

NAACP

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tice Warren was unable "to muster a single respectable supporting argument" (1971 Indiana Law Journal article).

Skinner v. Oklahoma, (and many other equal protection cases); "improper and intellectually empty." (1971 Indiana Law Journal).

Griswold v. Connecticut, "unprincipled" "utterly specious." (1971 Indiana Law Journal).

Holding such extreme views, Bork would be remiss if he did not seek to change these decisions. We have no reason not to take him at his word.

IV. Nominee Bork is an advocate of executive power at the expense of the power of the other branches. He would restrict access to the Courts of those who challenge the exercise of executive power.

In a 1971 law review article and again at his S.G. confirmation hearings, Bork defended the legality of President Nixon's actions in ordering the bombing of Cambodia as stemming from the

"inherent power of the presidency." American Journal of International Law p. 79 (January 1971); 1973 Confirmation hearings at p. 9.

In 1973, Bork as Acting Attorney General fired Watergate Special Prosecutor Archibald Cox. He did so in violation of the Department of Justice charter establishing the office, under which the special prosecutor could be removed only for "extraordinary impropriety."

In 1985, Bork as a federal judge dissented from a Court of Appeals decision upholding a congressional challenge to a pocket veto. He challenged the standing of Members of Congress to file the case. *Barnes v. Kline*, 759 F. 2d 21 (1985). While Bork's rationale was to avoid an expansion of judicial power, the impact of his views would be to expand executive power by preventing it from being checked by the legislative or judicial branches.

These views should be of special concern during a period when the Executive branch has acted in a lawless manner.

V. Senators should not censor themselves in deciding whether Robert Bork should be on the Supreme Court. They must decide on what they think is best for the country.

Students of the Constitution from liberals like Lawrence Tribe to conservatives like Philip Kurland, have made it clear that Senators may appropriately consider judicial philosophy or ideology in deciding whether to confirm a judicial nominee. The history of the nation is replete with such decision-making by Senators, from the rejection of George Washington's nominee John Rutledge for his opposition to the Jay treaty to Senator Thurmon's successful filibuster of the nomination of Abe Fortas to be Chief Justice.

Senators take the same oath of office as the President and judges — to support and defend the Constitution. A Senator would be remiss in his obligation if he voted to confirm a nominee whose view of the Constitution would alter rights and immunities that the Senator believes are

fundamental to our legal system.

Surveys have shown that the American public wants balance on the Supreme Court and does not want to return to an era in which government had unbridled power to curb individual rights and liberties.

Senators will serve neither the public nor the Constitution well if they do not take these factors into account in voting on the Bork nomination.

JACOB

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Another myth says that all the poor get welfare aid. Actually, very few do. Some twenty million adults live in poverty, including about nine million who work. But only 3.5 million families receive welfare assistance.

Yet another myth suggests that once on welfare, people never get off. Actually, most families leave the welfare rolls for eight straight years or more. That's a good argument for targeting work aid and teen pregnancy programs toward the most vulnerable, who are likely to find it hardest to move off the rolls.

There's no factual basis for other myths either, such as the stories of fraud, moving to high benefit states, and the like. Welfare recipients are policed more closely than Pentagon contractors. Fraud is at a miniscule 3 percent rate — and that includes honest differences of opinion about eligibility.

When welfare recipients move, it's for economic opportunities, not bigger checks. With the improved economy in some southern states, the migration flow these days is to low-benefit states, not high-benefit ones.

And welfare as a budget-buster is another myth. Aid To Families With Dependent Children, the federal government's biggest welfare program, comes to less than one percent of the budget. Despite the rise in poverty in recent years, the combined AFDC bill for both Washington and the states comes to less than it was a decade ago.

The U.S. pays more in interest payments to Japanese investors in Treasury bonds than it does on all means-tested programs for our own poor.

**John E. Jacob is
President of The
National Urban League**

RUSTIN

From Page 4

er America's young people will have the opportunity to learn about Rustin and about other leaders who shaped our society by participating in the conflicts and controversies of their times. Bayard Rustin was, as the Atlanta Constitution declared, "a hero for our times." But will our young people have the opportunity to learn about Rustin and similar heroes and heroines?



Bayard Rustin

When I read the articles that appeared about Rustin following his death, it occurred to me that so much about his life is inextricably linked with events and concepts that have been banished from our textbooks — or, at the very least, stripped of their excitement and emo-

When you think about it, that is the kind of citizen America needs, and we can

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tional impact. Rustin was born illegitimate; he grew up in a small town in Pennsylvania where racial discrimination was a daily reality; a former Communist, he later became a fierce critic of Soviet totalitarianism; a committed pacifist, he was imprisoned for refusing military service; a dedicated practitioner of civil disobedience, he was arrested countless times for refusing to obey laws he considered unjust.

The self-appointed censors of our nation's textbooks and self-styled protectors of our young people's virtue would shield students from reading about the ideas that distinguished Rustin and his life's work; yet I, for one, believe that young people would be inspired to learn that this man and the movements he advised have had so great an impact upon our history.

Not only have history textbooks underplayed the controversial chapters of history in which activists like Rustin played so inspiring a role, but civics textbooks have

down-played the very idea of controversy itself. As a recent study by People For the American Way revealed, civics texts all too often are lifeless descriptions of the institutions and processes of government and neglect to mention the role which individual citizens and activist movements can play in promoting their ideals. From the civil rights movement to the Religious Right, the civics texts fail to depict the excitement of the causes and controversies that have transformed America.

Bayard Rustin, of course, was controversy and activism personified. During a public career that spanned almost half a century, he championed causes from the plight of Japanese-Americans during World War II to the prospects for democracy in Haiti in the post-Duvalier era. And, over the years, he also said and did enough to offend virtually anyone at one time or another: Left or Right; black or white; hawk or dove. As his associate, the Rev. Ralph Abernathy, explained: "He didn't agree all the time with Dr. King or me or anybody else. But who did — except your full-time yes-men? This was a man with his own mind, and we were all made better because of it."

When you think about it, that is the kind of citizen America needs, and we can

best educate such citizens by teaching them about controversy and social activism in all its varieties. Let our textbooks tell the exciting stories of a Bayard Rustin, a Malcolm X., and a Gloria Steinem, and let them also tell the stories of a William Buckley, a Jerry Falwell, and a Phyllis Schlafly. Education that conveys the excitement of civil activism will develop the kind of citizens we need — not yes-men or women, but people with their own minds who aren't afraid to make history.

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