of labor-management relationships are suspended, as well. In many cases, substantial potential liability may also be accruing.

The Committee, therefore, respectfully calls upon the Administration to send to the Senate, on an expedited basis, a nomination to fill the current vacancy, and requests that a nomination be made as soon as possible for the seat to become vacant in December 1992. We are unanimous in the view that delay will only harm the important role of the Board. We greatly appreciate your taking prompt action to remedy this problem.

Respectfully submitted,



Jay W. Waks
Chair

VARNUM, RIDDERING, SCHMIDT & HOWLETT

ATTORNEYS AT LAW

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*ALSO ADMITTED IN
PEOPLES REPUBLIC OF CHINA

November 24, 1993

Honorable Edward M. Kennedy
SR-315 Russell Senate Office Building
Washington, DC 20510-2101

Dear Senator Kennedy:

I write to commend to you the nomination of William B. Gould as Chairman of the National Labor Relations Board.

As Chairperson of our law firm's 30-person Labor and Employment Practice Group and a member of the ABA NLRB Practice and Procedure Committee, I have a keen interest in the quality of practice before the National Labor Relations Board and the quality of members on that national labor body as do all the members of our practice group. Our law firm is more than 104 years old and has had a substantial labor practice going back several generations. While our practice consists of exclusively representing employer interests, we nevertheless are keenly aware of the reputation Professor Gould has, his credibility in the labor/management community, and his long devotion to employee interests as well as those of labor and management.

Intellectual integrity and fair mindedness are the hallmarks of Bill Gould, and we hope that you will strongly support his nomination and know that counsel for employers, as we are, believe that he can bring a very broad view to the agency primarily responsible for regulating relationships between employers and unions. The NLRB has been gradually regaining credibility since a low point in its esteem just a few years ago. The nomination of Bill Gould is a step in the direction of the highest degree of professionalism and pragmatic understanding of the delicate relationships among employees, unions, and management.

Sincerely yours,



Thomas J. Barnes

DEC 06 '93 11:40AM STANFORD LAW SCHOOL

P.6/6

VARNUM, RIDDERING, SCHMIDT & HOWLETT
ATTORNEYS AT LAW

bcc: W. Gould
C. L. Mack

TO: GOULD TEAM
FR: MICHAEL WALDMAN
RE: SOME COMMUNICATIONS ISSUES FOR GOULD NOMINATION
December 7, 1993

* Thematic development/core decisions:

- This is GOP obstructionism . . . partisan gridlock. AND/OR
- Rebuttal on substance/bolstering of his credentials
- stigmatize the opposition
 - who is the Labor Policy Association? *National Right to Work Committee* are they the best villain?
 - is this racism? (too early to use?) *yes*
- do we use Gould? or do we use surrogate spokespeople?

* Editorial boards

- research on who's come out which way
- mailing to edit bds.
- visits?
 - Gould wants to go to Atlanta Constitution and Chicago Tribune
- Wall Street Journal - preparing responses

① Ann Walker to track down

BT Free Press editorials

② Tom Williamson, Solicitor of Labor
Waldman to talk

* Press

- elite print press
 - columnists
 - keeping track of who's written
- local press?
- specialty press
 - African-American
 - labor press
- television/radio
 - chat shows
 - debate shows (i.e., Crossfire, Jesse Jackson)
 - network producers



Develop surrogates

Waldman to call Lorraine Voles.

✓ involvement of People For.

*** Research/production tasks**

- editorial board packet
- drafting an op-ed
- research on opponents
- previous statements by GOP senators about the right of a President to have his nominees unless they're off the charts
- what companies he's ruled for (he's ruled for business in 52% of the time)
- rounding up prominent surrogates
- what other nominees have been blocked - how many are women or minorities?

U.S. DEPARTMENT OF LABOR

OFFICE OF THE DEPUTY SECRETARY

WASHINGTON, D.C.

20210

As revised.

*John
FVE -
Rutman
Graham*

November 16, 1993

MEMORANDUM FOR BRUCE LINDSEY, DIRECTOR OF PRESIDENTIAL PERSONNEL

FROM: Tom Glynn, Deputy Secretary of Labor
Richard Socarides, White House Liaison, DOL

CC: Howard Paster

RE: Issues Requiring Prompt or Immediate Attention Relating to
the National Labor Relations Board

I. Summary.

As you know, our efforts to get Bill Gould confirmed as Chair of the National Labor Relations Board ("NLRB" or the "Board") have been stalled because of concerns raised by some Republican Senators over the President's selection for the third open (non-Democratic) seat on the Board. We outline below our recommendations to break this deadlock, including our view that the selection of a nominee for the third seat be made.

Moreover, in light of the nature of our current relationship with organized labor, we believe it is important that -- to the extent possible -- the issues presented for decision below be addressed as soon as possible.

II. Background.

The National Labor Relations Board is an independent agency created by the National Labor Relations Act of 1935 (the "Act"). The Board administers the Act, the Nation's principal labor law, and is vested with the power to prevent and remedy unfair labor practices alleged to have been committed by private sector employers or unions and to safeguard employees' rights to organize and determine whether and under what circumstances to have unions as their bargaining representative.

The five member Board currently has three sitting members and two vacancies. One of the members serves as a recess appointment whose term will expire when the Congress adjourns later this month. Thus, absent prompt action prior thereto as outlined below, the President would be forced to make his own recess appointment or the Board will be without a quorum and unable to function.

Additionally, the term of the current General Counsel expires on November 28, 1993. The President will need to appoint an Acting General Counsel prior thereto.

III. The Current Board, Its General Counsel and the Status of the President's Nominations to Date.

A. The Board.

The current Board is comprised of three sitting members. They are Chairman James Stephens, a Republican whose term expires August 27, 1995 (upon the confirmation of the President's choice of a new chairman, Stephens will continue to hold his seat as a member of the Board); Dennis Devaney, a Democrat whose term expires December 16, 1994; and John Raudabaugh, a Republican who serves as a recess appointment named by President Bush (when the Senate adjourns, his term will end).

On June 28, 1993, the President nominated William Gould, a Democrat from California, to serve as Chairman of the Board. Gould is a highly regarded African American labor law professor from Stamford. After a hearing on October 1, 1993, his nomination was reported favorably out of the Senate Labor Committee on October 20, 1993. However, the vote was along strictly partisan lines, with all the Democrats voting in favor and all Republicans opposed or not voting. Senator Kassebaum opposed Gould's nomination in committee. He is now awaiting a vote of the full Senate.

On November 1, 1993, the President nominated Margaret Browning, a Democrat of Pennsylvania, for a seat on the Board. Browning is an attorney from Philadelphia who primarily represents union interests. Hearings on her nomination are not yet scheduled.

B. The General Counsel.

Jerry Hunter currently serves as NLRB General Counsel, widely regarded as the most powerful position at the NLRB and a Presidential appointment requiring Senate confirmation. His term expires on November 28, 1993.

The President has approved the nomination of Fred Feinstein, Chief Counsel to the House Education and Labor Subcommittee on Labor-Management Relations, to be General Counsel at the NLRB. His nomination has been vetted by White House Counsel and an announcement by the President of his intention to nominate Feinstein could be made at any time. We have been holding up on this announcement, however, so that it can be made together with the announcement of the "Republican" seat.

IV. Issues Relating to Obtaining a Full Senate Vote on Gould and The Third Vacancy on the Board.

Senator Kassebaum has told Secretary Reich that while she will not filibuster the Gould nomination, she wants to know who the President intends to nominate for the remaining non-Democratic seat on the Board and for General Counsel before a final vote on Gould. Similar, if not exact sentiments, have been expressed at a staff level and in a October 29, 1993 letter to the President from Senators Kassebaum, Jeffords and Durenberger (copy attached, together with the President's response in which it is suggested that he will not act to fill the third vacancy until after a vote on Gould). There is some historical precedent for what Senator Kassebaum is requesting, as in the past Democrats have insisted on seeing an entire slate of candidates prior to voting on individual members.

There are two leading candidates for the third seat:

* **Eric Schmertz** is the former Dean of the Hofstra Law School and was initially supported by Senator D'Amato. He is a well respected and nationally known arbitrator and mediator who is also backed by the AFL-CIO. Schmertz has meet with both Senators Dole and Kassebaum. Kassebaum told him directly -- according to Schmertz -- that he did not provide sufficient balance in favor of management. Kassebaum told Secretary Reich that Schmertz was not acceptable.

* **Don Zimmerman** was Chief Minority Counsel and Staff Director for the Senate Labor and Human Resources Committee under former Senator Jacob Javits. He was appointed to the NLRB by President Carter and served from 1980 to 1984. He has soft but on-the-record support from a number of Republican Senators and management organizations, including the National Association of Manufacturers and the Labor Policy Association, two of the groups leading the opposition to Gould. He is also supported by the AFL-CIO.

Three other top-tier candidates have emerged and have either Republican and/or management support, but none from labor. They are:

* **Meredith Wellington**, a former Assistant Chief Counsel at the NLRB. She is an Independent who is supported by Secretary Babbitt and Senator Coats.

* **Mary Harrington**, the Director of Corporate Labor Relations and Public Policy for Eastman Kodak. She has the support of Senator Dole and would also be acceptable to Senator Kassebaum.. While she made a good personal impression on the people with whom she interviewed, her views are not believed to be consistent with the President's on important labor issues and

she is opposed by the AFL-CIO.

* **Sharon Prost**, currently Minority Chief Counsel for both the Senate Labor and Judiciary Committees. She is sponsored by Senators Kassebaum and Hatch. Because her views are considered too out of step with the President's, she has never received serious consideration.

**V. Actions Requiring Prompt
and/or Immediate Attention.**

A. The Third Open Seat.

In parallel with moving forward with the Gould confirmation, as suggested in the President's letter to Senator Kassebaum and in addition thereto, we believe it may be desirable to initiate the sounding out of Republican Senators as to which of the two AFL-CIO endorsed candidates they prefer.

We believe that the final selection as between the two should be made after asking Senator Kassebaum (as well as the other Republicans on the Labor Committee) which of the two they prefer. If, as is likely, they prefer neither, then we recommend that the President nominate Zimmerman because we believe he would be slightly easier to have confirmed.

B. Recess Appointment.

Absent Gould's confirmation, we recommend the President be prepared to make a recess appointment to the Board so that it may function with a quorum. Such an appointment could be of either Gould or Browning, after consultation with both of them as to whether either would accept such an appointment.

C. The General Counsel.

We recommend that the President announce his intention to nominate Fred Feinstein to be NLRB General Counsel, together with the announcement of his choice for the third open seat.

D. The Acting General Counsel.

We recommend that the President be prepared to appoint an Acting General Counsel to serve pending confirmation of Mr. Feinstein. By law the President has the authority to designate an officer or employee of the NLRB to serve as Acting General Counsel when a vacancy occurs. By separate memorandum we will be recommending that the President nominate Daniel Silverman, the Regional Director of the NLRB New York Regional Office, to serve as Acting General Counsel.

CLAUDE PELL, RHODE ISLAND
HOWARD M. MISTERSBAUM, OHIO
CHRISTOPHER J. DOODS, CONNECTICUT
PAUL SIMON, ILLINOIS
TOM HARKIN, IOWA
BARBARA A. MIKULESKI, MARYLAND
JEFF BINGAMAN, NEW MEXICO
PAUL D. WELLSTONE, MINNESOTA
HARRY WOFFORD, PENNSYLVANIA

NANCY LONDON KASSEBAUM, KANSAS
JAMES M. JEFFORDS, VERMONT
DAN COATS, INDIANA
JUD CRISS, NEW HAMPSHIRE
STROM THURMOND, SOUTH CAROLINA
ORRIN G. HATCH, UTAH
DAVE DURENBERGER, MINNESOTA

MICK LITTLEFIELD, STAFF DIRECTOR AND CHIEF COUNSEL
SUSAN E. KATTAN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON LABOR AND
HUMAN RESOURCES

WASHINGTON, DC 20510-6300

October 29, 1993

President Clinton
The White House
600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

As you know, the Senate Labor and Human Resources Committee voted last week to report the nomination of Professor William Gould, your choice to Chair the National Labor Relations Board.

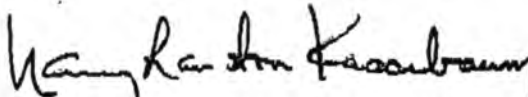
At that time, several Republican members of the Committee indicated that they would withhold their support for Professor Gould's nomination, at least until you sent to Congress a complete package of nominees for the remaining open positions on the Board, including the General Counsel's position, and consulted with Committee Republicans and the business community regarding those nominees.

This letter is to request that you consult with the Republican members of the Committee and the business community and give us the opportunity to review and evaluate candidates for the open seats prior to their nomination.

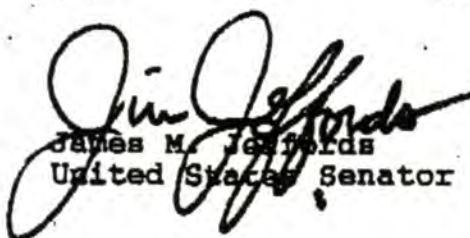
Because it is essential that both employees and employers have confidence in the Board's ability to redress grievances in a fair, consistent, and even-handed manner, we believe it is imperative that you make every effort to install a qualified and even-handed decision-making body at the NLRB.

We look forward to working with you on this matter.

Sincerely,



Nancy L. Kassebaum
United States Senator



James M. Jeffords
United States Senator



Dave Durenberger
United States Senator

THE WHITE HOUSE

WASHINGTON

November 12, 1993

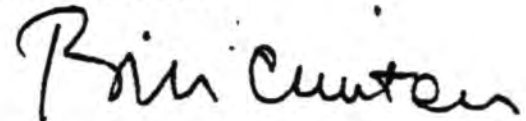
Dear Senator Kassebaum:

I recognize your concern regarding nominations to the National Labor Relations Board (NLRB), and I share your desire for a Board of able, fair-minded individuals.

I am planning to consult with you and your colleagues about the remaining open position on the Board, as I have sought the advice of members of both parties on a number of important issues. It is my hope that once Professor Gould is confirmed, I will be able to turn my full attention to the remaining position at the NLRB to move ahead expeditiously, and to work with you in filling the position in which you are interested.

It is critical at this juncture that the Board remain functioning, and therefore it is important for the Senate to confirm Professor Gould. I know that you share my goal of an NLRB that has the confidence of both employers and employees, and the confirmation of Professor Gould is the first step towards achieving that goal.

Sincerely,



The Honorable Nancy Landon Kassebaum
United States Senate
Washington, D.C. 20510

STANFORD LAW SCHOOL

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11/24/93

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White House

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WEDNESDAY, NOVEMBER 24, 1993

S.F. Chronicle, p. A5

Confirmation
bill
NATION

Senate Stalls on NLRB Nominee

GOP calls Stanford professor too pro-union to head labor panel

By Carolyn Lochhead
Chronicle Washington Bureau

Washington

Under pressure from Republicans, the Senate yesterday delayed until next year action on the nomination of Stanford law Professor William Gould IV to the chairmanship of the National Labor Relations Board.

If approved by the Senate, Gould, 56, would be the first black chairman of the labor board, an important quasi-judicial agency that exercises broad jurisdiction over the workplace, overseeing union elections and investigating unfair labor practices.

Led by Senator Nancy Kassebaum of Kansas, the top Republican on the Labor and Human Resources Committee, Republicans objected strenuously to what they call Gould's stridently pro-union views. Citing his book, "Agenda for Reform," opponents said he would use his position to give a radically pro-union tilt to labor law.

Bradley Cameron of the Labor Policy Association, a group of senior human resources officers in Fortune 500 companies, said the nomination "is killed for now."

Cameron said that the White



BY LIZ HARALIA/THE CHRONICLE

WILLIAM GOULD
Filibuster was threatened

House had been lobbying hard for two days to save the nomination but that the Senate Democratic leadership postponed a vote for lack of the 60 votes needed to break a Republican filibuster.

"It was a classic game of 'chicken' where the White House was threatening to try to ram it through and Republicans were saying, 'Fine, bring it to the floor, let's vote on it,'" Cameron said. "Obviously, the inability of Demo-

crats to invoke cloture would be pretty damaging to the nominee."

Republicans insisted that Gould be withdrawn or that the White House appoint a Republican to one of the other five positions on the board. Even though they would be outvoted, Republicans want a board seat to establish a dissenting view, because many NLRB decisions are later appealed to a higher court.

"Given that Gould's views are so far out of the mainstream," Cameron said, "this would at least establish for the record a dissenting opinion, and that becomes pretty important in the appeals process."

Introduced with lavish praise from Democratic Senators Barbara Boxer and Dianne Feinstein of California at his confirmation hearing October 1, Gould insisted that he would not use his position as a platform to change the law.

Gould joined the Stanford law faculty in 1972 and in 1990-1991, he was chairman of the City and County of San Francisco Task Force on Collective Bargaining. He has cited his experience as an arbitrator in promising to "resolve conflicts in a fair and evenhanded manner within the limits of the law as established by Congress."

STANFORD LAW SCHOOL 93 NOV 29 P1:22

FAX TRANSMITTAL

FROM: William B. Gould IV
Stanford Law School
Stanford, CA 94305-8610

(415) 723-2979 Telephone
(415) 725-0253 Fax

DATE:

NUMBER OF PAGES: COVER+

DOCUMENTS BEING SENT TO:

NAME:

Paul Richard

FIRM:

FAX NUMBER:

202 456 2215



SCHOOL OF LAW
STANFORD UNIVERSITY, STANFORD, CALIFORNIA 94305

WILLIAM B. GOULD IV
CHARLES A. BEARDSLEY PROFESSOR
OF LAW

November 29, 1993

Mr. Paul Richard
Fax No. 202 456 2215

Dear Paul:

This is the material I mentioned to you during our telephone conversation last Friday. I don't know what can be done about this but the two pieces - one authored by Craig Roberts and the other by Jeremy Campbell - indicate that they are getting material from the same source and the New York Times piece indicates the source at least for Judge Barkett.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bill", written in dark ink.

William B. Gould IV

A Senator Deliberated As an Aide Politicked

By NEIL A. LEWIS

Special to The New York Times

WASHINGTON, Nov. 28 — At the same time that Senator Orrin G. Hatch last week was saying publicly that he had not made up his mind about a Clinton Administration judicial nomination, one of his top aides began sending out damaging material about the nominee, which supporters characterized as a smear campaign.

Senator Hatch said in an interview today that he had been unaware that his senior aide was sending out the packets urging the journalists to stir up a campaign against the nominee, Rosemary Barkett, the chief justice of the Florida Supreme Court.

Mr. Hatch described the action as an improper way to deal with the nomination and said he intended to apologize to Justice Barkett. "I never would sanction the sending out of such materials," he said. The senator said he had disciplined the aide, Mark R. Disler, the Republican staff director of the Judiciary Committee, but he would not provide details.

President Clinton has nominated Justice Barkett, the first woman to be named chief justice in Florida, to a seat on the United States Court of Appeals for the 11th Circuit, in Atlanta.

The packet included attacks on Justice Barkett's record as a Florida judge and invited recipients to use any of the materials as long as they did not attribute them to Mr. Disler. It included broad characterizations of her as soft on crime.

Talbot D'Alemberte, a Tallahassee lawyer and former president of the American Bar Association, said the package sent by Mr. Disler was a phony attempt to distort Justice Barkett's record.

But Senator Hatch said that even though he agreed that the way the materials were sent out was unethical, he believed the information itself was largely accurate. And he said he continued to have reservations about Justice Barkett's record.

At his request, the Judiciary Committee will probably delay consideration of the nomination until next year.

Justice Barkett has been assailed by conservative interest groups. As among other things, unreliable in her support of the death penalty. Last year, in a special election to retain her seat on the court, she was overwhelmingly re-elected despite a vicious attack by conservative groups. The package from Mr. Disler had already rebuffed old issues fought during the state election. He said Justice Barkett had voted to uphold the death penalty in more than 200 cases.

Mr. Disler, 40, is a Republican. Justice Barkett, 48, is a Democrat. She is one of the



Senator Orrin G. Hatch

enlightened elite who must override democratically enacted laws in order to bring about what the riffraff really want."

The dispute over the Disler materials demonstrates two features of the contemporary judicial confirmation process. First, the Senate Republicans are feeling their way in a new role with a Democrat in the White House. For the last 12 years, the Senate Republicans have largely been devoted to pushing the nominations coming out of a Republican White House.

Grass-Roots Strategies

And since the 1987 defeat of Judge Robert H. Bork's nomination to the Supreme Court, it has become accepted wisdom that the Senate will reject a judicial nomination only if there is a grass-roots campaign that puts pressure on the committee.

The effort to instigate grass-roots opposition came to light when a columnist for The Orlando Sentinel, Charles Reese, in his words, "blew the whistle."

Mr. Reese, who is generally considered a conservative columnist, said he received an unsolicited "huge package of several pounds" from Mr. Disler, whom he said he had never met.

"I was offended that taxpayer money was being used to pay for an underhanded propaganda campaign," Mr. Reese said. He said he telephoned Mr. Disler to inquire that the materials had come from him. "He said: 'Sure. Are you going to write something on it?' I told him I certainly would."

Mr. Reese's column, headlined "Cheap-shot artists waste taxpayer dollars to take aim at Barkett," called on Senator Hatch to dismiss Mr. Disler. Mr. Disler declined to comment.

NYT 11/5/93

GOP senators derail NLRB chief's nomination

BY MICHELLE LEVANDER
Mercury News Staff Writer

The National Labor Relations Board will go without a chairman for the rest of the year because Senate Republicans have succeeded in blocking the confirmation of Stanford Professor William B. Gould IV this congressional session.

Playing a game of political brinksmanship with the key labor relations post, Republicans said they would hold the vote on Gould's confirmation hostage until they had a say in the appointment of the last vacant seat on the five-member board, which is designated to go to a Republican. They prevailed despite heavy White House lobbying recently. Now, his confirmation won't be taken up again until the Senate reconvenes next year.

Business lobbyists want to see an appointment of a more conservative voice to counteract what they see as the liberal views of Gould or they want to see Gould's nomination withdrawn, said Brad Cameron, a spokesman for the Labor Policy Association, a Washington business group.

A Senate Labor Committee staffer said Democrats are confident Gould will be confirmed.

Speculation in Washington was

that Clinton wanted to deliver the confirmation as a gesture to organized labor, which supports Gould, at a time much bitterness remains between the White House and union allies who split over the North American Free Trade Agreement. Clinton needs the support of organized labor in his political battle on health care.

The confirmation setback is the latest step in what has been a drawn-out process.

Although there was initially little public opposition to Gould when he was nominated in August, his candidacy became controversial as business groups began to review his academic writings that call for sweeping labor law reform.

During the recess, the White House either will have to make a temporary appointment to the board or watch operations come to a standstill because the board won't have a quorum.

The political contest has prompted criticism from Thomas Kochan, a colleague of Gould's on a new Labor Department committee on labor law reform.

"I believe Republicans are using a neutral agency for a political football in a way that discredits the agency and its professional integrity," Kochan said. "It's another indication of how polarized labor-management relations are today and how much it's treated as a political game rather than a national responsibility to have an effective system."



Gould

55 Mercury
Nov 24, 80. Business

The Washington Times

SATURDAY, NOVEMBER 13, 1993

Letters

Distorting William Gould's record on labor relations?

President Clinton has nominated our colleague and friend, Professor Bill Gould of Stanford Law School, to be chairman of the National Labor Relations Board (NLRB). Because Mr. Gould's writings support freedom for workers to affiliate with labor organizations of their own choosing and the collective bargaining process — the explicit goals of the National Labor Relations Act — he has become the object of extremist attacks that frequently distort the record. Paul Craig Roberts' piece, "Clinton may be term-limited by nominees," Oct. 31, is an especially unsavory example.

Mr. Roberts begins by asserting that Mr. Gould's views are "similar" to those of a judge whom he states is an apologist for black criminals. Reminding us of the Willie Horton rhetoric of the 1988 presidential campaign, Mr. Roberts suggests that Mr. Gould, who would be the first black chairman of the NLRB in its nearly 60 years of existence, is eccentric or radical.

Mr. Roberts could not be more off the mark. As a law professor and arbitrator who has rendered a majority of awards in favor of employers, Mr. Gould has been consistently viewed as both moderate and impartial.

Mr. Roberts says that Mr. Gould will "restrain management's ability to communicate with the workforce prior to a union certification vote." In fact, in Mr. Gould's recent book, "Agenda for Reform," he has written that labor law reform should expand employer free speech rights in union organizational efforts — not limit them.

Mr. Roberts further asserts that Mr. Gould favors compelling all

ing. Mr. Gould suggests that Congress require that, where 20 percent to 30 percent of the work force so request, employers bargain collectively, but only with the consenting workers.

Mr. Roberts' suggestion that Mr. Gould does not support the secret ballot is equally unfounded. Mr. Gould favors the secret ballot in all union elections. His proposal that unions be recognized without elections applies only where a supermajority of workers — 60 percent — have voluntarily signed authorization cards.

All of these proposals have been advanced as suggestions for legislative revision, not as interpretations of existing law, which Mr. Gould, as chairman, would be sworn to uphold. Mr. Roberts' suggestion that Mr. Gould would betray his duty to enforce enacted law is completely unsupported character assassination.

We know Mr. Gould as a man of unimpeachable integrity and as one who has consistently brought a balanced, moderate approach to labor-management relations. His nomination represents one of the best opportunities to diminish the conflict and polarization that have plagued labor and management for most of this century.

HERMAN LEVY
Professor of Law
Santa Clara University
School of Law
Santa Clara, Calif.

WILLIAM H. SIMON
Professor of Law
Stanford Law School

ert Reich promised a Washington conference of women unionists to deliver a National Labor Relations Board (NLRB) that would enforce federal labor law "in the way in which it was intended" by the union bosses who helped write it during the New Deal. That promise refutes Charles Craver's assurance in his Nov. 7 column, "Waiting in the NLRB wings" that William Gould would merely "interpret" the law as NLRB chairman.

And supporters of individual freedom should be chilled by Mr. Gould's contempt for the rights of those workers who don't think the union speaks for them. In his latest book, "Agenda for Reform," for instance, Mr. Gould decries the U.S. Supreme Court's 1985 ruling in *Patternmakers League v. NLRB*, which guarantees the right to resign from the union at any time.

While paying lip service to the individual's "right to refrain from union activity," Mr. Gould does not consider that right as important as "the unions' solidaristic interest in utilizing the strike weapon."

"Granted, union members should have the right to walk out of the union," Mr. Gould writes, "but as with all things in life, at an appropriate time and in appropriate circumstances." In other words, when the union boss gives his permission.

The bottom line is this: Big Labor is pushing hard for radical changes in the nation's labor laws to expand its coercive power over employees. With President Clinton's nominees such as Mr. Gould on the NLRB, that goal will be a done deal.

TIMOTHY M. McCONVILLE

Mr. Gould favors compelling all workers to accept union representation where only a minority favor it. In fact, the proposal to which Mr. Roberts refers to quite clearly applied to "members-only" bargain-

Stanford Law School
Stanford, Calif.

TIMOTHY M. MCCONVILLE
Vice President
Communications
National Right To Work Legal
Defense Foundation Inc.
Springfield

Last month, Labor Secretary Rob-

11/01/93 15:53 2136122641

MORGAN LEWIS

002/002

SUNDAY, OCTOBER 31, 1993

M5

L.A.T.M.C.

COLUMN RIGHT/
PAUL CRAIG ROBERTS

Clinton May Be Term-Limited by Nominees

One judge finds redeeming virtues in racial murders; the nominee for NLRB chairman doesn't believe in majority rule.

An embarrassed President Clinton withdrew his nominee, Lani Guinier, as head of the Justice Department's civil rights division once the public found out that she was partial to "race-norm" voting (weighting black votes disproportionately to white votes), but he's pushing similar forms of race-norming everywhere else. Rosemary Barkett, his nominee to the 11th Circuit Court of Appeals, wants to race-norm crime and punishment, and William Gould IV, his nominee to head the National Labor Relations Board, opposes majority rule in collective bargaining because it is a "roadblock" to bipartisanship.

Barkett, a judge on Florida's Supreme Court, believes that blacks who receive the death penalty do so because of their race and not their crimes. She argues that traditional exercises in writing out law and facts are prejudiced by the vast extent of "unconscious racism" in society. Jurors, judges and prosecutors are all untrustworthy because of "the rise of the average racist, a person whose ambivalent racial attitudes leads him or her to deny his or her prejudice and express it indirectly, covertly, and often unconsciously."

In Barkett's view, Charles Kenneth Foster was sentenced to death because he was black, not because he slit the throat and spine of a white victim on a Florida beach.

In another case Barkett found "socially redeeming values" in Jacob John Dugan's stabbing and shooting murder of a white victim. Dugan had sent a tape to the victim's mother in which he bragged of the murder. The tape proved to Barkett that the murder was a "social awareness case" in which the victim was merely "a symbolic representation of the class causing the perceived injustices." In other words, the murder served a higher purpose that average racists couldn't recognize.

Judge Barkett has numerous other items like these on her résumé. As one of her colleagues remarked when she voted to vacate one death sentence, she believes the defendant "is a good man, except that he sometimes kills people."

Gould, a Stanford law school professor, has a similar explanation about why employees reject unions. It is all due to the Reagan "whirlwind" that created a "hostile environment" that causes workers to scathingly reject labor unions.

Gould has written that existing rules such as majority voting, secret ballots and

'Clinton is likely to be Gould's principal victim as unions representing a minority of workers create tumult in the workplace.'

the right to resign from a union during a strike heavily tip "the scale in favor of the individual worker's rights." If as many as 20% of the employees express interest in union representation, "it seems perfectly appropriate to compel some form of relationship between the employer and the union."

In Gould's view, employers are averse to union busting and simply cannot bargain fairly. To correct this covert prejudice, he wants to bring in the NLRB as labor's ally in collective bargaining and to restrain management's ability to communicate with the workforce prior to a union certification vote. He would also impose union contracts on successor companies and forbid companies from hiring strike replacements.

Gould's proposals would make it easier for him as NLRB chairman to find employers guilty of unfair labor practices. To make certain that the miscreants suffer appropriately, he wants to expand their financial liability for violations to triple damages.

Concerned about his extensive partisan paper trail, Gould told the Senate Labor and Human Resources Committee that his many articles and books merely muse on how Congress might improve labor law. He disavowed that his views would influence his interpretation of the law as written. This unbecoming pretense ignores how regulatory agencies routinely use their interpretive powers to rewrite their authorizing statutes.

The best bet is that Gould would use his powers to stretch the law in his direction. Why else leave the palm trees in pleasant Palo Alto if not for the pleasure of wielding power?

Ironically, Clinton himself is likely to be Gould's principal victim as unions representing a minority of workers create tumult in the workplace as restructurings are halted and crippling strikes pull the lackluster Clinton economy to a standstill.

Lining up with a judge who finds socially redeeming virtues in racial murders and with an NLRB chairman who wants to cram unions down the throats of workers and managements without a majority vote, Clinton seems destined to be smitten by his own appointees.

Paul Craig Roberts, former assistant treasury secretary, is chairman of the Institute for Political Economy in Washington.

8TH STORY of Level 1 printed in FULL format.

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Evening Standard

November 3, 1993, Wednesday

SECTION: Pg. 27

LENGTH: 1547 words

HEADLINE: GETTING AWAY WITH MURDER

BYLINE: Jeremy Campbell

BODY

WHEN Rosemary Barkett overturned the death sentence on a young murderer, one of her colleagues remarked: 'There goes Rosemary. She sincerely believes the defendant is a good man except that he sometimes kills people.'

In the case of another killer, who stabbed and shot to death a white man and then mailed a tape to the victim's mother boasting about the crime, Ms Barkett's penetrating eye found 'socially redeeming values'.

The tape, she said, showed the murder was a 'social awareness' case. The crime was not to be taken too literally since the victim was merely a 'symbolic representation of the class causing perceived injustices'. She detected in the act a higher purpose hidden from the minds of ordinary folk. Relax, she seems to be saying, a murder of this sort is just a metaphor.

All this might not matter if Rosemary Barkett were a film critic, or a candidate for sainthood. As it is, she is a judge of the Florida Supreme Court, and has been named by President Clinton to the US Court of Appeals.

In Barkett's view, American juries are full of people with ambivalent opinions on race, but at such a deep level they are not aware of it. These distortions in the unconscious mind surface as a refusal to acknowledge that a person who commits a crime can be simply redressing the injustices of a class-ridden society.

The idea that certain people are not responsible for their actions, but are driven by occult forces beyond their control, is a recurring theme among Clinton appointees. It shows up, too, in the opinions of William Gould, a law professor chosen by Clinton to head the National Labour Relations Board.

In his writings, Professor Gould suggests that a person who chooses not to belong to a trade union is really a misguided victim of years of conservative brainwashing. So it is in his or her own interest for the government to compel the formation of unions even if only 20 per cent of employees in a firm want to join one.

In the courts, such a principle is already well established. On a courtroom TV channel recently I watched as a defendant in a particularly horrible murder case pleaded that he was acting under the influence of a mysterious power that

Evening Standard, November 3, 1993

was manipulating him. 'Did you sense that this was a supernatural, a demonic force?' asked his attorney.

'Yes,' the man replied.

'So, in fact, what you are saying is that the Devil made you do it,' went on the attorney. This is non-fiction television, remember.

No one, it seems, actually commits a violent crime in full awareness and by free choice. It is always done under the influence of this or that. The Menendez brothers in California are a case in point. They are accused of cold-bloodedly murdering their parents, as they sat watching television, with 15 blasts of a shotgun to get their inheritance without waiting.

The brothers at first denied the murder, sorrowing deeply at the funeral. A spending spree followed, and then, when the evidence against them was overwhelming, a confession. Finally, they blamed their parents. It was the fear of sexual abuse that drove them to the crime, even though the boys are over 20 and at perfect liberty to leave home.

Ann Burgess, a psychiatrist, testified for the defence that for one brother the murder was done on autopilot, the 'instinctive, uncontrollable reaction of a brain rewired by fear'.

Crime in America does seem unreal, so bizarre, gratuitous and wanton is it becoming. The answer of certain people who traffic in ideas and political novelties is to treat crime as literally unreal, a mere epiphenomenon of a sick society. It is interesting to note how many of them are showing up as Clinton appointees for high office.

The President who loves to be loved BILL Clinton is determined to wrap himself in the Kennedy aura. Faced with a choice between flying to comfort victims of the terrible fires sweeping

California or hobnobbing with Jackie-O at a ceremony for the Kennedy library he opted for the Kennedys.

He may see himself as a reincarnation of JFK, but the likenesses are nearly all superficial. Kennedy was a remarkably cool and calculating President, almost bloodless in his caution, thought former US Secretary of State Dean Acheson. Kennedy was fastidious about who he was photographed with, even keeping Martin Luther King at a distance.

By contrast, Clinton is gregarious to a fault, a hugger who will be photographed with just about anyone who asks. And whereas Kennedy was an epigrammatic wit, never wasting words, Clinton never knows when to stop and afterwards few can remember what he said.

One big difference is that Clinton is much more anxious to make people like him. Richard Reeves, author of an excellent book on JFK, said: 'Kennedy gave a person seven seconds to make an impression on him. He had enormous discipline when it came to controlling a situation. When he got what he wanted from somebody, he was out of there.'

'Clinton is different. He won't leave the room until everyone loves him.'

Evening Standard, November 3, 1993

It's almost as if he doesn't know he's President.'

Taking Firm action

FEMINISTS are outraged at a newspaper profile of a very senior female member of the Cabinet, which describes her as acting occasionally in a 'blustery' way. The intimation is that the adjective applies only to the lady in question at cocktail parties in the evening. Such coded inferences, it is said, normally used of red-faced Southern male senators with a high bourbon intake, demean the dignity of women. Blustery is now on the proscribed list of the women's movement.

Feminists, however, are adding to as well as subtracting from the dictionary of approved words. The latest neologism is 'Firms', a word coined by geneticist Anne Fausto-Sterling to describe members of one of at least three sexes she identifies as lying between male and female on the gender spectrum.

THE WHITE HOUSE
WASHINGTON

DATE: _____

TO:

FROM: JOHN D. PODESTA
Assistant to the President and
Staff Secretary

Bill Gould
818 794
9517 FRIDAY
Theodore Swift

THE WHITE HOUSE
WASHINGTON

11/26

Bill Gould:

1. Discussions on setting up
preemptive strikes.

* 11/5 in NYT, someone on Hatch's staff
is distributing info on an 11th Circuit
nominee (woman from FL). Spreading materials
to various columnists. Craig Roberts - linking
Gould to this woman.

She coddles Black Δ who kill whites.
- Roberts says that Gould holds similar views.
- article in London Evening Standard - Jeremy
Hatch's people already have been
distributing materials on the judge.

- Would it be worth pursuing the S. Africa
angle? ^{grant} to continue push on the transition
in S. Africa.
- If he can get assurances that confirmation is going
forward. — anxious to get off Stanford
payroll.

TELEPHONE CALLS

JOHN D. PODESTA

Date _____

TIME	NAME	MESSAGE	TELEPHONE NO.
	✓ Bob Peck	administration appt.	626-7374
	Bill Gould	}	
	415 723 2979		
	415 321-3128		
	for 415 725 0253		

DAILY LABOR REPORT, NOVEMBER 23, 1993

NOVEMBER 23, 1993

1993 DLR 224 d2

LENGTH: 1442 words

SECTION: TODAY'S SUMMARY AND ANALYSIS.

TEXT:

GOULD NOMINATION STALLED IN SENATE

With Republicans unwilling to budge on the nomination of Professor William B. Gould to be chairman of the National Labor Relations Board, the nomination stalled in the Senate over the weekend without a vote. President Clinton can press forward with the nomination in January 1994 when the Senate reconvenes. But in the meantime, the agency would be without a quorum, unless Gould or fellow nominee Margaret Browning is willing to accept a recess appointment.

Republicans, led by Sen. Kassebaum (R-Kan), insist that the White House disclose its complete package of nominees, including the choice of a Republican to fill the agency's fifth seat.

Meanwhile, the White House announces the nomination of Fred Feinstein, a longtime staffer of the House Education and Labor Committee, to be general counsel of NLRB, replacing Republican Jerry M. Hunter.

When Congress adjourns as expected in the early morning hours of Nov. 23, the five-member board will be down to two members--Chairman James Stephens, a Republican, and Dennis Devaney, a Democrat. Republican John Raudabaugh has been serving as a recess appointment of former President Bush. Raudabaugh's powers to vote on cases end with the adjournment of Congress.

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LABOR REPORT

NOVEMBER 22, 1993

1993 DLR 223 d26

LENGTH: 883 words

SECTION: INTERVIEW.

TITLE: BUDGET CUTS, STAFFING RESTRAINTS TO DICTATE DAILY
OPERATIONS AT LABOR
BOARD, HUNTER SAYS.

TEXT:

Citing cuts in staffing and budget under both the Clinton and Bush administrations, outgoing National Labor Relations Board General Counsel Jerry M. Hunter predicted that whoever is appointed to run the agency will be under a "great deal of pressure . . . to do more with less."

As soon as the Clinton administration took over, government agencies including NLRB were targeted for staff cuts. NLRB staff must be reduced from 2,140 to 2,054 between 1993 and 1995, in addition to cuts of 14 percent in travel, printing, and supplies.

Interviewed Nov. 18 at the agency's new headquarters--one week before his term expires Nov. 27--Hunter lamented, "I don't know how the agency is going to be able to carry out its mission as we have been able to do it [in the past]."

Hunter warned that cutbacks jeopardize the agency's internal time targets--investigating cases within 30 days and issuing complaints within 45 days. "I don't know how the regions will continue to do the job," he said. "That will be a challenge for my successor."

Reviewing the highlights of his term, the general counsel said that his office attempted to provide "swift justice without the need to expend inordinate resources." A particular success, he said, is the settlement program in which most cases are resolved without reaching the five-member board. In fiscal year 1992, 94.3 percent of all meritorious cases were settled, according to agency statistics. Figures for FY '93 will be close to the 93 percent or 94 percent mark.

Hunter added that the agency has sought to do away with needless litigation and needless hearings, and to discourage the filing of frivolous unfair practice charges through the information officer program. Under this system, an

experienced agent fields initial queries from those who contact the agency.

Questioned about the changes the board will experience under new leadership, Hunter said it is unlikely that the next general counsel will "march in lockstep" with the Clinton-appointed board. "It's my belief . . . anyone schooled in labor law will see immediately what his responsibility is under the statute." He explained that the general counsel is obliged to present to the board certain cases that do not necessarily coincide with his or her own views.

Hunter said that a new general counsel inclined to make decisions based on political motives would simply cause the courts to be less inclined to defer to the agency's expertise, and to honor the general counsel's unreviewable discretion. Citing the role of the general counsel as "gatekeeper," he said that the system will break down if someone refuses to issue a complaint notwithstanding the existence of a violation. "The system has worked very well," he said, predicting that, at least from an administrative viewpoint, the way the system operates will not change under the Clinton board.

Asked whether the business community is justified in fearing a radical turnabout at the agency, Hunter said it is inevitable that President Clinton will select appointees who reflect his philosophy and who reflect the influence of organized labor as one of the constituent groups of the Democratic party. He described the new board as likely to be more activist, but said Stanford Professor William Gould is "eminently qualified" and union attorney Margaret Browning has the proper "background and credentials." Gould is awaiting Senate confirmation to be the next board chairman, and Browning has been nominated to be a board member.

Questioned on the tendency of new appointees to be "sucked into the bureaucracy," Hunter opined that to fulfill one's oath and enforce the law, the new member soon learns he is bound by precedent in much the same way as a new justice of the U.S. Supreme Court. Limits exist by virtue of precedent and the role of the court, he said. As an example, he cited the board's Electromation ruling dealing with employee involvement committees and unfair influence by management (244 DLR AA-1, E-1, 12/18/92). He noted that the complaint was pending in the Indianapolis region when he took over the general counsel's office, and that he felt obligated to carry it forward. The case may not have been the best vehicle for the agency to announce broad new doctrine, he acknowledged, noting that the facts clearly presented a violation, even though the members could not agree on a rationale.

Hunter remarked that the courts would likely be flooded with labor relations cases if Congress tampered with the gatekeeper function of the general counsel and permitted direct access to the courts by those who currently must ask the agency to take action. The alternative, he said, is the current system affecting fair employment matters. Noting that the Equal Employment Opportunity Commission

has no similar mechanism to that of the general counsel, he said that an inordinate number of EEO complaints threaten to swamp the federal courts.

The NLRB system "works pretty well," he said, citing statistics for FY '91 and FY '92 that the five-member board received only 2.7 percent to 3 percent of the cases filed with the agency. Adding that the drafters of the statute should be commended for producing a system that is balanced, he said he would "think long and hard" before changing it.

LANGUAGE: ENGLISH

Los Angeles Times, November 15, 1993

November 15, 1993, Monday, Home Edition

SECTION: Metro; Part B; Page 6; Column 4; Letters Desk

LENGTH: 478 words

HEADLINE: LABOR BOARD NOMINEE

BODY:

President Clinton has nominated our colleague and friend, Prof. Bill Gould of Stanford Law School, to be chairman of the National Labor Relations Board. Because Gould's writings support freedom for workers to affiliate with labor organizations of their own choosing and the collective-bargaining process -- the explicit goals of the National Labor Relations Act -- he has become the object of extremist attacks that frequently distort the record. Paul Craig Roberts' Column Right (Oct. 31) is an especially unsavory example.

Roberts begins by asserting that Gould's views are "similar" to those of a judge whom he states is an apologist for black criminals. Reminding us of the Willie Horton rhetoric of the 1988 presidential campaign, Roberts suggests that Gould, who would be the first black chairman of the National Labor Relations Board in its nearly 60 years of existence, is eccentric or radical.

Roberts could not be more off the mark. As a law professor and arbitrator, who has rendered a majority of awards in favor of employers, Gould has been consistently viewed as both moderate and impartial.

Roberts says that Gould will "... restrain management's ability to communicate with the work force prior to a union certification vote." In fact, in Gould's recent book, "Agenda for Reform," he has written that labor law reform should expand employer free speech rights in union organization efforts -- not limit them.

Roberts further asserts that Gould favors compelling all workers to accept union representation where only a minority favor it. In fact, the proposal to which Roberts refers quite clearly applied to "members only" bargaining. Gould suggested that Congress require that, where 20% to 30% of the work force so requested, employers bargain collectively, but only with the consenting workers.

Roberts' suggestion that Gould does not support the secret ballot is equally unfounded. Gould favors the secret ballot in all union elections. His proposal that unions be recognized without elections applies only where a super-majority of workers -- 60% -- have voluntarily signed authorization cards.

All of these proposals have been advanced as suggestions for legislative revision, not as interpretations of the existing law, which Gould, as chairman, would be sworn to uphold. Roberts' suggestion that Gould would betray his duty to enforce enacted law is completely unsupported character assassination.

We know Gould as a man of unimpeachable integrity and as one who has consistently brought a balanced, moderate approach to labor-management relations. His nomination represents one of the best opportunities to diminish the conflict and polarization which have plagued labor and management for most of this century.

HERMAN LEVY, Professor

Santa Clara University School of Law

WILLIAM H. SIMON, Professor

Stanford Law School

LANGUAGE: ENGLISH

The Washington Times, November 6, 1993

November 6, 1993, Saturday, Final Edition

SECTION: Part A; Pg. A1

LENGTH: 930 words

HEADLINE: Paper trail entangles nominee for NLRB

BYLINE: David R. Sands; THE WASHINGTON TIMES

BODY:

Faced with nearly unanimous business lobby opposition and a tight Senate calendar, President Clinton's nominee to head the National Labor Relations Board is in trouble.

William B. Gould IV, the Stanford University law professor the president nominated in the summer to head the five-member board, originally had been expected to encounter little difficulty. But staunch Republican opposition in the Senate, led by Sen. Nancy Landon Kassebaum of Kansas, has made the nomination a much tougher call.

Arguing that Mr. Gould would seek to rewrite federal labor law at the NLRB in favor of labor unions, the National Association of Manufacturers, the U.S. Chamber of Commerce, the management-backed Labor Policy Association and the National Federation of Independent Businesses have all declared their opposition to Mr. Gould.

The Society of Human Resource Management, a trade group for personnel managers, also came out against Mr. Gould - the first time the group has opposed an NLRB nomination in its 40-year history.

"The guy has a paper trail a mile wide," said Peter Eide, manager of labor law for the U.S. Chamber of Commerce. "Once you start reading through it, it becomes painfully obvious what's going on."

"He's the Robert Bork of labor law," said Brad Cameron, government relations director for the Labor Policy Association, referring to the Supreme Court nominee whose academic writings were used to defeat his nomination. "It's come back to haunt him."

The opposition is an unexpected double headache for Mr. Clinton, who has the chance to fill three of the five board seats. Labor unions complained throughout the 1980s that NLRB appointments made by Presidents Reagan and Bush

tilted the board in favor of management and have been hoping for more favorable treatment under a Clinton board.

And, although race has played no part in the campaign against Mr. Gould, he would be the first black to head the NLRB. The Congressional Black Caucus, which severely criticized Mr. Clinton's failure to back Lani Guinier, another black nominee, for a top Justice Department post, testified strongly in behalf of Mr. Gould at a Senate confirmation hearing Oct. 1.

Providing much of the ammunition in the fight is a book Mr. Gould wrote on labor-law reform that was published after his nomination was announced. Conservative critics say the book advocates a number of sweeping changes in current labor law, including making it easier for unions to win representation in some cases even if a majority of workers have not expressed a desire to organize.

Critics also contend Mr. Gould questions the current secret-ballot method for union elections, favors a long-stalled bill that would ban the use of permanent replacements for striking workers and would support greater union power to punish workers who return to work during an authorized strike.

Mrs. Kassebaum, considered a moderate, joined Sen. Orrin Hatch, Utah Republican, and three other conservative senators in an Oct. 20 "Dear colleague" letter opposing Mr. Gould.

"Professor Gould's ardent advocacy of radical labor-law reform has no place on the board charged with the interpretation and enforcement of our nation's labor law," they wrote.

Republican Sens. Dave Durenburger of Minnesota and James Jeffords of Vermont, who only briefly questioned Mr. Gould at the Oct. 1 hearing, had been expected to support the nomination. But both abstained at the Oct. 18 hearing of the Senate Labor and Human Resources Committee, with Mr. Jeffords saying he would not vote for Mr. Gould until he was sure whom the president planned to nominate for other board vacancies.

All 10 Democrats on the committee voted to confirm Mr. Gould. Committee Chairman Edward M. Kennedy, Massachusetts Democrat, praised him for having "the rare combination of experience, independence, impartiality and balance which will make him an outstanding member and chair of the NLRB."

Mr. Gould spent much of his confirmation hearing trying to reassure Mr. Hatch that he would not try to use his post at the NLRB to implement ideas contained in his writings on labor-law reform.

"My role [at the NLRB] will be to decide cases based upon the facts and

relevant law," he said. "In neither capacity is the fashioning of legislation part of the job description. That is the appropriate role for Congress."

But Michael Losey, president of the Society for Human Resource Management, said in an Oct. 8 letter to the committee that Mr. Gould's disclaimer "is not helpful."

"Given his authority to interpret the law as NLRB chairman, Professor Gould would have the power to dramatically change employer obligations under the statute," Mr. Losey contended.

Harold Weinrich, managing partner for the Washington office of Jackson, Lewis, Schnitzler & Krupman, one of the country's largest law firms representing management in labor disputes, said he had not taken a position on Mr. Gould's nomination, but added that many of Mr. Gould's pro-labor writings raise serious questions.

He said management representatives expected Mr. Clinton's NLRB nominations to hold different philosophical views from their predecessors.

"But Gould is different. He's become such a strong advocate of changes in the legislation itself that it goes beyond philosophy," he said. "Once holding that view, can one truly step back and interpret the law as it exists today?"

LANGUAGE: ENGLISH

LOAD-DATE-MDC: November 6, 1993

DAILY LABOR REPORT, OCTOBER 21, 1993

OCTOBER 21, 1993

1993 DLR 202 d4

LENGTH: 565 words

SECTION: LEADING THE NEWS.

TITLE: SENATE LABOR COMMITTEE APPROVES GOULD'S NOMINATION AS NLRB CHAIRMAN.

TEXT:

The Senate Labor and Human Resources Committee Oct. 20 approved President Clinton's choice of Stanford University professor William Gould as chairman of the National Labor Relations Board.

The committee's vote was split along party lines, with 10 committee members voting yes, five voting no, and Sens. James Jeffords (R-Vt) and Dave Durenberger (R-Minn) voting present. Sen. Nancy Kassebaum (R-Kan), the committee's ranking minority member, cited Gould's "troubling" vision of labor relations, laid out in his recent book *Agenda For Reform* as the reason she did not support his nomination.

"At this time, our economy cannot afford the disruption and uncertainty that will result if the Board is used as a platform for labor law reform," Kassebaum said. She specifically pointed to Gould's support for replacing secret ballot elections for union representation with authorization cards; expanding unions' ability to punish workers who want to continue working during a strike; and, prohibiting permanent replacement workers during an economic strike.

Gould's endorsement of double and triple back-pay awards to remedy unfair labor practice violations and increased access to private property for non-employee union organizers also came under fire from Kassebaum. While acknowledging Gould's pledge during his confirmation hearing that he would interpret the law as it is written (190 DLR AA-1, D-1, 10/4/93), Kassebaum said "such strongly held views must inform and influence the decisions of one who serves" as chairman.

"Both employers and labor unions must have confidence in the impartiality of the board in order for it to function effectively," Kassebaum said, and Gould "has failed to instill that confidence." She expressed hope that the Clinton administration's nomination for the remaining open seat on the board will enjoy full support from the business community to provide an appropriate balance.

Stanford Law Professor

Gould has been a professor at Stanford Law School since 1972. A 1961 graduate of Cornell Law School, he studied comparative labor law in 1962-63 at the London School of Economics.

Prior to Stanford, Gould was assistant general counsel of the United Auto Workers in Detroit. From 1963-65, he served as an attorney with NLRB in Washington, D.C. He represented management on labor law matters with Battle, Fowler, Stokes & Kheel in New York City from 1965 to 1968.

A member of the National Academy of Arbitrators since 1970, Gould has arbitrated and mediated more than 200 labor disputes since 1965.

Gould's nomination now goes to the full Senate for a vote.

Congress Hears Clinton's Choice To Head NLRB

Board Should Use Its Power On Rule-Making More, Gould Tells Committee

By KEVIN G. SALWEN

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON — President Clinton's nominee to head the National Labor Relations Board told Congress that he firmly backs labor-management teams and that the board should consider using its rarely flexed rule-making muscle more often.

Stanford University Professor William Gould IV, whose nomination is expected to breeze through the Senate, spent much of his two-hour confirmation session trying to reassure Republicans that his pro-union writings wouldn't be reflected in his decisions at the helm of the panel. "The difference between Prof. Gould and Chairman Gould," he told the Labor Committee, "is that the latter is concerned solely with the interpretation of law as it is presently written."

In picking Mr. Gould, the Clinton administration had its first chance to turn the NLRB, which has a daily impact on the workings of companies and their unionized employees, away from what union officials complain has been a pro-management stance. Mr. Gould has a deep and varied resume in labor law, punctuated by experience arbitrating baseball-player salary disputes.

Republicans, led by Sen. Orrin Hatch of Utah, cautioned Mr. Gould to exercise restraint. "I don't want you running wild at the NLRB," Mr. Hatch warned. Ranking Republican Nancy Kassebaum of Kansas, who was ill but sent in a statement, added: "Our economy can ill-afford the disruption and uncertainty that will result if the board is used as a platform for labor-law reform."

The Republicans and many Democrats cheered Mr. Gould's statements in support of worker-management teams. The nominee's defenses of teams stand in sharp contrast to several recent NLRB rulings that placed tight restraints on such cooperative efforts. Teams have become standard for many companies in areas ranging from safety to product quality.

In a statement likely to please unions more than companies, Mr. Gould also said he wants to streamline the agency's decision-making. Unions have complained vehemently in recent years that the board often takes years to resolve cases of workers allegedly fired for union activities, or even to determine which side won in union-representation votes. Unions contend that companies drag out the NLRB process so they can weaken the resolve of workers and eat into unions' cash reserves.

But Minnesota Republican Dave Durenberger of Minnesota, who also wants to speed decision-making, noted that in 1977, then Sen. Jacob Javits of New York urged the same thing and was reassured by chairman-designate John Fanning that "the No. 1 problem of the board is delay."

Prof. Gould said he would consider using the board's rarely employed rule-making authority to set "firm timetables" for decisions to be rendered. That authority already is being used by the board to handle cases involving the hospital industry, and Mr. Gould said he would consider using it in other industries.

In other areas, Mr. Gould said he believes union members shouldn't be able to pull out of unions when the unions decide to strike. "We should let the majority rule there," he told Sen. Hatch, who favors giving individual rights to withdraw at any time. Mr. Gould also said he wants the board's administrative law judges to become more involved in dispute resolution, more like arbitrators.

Studies Indicate Videotaped Memories, Unlike Diamonds, May Not Be Forever

By ADRIENNE PETTY

Staff Reporter of THE WALL STREET JOURNAL

Contrary to popular opinion, videotape may not last for generations. In fact, it may last only 15 years, and failure to care for it may shorten its life even further.

That may come as a shock to people who think they are recording baby's first steps for posterity or have transferred family movies to videotape.

Minnesota Mining & Manufacturing Co. and other companies have tested the longevity of videotape by simulating its aging, says Les Aseere, a technical specialist at 3M, which makes Scotch brand videotapes. But even these studies aren't

totally reliable. "Studies can simulate age but they really can't replicate age," says Philip M. Ritti, vice president for audio-tape and videotape at Ampex Recording Media Corp., Redwood City, Calif.

The main enemies of videotape are extreme heat and humidity. According to a report published in the Journal of the Society of Motion Picture and Television Engineers, the most commonly used videotape employs a polyester-urethane binder system which traps magnetic oxide particles, the carriers of the magnetically encoded information, within the tape. If the binder system is exposed to high temperature and humidity, the urethane particles

in the coating free and set. The next time particles per- Dust and "A speck of away by the off the tape, snow on the spokesman: Some cc learn that tr could deteri ton, Mass., 16mm reels the 1930s of and Bob Ho She thou tended the inherited fr Metro Goldv her that the even sooner



How far on the US

How about London, Paris, Tokyo, Sydney?

Flying the USAir Shuttle could take you far beyond New York, Washington, D.C. or Boston. It could land you in any of 416

With our new Global Alliance you can earn miles to virtually anywhere. If you acci

DAILY LABOR REPORT

LEADING THE NEWS

**GOULD PLEDGES THAT AS NLRB CHAIRMAN
HE WILL INTERPRET THE LAW AS WRITTEN**

Drawing a line between his role as a law professor and his expected position as chairman of the National Labor Relations Board, William B. Gould told the Senate Labor and Human Resources Committee Oct. 1 that if confirmed to a five-year term, he would view his role as "concerned solely with the interpretation of the law as it is presently written."

Attempting to allay fears of the business community that his writings—particularly his recently published book "Agenda for Reform"—reflect a tilt towards unions, the Stanford University law professor said that his role on the five-member board would be to interpret existing law and to serve as a neutral factfinder, rather than as a proponent of labor law reform.

"Both as an arbitrator and as Chairman of the board, my role is to decide cases based upon the facts and relevant law," he said. "In neither capacity is the fashioning of legislation part of the job description. That is the appropriate role for Congress."

Gould To Resign From Dunlop Commission

Responding to a question by Sen. Edward Kennedy (D-Mass) about his March 1993 appointment to the Clinton administration's Commission on the Future of Worker-Management Relations chaired by John Dunlop, Gould said he has suspended his commission activities and will resign upon confirmation to the board.

The announcement appeared to remove the only possible stumbling block to confirmation. Business groups had warned of a conflict-of-interest in a dual role for Gould as NLRB chairman and adviser to the secretary of labor and Congress on proposals for legislative change.

After polite but persistent questioning of the nominee by Sen. Orrin Hatch (R-Utah) and others, Kennedy announced that the record would be kept open for a week and that additional questions in writing could be submitted by close of business Tuesday, Oct. 5.

Hatch alluded to the standard to be used in voting for a Supreme Court nominee. He then praised the NLRB nominee's integrity and qualifications, and left open the possibility that he would vote in favor of confirmation contingent on satisfactory answers to certain "tough questions."

Warning that he was very concerned about these matters, Hatch suggested that he needed assurances that the nominee would not be "running wild at the NLRB." Gould rejoined that those familiar with his career as an arbitrator would know that he had not done anything to warrant that label.

Sen. Paul Wellstone (D-Minn) described the nominee as a "cutting-edge thinker" and "the exact opposite of mediocrity."

In introducing the nominee to the committee, California Sen. Barbara Boxer (D) praised his background as a scholar and as a negotiator. Sen. Dianne Feinstein (D-Calif) hailed Gould as "the right person at the right time," and predicted he could bring labor and management together.

Support For Joint Labor-Management Committees

Questioned by Sen. James Jeffords (R-Vt) on the role of employee involvement committees, Gould said that he has long advocated that employers voluntarily establish such relations.

ships with employees on safety and health matters and other workplace issues. He added that when employees know more about how the business operates, American industry will be made more competitive.

Gould also endorsed rulemaking, particularly with respect to representation matters. Citing delays relating to what constitutes an appropriate bargaining unit, he suggested that the current system encourages litigation.

Hatch characterized the nominee's writings as being critical of the Taft-Hartley and the Landrum-Griffin Acts for tilting the balance towards management. He asked how Gould could enforce the very statutes he has so criticized. Gould remarked that he would operate within the confines of the law as written, and that changing the law is the province of the Congress.

A Presumption In Favor Of Stability

Hatch repeatedly probed whether the nominee would reverse specific holdings that he has criticized. Gould replied that the board is free to consider a matter anew, but that there is a presumption in favor of stability. To reverse a policy, the agency must have substantial reasons for doing so, he said.

Gould specifically disavowed any intention to undo the U.S. Supreme Court's 1981 holding of *NLRB v. First National Maintenance Corp.*, that a partial closure, motivated by economic motivations, did not trigger an obligation to bargain with the union (107 LRRM 2705).

Pledging to apply the same approach he used while an arbitrator, Gould said that *First National* is the law, and as board chairman he will be obliged to follow it and operate within those limits, absent new parameters set by Congress. He also cited his disagreements with the Supreme Court's 1980 *Yeshiva University* decision declaring certain faculty members to be managerial employees outside the scope of bargaining (103 LRRM 2320). He said he intends to live with the holding and to enforce it.

Other Vacancies At NLRB

The Clinton administration already has announced the nomination of Margaret Browning, a union attorney in Philadelphia, to a vacancy on the board. A third seat remains to be filled. Current board members are Chairman James Stephens, a Republican; John N. Raudabaugh, a Republican who continues to serve under a recess appointment announced by President Bush; and Democrat Dennis Devaney. Upon Gould's confirmation, Stephens can continue to hold his seat as a member.

In November, the administration will be able to fill the most powerful position at the agency—that of the general counsel. The post is held by Jerry M. Hunter, a Republican. Top contenders for the post, sources said, include Fred Feinstein, chief counsel to the House Education and Labor Subcommittee on Labor-Management Relations, and University of Tennessee Professor Patrick Hardin.

(Gould's statement to the committee appears in Section D.)

End of Section

Moneyline, October 14, 1993

Union-Friendly Law Professor Nominated for NLRB

LOU DOBBS, Anchor: Another Clinton appointee is under fire tonight - the man he wants to run the National Labor Relations Board. CNN Business News has learned that the U.S. Chamber of Commerce is joining the fight to block the confirmation of William Gould. Kathleen Behof reports from Chicago.

KATHLEEN BEHOF, Correspondent: Business groups opposing President Clinton's choice to become the next chief of the National Labor Relations Board say he supports radical pro-labor changes in labor law. They point to a new book written by the nominee, Stanford law professor William Gould. In it, Gould argues union representatives should have wide-spread access to workers on company property. He says companies should not be able to permanently replace workers during a strike. Gould also believes corporations should periodically open their books to unions about corporate business. Gould has attracted a list of significant adversaries - among them, the U.S. Chamber of Commerce and the National Association of Manufacturers.

PETE LUNNIE, Sr. Policy Dir., Natl. Assn. of Mfgs.: He certainly advocates significant change, and it's raised concerns; and just as organized labor would raise concerns with a nominee whose positions were hostile towards their constituencies.

BEHOF: Organized labor says its been concerned for 12 years under a Republican-dominated board.

JON HIATT, Gen. Counsel, Serv. Empl. Intl. Union: We see Professor Gould as being someone who, while certainly not pro-labor, at least will not exhibit the same kind of pro-management bias that we've seen for the past many years.

BEHOF: Gould's list of supporters includes dozens of lawyers representing management. Gould has mediated more than 200 labor disputes. He's sided with management half the time. Clinton will fill two other seats on the five member board along with the general counsel's job. Those opposing Gould for chairman say if they lose that battle, they'll be back, lobbying for at least one pro-business candidate for those other positions. Kathleen Behof, CNN Business News, Chicago.

DOBBS: And coming up next here on Moneyline - the president's second-in-command at Treasury, Roger Altman, will be talking about the economy, health care reform, NAFTA, and other major issues on this economy. Stay with us.
[Commercial break]

Pro-Union NLRB Nominee Tells GOP

He'll be Fair

By Carolyn Lockwood
Washington Bureau

WASHINGTON
Stanford law professor William Gould IV, nominated by the Clinton administration to be the first black chairman of the National Labor Relations Board, underwent a sustained grilling yesterday by Senate Republicans on his pro-union views.

The breadth of Republican opposition remained unbroken, however. Nancy Kassebaum, ranking minority member on the Labor and Human Resources Committee, was ill and could not attend yesterday's confirmation hearing, but she sent a statement denouncing Gould's ideas as "quite troubling." An aide said he expects active Republican opposition has said many members are still studying Gould's record. A Senate vote has not yet been scheduled.

The great-grandson of slaves, Gould was flanked at his confirmation hearing before the committee by supporters Dennis Feinstein and Barbara Boxer, California's two Democratic Senators; Representative Anna Esch, D-Palo Alto; and William Clay, D-Missouri, a member of the Congressional Black Caucus.

Promotes Impartiality

Gould, 58, told the committee that his family heritage shaped his view of the law "as a significant vehicle to diminish inequity and unfairness in our society." But he promised critics that despite his pro-labor views, he would be impartial and not use his position as a platform from which to effect radical changes in labor law, as management groups fear.

An independent, quasi-judicial agency, the labor relations board oversees union elections and investigations of unfair labor practices. With its broad jurisdiction over the workplace, the board is closely watched by both organized labor and management groups. The Clinton administration is expected to obtain a 3 to 1 voting majority on the board, which management groups fear will tilt its decisions in favor of organized labor. Unions, for their part, say the board had a strong management bias under Republican administrations.

Gould said his long experience as an arbitrator will allow him to resolve conflicts "in a fair and even-handed manner within the limits of the law as established by Congress." A member of the prestigious National Academy of Arbitrators since 1979, when he became one of its youngest members, Gould said the bulk of his dispute resolutions have come down on management's side.

Democrats extended lavish praise for Gould's noted academic and professional record and said he would bring fairness and balance to the labor relations board.

Republicans Have Doubts

But Republicans, led by House

support for status-replacement legislation, which would prohibit companies from hiring permanent replacement workers during a strike, and his advocacy of replacing regular union elections with "card checks" in which the number of cards employees sign is used to indicate their preference for a union.

Quoting Gould's latest book, "Agenda for Reform," Hatch grilled Gould extensively on several of his more controversial views, including the idea that workers should be denied the right to resign from a union during a strike. "You might well tip the scale away from voluntarism in favor of union solidarity," Hatch said.

Gould, citing former Chief Justice Warren Burger in his defense, said he believes that "majority rule should govern" during a strike, when "union concerns over solidarity runches its watch." But he promised Hatch that he would continue to uphold current law, which allows a union member to quit the union at any time.

Hatch said that he will support Gould's nomination despite his reservations, and that his object was to put Gould's views on the record.

Views Peace Management

Management groups are generally pleased, however, by Gould's view that workers should take greater part in worker-management negotiations. "The workers ought to know more about the way in which the business that they're employed in operates," he said. "That's the only way we can have good, constructive relationships and that in my judgment is the best way that American industry can be competitive."

Gould has been a professor of law at Stanford University since 1972. He received his law degree from Cornell Law School in 1961 and earlier comparative labor law at the London School of Economics in 1963. He has represented both management and organized labor, and has removed more than 200 labor disputes since 1965. In 1968 and 1969, he served as chairman of the City and County of San Francisco Task Force on Collective Bargaining, appointed by former Mayor Art Agnos.



WILLIAM GOULD
He would be first black chairman

U.S. DEPARTMENT OF LABOR

White House Liaison
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Tel: 202-219-7464
Fax: 202-219-7965

94 MAR 4 P1:48

Date:

March 4, 1994

To:

Paul Richard

Fax Number:

456-2215

From:

Richard Jocarides

Number of Pages: 4
(including cover sheet)

☐ Action
☐ Approval
☐ Note and Return
☐ Comment
☐ File
☐ For Clearance
☐ For Correction

☐ Investigate
☐ As Requested
☐ Circulate
☐ Prepare Reply
☐ See Me
☐ Signature
☐ Information

COMMENTS:

3-4-94 (DLR)

CURRENT DEVELOPMENTS

(No. 42) A 11

May Department Stores in St. Louis reported sales of \$686.9 million for February that were up 11.3 percent over \$616.9 million a year ago. Comparable store sales were also robust, up 7.8 percent. May is considered a bellwether chain for apparel sales, which have not fared as well as purchases of consumer electronics and furniture.

Among the specialty apparel stores, The Limited Inc. in Columbus, Ohio, said sales increased 6 percent to \$422.2 million from \$395.5 million a year ago. Comparable store sales were flat.

The Gap Inc., based in San Francisco, said sales of \$185 million were 12 percent higher than sales of \$165 million for February a year ago. Comparable store sales were up only 2 percent.

Heilig-Meyers Co., a Richmond-based furniture retailer operating in 22 states, said sales rose 40.7 percent to \$66.5 million from \$47.3 million. Comparable store sales rose a strong 12.5 percent.

Best Buy Co. Inc., Minneapolis, said sales of \$275 million were 102 percent higher than sales of \$136 million a year ago. Comparable store sales also surged, by 42 percent. Best Buy is a retailer of consumer electronics and major appliances, operating in 18 states.

Spiegel Inc., based in Downers Grove, Ill., said total sales rose 27 percent to \$161.6 million. Comparable store sales for its Eddie Bauer subsidiary were up 11 percent in February. "Despite unusual weather conditions during the month we continued to achieve strong sales gains in both our catalog and retail divisions," commented the company president, John J. Shea.

Charming Shoppes Inc., Bensalem, Pa., said sales rose 6 percent to \$74.5 million but comparable store sales fell 3 percent.

- 0 -

BUSINESS GROUPS ADOPT WAIT-AND-SEE ATTITUDE ON GOULD CHAIRMANSHIP OF NLRB

One likely fallout of the Senate's confirmation of the Clinton administration's choices for the National Labor Relations Board will be increased management scrutiny of the agency. Asked to assess the impact of Gould's confirmation, management attorney Harold P. Coxson told BNA March 3 that employers will now be seeking a "level playing field."

"Business groups are very wary," Coxson said, adding that NLRB "will find its decisions will be read with a fine-toothed comb."

Gould was confirmed March 3 by a vote of 58-38. The Senate also approved Margaret Browning and Charles Cohen to vacancies on the five-member board and Fred Feinstein to the post of general counsel (41 DLR AA-1, 3/3/94).

One day after his confirmation, Feinstein said he looks forward to getting started at the agency perhaps as early as March 7. A formal swearing-in ceremony may be scheduled sometime after all four nominees are in Washington, D.C., he said.

Describing the position of general counsel as an "enormously challenging job," Feinstein told BNA that he hopes to make a contribution that will help the agency be "responsive to the new realities of today's workplace."

Reaction To Gould's Confirmation

Coxson, who heads an advisory committee of labor lawyers within the National Association of Manufacturers, said he regarded Gould's March 2 statement following the confirmation vote as ill-advised:

A - 12 (No. 42)

CURRENT DEVELOPMENTS

(DLR) 3-4-94

"He's confirmed. He's in place. He needs to put all that behind him. . . He obviously felt strongly."

In a statement following the confirmation vote, Gould blasted his opponents in the Republican party and the business community as bent on "cynical character assassination. . . ." but said his first priority would be to ease polarization between labor and management.

Asked whether he places much hope in Gould's plan to ease polarization by appointing panels of labor lawyers to advise the agency, Coxson said that as long as both sides have an equal opportunity, it's never a bad idea to invite comments from practitioners.

"I just don't know," he concluded, when asked if employers expect the agency to be evenhanded under its new leadership. "It's everyone's hope that would be the case."

Jeff McGuinness of the Labor Policy Association, a business group that spearheaded the opposition, adopted a wait-and-see attitude, but questioned whether Gould's victory statement would cool frayed tempers:

"After he was confirmed by the narrowest margin of any Clinton administration appointee, the new chairman characterized the entire Senate Republican leadership as right wing ideologues engaged in character assassination. So much for reducing polarization."

AFL-CIO spokeswoman Candice Johnson said the federation was pleased that the Clinton administration nominees were confirmed. She added that they will be able to restore a level playing field for workers. Asked whether she agreed with Gould's observation that the agency had suffered a loss of credibility in the 1980s, Johnson said that the nominations were no longer balanced between labor and management from the time President Reagan selected management consultant John Van de Water to be chairman, and then nominated management attorney Donald Dotson when Van de Water was not confirmed.

But Johnson stopped short of accusing Republicans of singling out Gould as a target. She suggested that the level of opposition to the nomination was not a surprise given management's expectation that NLRB would cater to its interests.

(Text of Gould's March 2 statement appears in Section E.)

- 0 -

CONSULTANT SAYS HEALTH PLAN EMPLOYER MANDATE WON'T DIE UNLESS CREDIBLE ALTERNATIVE OFFERED

NEW YORK—The employer mandate feature of the Clinton administration's health reform package is not as endangered as many commentators make it out to be, as long as there is no credible alternative to address the problem of cost-shifting, a benefits consultant said March 2.

Linda A. Bergthold, a principal at William M. Mercer Inc. who served as co-chairwoman of the administration's health care reform task force working group on benefits, warned that businesses that do offer health benefits could end up subsidizing those that do not if Congress fails to enact the employer mandate as part of health care reform.

Given the costs of subsidizing "free riders" that would end up being borne by premium payers and taxpayers, Bergthold discounted the "conventional wisdom" that the mandate will not be approved.

"I don't know if this problem can be solved unless someone with guts—whether it's the president or a senator or a congressman—stands up and says, 'This is the way it's going to be: you can't ride free,'" she told corporate benefit managers at the Conference Board's employee benefits meeting. "I would not declare an employer mandate dead until you can think of a convincing alternative," she added.

3-4-94 (DLR)

TEXT

(No. 42) E-1

**STATEMENT OF NLRB CHAIRMAN WILLIAM B. GOULD
MARCH 2, 1994**

I am pleased that a clear majority of the United States Senate has this day confirmed President Bill Clinton's nearly 9 month old nomination of me to be Chairman of National Labor Relations Board. Today, I reiterate my gratitude to the President for his support of me and express thanks to Senate Democrats—particularly Senator Edward Kennedy who managed the floor debate—and those moderate Republicans who voted to confirm me. I am especially grateful to so many friends and supporters throughout the United States and, indeed, on every continent of this earth who have communicated so many expressions of support to me during this recent period of adversity.

Today's vote is a victory over a determined campaign of cynical character assassination waged against me for these past 9 months by right wing ideologues in the Republican Party and in some elements of the business community. My hope is that careful examination of my nomination's extraordinary and unwarranted delay will galvanize the public and our political leaders to fight back against the anti-democratic politics of gridlock so assiduously practiced by those who have promoted partisan politics over good government.

I look forward to taking up my responsibilities as Chairman of the Board in a matter of days. As I told the Senate Labor Committees during my October 1, 1993 hearings, I intend to make expedited processes and effective dispute resolution machinery genuine priorities during my tenure. My goal is to reduce polarization both as the Board and also between labor and management. Within a few weeks, I shall

announce the appointment of panels of labor lawyers representing both sides—panels which will provide the Board with valuable input about the strengths and deficiencies about the Board's processes.

The National Labor Relations Board—traditionally one of the most well-respected governmental agencies—lost considerable credibility during the 1980's. Its one sidedness served poorly the ever necessary objective of respect for law in industrial relations which is so vital to a democratic society like ours. This approach also impeded the goal of our globally competitive economy which is forever dependent upon harmonious and cooperative relationships between labor and management.

My three decades' work as a labor lawyer who represented management, labor and individual employees, as a law professor and labor law scholar and an impartial labor arbitrator has made me a vigorous proponent of rights and obligations for both labor and management. During the coming 4 and 1/2 years of my term, I shall endeavor to return the Board to the center, to promote a balance between the parties—a policy that is inherent in both the National Labor Relations Act and in good sense—and, most important, to let workers, union officials and business people know that they will be treated with respect, civility and fairness.

Before God, my family and friends, and the American people, this is what I pledge to do. I shall do the best job that I can to vindicate President Clinton's expression of confidence in me.

End of Text

End of Section

3/2/94

GOULD NOMINATION -- last revised 3/01/94

SENATOR	STATE PARTY	CONTACT NUMBER	COMMENTS/ STAFFING	1-5
Akaka, Daniel	D-HI	6361		1-2?
Baucus, Max	D-MT	2651		1
Bennett, Robert	R-UT	5444		
Biden, Joseph	D-DE	5042		1?
Bingaman, Jeff	D-NM	5521		1
Bond, Christopher	R-MO	5721		3
Boren, David	D-OK	4721	95% there	2
Boxer, Barbara	D-CA	3553		1
Bradely, Bill	D-NJ	3224		1
Breaux, John	D-LA	4623	Pat Needs to call!	3
Brown, Hank	R-CO	5941		4
Bryan, Richard	D-NV	6244		1-2
Bumpers, Dale	D-AR	4843		1
Burns, Conrad	R-MT	2644		3
Byrd, Robert	D-WV	3954		1?
Campbell, Ben Night.	D-CO	5852		1
Chafee, John H.	R-RI	2921		1-2
Coates, Dan	R-IN	5623		
Cochran, Thad	R-MS	5054		
Cohen, William	R-ME	2523		
Conrad, Kent	D-ND	2043		1
Coverdell, Paul	R-GA	3643		
Craig, Larry	R-ID	2752		5
D'Amato, Alfonse	R-NY	6542		
Danforth, John	R-MO	6154		
Daschle, Thomas	D-SD	2321		1
DeConcini, Dennis	D-AZ	4521		1
Dodd, Christopher	D-CT	2823		1
Dole, Bob	R-KS	6521		5
Domenici, Pete	R-NM	6621		4
Dorgan, Bryon	D-ND	2551		1
Durenberger, Dave	R-MN	3244		1

96

47 1's
5 1-2's
6 2's

Exon, J. James	D-NE	4224		71-2
Faircloth, D. (Lauch)	R-NC	3154		
Feingold, Russell	D-WI	5323		1
Feinstein, Dianne	D-CA	3841		1
Ford, Wendell	D-KY	4343		3
Glenn, John	D-OH	3353	Will be absent!!!	1-2
Gorton, Slade	R-WA	3441		
Graham, Bob	D-FL	3041		1
Gramm, Phil	R-TX	2934		
Grassley, Charles	R-IA	3744		
Gregg, Judd	R-NH	3324		
Harkin, Tom	D-IA	3254		1
Hatch, Orrin	R-UT	5251		
Hatfield, Mark	R-OR	3753		1
Heflin, Howell	D-AL	4124		1?
Helms, Jesse	R-NC	6342		5
Hollings, Ernest	D-SC	6121		?
Hutchison, Kay B.	R-TX	5922		
Inouye, Daniel	D-HI	3934		2
Jeffords, James	R-VT	5141		1
Johnston, J. Bennett	D-LA	5824		1
Kassebaum, Nancy L.	R-KS	4774		5
Kempthorne, Dirk	R-ID	6142		3
Kennedy, Edward	D-MA	5441		1
Kerrey, J. Robert	D-NE	6551		1?
Kerry, John F.	D-MA	2742		1?
Kohl, Herb	D-WI	5653		1
Lautenberg, Frank	D-NJ	4744		1
Leahy, Patrick	D-VT	4242		1
Levin, Carl	D-MI	6221		1
Lieberman, Joseph	D-CT	4041		1
Lott, Trent	R-MS	6253		?
Lugar, Richard	R-IN	4814		3
Mack, Connie	R-FL	5274		5
Mathews, Harlan	D-TN	4944		2

McCain, John	R-AZ	2235		
McConnell, Mitch	R-KY	2541		3
Metzenbaum, Howard	D-OH	2315		1
Mikulski, Barbara	D-MD	4654	Will be absent!!!	1
Mitchell, George	D-ME	5344		1
Moseley-Braun, Carol	D-IL	2854		1
Moynihan, Daniel	D-NY	4451		1
Murkowski, Frank	R-AK	6665		
Murray, Patty	D-WA	2621		1
Nickles, Don	R-OK	5754		5
Nunn, Sam	D-GA	3521		2
Packwood, Bob	R-OR	5244		2
Pell, Claiborne	D-RI	4642		1
Pressler, Larry	R-SD	5842		?
Pryor, David	D-AR	2353		2
Reid, Harry	D-NV	3542		1
Riegle, Donald	D-MI	4822		1
Robb, Charles	D-VA	4024		1
Rockefeller, John	D-WV	6472		1
Roth, William V.	R-DE	2441		?
Sarbanes, Paul	D-MD	4524		1
Sasser, Jim	D-TN	3344		1
Shelby, Richard	D-AL	5744		3
Simon, Paul	D-IL	2152		1
Simpson, Alan	R-WY	3424		?
Smith, Robert	R-NH	2841		3
Specter, Arlen	R-PA	4254		1
Stevens, Ted	R-AK	3004		3
Thurmond, Strom	R-SC	5972		5
Wallop, Malcolm	R-WY	6441		3
Warner, John	R-VA	2023		?
Wellstone, Paul	D-MN	5641		1
Wofford, Harris	D-PA	6324		1

Totals: "1" - 47; "1-2" - 5; "2" - 6;

Key: 1? = AA: "Can't see any reason why Senator would vote no, but haven't focused"
1 = yes; 2 = lean yes; 3 = undecided; 4 = lean no; 5 = no
? = "have to check on it."

DETERMINED TO BE AN ADMINISTRATIVE

MARKING INITIALS: M DATE: 9/11/11

2019-0846-5

~~CONFIDENTIAL~~

[Red stamp: CONFIDENTIAL]

SENATOR	ROOM #	PHONE	FAX	AA	SCHEDULER
AKAKA	SH-720	4-6361	4-2126	JAMES SAKAI 6363	PAT HILL 4-1944
BAUCUS	SH-511	4-2651	8-3687	GREG MASTEL 3632	RHONDA VAN DIEST 4370
BENNETT	SD-241	4-5444	4-6717	GREG HOPKINS 1334	TRISH KENT 1348
BIDEN	SR-221	4-5042	4-0139	TED KAUFMAN 3013	MARIANNE BAKER 0122
BINGAMAN	SH-110	4-5521	4-2852	PATRICK VON BARGEN 0175	VIRGINIA WHITE 3803
BOND	SR-293	4-5721	4-7491	WARREN ERDMAN 1538	POLLY CLUTTS 1537
BOREN	SR-453	4-4721	8-3971	DAVID COX 0257	BETH BYRD 1875
BOXER	SH-112	4-3553	8-3789	KAREN OLICK 5596	ROSANNE/HEATHER 8109/9178
BRADLEY	SH-731	4-3224	4-8567	NAN STOCKHOLM 4827/4858	SHEILA COX 8568
BREAUX	SH-516	4-4623	4-4268	9742	SUSIE OWENS 9756
BROWN	SH-716	4-5941	4-6471	JOEL KASSIDAY 0024	SUSAN RILEY 0021
BRYAN	SR-364	4-6244	4-1867	JEAN NEAL 1584	RACHEL LANDAU 2135
BUMPERS	SD-229	4-4843	4-6435	MARY DAVIS 4734	ROSIE SMITH 4730
BURNS	SD-183	4-2644	4-8594	TONY RAMIREZ 2644	KATHY DIDAWICK 2644
BYRD	SH-311	4-3954	4-4025	JOAN DRUMMOND 3751	JENNIFER LAMBERT 2272
CAMPBELL	SR-380	4-5852	4-1933	KEN LANE 2090	JANE WILSON 0507
CHAFEE	SD-567	4-2921	4-4262	DAVID GRISWOLD 6108	DONNA DAVIS
COATS	SR-404	4-5623	8-3924	DAVE GRIBBIN 8746	KAREN PARKER 8724
COCHRAN	SR-326	4-5054	4-9450	MARGO CARLISLE	DORIS WAGLEY 6417
COHEN	SH-322	4-2523	4-2693	BOB TYRER 9239	CINDY FAULKNER 9234
CONRAD	SH-724	4-2043	4-7776	MARY WAKEFIELD 7538	GERI GAGINIS 8041
COVERDELL	SR-200	4-3643	8-3783	EARL MCCLURE 5336	DEB WEST 4763
CRAIG	SH-313	4-2752	4-2573	GREG CASEY 7537	HEATHER HARWELL 1003
D'AMATO	SH-520	4-6542	4-5871	MICHAEL KINSELLA 8344	LECIA CORBISIERO 8345
DANFORTH	SR-249	4-6154	8-3826	ROBERT MCDONALD 1404	JULIE BIESEMEYER 1411
DASCHLE	SH-317	4-2321	4-2047	PETER ROUSE 6487	NANCY ERICKSON 0693
DECONCINI	SH-328	4-4521	4-2302	GENE KARP 2204	NANCY CARCKI 2203
DODD	SR-444	4-2823	4-1083	0341	SIRA BERTÉ 0342
DOLE	SH-141	4-6521	4-6721	DAN STANLEY 6524	YVONNE COSTELLO 8943
DOMENICI	SD-427	4-6621	4-7371	CHARLES GENTRY 7094	ANGELA RAISH 7093
DORGAN	SH-713	4-2551	4-1193	LUCY CALAUTTI 5798	SYLVIA REID 1192
DURENBERGER	SR-154	4-3244	4-9931	RICK EVANS 9470	JULIE HASLER 9468
EXON	SH-528	4-4224	4-5213	GREG PALLAS 5805	ADELE HANSON 5803
FAIRCLOTH	SH-716	4-3154	4-7406	VIC BARFIELD 5039	CELESTE COOK 6205
FEINGOLD	SH-502	4-5323	4-2725	RUTH LAROCQUE 1764	MARY MURPHY 1733/8207
FEINSTEIN	SH-331	4-3841	8-3954	MIKE MCGILL 5415	MARGO SHAUB 9636
FORD	SR-173A	4-4343	4-0046	JIM FLEMING 1160	SHERRY MCCABE 1163
GLENN	SH-503	4-3353	4-7983	MARY JANE VENO 6684	KATHLEEN LONG 7981
GORTON	SH-730	4-3441	4-9393	JACK MCRAE 3605	VICKIE MCQUADE 3591
GRAHAM	SH-524	4-3041	4-2237	BUDDY SHORSTEIN 1548	CAROLINE NEWHALL 2246
GRAMM	SR-370	4-2934	8-2856	RUTH CYMBER	MAUREEN NEMEC 3728
GRASSLEY	SH-135	4-3744	4-6020	BOB LUDWICZAK 0472	MARY JOE ARCHIBALD 0487
GREGG	SR-393	4-3324	4-4952	MARTHA AUSTIN	SHARON CLIFFORD
HARKIN	SH-531	4-3254	4-9369	DAN SMITH 7317	BRENDON COMITO 9260
HATCH	SR-135	4-5251	4-6331	WENDY HIGGINBOTHAM	RUTH CARROLL MONTOKA 9856
HATFIELD	SH-711	4-3753	4-0276	STEVE NOUSEN 8315	BRENDA HART 9889
HEFLIN	SH-728	4-4124	4-3149	STEVE RABY 6606	CORNELIA HORNER 3804
HELMS	SD-403	4-6342	4-7588	DARRYL NIRENBERG 5914	FRANCES HAMPE 1370
HUTCHINSON	SH-703	4-5922	4-0776	JON SAVERCOOL 9764	LINDSEY HOWE 9762
HOLLINGS	SR-125	4-6121	4-4293	DAVID RUDD 6656	MARY WINTON 6664
INOUE	SH-722	4-3934	4-6747	PATRICK DELEON 6043	SALLY WATANABE 6042
JEFFORDS	SH-513	4-5141	4-8330	SUSAN RUSS 7473	TRECIA BICKFORD 5156
JOHNSTON	SH-136	4-5824	4-2952	JOHN LYNN 0088	CHERYL KIMBALL 6773
KASSEBAUM	SR-302	4-4774	4-3514	DAVE BARTEL 3202	JAN BENOVOVITZ 9387
KEMPTHORNE	SD-367	4-6142	4-5893	BRIAN WAIDMANN 2013	SALLE UBERUAGA 5888
KENNEDY	SR-315	4-4543	4-2417	PAUL DONOVAN 2601	STEVE KERRIGAN 4571
KERREY	SH-303	4-6551	4-7645	PAUL JOHNSON 3539	MARY SHERMAN 3393
KERRY	SR-421	4-2742	4-8525	DAVID LEITER 0437	PAT GRAY 1128
KOHL	SH-330	4-5653	4-9787	TED BORNSTEIN 7738	ARLENE BRANCA 1872
LAUTENBERG	SH-506	4-4744	4-9707	EVE LUBALIN 9715	GABE BRENNER 5990

CONFIDENTIAL

<u>SENATOR</u>	<u>ROOM #</u>	<u>PHONE</u>	<u>FAX</u>	<u>AA</u>	<u>SCHEDULER</u>
LEAHY	SR-433	4-4242	4-3595	LUKE ALBEE 2404	KEVIN MCDONALD 4247
LEVIN	SR-459	4-6221	4-1388	GORDON KERR 9115	HELEN GALEN 3319
LIEBERMAN	SH-316	4-4041	4-9750	BILL ANDRESEN 9175	BARBARA CHAPMAN 8785
LOTT	SR-487	4-6253	4-2262	JOHN LUNDY	SUSAN WELLS
LUGAR	SH-306	4-4814	4-7877	MARTY MORRIS 7435	HILARY NEWLIN 7440
MACK	SH-517	4-5274	4-8022	MITCH BAINWOL 6963	BETH WALKER 7287
MATHEWS	SD-506	4-4944	8-3679	ESTIE HARRIS 1953	CAROLINE VON KESSLER 1989
MCCAIN	SR-111	4-2235	8-2862	MARK SALTER	DIANNE MCCLELLAN
MCCONNELL	SR-120	4-2541	4-2499	STEVEN LAW 8293	MARY BARHAM (GUS) 8294
✓ METZENBAUM	SR-140	4-2315	4-6519	JOEL JOHNSON 8920	SHERI SWEITZER 8912
MIKULSKI	SH-709	4-4654	4-1199	STEPHANIE FOSTER 8868	ANN NORTON 8861
MITCHELL	SR-176/S-221	4-5556	4-6603	JOHN HILLEY	PAT SARCONI
MITCHELL PERSONAL OFFICE		4-5344	4-1946	MARY MCALENEY	
✓ MOSELEY-BRAUN	SH-320	4-2854	4-2626	OLGA COREY 8807	KAARIN ANDERSON 5008
MOYNIHAN	SR-464	4-4451	8-3827	ROY KIENTZ 9557	ELEANOR SUNTUM 6864
MURKOWSKI	SH-706	4-6665	4-5301	GREG RENKES 9308	JANET KLINGER 5341
MURRAY	SD-302	4-2621	4-0238	MICHAEL TIMMENY 5299	MARGARET ERSHLER 0217
NICKLES	SH-133	4-5754	4-6008	LES BRORSEN	JANEL GOODE 5764
NUNN	SD-303	4-3521	4-0072	BOB HURT 3526	ROSE JOHNSON 0063
PACKWOOD	SR-259	4-5244	8-3576	ELAINE FRANKLIN 9052	PAM STEVENS 9054
✓ PELL	SR-335	4-4642	4-4680	THOMAS HUGHES 4679	SUSAN CAMERON 4677
PRESSLER	SR-283	4-5842	4-1630	DOUG MILLER 1641	JAN BENSON 1627
PRYOR	SR-267	4-2353	4-8261	FRANK THOMAS 7831	LESLIE CHALMERS 7822
REID	SH-324	4-3542	4-7327	REY MARTINEZ 0492	CAROL CHADBURN 7003
RIEGLE	SD-105	4-4822	4-8834	DAVID KRAWITZ 8837	STEVE FELDMAN 8835
ROBB	SR-493	4-4024	4-8689	TOM LEHNER 8023	TRICIA GROMDIN 8030
ROCKEFELLER	SH-109	4-6472	4-7665	LANE BAILEY 9834	TRICIA WICKENS 9841
ROTH	SH-104	4-2441	4-2805	JOHN DUNCAN 3679	BETTY MARTIN 0464
SARBANES	SH-309	4-4524	4-1651	MARVIN (BUD) MOSS 1697	ELISE GILLETTE 1662
SASSER	SR-363	4-3344	4-8062	JOHN CALLAHAN 9583	LINDA GRAHAM 9578
✓ SHELBY	SH-509	4-5744	4-3416	TOM YOUNG 4034	ANNE CALDWELL 6503
SIMON	SD-462	4-2152	4-0868	JEREMY KARPATKIN 7103	DEIDRE CHRISTENSON 7024
SIMPSON	SD-261	4-3424	4-1315	DON HARDY	LAURIE ROSEN 2708
SMITH	SD-332	4-2841	4-1353	PATRICK PETTEY 8751	JOHN PETTY 8765
SPECTER	SH-530	4-4254	4-1893	BARRY CALDWELL 9012	AUDREY RHODES 9025
STEVENS	SH-522	4-3004	4-2354	LISA SUTHERLAND 5164	DELYNN HENRY 1027
THURMOND	SR-217	4-5972	4-1300	DUKE SHORT 7723	HOLLY RICHARDSON 7722
WALLOP	SR-237	4-6441	4-3230	PATTY MCDONALD 0812	MARY BLASINSKY 0802
WARNER	SR-225	4-2023	4-6295	SUSAN MAGILL 6673	KATHLEEN DORN 4999
✓ WELLSTONE	SH-717	4-5641	4-8438	KARI MOE 8447	DOROTHY MCPKAK 2159
WOFFORD	SD-521	4-6324	4-4161	STEVE SCHUTT 7756	LISA CUTLER 0605

UPDATED: February 23, 1994 8:48am
SENLIST

GOULD NOMINATION -- FINAL TALLY

SENATOR	STATE PARTY	CONTACT NUMBER	COMMENTS/ STAFFING	1-5
Akaka, Daniel	D-HI	6361		AYE
Baucus, Max	D-MT	2651		AYE
Bennett, Robert	R-UT	5444		NO
Biden, Joseph	D-DE	5042		AYE
Bingaman, Jeff	D-NM	5521		AYE
Bond, Christopher	R-MO	5721		NO
Boren, David	D-OK	4721		AYE
Boxer, Barbara	D-CA	3553		AYE
Bradley, Bill	D-NJ	3224		AYE
Breaux, John	D-LA	4623		AYE
Brown, Hank	R-CO	5941		NO
Bryan, Richard	D-NV	6244		AYE
Bumpers, Dale	D-AR	4843		AYE
Burns, Conrad	R-MT	2644		NO
Byrd, Robert	D-WV	3954		AYE
Campbell, Ben Night.	D-CO	5852		AYE
Chafee, John H.	R-RI	2921		AYE
Coates, Dan	R-IN	5623		NO
Cochran, Thad	R-MS	5054		NO
Cohen, William	R-ME	2523		NO
Conrad, Kent	D-ND	2043		AYE
Coverdell, Paul	R-GA	3643		NO
Craig, Larry	R-ID	2752		NO
D'Amato, Alfonse	R-NY	6542		NO
Danforth, John	R-MO	6154		NO
Daschle, Thomas	D-SD	2321		AYE
DeConcini, Dennis	D-AZ	4521		AYE
Dodd, Christopher	D-CT	2823		AYE
Dole, Bob	R-KS	6521		NO
Domenici, Pete	R-NM	6621		NO
Dorgan, Bryon	D-ND	2551		AYE
Durenberger, Dave	R-MN	3244		

Exon, J. James	D-NE	4224		AYE
Faircloth, D. (Lauch)	R-NC	3154		NO
Feingold, Russell	D-WI	5323		AYE
Feinstein, Dianne	D-CA	3841		AYE
Ford, Wendell	D-KY	4343		AYE
Glenn, John	D-OH	3353	Will be absent!!!	
Gorton, Slade	R-WA	3441		NO
Graham, Bob	D-FL	3041		AYE
Gramm, Phil	R-TX	2934		NO
Grassley, Charles	R-IA	3744		NO
Gregg, Judd	R-NH	3324		NO
Harkin, Tom	D-IA	3254		AYE
Hatch, Orrin	R-UT	5251		NO
Hatfield, Mark	R-OR	3753		AYE
Heflin, Howell	D-AL	4124		AYE
Helms, Jesse	R-NC	6342		NO
Hollings, Ernest	D-SC	6121		AYE
Hutchison, Kay B.	R-TX	5922		NO
Inouye, Daniel	D-HI	3934		AYE
Jeffords, James	R-VT	5141		AYE
Johnston, J. Bennett	D-LA	5824		AYE
Kassebaum, Nancy L.	R-KS	4774		NO
Kempthorne, Dirk	R-ID	6142		NO
Kennedy, Edward	D-MA	5441		AYE
Kerrey, J. Robert	D-NE	6551		AYE
Kerry, John F.	D-MA	2742		AYE
Kohl, Herb	D-WI	5653		AYE
Lautenberg, Frank	D-NJ	4744		AYE
Leahy, Patrick	D-VT	4242		AYE
Levin, Carl	D-MI	6221		AYE
Lieberman, Joseph	D-CT	4041		AYE
Lott, Trent	R-MS	6253		NO
Lugar, Richard	R-IN	4814		NO
Mack, Connie	R-FL	5274		NO
Mathews, Harlan	D-TN	4944		AYE

McCain, John	R-AZ	2235		NO
McConnell, Mitch	R-KY	2541		NO
Metzenbaum, Howard	D-OH	2315		AYE
Mikulski, Barbara	D-MD	4654	Will be absent!!!	
Mitchell, George	D-ME	5344		AYE
Moseley-Braun, Carol	D-IL	2854		AYE
Moynihan, Daniel	D-NY	4451		AYE
Murkowski, Frank	R-AK	6665		NO
Murray, Patty	D-WA	2621		AYE
Nickles, Don	R-OK	5754		NO
Nunn, Sam	D-GA	3521		AYE
Packwood, Bob	R-OR	5244		AYE
Pell, Claiborne	D-RI	4642		AYE
Pressler, Larry	R-SD	5842		NO
Pryor, David	D-AR	2353	Will be absent!!	
Reid, Harry	D-NV	3542		AYE
Riegle, Donald	D-MI	4822		AYE
Robb, Charles	D-VA	4024		AYE
Rockefeller, John	D-WV	6472		AYE
Roth, William V.	R-DE	2441		NO
Sarbanes, Paul	D-MD	4524		AYE
Sasser, Jim	D-TN	3344		AYE
Shelby, Richard	D-AL	5744		AYE
Simon, Paul	D-IL	2152		AYE
Simpson, Alan	R-WY	3424		NO
Smith, Robert	R-NH	2841		NO
Specter, Arlen	R-PA	4254		AYE
Stevens, Ted	R-AK	3004		NO
Thurmond, Strom	R-SC	5972		NO
Wallop, Malcolm	R-WY	6441		NO
Warner, John	R-VA	2023		NO
Wellstone, Paul	D-MN	5641		AYE
Wofford, Harris	D-PA	6324		AYE

Totals: 58 - AYE 38 - NO

GOULD NOMINATION -- last revised 2/22/94

SENATOR	STATE PARTY	CONTACT NUMBER	STAFF ASSIGNED	COMMENTS/ STAFFING	1-5
Akaka, Daniel	D-HI	6361	Paul Cardus		
Baucus, Max	D-MT	2651	Mark Smith		
Bennett, Robert	R-UT	5444	Jim Barker		
Biden, Joseph	D-DE	5042	Ted Kaufman		
Bingaman, Jeff	D-NM	5521	Mitchell Foushee		
Bond, Christopher	R-MO	5721	Julie Dammann		
Boren, David	D-OK	4721	Joe Harroz		
Boxer, Barbara	D-CA	3553	Liz Tankersley		
Bradely, Bill	D-NJ	3224	Trudy Vincent		
Breaux, John	D-LA	4623	Marcia Jones		
Brown, Hank	R-CO	5941	Roxie Burris		
Bryan, Richard	D-NV	6244	Andrew Vermilye	PR <i>Heads held to fines</i>	
Bumpers, Dale	D-AR	4843	Richard Glick		
Burns, Conrad	R-MT	2644	Tom Fulton		
Byrd, Robert	D-WV	3954	Joan Drummond	PR	
Campbell, Ben Night.	D-CO	5852	Dan McAuliffe		
Chafee, John H.	R-RI	2921	Christine Ferguson		
Coates, Dan	R-IN	5522	Sharon Soderstrom		
Cochran, Thad	R-MS	5054	Jack Hoggard		
Cohen, William	R-ME	2523	Robert Savitt		
Conrad, Kent	D-ND	2043	Kent Hall		
Coverdell, Paul	R-GA	3643	Therese Delgadillo		
Craig, Larry	R-ID	2752	Brooke Roberts		
D'Amato, Alfonse	R-NY	6542	Phillip Bechtel		
Danforth, John	R-MO	6154	Peter Leibold		
Daschle, Thomas	D-SD	2321	Laura Petrou		
DeConcini, Dennis	D-AZ	4521	Mary Hawkins		
Dodd, Christopher	D-CT	2823	Diana Huffman		
Dole, Bob	R-KS	6521	Greg Schnacke		
Domenici, Pete	R-NM	6621	Kay Davies		

Dorgan, Bryon	D-ND	2551	Doug Norell	PR	
Durenberger, Dave	R-MN	3244	Pat Eveland		
Exon, J. James	D-NE	4224	Jeff Conway		
Faircloth, D. (Lauch)	R-NC	3154	John Preyer		
Feingold, Russell	D-WI	5323	Susanne Martinez		
Feinstein, Dianne	D-CA	3841	Susy Elfving		
Ford, Wendell	D-KY	4343	James Fleming		
Glenn, John	D-OH	3353	Ron Grimes		
Gorton, Slade	R-WA	3441	Sam Spina		
Graham, Bob	D-FL	3041	Leslie Woolley		
Gramm, Phil	R-TX	2934	Richard Ribbentrop		
Grassley, Charles	R-IA	3744	Ken Cunningham		
Gregg, Judd	R-NH	3324	Pat Rich		
Harkin, Tom	D-IA	3254	Peter Reinecke		
Hatch, Orrin	R-UT	5251	Evan Liddiard		
Hatfield, Mark	R-OR	3753	Sue Hildick		
Heflin, Howell	D-AL	4124	Mansel Long		
Helms, Jesse	R-NC	6342	Darryl Nirenberg		
Hollings, Ernest	D-SC	6121	Joab Lesesne		
Hutchison, Kay B.	R-TX	5922	Lalon Peale		
Inouye, Daniel	D-HI	3934	Margaret Cummisky		
Jeffords, James	R-VT	5141	Mark Powden		
Johnston, J. Bennett	D-LA	5824	Laura Hudson		
Kassebaum, Nancy L.	R-KS	4774	Ed Bolen		
Kempthorne, Dirk	R-ID	6142	William Fawcett		
Kennedy, Edward	D-MA	5441	Susan Fox		
Kerrey, J. Robert	D-NE	6551	Sheila Murphy		
Kerry, John F.	D-MA	2742	Scott Bunton		
Kohl, Herb	D-WI	5653	Sherry Hayes		
Lautenberg, Frank	D-NJ	4744	Ian Spatz		
Leahy, Patrick	D-VT	4242	Luke Albee	PR	/
Levin, Carl	D-MI	6221	Chuck Cutolo	PR	/

Lieberman, Joseph	D-CT	4041	William Bonvillian	PR	
Lott, Trent	R-MS	6253	Sam Adcock		
Lugar, Richard	R-IN	4814	Dan Diller		
Mack, Connie	R-FL	5274	Robert Mottice		
Mathews, Harlan	D-TN	4944	Jim Hall		
McCain, John	R-AZ	2235	Mark Buse		
McConnell, Mitch	R-KY	2541	Steven Law		
Metzenbaum, Howard	D-OH	2315	Richard Woodruff		
Mikulski, Barbara	D-MD	4654	George Leventhal		
Mitchell, George	D-ME	5344	Robert Rozen		
Moseley-Braun, Carol	D-IL	2854	Bill Mattea		
Moynihan, Daniel	D-NY	4451	Mark Patterson		
Murkowski, Frank	R-AK	6665	Dave Guhse		
Murray, Patty	D-WA	2621	Carloe Grunberg		
Nickles, Don	R-OK	5754	Bret Bernhardt		
Nunn, Sam	D-GA	3521	Jonathan Rief		
Packwood, Bob	R-OR	5244	Jill Luckett		
Pell, Claiborne	D-RI	4642	Orlando Potter		
Pressler, Larry	R-SD	5842	Robert Hoffman		
Pryor, David	D-AR	2353	Kirk Robertson		
Reid, Harry	D-NV	3542	Larry Werner		
Riegle, Donald	D-MI	4822	Joan Huffer		
Robb, Charles	D-VA	4024	Ridge Schuyler		
Rockefeller, John	D-WV	6472	Tamera Stanton		
Roth, William V.	R-DE	2441	Mark Mullet		
Sarbanes, Paul	D-MD	4524	Julie Kehrli	PR	/
Sasser, Jim	D-TN	3344	Jeff Lane		
Shelby, Richard	D-AL	5744	Stewart. Hall		
Simon, Paul	D-IL	2152	Vicki Otten		
Simpson, Alan	R-WY	3424	Brent Erickson		
Smith, Robert	R-NH	2841	Tom Hodson		
Specter, Arlen	R-PA	4254	Douglas Loon		
Stevens, Ted	R-AK	3004	Earl Comstock		

Thurmond, Strom	R-SC	5972	Mary Fritsche		
Wallop, Malcolm	R-WY	6441	Michael Hoon		
Warner, John	R-VA	2023	Mike Brown	PR	
Wellstone, Paul	D-MN	5641	Mike Epstein		
Wofford, Harris	D-PA	6324	John Gomperts		

wd

PAUL -

I CIRCLED THE SENS. WE
THOUGHT YOU SHOULD CALC. (YOU
ONLY HAVE 8, I HAVE 36). LET'S
SHOOT FOR TRYING TO HAVE THIS
DONE BY FRIDAY AROUND NOON, SO
I CAN GET SOME TEMP. READ THIS
WEEK. THANKS A BUNCH, ERIC

GOULD NOMINATION

WEAK DEMOCRATS (2 = LEAN YES; 3 = UNDECIDED; 4 = LEAN NO)

AKAKA (HADN'T BEEN ABLE TO CHECK WITH SENATOR) *FORD - 3*
BOREN (3)
BREAUX (3)
BRYAN (1-2)
EXON (1-2)
GLENN (1-2)
KOHL (1-2)
MATHEWS (2 - SAID HE WOULDN'T SINK GOULD, BUT MIGHT VOTE NO IF
VOTE IS COMFORTABLE)
NUNN (2)
PRYOR (2)
ROBB (2)
SHELBY (3)

PAUL C., PAUL R. AND ERIC S. HAVE CALLS INTO:

BYRD
CONRAD
DORGAN
HOLLINGS
INOUE
LIEBERMAN
MOYNIHAN
REID

(OFFICES HAVE BEEN CALLED AT LEAST TWICE; MOST SAY THAT THEY
HAVE NOT BEEN ABLE TO FOCUS ON GOULD WITH BAL BUDGET AMEND.)

*47 - 1's
5 - 1-2's
6 - 2's*

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GOULD NOMINATION -- last revised 2/28/94

SENATOR	STATE PARTY	CONTACT NUMBER	COMMENTS/ STAFFING	1-5
Akaka, Daniel	D-HI	6361		1-2?
Baucus, Max	D-MT	2651		1
Bennett, Robert	R-UT	5444		
Biden, Joseph	D-DE	5042		1?
Bingaman, Jeff	D-NM	5521		1
Bond, Christopher	R-MO	5721		3
Boren, David	D-OK	4721	Sen. has not made decision	U3
Boxer, Barbara	D-CA	3553		1
Bradely, Bill	D-NJ	3224		1
Breaux, John	D-LA	4623		3
Brown, Hank	R-CO	5941		4
Bryan, Richard	D-NV	6244		1-2
Bumpers, Dale	D-AR	4843		1
Burns, Conrad	R-MT	2644		3
Byrd, Robert	D-WV	3954		?
Campbell, Ben Night.	D-CO	5852		1
Chafee, John H.	R-RI	2921		2-3
Coates, Dan	R-IN	5623		
Cochran, Thad	R-MS	5054		
Cohen, William	R-ME	2523		
Conrad, Kent	D-ND	2043		?
Coverdell, Paul	R-GA	3643		
Craig, Larry	R-ID	2752		5
D'Amato, Alfonse	R-NY	6542		
Danforth, John	R-MO	6154		
Daschle, Thomas	D-SD	2321		1?
DeConcini, Dennis	D-AZ	4521		1
Dodd, Christopher	D-CT	2823		1
Dole, Bob	R-KS	6521		
Domenici, Pete	R-NM	6621		4
Dorgan, Bryon	D-ND	2551		?
Durenberger, Dave	R-MN	3244		1

Exon, J. James	D-NE	4224		?1-2
Faircloth, D. (Lauch)	R-NC	3154		
Feingold, Russell	D-WI	5323		1
Feinstein, Dianne	D-CA	3841		1
Ford, Wendell	D-KY	4343		?
Glenn, John	D-OH	3353		1-2
Gorton, Slade	R-WA	3441		
Graham, Bob	D-FL	3041		1
Gramm, Phil	R-TX	2934		
Grassley, Charles	R-IA	3744		
Gregg, Judd	R-NH	3324		
Harkin, Tom	D-IA	3254		1
Hatch, Orrin	R-UT	5251		
Hatfield, Mark	R-OR	3753		1
Heflin, Howell	D-AL	4124		1?
Helms, Jesse	R-NC	6342		5
Hollings, Ernest	D-SC	6121		?
Hutchison, Kay B.	R-TX	5922		
Inouye, Daniel	D-HI	3934		?
Jeffords, James	R-VT	5141		1
Johnston, J. Bennett	D-LA	5824		1
Kassebaum, Nancy L.	R-KS	4774		5
Kempthorne, Dirk	R-ID	6142		3
Kennedy, Edward	D-MA	5441		1
Kerrey, J. Robert	D-NE	6551		1?
Kerry, John F.	D-MA	2742		1?
Kohl, Herb	D-WI	5653		1/2?
Lautenberg, Frank	D-NJ	4744		1
Leahy, Patrick	D-VT	4242		1
Levin, Carl	D-MI	6221		1
Lieberman, Joseph	D-CT	4041		1 /
Lott, Trent	R-MS	6253		?
Lugar, Richard	R-IN	4814		3
Mack, Connie	R-FL	5274		5
Mathews, Harlan	D-TN	4944		2

McCain, John	R-AZ	2235		
McConnell, Mitch	R-KY	2541		3
Metzenbaum, Howard	D-OH	2315		1
Mikulski, Barbara	D-MD	4654		1
Mitchell, George	D-ME	5344		1
Moseley-Braun, Carol	D-IL	2854		1
Moynihan, Daniel	D-NY	4451		?
Murkowski, Frank	R-AK	6665		
Murray, Patty	D-WA	2621		1
Nickles, Don	R-OK	5754		
Nunn, Sam	D-GA	3521		2
Packwood, Bob	R-OR	5244		2
Pell, Claiborne	D-RI	4642		1
Pressler, Larry	R-SD	5842		?
Pryor, David	D-AR	2353		2
Reid, Harry	D-NV	3542		?
Riegle, Donald	D-MI	4822		1
Robb, Charles	D-VA	4024		2
Rockefeller, John	D-WV	6472		1
Roth, William V.	R-DE	2441		?
Sarbanes, Paul	D-MD	4524		1
Sasser, Jim	D-TN	3344		1
Shelby, Richard	D-AL	5744		?
Simon, Paul	D-IL	2152		1
Simpson, Alan	R-WY	3424		?
Smith, Robert	R-NH	2841		3
Specter, Arlen	R-PA	4254		3-2
Stevens, Ted	R-AK	3004		3
Thurmond, Strom	R-SC	5972		5
Wallop, Malcolm	R-WY	6441		3
Warner, John	R-VA	2023		?
Wellstone, Paul	D-MN	5641		1
Wofford, Harris	D-PA	6324		1

Key: 1? = AA: "Can't see any reason why Senator would vote no, but haven't focused"
1 = yes; 2 = lean yes; 3 = undecided; 4 = lean no; 5 = no
? = "have to check on it."

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

825-A Hart Senate Office Bldg.
Washington, D.C. 20510
(202) 228-2491 FAX (202) 228-1010

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Dorann H. Gunderson

December 7, 1993



Mr. Richard Sullivan, Director
Business Leadership Forum
Democratic National Committee
430 S. Capitol St., S.E. 3rd Fl.
Washington, D.C. 20003

Dear Mr. Sullivan:

Thank you for meeting with me November 17. You said you would pass on a memo to DNC chairman David Wilhelm concerning the possible ways the DNC can participate in the Franklin Delano Roosevelt Memorial capital campaign drive for \$10 million in private funds.

We discussed:

- 1 -- FDR Memorial Commission access to selected high donors of the DNC.
- 2 -- Contribution by the DNC, enabling the DNC donor recognition at the Memorial site.

I would like to suggest an additional method for DNC participation. The fiftieth anniversary of FDR's death occurs in 1995. The commemoration of this historic anniversary offers the occasion for DNC fundraising events across the country. It seems highly appropriate that the construction fund for the national Memorial for President Roosevelt might share in the proceeds from these events.

"... we Americans everywhere must and shall choose the path of social justice ... the path of faith, the path of hope and the path of love toward our fellow men."

Franklin Delano Roosevelt
October 2, 1932

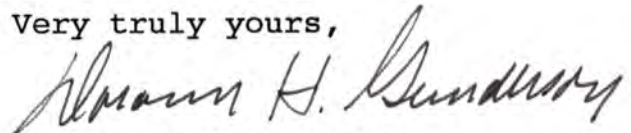
Richard Sullivan
December 7, 1993

Page 2

As I told you, President Clinton now serves as the Honorary Chairman for the Franklin Delano Roosevelt Memorial Commission. The President expressed to Senators Inouye and Levin his special interest in presiding at the dedication for the FDR Memorial in 1996. This projected completion date can only be realized through a successful capital campaign.

Thank you for help in this matter.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Dorann H. Gunderson".

Dorann H. Gunderson

cc: Senator Daniel K. Inouye
Senator Mark O. Hatfield
Senator Carl Levin
David B. Roosevelt
John Podesta

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION
WASHINGTON, D.C.
SH-825-A Hart Senate Office Bldg.
Washington, D.C. 20510



Mr. John D. Podesta
Assistant to the President
Staff Secretary
The White House
Washington, D.C. 20500



U.S. DEPARTMENT OF LABOR

White House Liaison
200 Constitution Avenue, N.W.
Washington, D.C. 20210
Tel: 202-219-7464
Fax: 202-219-7965

Date: 1-28-94

To: Paul Richard / John Podesta

Fax Number: 456-2883

From: Richard Scrandes

Number of Pages: 4
(including cover sheet)

☐ Action
☐ Approval
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COMMENTS:

ROUTE TO

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DLR No. 18

Labor Report

JANUARY 28, 1994 • FRIDAY

WASHINGTON, D.C.

Today's Summary and Analysis

NLRB NOMINEE GOULD ACCUSES CRITICS OF 'SCURRILOUS LIES'

Stanford University Law Professor Gould, President Clinton's choice as chairman of the National Labor Relations Board, lashes out at opponents of

his nomination, describing many characterizations of his academic writings and positions on labor reform issues as "falsehoods, lies, and babble." Speaking to a labor law conference in Clearwater, Fla., Gould says the campaign to defeat his Senate nomination as NLRB chairman is an "inside-the-Beltway job" that has included personal attacks upon him.

"I believe that my views, my experience, have been lost in the babble of scurrilous lies that have been told about me both professionally and personally over these past eight or nine months," Gould says, adding that although he has kept silent on the matter on the advice of the Clinton administration, he has decided to counterattack because of the continued "drum beat" against him. But the nominee emphasizes that he continues to receive the support of the administration and predicts eventual Senate confirmation. "These guys are a sideshow," he says of his critics.

Representatives of the Labor Policy Association and the National Right To Work Committee—the two leading targets of Gould's criticism—respond that their own opposition is based on the nominee's writings and that there have been no personal attacks on the nominee. "We would welcome the opportunity to debate" the issues with Gould, says an LPA official.

-- page AA - 1

HEALTH COSTS MODERATE BUT OUTLOOK UNCERTAIN

Judging by the latest government price and benefit figures, the moderation of health care costs is holding, but private economists aren't sure about

the outlook for further improvement. Analysts try to explain the deceleration that some of them point out can be traced not only to the threat of reform, but also to the cost-control efforts in the private business sector.

Medical care costs—as measured by the consumer price index—slowed to a 5.4 percent rise in 1993 after jumping by 9.6 percent as recently as 1990. Compensation data shows a moderation also, with benefit costs rising by 4.6 percent last year, their smallest advance in six years.

"There is no question that fear of reform has been a factor," says Donald Ratajczak, director of Georgia State University's Economic Forecasting Center. He and other analysts who

1-28-94

(No. 18) AA - 1

BNA's Daily Reporter System

DAILY LABOR REPORT

LEADING THE NEWS

**NLRB NOMINEE GOULD CHARGES CRITICS
ATTACKED HIM WITH 'SCURRILOUS LIES'**

CLEARWATER, Fla.—Stanford University Law Professor William B. Gould IV, President Clinton's choice as chairman of the National Labor Relations Board, Jan. 27 lashed out at opponents of his nomination, describing many characterizations of his academic writings and positions on labor reform issues as "falsehoods, lies, and babble."

In a speech at a labor law conference, Gould also said a campaign to defeat his Senate nomination as NLRB chairman was an "inside-the-Beltway job" that has included personal attacks upon him.

Gould, who is awaiting a Senate vote on his nomination, said the attacks were contained in reports made to Republican members of the Senate Labor and Human Resources Committee.

"I believe that my views, my experience, have been lost in the babble of scurrilous lies that have been told about me both professionally and personally over these past eight or nine months," Gould told attendees of an annual conference sponsored by the Stetson University College of Law.

Gould said he has kept silent on the matter on the advice of the Clinton administration, but that he has decided to counterattack because of the continued "drum beat" against him.

Widespread Criticism From Management

The veteran Stanford University law professor has been the subject of widespread criticism from the management community—much of it based on the ideas expressed in his recently published book, *Agenda for Reform*.

During confirmation hearings before the Senate Labor and Human Resources Committee last October, Gould drew a line between his role as an academic proponent of labor law reform and his position as chairman of the country's chief labor law enforcement agency (190 DLR AA-1, 10/4/93).

"Both as an arbitrator and as chairman of the board, my role is to decide cases based upon the facts and relevant law," he told the committee. "In neither capacity is the fashioning of legislation part of the job description. That is the appropriate role for Congress."

The committee approved Gould on a party-line vote later in October. But Republican concern over both Gould and the potential nominee for the final vacancy on the five-member panel held up a confirmation vote by the full Senate. That concern appeared to be assuaged earlier this week, when the administration agreed with the Republicans' choice of Washington, D.C., management attorney Charles Cohen to the seat (16 DLR A-1, 1/26/94). The official announcement of Cohen's nomination is expected imminently, an administration source said Jan. 27.

Gould Attacks Management Groups

In his Florida remarks, Gould leveled his sharpest criticism against the National Right to Work Committee and the Labor Policy Association, which he accused of mischaracterizing his legal writings and of making errors on elementary U.S. labor law.

Gould specifically criticized an analysis of his writings by the Labor Policy Association, which he said, took the position that, as NLRB chairman, he would argue for reversal of the

AA - 2 (No. 18)

LEADING THE NEWS

(DLR) 1-28-94

U.S. Supreme Court's 1958 decision in *NLRB v. Borg-Warner Corp.*, which draws a distinction between mandatory and permissive subjects of bargaining.

Since the Supreme Court has addressed the issue, Gould said, the decision applies to the NLRB. LPA's analysis "would get an F grade in the first year of any accredited law school in the United States," Gould said. "These views... contain a basic misunderstanding about not simply labor law and not simply the legal system in the United States. It's no wonder that they can't get my views right."

Gould declined to elaborate on the alleged personal attacks made against him, when he spoke to BNA following his formal remarks. But he promised that he would "have more to say" on the matter after his confirmation to the board.

He emphasized that he continues to have the full support of the White House and predicted he eventually will be confirmed.

Gould told BNA the attacks do not accurately reflect his standing among business and management groups, among whom he said he generally enjoys broad-based support. But he said the attacks on his nomination have had an impact and have drawn attention away from the positive steps he would take as board chairman.

"These guys are a sideshow. But they are a sideshow that has been able to capture the public's attention through the press," he said.

'Welcome the Opportunity' for Debate

Asked to comment on Gould's criticism, Jeffrey McGuinness, president of the Labor Policy Association, said the group "would welcome the opportunity to debate" issues with the chairman-designate.

"Our analysis of Professor Gould's writings is based on quotations from his book, *Agenda for Change*," McGuinness said. "We continue to be surprised at the vehemence of his reaction when hearing his own ideas read back to him."

An official of the National Right To Work Committee expressed surprise that Gould would speak out prior to his confirmation.

"There have been no personal attacks on him," said Stephen Goodrick, vice president for communications at the committee. Gould "has compiled a lifetime record of support for compulsory unionism and disdain for worker rights. That is the focus of this criticism."

Goodrick said the group would continue to "absolutely oppose" the nomination, but said he did not know what impact the nominee's latest comments would have.

End of Section

THE WHITE HOUSE
WASHINGTON

January 24, 1994

John:

I spoke with Bill Gould over the weekend. He suggests the following for the article we discussed on Friday:

Lea VanderVelde, Iowa ★
Cornelius Peck, Washington
Wayne Estes, Pepperdine (conservative)
Samuel Estreicher, NYU (conservative)
James Alleson, SUNY-Buffalo (critical legal studies, so may not be appropriate)
Gary Minda, (critical legal studies)
John Pemberton, USF
Jayne Zanglien, Texas Tech
Florian Bartosic, UC, Davis
Ken Dau-Schmidt, Indiana, Bloomington

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- ① Kennedy re Cohen back tapes.
② details almost 4 years ^{day} 1/2 a week
\$ 55 a week
filed IRS form in Dec. to get
an ID and clean things up.
disclosed in Huston

from the office of

*Senator Edward M. Kennedy
of Massachusetts*

For Immediate Release

October 1, 1993

Contact: Theresa Bourgeois
Kevin Winston
202/224-4781

**STATEMENT OF SENATOR EDWARD M. KENNEDY AT THE
SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES
HEARING ON THE NOMINATION OF WILLIAM B. GOULD IV
TO BE CHAIRMAN OF THE NATIONAL LABOR RELATIONS BOARD**

The National Labor Relations Board is a small agency but its mission is an essential one -- not only for the parties and advocates appearing before it, but also to the larger American society as a whole. It is the agency we depend on to enforce the laws that bring stability to our system of industrial relations.

Every nominee to the National Labor Relations Board who comes before this Committee brings a perspective that is informed by the nominee's own experience. In recent years, many were management lawyers. Others had been in government service prior to their being nominated. Few, if any, have had the range of experience that Bill Gould will bring to this position.

He has the distinction of having been a practitioner on all sides of labor issues.

He has represented management for three years at a distinguished law firm in New York City. He has represented the United Auto Workers in Detroit for a year. For two years, he was an attorney for the National Labor Relations Board, assisting and drafting Board decisions for then Chairman Frank McCulloch and Member Howard Jenkins, both of whom were originally appointed by President Kennedy and served long and respected terms at the Board. The varied experience he gained in each of these roles will give him a unique and rich perspective as Chairman of the Board.

In addition to this extensive background as a practitioner, for the past 25 years he has worked as an academic and an arbitrator, and this service has added immensely to his wealth of knowledge and experience. Professor Gould has taught labor law to hundreds of law students; his research and writings have earned him a distinguished chair at Stanford Law School, one of the most prestigious law schools in the country. Professor Gould could have confined his activities to Stanford. Instead, he chose to become active as an arbitrator and to assist labor and management in reaching amicable resolutions of their disputes.

Professor Gould's arbitration experience is probably the best indicator of how he will perform in the role of Member and Chairman of the National Labor Relations Board. He has sat as a sole arbitrator on cases and together with the labor and management representatives, as the neutral member of tripartite arbitration panels. He has sat on numerous grievance arbitration cases deciding whether employees should be disciplined under the terms of the contract and the custom of the shop floor and whether various management or union acts violated the parties' collective bargaining agreement. As an "interest" arbitrator, he has had to make difficult choices as to the terms of the contract he should impose when labor and management could not agree on those terms themselves. Over and over, both labor and management have placed their trust in Bill Gould to resolve their disputes. That is the most persuasive evidence the Senate could have that Bill Gould will be a fair, impartial and judicious Chairman of the National Labor Relations Board.

President Clinton has given us an excellent nominee to the National Labor Relations Board. In addition, he has a lifelong love of baseball and the Boston Red Sox. I hope he will spend at least a short time this morning sharing with us the experience of resolving disputes among the managers and players. He appears to be unscathed from those disputes. We have received letters praising his impartiality from representatives of both sides.

Bill Gould has the rare combination of experience, independence, impartiality and balance which will make him an outstanding member and Chair of the National Labor Relations Board.

United States Senate

WASHINGTON, DC 20510-0504

SENATOR DIANNE FEINSTEIN

INTRODUCTION OF PROFESSOR WILLIAM B. GOULD
NOMINEE, CHAIRPERSON OF THE NATIONAL LABOR RELATIONS BOARD

Labor & Human Resources Committee

October 1, 1993

It gives me great pleasure to introduce a distinguished law professor from my alma mater, Professor William Gould, who has been nominated to chair the National Labor Relations Board.

His scholarly pursuits and practical experience in labor law prepare him well for the challenges facing labor and management as they enter a new era of cooperation to improve our country's competitiveness and our workers' living standards.

Professor Gould has been a faculty member at Stanford Law School since 1972 and has taught as a visiting professor at Harvard Law School and a number of renowned foreign institutions, including Cambridge University and the University of Tokyo.

He has written more than 50 articles on labor issues for law journals and has authored six books. His diverse interest in and knowledge of labor relations is reflected in his books:

A Primer on American Labor Law,
Black Workers in White Unions: Job Discrimination
in the United States,
Japan's Reshaping of American Labor Law,
Strikes, Dispute Procedures and Arbitration: Essays on
Labor Law.

In his most recent book, Agenda for Reform: The Future of Employment Relationships and the Law, Professor Gould has laid out an ambitious plan for revitalizing labor-management relations and reforming the National Labor Relations Board. He is a firm believer in worker-management cooperation and suggests that labor law should be amended to encourage employee-involvement teams and resolution of disputes without federal or state intervention.

Professor Gould has been a member of the National Academy of Arbitrators since 1970 and is often praised by both labor and management when arbitrating or mediating disputes. He has been involved in the resolution of more than 200 disputes, including negotiations between players and management in our national pastime, baseball.

His equitable approach is rooted in his experience working for both labor and management. In the 1960s, he was Assistant General Counsel for the United Auto Workers in Detroit; later he represented management at the New York firm Battle, Fowler, Stokes & Kheel.

Professor Gould has worked as an attorney for the National Labor Relations Board.

It is my honor this morning to introduce my fellow Californian, a distinguished scholar and lawyer, and the nominee to lead the National Labor Relations Board - William Gould.

Thank you.

BARBARA BOXER
CALIFORNIA

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS

COMMITTEE ON BANKING,
HOUSING, AND URBAN AFFAIRS

COMMITTEE ON THE BUDGET

1700 MONTGOMERY STREET
SUITE 240
SAN FRANCISCO, CA 94111

2250 EAST IMPERIAL HIGHWAY
SUITE 545
EL SEGUNDO, CA 90245

United States Senate

HART SENATE OFFICE BUILDING
SUITE 112
WASHINGTON, DC 20510-0505

INTRODUCTORY REMARKS BY SEN. BARBARA BOXER
Nomination of William Gould
as Chairman of the National Labor Relations Board
Before the Labor and Human Resources Committee
Oct. 1, 1993

I am delighted to have the opportunity today to introduce to you William Gould IV, the President's nominee to chair the National Labor Relations Board. My delight does not stem from the mere fact he is a fellow Californian but from the intelligence and sense of fairness that he will bring to the National Labor Relations Board.

You will hear a lot about Mr. Gould and his views -- he is a prolific author of many scholarly and popular press articles -- but the one theme that stands out is his fundamental belief in the strengths, for both management and labor, of democracy in the workplace.

A member of the National Academy of Arbitrators, Mr. Gould has presided over 200 arbitration cases in nearly a quarter of a century. He was first admitted to the Academy at the age of 33, one of the youngest members ever to join. That broad experience has taught to find the delicate balance between competing interests.

He realizes the critical role labor-management cooperation will play as our industries face the restructuring needed to flourish in the international economy. He supports easing restrictions preventing companies from forming more labor-management committees to work out their differences before they lead to strikes and in order to promote workplace efficiencies.

He knows, as a baseball fan and as an arbitrator in the 1992 salary disputes in Major League Baseball, that management cannot hit a home run without players willing to run the bases.

A Stanford law professor since 1972, Mr. Gould has also studied all aspects of our labor laws and their effects on this nation. Within this single nomination, you have combined the independence of the scholar and the practical experience of the negotiator.

I think the comments of a Bay Area lawyer quoted in a story on Mr. Gould in the San Francisco Chronicle summed it up the best when he said: "What you're going to see is somebody whose fundamental interest is protecting employee rights, but that's counterbalanced by the reality that if you don't have employers you don't have employees."

Thank you, Mr. Chairman.

**STATEMENT BY REP. ANNA G. ESHOO
BEFORE THE
SENATE LABOR AND HUMAN RESOURCES COMMITTEE
OCTOBER 1, 1993**

***MR. CHAIRMAN, I WOULD LIKE TO
SUBMIT MY STATEMENT FOR THE
RECORD AND REQUEST FIVE DAYS TO
REVISE AND EXTEND MY REMARKS.**

***MR. CHAIRMAN, I HAVE THE GREAT
PLEASURE OF INTRODUCING TO YOU
MR. WILLIAM GOULD, THE CHARLES A.
BEARDSLEY PROFESSOR OF LAW AT
STANFORD UNIVERSITY AND ONE OF
THE TOP LEGAL SCHOLARS IN OUR
NATION.**

***HIS ACADEMIC CREDENTIALS ARE FAR
TOO NUMEROUS FOR ME TO
ENUMERATE -- SUFFICE IT TO SAY THAT
HIS IMPECCABLE RECORD SPEAKS FOR
ITSELF.**

***THROUGHOUT HIS DISTINGUISHED
CAREER, PROFESSOR GOULD HAS BEEN
A PROMINENT MEDIATOR, WHICH IS
CRITICAL FOR ANY CHAIRMAN OF THE
NATIONAL LABOR RELATIONS BOARD.**

***A MEMBER OF THE NATIONAL
ACADEMY OF ARBITRATORS SINCE 1970,
PROFESSOR GOULD HAS ARBITRATED
AND MEDIATED MORE THAN 200 LABOR
DISPUTES, INCLUDING THE 1989 WAGE
DISPUTE BETWEEN THE DETROIT
FEDERATION OF TEACHERS AND THE
BOARD OF EDUCATION OF THAT CITY
AS WELL AS THE 1992 SALARY DISPUTES
BETWEEN THE MAJOR LEAGUE
BASEBALL PLAYERS ASSOCIATION AND
THE MAJOR LEAGUE BASEBALL PLAYER
RELATIONS COMMITTEE.**

***AS THE REPRESENTATIVE OF THE 14TH
CONGRESSIONAL DISTRICT OF
CALIFORNIA, I AM PROUD TO BOTH
INTRODUCE AND RECOMMEND
PROFESSOR GOULD TO YOU AND YOUR
COMMITTEE, MR. CHAIRMAN.**

***I KNOW THAT HIS BACKGROUND, KEEN
INTELLECT, AND OUTSTANDING
LEADERSHIP QUALITIES WILL SERVE
OUR COUNTRY WELL. THANK YOU.**

Officers
 Kwesi Mfume
 Chairman
 Cardine Collins
 Vice Chairman
 Alice Hastings
 Vice Chairman
 William Jefferson
 Secretary
 Barbara-Rose Collins
 Treasurer
 Eddie Bernice Johnson
 CBC Whip



**Congressional Black Caucus
 Congress of the United States**

H2-344 House Annex #2

**The Ford Building
 Washington, D.C. 20515**

202 - 226-7780

STATEMENT OF CONGRESSMAN WILLIAM CLAY

on behalf of the

CONGRESSIONAL BLACK CAUCUS

in support of the nomination of

WILLIAM B. GOULD, IV.

as

**Chair of the
 NATIONAL LABOR RELATIONS BOARD**

October 1, 1993

before the

SENATE COMMITTEE ON LABOR AND HUMAN RESOURCES

U.S. House of Representatives
 John Conyers, Jr., MI '63
 William Clay, MO '69
 Louis Stokes, OH '69
 Ronald V. Dellums, CA '71
 Charles B. Rangel, NY '71
 Cardine Collins, IL '73
 Harold E. Ford, TN '73
 Julian C. Dixon, CA '79
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 Edolphus Towns, NY '81
 Alton Wright, MD '83
 Floyd Flake, NY '87
 John Lewis, GA '87
 Kwesi Mfume, MD '87
 Donald M. Payne, NJ '89
 Craig A. Washington, TX '90
 Barbara-Rose Collins, MI '91
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 Eleanor Holmes-Norton, DC '91
 William Jefferson, LA '91
 Maxine Waters, CA '91
 Lucien Blackwell, PA '91
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 Corrine Brown, FL '93
 Jim Clyburn, SC '93
 Ciro Field, LA '93
 Alton Hasting, FL '93
 Earl Hilliard, AL '93
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 Mel Reynolds, IL '93
 Bobby Rush, IL '93
 Robert Scott, VA '93
 Walter Tucker, CA '93
 Melvin Watt, NC '93
 Albert Wynn, MD '93
 Randle O. Thompson, MS '93
 U.S. Senate
 Carol Moseley Brown, IL '93

MR. CHAIRMAN, I AM HONORED TO APPEAR HERE THIS MORNING ON BEHALF OF THE MEMBERS OF THE CONGRESSIONAL BLACK CAUCUS, TO JOIN IN THE INTRODUCTION OF WILLIAM B. GOULD. IV. AND TO EXPRESS OUR UNEQUIVOCAL AND ENTHUSIASTIC SUPPORT FOR HIS NOMINATION TO BECOME CHAIRMAN OF THE NATIONAL LABOR RELATIONS BOARD. I AM ESPECIALLY PLEASED TO BE A PART OF THIS PANEL AS WE BRING HIM BEFORE YOU -- AND THE COMMITTEE -- BECAUSE THIS IS A GENTLEMAN WHO BRINGS EXCEPTIONAL INTELLECT AND A BODY OF EXPERIENCE IN THIS ARENA THAT IS WITHOUT PEER.

I HAVE KNOWN OF BILL GOULD THROUGHOUT MY PUBLIC CAREER AND I AM ACQUAINTED WITH HIS RECORD OF SERVICE IN OUR COMMUNITIES AND THE NATION AS A WHOLE.

I HAVE BEEN ASKED BY MY COLLEAGUES IN THE CONGRESSIONAL BLACK CAUCUS TO APPEAR BEFORE YOU TODAY TO STATE OUR SUPPORT FOR THIS NOMINEE IN THE STRONGEST POSSIBLE TERMS. IF EVER THERE WAS AN INDIVIDUAL WHO EMBODIES BOTH THE BREATH OF KNOWLEDGE AND A WEALTH OF EXPERIENCE IN THE RESOLUTION OF LABOR DISPUTES, IT IS BILL GOULD.

IN MORE THAN 200 SINGLE INSTANCES HE HAS BEEN SELECTED BY BOTH MANAGEMENT AND LABOR TO FUNCTION AS ARBITRATOR AND MEDIATOR -- DEMONSTRATING HIS REPUTATION AS AN EVEN HANDED AND FAIR NEGOTIATOR.

HIS ACADEMIC PREPARATION SPEAKS FOR ITSELF, THE PARTICULARS OF WHICH HAVE BEEN PRESENTED TO YOU. HIS ARE STERLING CREDENTIALS WHICH COMMAND RESPECT FROM BOTH SIDES OF THE AISLE, THE LEADERSHIP OF CORPORATE AMERICA AND ORGANIZED LABOR. THE

DIVERSITY IN HIS WORK EXPERIENCE INCLUDES A UNIQUE PORTFOLIO OF CASES WHERE HE HAS SUCCESSFULLY REPRESENTED CLIENTS AGAINST BOTH UNION REPRESENTATIVES AND EMPLOYERS IN MAJOR EMPLOYMENT DISCRIMINATION CLASS ACTIONS.

A MEMBER OF THE NATIONAL ACADEMY OF ARBITRATORS SINCE 1970, AN ACCLAIMED LEGAL SCHOLAR, AND PROLIFIC AUTHOR, WILLIAM GOULD HAS DISTINGUISHED HIMSELF IN EVERY FIELD OF ENDEAVOR WHICH TOUCHES ON LABOR-MANAGEMENT RELATIONS.

MR. CHAIRMAN, TIME LIMITATIONS BEG FOR BREVITY - BUT I WOULD BE REMISE IF I DID NOT ADDRESS THE CHALLENGES WHICH HAVE BEEN LEVELED AT THIS EXCEPTIONAL NOMINEE. THERE ARE THOSE WHO WOULD HAVE YOU BELIEVE THAT BILL GOULD HAS SUCH CLOSE TIES TO ORGANIZED LABOR THAT HE WOULD BE RENDERED INEFFECTIVE IN THIS CRUCIAL ROLE. TO HIS DETRACTORS, WE SAY WITHOUT RESERVATION, WILLIAM GOULD IS A MAN WHOSE EVERY ENERGY HAS PREPARED HIM TO HOLD THIS OFFICE. HIS RECORD CAN WITHSTAND THE SCRUTINY AND CHALLENGE OF EVERY STANDARD OF FAIRNESS AND OBJECTIVITY. HIS SCHOLARSHIP, HIS NEGOTIATING SKILLS AND HIS BRILLIANCE ARE CHARACTER REFERENCES IN THEIR OWN RIGHT.

AS MEMBERS OF THE CONGRESSIONAL BLACK CAUCUS WE ASK YOUR EXPEDITIOUS AFFIRMATION OF THIS NOMINATION AND FINAL CONFIRMATION OF WILLIAM B. GOULD AS CHAIRMAN OF THE NATIONAL LABOR RELATIONS BOARD. THANK YOU.

CORRESPONDENCE

September 28, 1993

Support

Academia

- Robert N. Covington, Professor of Law, Vanderbilt University, Nashville, TN. Dated August 5, 1993.
- Charles B. Craver, Merrifield Research Professor, The George Washington University, Washington, D.C. Dated September 2, 1993.
- Jack H. Friedenthal, Dean, The George Washington University, The National Law Center, Washington, D.C. Dated September 9, 1993.
- Alvin L. Goldman, Salmon Professor of Law, University of Kentucky, Lexington, KY. Dated August 23, 1993.
- Herman M. Levy, Professor of Law, Santa Clara University, Santa Clara, CA. Dated August 25, 1993.
 - (Letter signed with 75 other supporters)
 - Dean Roger Ian Abrams, Rutgers Law School
 - Peter L. Adomeit, Western New England College, School of Law
 - Reginald H. Alleyne, U.C.L.A. School of Law
 - Florian Bartosic, University of California, Davis, School of Law
 - Robert Belton, Vanderbilt University, School of Law
 - Herbert N. Bernhardt, University of Baltimore, School of Law
 - Merton C. Bernstein, Washington University, School of Law
 - Ronald C. Brown, University of Hawaii
 - Norman L. Cantor, Rutgers Law School
 - Robert N. Covington, Vanderbilt University, School of Law
 - Charles B. Craver, George Washington University, National Law Center
 - Kenneth G. Dau-Schmidt, Indiana University, School of Law, Bloomington
 - William F. Dolson, University of Louisville, School of Law
 - R. Wayne Estes, Pepperdine University, School of Law
 - Samuel Estreicher, New York University, School of Law
 - David E. Feller, University of California, Berkeley, School of Law
 - Barbara J. Fick, Notre Dame Law School
 - Joel William Friedman, Tulane University, School of Law
 - Jennifer Friesen, Loyola Law School
 - Julius G. Getman, University of Texas, School of Law
 - Raymond Goetz, University of Kansas, School of Law
 - Dean Michael J. Goldberg, Widener University, School of Law
 - Stephen B. Goldberg, Northwestern University, School of Law
 - Richard A. Gonzales, University of California, Hastings, College of Law
 - Dean Robert A. Gorman, University of Pennsylvania, Law School
 - Joseph Grodin, University of California, Hastings, College of Law
 - Michael Harper, Boston University, School of Law
 - Roger Hartley, Catholic University, School of Law
 - Dean Timothy J. Heinsz, University of Missouri, School of Law
 - Stanley D. Henderson, University of Virginia
 - James E. Jones, Jr., University of Wisconsin, Law School
 - Leo Kanowitz, University of California, Hastings, College of Law
 - Thomas C. Kohler, Boston College, Law School
 - Robert F. Koretz, Syracuse University, College of Law
 - Douglas Leslie, University of Virginia, School of Law

- Lance M. Liebman, Columbia University, School of Law
 Robert F. Koretz, Syracuse University, College of Law
 J. Keith Mann, Professor of Law Emeritus, Stanford University, School of Law
 Stephen A. Mazurak, University of Detroit, Mercy School of Law
 John P. McCrory, Vermont Law School
 William F. McHugh, Florida State University, College of Law
 Robert G. Meiners, California Western, School of Law
 Leroy S. Merrifield, George Washington University, National Law Center
 Gary Minda, Brooklyn Law School
 Charles J. Morris, Professor Emeritus, Southern Methodist University
 William P. Murphy, University of North Carolina, School of Law
 Walter E. Oberer, University of Utah, College of Law
 Quentin O. Ogren, Loyola Law School
 Cornelius J. Peck, University of Washington, School of Law
 Daniel H. Pollitt, University of North Carolina, School of Law
 David Rabban, University of Texas, School of Law
 John E. Sanchez, Nova University, Shepard Broad Law Center
 Eric J. Schmertz, Hofstra University, School of Law
 Don W. Sears, University of Colorado, School of Law
 Eileen Silverstein, University of Connecticut, School of Law
 Clyde W. Summers, University of Pennsylvania, Law School
 Donald T. Weckstein, University of San Diego, School of Law
 Steve L. Willborn, University of Nebraska, College of Law
 Calvin William Sharpe, Case Western Reserve University, Law School
 William H. Simon, Stanford Law School
 Madelyn C. Squire, Howard University, School of Law
 Theodore J. St. Antoine, University of Michigan, Law School
 Katherine Van Wezel Stone, State University of New York at Buffalo
 W. Gary Vause, Stetson University, College of Law
 Lea Vander Velde, University of Iowa, College of Law
 Paul Weiler, Harvard University, Law School
 June M. Weisberger, University of Wisconsin, Law School
 Marley Weiss, University of Maryland, School of Law
 Dean Harry H. Wellington, New York Law School
 Martha S. West, University of California, Davis, School of Law
 Willard Wirtz, University of San Diego, School of Law
 Donald H. Wolcott, McGeorge School of Law, University of the Pacific
 Stephen G. Wood, Brigham Young University, Law School
 Jayne Zanglein, Texas Technology University, School of Law
 Michael J. Zimmer, Seton Hall University, School of Law
- Jean T. McKelvey, Professor and Coordinator of Off-Campus Graduate Credit Courses,
 Cornell University - NY State School of Industrial and Labor Relations, New York, NY.
 Dated September 8, 1993.

Arbitrators

- Board of Arbitration, U.S. Steel Corporation and United Steelworkers of America, Pittsburgh, PA
 Alfred C. Dybeck, Chairman. Dated September 10, 1993.
- Kagel and Kagel, San Francisco, CA
 John Kagel, Neutral Arbitrator. Dated September 13, 1993.

- National Academy of Arbitrators Ann Arbor, MI
Dallas L. Jones, President Dated September 14, 1993.
- Frances Bairstow, Arbitrator, Clearwater, FL
Dated August 15, 1993.
- Richard Mittenthal, Labor-Management Arbitrator, Bingham Farms, MI
Dated August 3, 1993.
- Riley and Roumell, Detroit MI
George T. Roumell, Jr., Labor Arbitrator. Dated September 24, 1993.
- Eva Robins, Arbitrator, Attorney at Law. New York, NY. Dated September 2, 1993.
- Arthur Stark Arbitration, New York, NY
Arthur Stark, Member and Former President of the National Academy of Arbitrators (NAA).
Dated August 2, 1993.

Current and Former Members of Congress

- Tom Campbell, Professor of Law, Stanford Law School, CA
(Former Representative in California's 12th Congressional District, 1989-1993).
Dated September 15, 1993.
- Representative William L. Clay. Michigan's 1st Congressional District. Dated September 7, 1993.

Judges

- U.S. Court of Appeals, Sixth Circuit, Kentucky, Tennessee, Ohio, and Michigan
Judge Damon J. Keith. Dated September 21, 1993.
- U.S. District Court, Eastern District of Michigan, Ann Arbor, MI
Judge Charles W. Joiner, District Judge. Dated September 9, 1993.
- U.S. District Court, Southern District of New York, New York, NY
Judge Morris E. Lasker. Dated September 1, 1993.

National Bar Association, Inc. , Washington, D.C.

- Paulette Brown, President. Dated August 24, 1993.

Management Representatives

- Elliot S. Azoff, Attorney; Baker & Hostetler, Cleveland, OH
Dated September 23, 1993.
- Arthur P. Menard, Attorney; Cuddy, Lynch & Bixby, Boston, MA
Dated September 8, 1993.
- Stanley E. Tobin, Attorney; Hill, Farrer & Burrill, Los Angeles, CA
Dated September 10, 1993.
- Basil A. Paterson, Attorney; Meyer, Suozzi, English & Klein, P.C., Mineola, NY
Dated September 23, 1993.
- Frederick A. Morgan, Partner in the Labor Department; Frederick A. Morgan, San Francisco, CA
Dated September 14, 1993.
- William J. Emanuel, Attorney; Morgon, Lewis & Bockius, Los Angeles, CA
Dated September 13, 1993.
- Arthur B. Smith, Jr., Attorney; Murphy, Smith & Polk, Chicago, IL
Dated September 14, 1993.
- Robert McAlpine, Director Policy & Government Relations; National Urban League, Inc.,
Washington, D.C. Dated September 22, 1993.

- Stuart H. Bompey, Attorney, Orrick, Herrington & Sutcliffe, New York, NY
Dated September 14, 1993.
- Martin J. Oppenheimer, Chairman of the Labor and Employment Department; Proskauer Rose Goetz & Mendelsohn, New York, NY
Dated September 8, 1993.
- Saul G. Kramer, Co-chairperson of the Labor and Employment Department; Proskauer Rose Goetz & Mendelsohn, New York, NY
Dated September 14, 1993.
- Edward Silver, Member of the Firm; Proskauer Rose Goetz & Mendelsohn, New York, NY
Dated September 9, 1993.
- R. Lawrence Ashe, Jr., Attorney; R. Lawrence Ashe, Jr., Atlanta, GA
Dated September 13, 1993.
- Morton H. Orenstein, Attorney; Schachter, Kristoff, Orenstein & Berkowitz, San Francisco, CA
Dated September 2, 1993.
- Richard Martin Lyon, Attorney; Seyfarth, Shaw, Fairweather & Geraldson, Chicago, IL
Dated September 9, 1993.
- Dr. Edward J. Miller, Senior Vice President; Tri Valley Growers, Modesto, CA.
Dated September 7, 1993.
- Neal Sullins, Senior Attorney; Weyerhaeuser, Tacoma, WA
Dated September 13, 1993.
- Arnold E. Perl, Management Labor Attorney, Young & Perl, P.C., Memphis, TN
Dated September 13, 1993.

Professional Sports Representatives

- Boston Red Sox, Boston, MA
James "Lou" Gorman, Senior Vice President General Manager. Dated August 20, 1993.
- Golden State Warriors, Oakland, CA
Al Attles, Vice President and Assistant General Manager. Dated September 7, 1993.
- Major League Baseball Player Relations Committee, New York, NY
Louis Melendez, Associate Counsel. Dated August 23, 1993.
- The Oakland Athletics Baseball Company, Oakland, CA
Richard L. Alderson, President and General Manager. Dated September 10, 1993.
- San Francisco 49ers, San Francisco, CA
Carmen A. Policy, President. Dated September 1, 1993.
- Seattle Mariners, Seattle, WA
Charles G. Armstrong, President. Dated August 24, 1993.

Unions

- Council of GSA Locals, Council 236, American Federation of Government Employees, Auburn, WA
Bruce G. Williams, Executive Vice President, Council #236. Dated August 18, 1993.
- United Food & Commercial Workers International Union, AFL-CIO & CLC (UFCW), Washington, D.C.
William H. Wynn, International President. Dated July 2, 1993.
- Gwend Johnson, Member of Communications Workers of America and the Coalition of Black Trade Unionists, Washington, D.C. Dated September 24, 1993.

CORRESPONDENCE

Supplementary Letters
September 29, 1993 to present

Support

Academia

- R. Wayne Estes, Professor of Law, Pepperdine University, Malibu, CA
Dated September 21, 1993.
- Jay S. Siegel, Harvard University, Center for Business and Government, Boston, MA
Dated September 22, 1993.

Arbitrators

- Anthony V. Sinicropi, LaQuinta, CA
Dated October 1, 1993.

Attorneys

- David A. Cathcart, Los Angeles, CA
Dated October 15, 1993.

Civil Rights Organizations - Joint Letter of September 30, 1993

- National Association for the Advancement of Colored People
- National Association for the Advancement of Colored People Legal Defense and Educational Fund, Inc.
- National Council of La Raza
- National Urban League
- Women's Legal Defense Fund

Management Representatives

- Lloyd C. Loomis, Los Angeles CA
Dated September 27, 1993.
- Maureen E. McClain; Kauff, McClain & McGuire, San Francisco, CA
Dated September 10, 1993.
- Patrick N. McTeague; McTeague, Higbee, Libner, MacAdam, Case, & Watson, Topsham, ME
Dated October 1, 1993.
- George E. Preonas; Seyfarth, Shaw, Fairweather & Geraldson, Los Angeles, CA
Dated September 22, 1993.

Unions

- AFSCME Council 31, Chicago, IL
Rosetta Daylie, Associate Director. Dated October 7, 1993.
- AFSCME/OHIO, Worthington, OH
Jacqueline L. McClellan, IUR. Dated October 1, 1993.
- Amalgamated Service and Allied Industries, Washington, D.C.
Clayola Brown, Manager/Secretary-Treasurer. Dated September 27, 1993.

- American Federation of State, County, and Municipal Employees, AFL-CIO, Indianapolis, IN
Stephan Fantauzzo, Executive Director. Dated September 28, 1993.
- Coalition of Black Trade Unionists, Baltimore Chapter, Baltimore, MD
Mary Jones, Chairperson. Dated September 30, 1993.
- Coalition of Black Trade Unionists-Central Alabama Chapter, Birmingham, AL
Frank Paige, Chairperson. Dated October 4, 1993.
- Coalition of Black Trade Unionists, Buffalo Chapter, Buffalo, NY
Robert Massey, Chairperson, Dianne Flakes, Vice Chair, Ron Wofford, Communications Chair
Dated October 8, 1993.
- Coalition of Black Trade Unionists-Columbus Chapter, Columbus, OH
Danny N. Martin and Marlene Hill-Powell. Dated October 1, 1993.
- Coalition of Black Trade Unionists-Joliet Chapter, Lockport, IL
Eveleya U. Washington, President. Dated October 11, 1993.
- Coalition of Black Trade Unionists, Midwest Region 6, IN, IL, MN, WI
Cordelia Lewis, Representative. Dated September 29, 1993.
- Coalition of Black Trade Unionists-Toledo Chapter, Toledo, OH
Anita R. Barton, Chapter Chairperson. Dated October 7, 1993.
- Coalition of Black Trade Unionists, Washington, D.C.
William H. Simons, Treasurer. Dated September 27, 1993.
- DC1707, New York, NY
Bettye W. Roberts, President. Dated October 1, 1993.
- Local 743, Chicago IL
Robert T. Simpson, Jr., President. Dated October 6, 1993.
- United Food and Commercial Workers, New York, NY
Robert H. Wilson, President. Dated September 27, 1993.
- UFCW, Washington, D.C.
William H. Wynn, International President. Dated October 18, 1993.

Political Caucuses

- **The National Black Caucus of State Legislators, Washington D.C.**
Senator Regis F. Groff of Colorado, President. Dated September 24, 1993.
- **National Black Chamber of Commerce, Inc., Indianapolis, IN**
Harry C. Alford, Chairman & CEO. Dated September 27, 1993.

Professional Sports Representatives

- **Milwaukee Brewers Baseball Club, Milwaukee, WI**
Allan H. Selig, Chairman-CEO. Dated September 28, 1993.