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(Walker's office)

Nat Commission  
Regulatory Reform

10/16/74

Janice Wogan called re the National Commission on Regulatory Reform; I told her what I had found out about it. Suggested she call Tom Jones to see what the latest might be.

Called back to say S. 4145 died in the Government Operations Committee, and H. R. 17417 died in the Interstate and Foreign Commerce Committee.

As requested, she sent me copies of the bills, attached.



93D CONGRESS  
2D SESSION

# H. R. 17417

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 1974

Mr. HORTON (for himself, Mr. ERLÉNBYRN, and Mr. WYDLER) introduced the following bill; which was referred to the Committee on Interstate and Foreign Commerce

## A BILL

To establish a National Commission on Regulatory Reform.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That this Act may be cited as the "National Commission  
4 on Regulatory Reform Act of 1974".

### 5 ESTABLISHMENT OF COMMISSION

6 SEC. 2. (a) There is established, as an independent  
7 instrumentality in the executive branch of the Federal Gov-  
8 ernment, a National Commission on Regulatory Reform  
9 (hereinafter referred to as the "Commission") which shall  
10 be comprised of twelve members selected as follows:



1           (1) four members from the private sector appointed  
2       by the President,

3           (2) four senior officials of the executive branch  
4       appointed by the President,

5           (3) two Senators appointed by the President of  
6       the Senate,

7           (4) two Members of the House of Representatives  
8       appointed by the speaker of the House.

9       (b) The President shall designate from the membership,  
10   one member to serve as Chairman and one member to serve  
11   as Vice Chairman of the Commission.

12       (c) Vacancies on the Commission shall not affect the  
13   authority of the remaining members to continue with the  
14   Commission's activities, and shall be filled in the same man-  
15   ner as the original appointments.

16       (d) Members of the Commission who are appointed  
17   from the private sector shall receive as compensation the  
18   daily equivalent of the annual rate of basic pay in effect  
19   for grade GS-18 for each day during which they are en-  
20   gaged in the actual performance of the duties of the Com-  
21   mission. All members of the Commission shall be entitled  
22   to reimbursement for travel, subsistence, and other necessary  
23   expenses incurred by them in the performance of the duties  
24   of the Commission.



## FUNCTIONS

SEC. 3. (a) The Commission shall identify regulatory activities of the independent regulatory agencies for detailed review, and conduct such review which shall include, but shall not be limited to—

(i) an analysis of the purposes and objectives of the regulatory activities;

(ii) an assessment of actual performance in achieving the purposes and objectives;

(iii) an analysis of the costs and benefits of each activity; and

(iv) an examination of State and local governmental regulatory activities which interact with the Federal independent regulatory system.

(b) The Commission may prepare and publish such periodic reports as it deems appropriate, but shall prepare and transmit a report to the President and Congress not later than one year following the appointment of the full Commission. That report shall include—

(i) the results of the detailed review conducted pursuant to subsection (a) ;

(ii) appropriate revisions to overall goals and procedures of specific Federal regulatory authorities;

(iii) specific recommendations for legislative actions

1 which would improve the effectiveness or the efficiency  
2 of the Federal independent regulatory agencies re-  
3 viewed;

4 (iv) an assessment of the costs, including transition  
5 costs, of any modifications recommended or suggested;

6 and

7 (v) recommendations for a means of continuing  
8 review of the economic costs of Federal independent  
9 regulatory activities.

10 **POWERS**

11 SEC. 4. (a) The Commission is authorized to hold such  
12 hearings, sit and act at such times and places as it may deem  
13 desirable.

14 (b) Subpenas for the attendance and testimony of  
15 witnesses or the production of written or other matter may  
16 be issued on the authority of the Commission and shall be  
17 served by anyone designated by the Chairman.

18 (c) If the Commission receives of any witness or any  
19 Government agency materials which have been submitted  
20 on a confidential basis, and the confidentiality is protected  
21 by statute, the material shall be held in confidence by the  
22 Commission.

23 (d) The Commission is authorized to establish such  
24 advisory committees as may be necessary or appropriate to  
25 carry out any specific analytical or investigative undertak-

ings on behalf of the Commission. Any such committee shall be subject to the relevant provisions of the Federal Advisory Committee Act (Public Law 92-463).

SEC. 5. (a) Subject to such rules and regulations as it may adopt, the Commission, through its Chairman, shall appoint and fix the compensation of an executive director not to exceed the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and such additional staff as is deemed necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates for individuals not to exceed the rate authorized for GS-18 under the General Schedule.

(b) The Commission is authorized to negotiate and enter into contracts and agreements as the Commission determines are necessary in order to carry out its duties.

#### ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 6. Each department, agency, and instrumentality of the Federal Government, including the Congress and independent agencies, and State and local agencies, consistent with the laws and the Constitution of the United States, shall furnish to the Commission, upon request of the Chairman, such data, reports, and such other information as the Commission deems necessary to carry out its functions under this Act.

1 **TERMINATION**

2 SEC. 7. Ninety days after the submission of the final  
3 report provided for in section 3 (b), the Commission shall  
4 cease to exist.

5 **AUTHORIZATION**

6 SEC. 8. There is authorized to be appropriated \$500,000  
7 to carry out the provisions of this Act.



93D CONGRESS  
2D SESSION

# S. 4145

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 1974

Referred to the Committee on Government Operations and ordered to be  
printed

## AMENDMENTS

Intended to be proposed by Mr. ALLEN to S. 4145, a bill to  
establish a National Commission on Regulatory Reform, viz:

1 On page 2, lines 1 through 4, strike paragraphs (1)  
2 and (2) in their entirety and in lieu thereof insert the  
3 following:

4 “(1) six members from the private sector appointed  
5 by the President, with the advice and consent of the  
6 Senate, from individuals who, because of their education,  
7 training, or experience shall, respectively, be two quali-  
8 fied representatives of the interests of (i) the labor com-  
9 munity, (ii) the business community, and (iii) the  
10 ultimate consumer of goods and services, of whom not

Amdt. No. 1982

★(Star Print)





1 more than four shall be affiliated with the same political  
2 party.

3 “(2) four senior officials of the executive branch  
4 appointed by the President, with the advice and consent  
5 of the Senate, from the personnel of Federal agencies  
6 other than regulatory agencies,”.

7 On page 3, line 3, strike the word “Independent” and  
8 insert in lieu thereof the word “Federal”.

9 On page 3, line 14, strike the word “independent”.

10 On page 4, line 2, strike the word “independent”.

11 On page 4, line 7, strike the word “independent”.

12 On page 4, line 8, replace the period with “and;”.

13 On page 4, between lines 8 and 9, insert the following  
14 new paragraph:

15 “(vi) an assessment of the representation of the  
16 interests of consumers within the decisionmaking process  
17 of the Federal regulatory agencies and recommendations  
18 with respect to alternative methods for improving such  
19 representation, evaluating the anticipated economic and  
20 noneconomic costs and benefits of each in relation to  
21 consumers, taxpayers, and efficient regulation of com-  
22 merce, including specifically as one of these alternatives  
23 the establishment of a nonregulatory agency to so repre-  
24 sent the interests of consumers and an evaluation of the  
25 jurisdiction, functions, duties, powers, personnel, and



1 authorization of funds anticipated as being necessary to  
2 make such a nonregulatory agency a viable alternative."

3 On page 5, after line 24, add the following heading and  
4 new section 7 and renumber subsequent sections accord-  
5 ingly:

6 "DEFINITIONS

7 "SEC. 7. As used in this Act, 'Federal regulatory  
8 agency' means—

9 "(a) The Civil Aeronautics Board, the Consumer  
10 Product Safety Commission, the Environmental Protec-  
11 tion Agency, the Federal Communications Commission,  
12 the Federal Maritime Commission, the Federal Power  
13 Commission, the Federal Reserve System, the Federal  
14 Trade Commission, the Interstate Commerce Commis-  
15 sion, the National Labor Relations Board, the Postal  
16 Rate Commission, the Securities and Exchange Com-  
17 mission, and the United States Postal Service;

18 "(b) The Food and Drug Administration (being  
19 an agency of the Public Health Service in the Depart-  
20 ment of Health, Education, and Welfare), the National  
21 Highway Traffic Safety Administration (being an  
22 agency of the Department of Transportation), the Occu-  
23 pational Safety and Health Administration (being an  
24 agency of the Department of Labor), and



1       “(c) Any ‘agency’ as defined in section 551 of title  
 2       5, United States Code, authorized to regulate commerce  
 3       by rulemaking or adjudication, the actions of which, as  
 4       determined by the Commission, are of substantial im-  
 5       portance to the protection of the public’s health, safety,  
 6       or economic interests.”.

Amdt. No. 1982

93d CONGRESS  
 2d Session

**S. 4145**

## AMENDMENTS

Intended to be proposed by Mr. ALLEN to  
 S. 4145, a bill to establish a National Com-  
 mission on Regulatory Reform.

NOVEMBER 18, 1974

Referred to the Committee on Government Operations  
 and ordered to be printed

10/19/77

Phil A:

Kindly review and take  
whatever action you think  
may be appropriate to  
see who is tracking this  
bill & whether it requires  
WIT intervention to push  
its interests.

P.

Not. 27 c  
Tuesday 10/22/74

6:35 I called Ken Hagerty (legislative staff at OMB).  
He said they have a problem with the bill to establish  
a National Commission on Regulatory Reform.

4657

The bill was in the House and referred to Interstate and Foreign Commerce, rather than Government Operations, where an untimely and complete death is planned for it. Had it been referred to Government Operations in the House there would have been action taken on both sides. There are hearings planned in the Senate on the 21st, 22nd and 26th on the subject, and included in the subject matter is the Administration's own bill, although some of the Senators will have their own bills. In the House they're still working on it. Presently looking at the possibility of drafting a bill guaranteed to go to Government Operations. Hopefully, Government Operations could receive the Senate-passed bill where they could get it through the Senate.

Told Mr. Hagerty I had the impression that other bills had been prepared.

He said Sen. Magnuson, Chairman of the Commerce Committee in the Senate, and Harley Staggers in the House have introduced different bills (their ideas are to make these agencies much more independent) -- to let them submit their own budgets, run their own show and "turn them loose."

Said he feels "our claim to the word 'reform' is as good as theirs in this case."





Thursday 10/17/74

7:55 Charlie McWhorter had called yesterday to see there had been any bills to establish a National Commission on Regulatory Reform.

(212) 393-4459

The President indicated in his address to the Joint Session of Congress on 10/8 that he wanted such a Commission set up.

I find H. R. 17417 by Horton, Erlenborn and Wydler and S. 4145 introduced by Metcalf and Ervin (by request); attached are copies of the 10/8 W.H. release and a copy of the draft bill which Ken Hagerty of OMB sent to me.

I called Charlie back and told him.

Attached are for your information.

Thursday 10/17/74

12:40 Charlie McWhorter called again.

I called Timmons' office -- who suggested I call  
Ken Hagerty, OMB Congressional man who keeps up  
with all bills that are being submitted.

4657

1:10 Mr. Hagerty says there were four pieces of legislation  
sent up on October 8th.

Proposing

National Employment Assistance Act

To establish ~~proced~~ures for achieving a spending level of \$300 billion

to Establish national Commission on Regulatory Reform

Amend Sherman Act to increase penalties

The bills on establishment of Natinnal Commission on Regulatory Reform

has been introduced in the House -- H. R. 17417 by Horton and Erlenborn  
and Wydler -- in the Senate -- S. 4145 by Metcalf and Sen. Ervin (by request)

They will send a copy of the draft of the proposed bill --



Wednesday 10/16/74

3:00 Charlie McWhorter called to say the Administration (212) 393-4459 apparently had a bill introduced which set up a study commission to look into regulatory agencies. It was his understanding two people would be appointed by the President; two by the Speaker, two by the President of the Senate and two ex officio. Apparently Engman had made a speech something about it.

4:00 Checked with Janet; she said she could call me back after checking.

Called Tom Jones; he said in the President's address to the Joint Session of Congress on 10/8/74 -- in one of the earlier passages (page 6.

A BILL

To establish a National Commission on Regulatory Reform.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Commission on Regulatory Reform Act of 1974."

ESTABLISHMENT OF COMMISSION

Sec. 2. (a) There is established, as an independent instrumentality in the Executive branch of the Federal Government, a National Commission on Regulatory Reform (hereinafter referred to as the "Commission") which shall be comprised of twelve members selected as follows --

- (1) four members from the private sector appointed by the President,
- (2) four senior officials of the Executive branch appointed by the President,
- (3) two Senators appointed by the President of the Senate,
- (4) two members of the House of Representatives appointed by the Speaker of the House.

(b) The President shall designate from the membership, one member to serve as Chairman and one member to serve as Vice Chairman of the Commission.

(c) Vacancies on the Commission shall not affect the authority of the remaining members to continue with the Commission's activities, and shall be filled in the same manner as the original appointments.

(d) Members of the Commission who are appointed from the private sector shall receive as compensation the daily equivalent of the annual rate of basic pay in effect for grade GS-18 for each day during which they are engaged in the actual performance of the duties of the Commission. All members of the Commission shall be entitled to reimbursement for travel, subsistence and other necessary expenses incurred by them in the performance of the duties of the Commission.

#### FUNCTIONS

Sec. 3. (a) The Commission shall identify regulatory activities of the Independent Regulatory Agencies for detailed review, and conduct such review which shall include, but shall not be limited to --



- (i) an analysis of the purposes and objectives of the regulatory activities;
- (ii) an assessment of actual performance in achieving the purposes and objectives;
- (iii) an analysis of the costs and benefits of each activity; and
- (iv) an examination of State and local governmental regulatory activities which interact with the Federal Independent regulatory system.

(b) The Commission may prepare and publish such periodic reports as it deems appropriate, but shall prepare and transmit a report to the President and Congress not later than one year following the appointment of the full Commission. That report shall include --

- (i) the results of the detailed review conducted pursuant to subsection (a);
- (ii) appropriate revisions to overall goals and procedures of specific Federal regulatory authorities;
- (iii) specific recommendations for legislative actions which would improve the effectiveness or

the efficiency of the Federal Independent regulatory agencies reviewed;

(iv) an assessment of the costs, including transition costs, of any modifications recommended or suggested; and

(v) recommendations for a means of continuing review of the economic costs of Federal Independent regulatory activities.

#### POWERS

Sec. 4. (a) The Commission is authorized to hold such hearings, sit and act at such times and places as it may deem desirable.

(b) Subpoenas for the attendance and testimony of witnesses or the production of written or other matter may be issued on the authority of the Commission and shall be served by anyone designated by the Chairman.

(c) If the Commission receives of any witness or any Government agency materials which have been submitted on a confidential basis, and the confidentiality is protected by statute, the material shall be held in confidence by the Commission.

(d) The Commission is authorized to establish such advisory committees as may be necessary or appropriate to carry out any specific analytical or investigative undertakings on behalf of the Commission. Any such committee shall be subject to the relevant provisions of the Federal Advisory Committee Act, (PL 92-463).

Sec. 5. (a) Subject to such rules and regulations as it may adopt, the Commission, through its Chairman, shall appoint and fix the compensation of an Executive Director not to exceed the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code, and such additional staff as is deemed necessary without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates for individuals not to exceed the rate authorized for GS-18 under the General Schedule.

(b) The Commission is authorized to negotiate and enter into contracts and agreements as the Commission determines are necessary in order to carry out its duties.

## ASSISTANCE OF GOVERNMENT AGENCIES

Sec. 6. Each department, agency, and instrumentality of the Federal Government, including the Congress and independent agencies, and State and local agencies, consistent with the laws and the Constitution of the United States, shall furnish to the Commission, upon request of the Chairman, such data, reports, and such other information as the Commission deems necessary to carry out its functions under this Act.

## TERMINATION

Sec. 7. Ninety days after the submission of the final report provided for in Section 3(b), the Commission shall cease to exist.

## AUTHORIZATION

Sec. 8. There is authorized to be appropriated \$500,000 to carry out the provisions of this Act.



OFFICE OF THE WHITE HOUSE PRESS SECRETARY

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THE WHITE HOUSE  
ADDRESS OF THE PRESIDENT  
TO THE  
JOINT SESSION OF CONGRESS

## THE HOUSE CHAMBER

4:02 P.M. EDT

Mr. Speaker, Mr. President, distinguished guests, my very dear friends:

In his first inaugural address, President Franklin Roosevelt said, and I quote: "The people of the United States have not failed...They want direct, vigorous action, and they have asked for discipline and direction under our leadership."

Today, though our economic difficulties do not approach the emergency of 1933, the message from the American people is exactly the same. I trust that you are getting the very same message that I am receiving: Our constituents want leadership, our constituents want action.

All of us have heard much talk on this very floor about Congress recovering its rightful share of national leadership. I now intend to offer you that chance.

The 73rd Congress responded to FDR's appeal in five days. I am deeply grateful for the cooperation of the 93rd Congress and the Conference on Inflation, which ended ten days ago.

Mr. Speaker, many -- but not all -- of your recommendations on behalf of your party's Caucus are reflected in some of my proposals here today. The distinguished Majority Leader of the Senate offered a nine-point program.

I seriously studied all of them and adopted some of his suggestions.

I might add, I have also listened very hard to many of our former colleagues in both bodies and of both the majority and the minority, and have been both persuaded and dissuaded. But in the end I had to make the decision, I had to decide, as each of you do, when the rollcall is called.

MORE

(OVER)

A circular stamp with the text "GERALD R. FORD" around the perimeter.



I will not take your time today with the discussion of the origins of inflation and its bad effect on the United States, but I do know where we want to be in 1976 on the 200th birthday of a United States of America that has not lost its way, nor its will, nor its sense of national purpose.

During the meetings on inflation, I listened carefully to many valuable suggestions. Since the summit, I have evaluated literally hundreds of ideas, day and night.

My conclusions are very simply stated. There is only one point on which all advisers have agreed: We must whip inflation right now.

None of the remedies proposed, great or small, compulsory or voluntary, stands a chance unless they are combined in a considered package, in a concerted effort, in a grand design.

I have reviewed the past and the present efforts of our Federal Government to help the economy. They are simply not good enough, nor sufficiently broad, nor do they pack the punch that will turn America's economy on.

A stable American economy cannot be sustained if the world's economy is in chaos. International cooperation is absolutely essential and vital, but while we seek agreements with other nations, let us put our own economic house in order.

Today, I have identified ten areas for our joint action, the Executive and the Legislative Branches of our Government.

Number One: Food.

America is the world's champion producer of food. Food prices and petroleum prices in the United States are primary inflationary factors.

America today partially depends on foreign sources for petroleum, but we can grow more than enough food for ourselves.

MORE

To halt higher food prices, we must produce more food, and I call upon every farmer to produce the full capacity. And I say to you and to the farmers, they have done a magnificent job in the past, and we should be eternally grateful.

This Government, however, will do all in its power to assure him, that farmer, he can sell his entire yield at reasonable prices. Accordingly, I ask the Congress to remove all remaining acreage limitations on rice, peanuts, and cotton.

I also assure America's farmer here and now that I will allocate all the fuel and ask authority to allocate all the fertilizer they need to do this essential job.

Agricultural marketing orders and other Federal regulations are being reviewed to eliminate or modify those responsible for inflated prices.

I have directed our new Council on Wage and Price Stability to find and to expose all restrictive practices, public or private, which raise food prices. The Administration will also monitor food production, margins, pricing, and exports.

We can and we shall have an adequate supply at home, and through cooperation, meet the needs of our trading partners abroad.

Over this past weekend we initiated a voluntary program to monitor grain exports. The Economic Policy Board will be responsible for determining the policy under this program.

In addition, in order to better allocate our supplies for export, I ask that a provision be added to Public Law 480 under which we ship food to the needy and friendly countries. The President needs authority to waive certain of the restrictions on shipments based on national interest or humanitarian grounds

#### Number Two: Energy.

America's future depends heavily on oil, gas, coal, electricity, and other resources called energy. Make no mistake, we do have a real energy problem.

MORE

One-third of our oil -- 17 percent of America's total energy -- now comes from foreign sources that we cannot control, at high cartel prices costing you and me \$16 billion -- \$16 billion more than just a year ago.

A primary solution has to be at home. If you have forgotten the shortages of last winter, most Americans have not.

I have ordered today the reorganization of our national energy effort in the creation of a National Energy Board. It will be chaired with developing, or I should say charged with developing a single national energy policy and program. And I think most of you will be glad to know that our former colleague, Rog Morton, our Secretary of Interior, will be the overall boss of our national energy program.

Rog Morton's marching orders are to reduce imports of foreign oil by one million barrels per day by the end of 1975, whether by savings here at home, or by increasing our own sources.

Secretary Morton, along with his other responsibility, is also charged with increasing our domestic energy supply by promptly utilizing our coal resources and expanding recovery of domestic oil still in the grounds in old wells.

New legislation will be sought after your recess to require use of cleaner coal processes and nuclear fuel in new electric plants and the quick conversion of existing oil plants.

I propose that we, together, set a target date of 1980 for eliminating oil-fired plants from the Nation's base-loaded electrical capacity.

I will use the Defense Production Act to allocate scarce materials for energy development, and I will ask you, the House and Senate, for whatever amendments prove necessary.

I will meet with top management of the automobile industry to assure, either by agreement or by law, a firm program aimed at achieving a 40 percent increase in gasoline mileage within a four-year development deadline.

MORE

Priority legislation -- action, I should say -- to increase energy supply here at home requires the following:

One, long-sought deregulation of natural gas supplies.

Number two, responsible use of our Naval petroleum reserves in California and Alaska.

Number three, amendments to the Clean Air Act, and

Four, passage of surface mining legislation to insure an adequate supply with common-sense environmental protection.

Now, if all of these steps fail to meet our current energy saving goals, I will not hesitate to ask for tougher measures. For the long range, we must work harder on coal gasification. We must push with renewed vigor and talent research in the use of nonfossil fuels. The power of the atom, the heat of the sun and the steam stored deep in the earth, the force of the winds and water, must be main sources of energy for our grandchildren, and we can do it.

Number Three: Restrictive Practices.

To increase productivity and contain prices, we must end restrictive and costly practices, whether instituted by Government, industry, labor or others. And I am determined to return to the vigorous enforcement of antitrust laws.

The Administration will zero in on more effective enforcement of laws against price fixing and bid rigging. For instance, non-competitive professional fee schedules and real estate settlement fees must be eliminated. Such violations will be prosecuted by the Department of Justice to the full extent of the law.

Now I ask Congress for prompt authority to increase maximum penalties for antitrust violations from \$50,000 to \$1 million for corporations, and from \$50,000 to \$100,000 for individual violators.

MORE

At the Conference on Inflation, we found, I would say, very broad agreement that the Federal Government imposes too many hidden and too many inflationary costs on our economy. As a result, I propose a four-point program aimed at a substantial purging process.

Number one, I have ordered the Council on Wage and Price Stability to be the watchdog over inflationary costs of all Governmental actions.

Two, I ask the Congress to establish a National Commission on Regulatory Reform to undertake a long overdue total re-examination of the independent regulatory agencies. It will be a joint effort by the Congress, the Executive Branch and the private sector to identify and eliminate existing Federal rules and regulations that increase costs to the consumer without any good reason in today's economic climate.

Three, hereafter, I will require that all major legislative proposals, regulations and rules emanating from the Executive Branch of the Government will include an Inflation Impact Statement that certifies we have carefully weighed the effect on the Nation. I respectfully request that the Congress require a similar advance Inflation Impact Statement for its own legislative initiatives.

Finally, I urge State and local units of government to undertake similar programs to reduce inflationary effects of their regulatory activities.

At this point I thank the Congress for recently revitalizing the National Commission on Productivity and Work Quality. It will initially concentrate on problems of productivity in Government -- Federal, State and local.

Outside of Government, it will develop meaningful blueprints for labor-management cooperation at the plant level. It should look particularly at the construction and the health service industries.

The Council on Wage and Price Stability will, of course, monitor wage and price increases in the private sector. Monitoring will include public hearings to justify either price or wage increases. I emphasize, in fact re-emphasize, that this is not a compulsory wage and price control agency.

Now, I know many Americans see Federal controls as the answer, but I believe from past experience controls show us that they never really stop inflation, not the last time, not even during and immediately after World War II, when, as I recall, prices rose despite severe and enforceable wartime rationing.

Now, peacetime controls actually, we know from recent experience, create shortages, hamper production, stifle growth and limit jobs. I do not ask for such powers, however politically tempting, as such a program could cause the fixer and the black marketeer to flourish, while decent citizens face empty shelves and stand in long waiting lines.

Number Four: We Need More Capital.

We cannot "eat up our seed corn." Our free enterprise system depends on orderly capital markets through which the savings of our people become productively used. Today, our capital markets are in total disarray. We must restore their vitality. Prudent monetary restraint is essential.

You and the American people should know, however, I have personally been assured by the Chairman of the Independent Federal Reserve Board, that the supply of money and credit will expand sufficiently to meet the needs of our economy and that in no event will a credit crunch occur.

The prime lending rate is going down. To help industry to buy more machines and create more jobs, I am recommending a liberalized 10 percent investment tax credit. This credit should be especially helpful to capital-intensive industries, such as primary metals, public utilities, where capacity shortages have developed.

I am asking Congress to enact tax legislation to provide that all dividends on preferred stocks issued for cash be fully deductible by the issuing company. This should bring in more capital, especially for energy-producing utilities. It will also help other industries shift from debt to equity, providing a sounder capital structure.

Capital gains tax legislation must be liberalized as proposed by the tax reform bill currently before the Committee on Ways and Means. I endorse this approach and hope that it will pass promptly.

Number Five: Helping The Casualties.

And this is a very important part of the overall speech. The Conference on Inflation made everybody even more aware of who is suffering most from inflation. Foremost are those who are jobless through no fault of their own.

MORE

Three weeks ago, I released funds which, with earlier actions, provide public service employment for some 170,000 who need work. I now propose to the Congress a two-step program to augment this action.

First, 13 weeks of special unemployment insurance benefits would be provided to those who have exhausted their regular and extended unemployment insurance benefits, and 26 weeks of special unemployment insurance benefits to those who qualify but are not now covered by regular unemployment insurance programs.

Funding in this case would come from the general treasury, not from taxes on employers, as is the case with the established unemployment program.

Second, I ask the Congress to create a brand new Community Improvement Corps to provide work for the unemployed through short-term useful work projects to improve, beautify and enhance the environment of our cities, our towns and our countryside.

This standby program would come alive whenever unemployment exceeds 6 percent nationally. It would be stopped when unemployment drops below 6 percent. Local labor markets would each qualify for grants whenever their unemployment rate exceeds 6.5 percent.

State and local government contractors would supervise these projects and could hire only those who had exhausted their unemployment insurance benefits. The goal of this new program is to provide more constructive work for all Americans, young or old, who cannot find a job.

The purpose really follows this formula. Short-term problems require short-term remedies. I therefore request that these programs be for a one-year period.

Now, I know that low-and middle-income Americans have been hardest hit by inflation. Their budgets are most vulnerable because a larger part of their income goes for the highly inflated costs of food, fuel and medical care.

The tax reform bill now in the House Committee on Ways and Means, which I favor, already provides approximately \$1.6 billion of tax relief to these groups. Compensating new revenues are provided in this prospective legislation by a windfall tax, profits tax on oil producers and by closing other loopholes.

If enacted, this will be a major contribution by the Congress in our common effort to make our tax system fairer to all.

MORE

Number Six: Stimulating Housing.

Without question, credit is the lifeblood of housing. The United States, unfortunately, is suffering the longest and the most severe housing recession since the end of World War II. Unemployment in the construction trades is twice the national average.

One of my first acts as President was to sign the Housing and Community Development Act of 1974. I have since concluded that still more help is needed, help that can be delivered very quickly and with minimum inflationary impact.

I urge the Congress to enact before recess additional legislation to make most home mortgages eligible for purchase by an agency of the Federal Government. As the law stands now, only FHA or VA home mortgages, one fifth of the total, are covered.

MORE



I am very glad that the Senate, thanks to the leadership of Senator Brooke and Senator Cranston, has already made substantial progress on this legislation. As soon as it comes to me, I will make at least \$3 billion immediately available for mortgage purchases, enough to finance about 100,000 more American homes.

Number Seven: Thrift Institutions.

Savings and loan and similar institutions are hard hit by inflation and high interest rates. They no longer attract, unfortunately, adequate deposits. The Executive Branch, in my judgment, must join with the Congress in giving critically-needed attention to the structure and the operation of our thrift institutions which now find themselves for the third time in eight years in another period of serious mortgage credit scarcity.

Passage of the pending financial institution bill will help, but no single measure has yet appeared, as I see it, to solve feast or famine in mortgage credit. However, I promise to work with you individually and collectively to develop additional specific programs in this area in the future.

Number Eight: International Interdependency.

The United States has a responsibility not only to maintain a healthy economy at home, but also to seek policies which compliment rather than disrupt the constructive efforts of others.

Essential to U.S. initiatives is the early passage of an acceptable trade reform bill. My special representative for trade negotiations departed earlier this afternoon to Canada, Europe, Japan, to brief foreign friends on my proposal.

We live in an interdependent world and therefore must work together to resolve common economic problems.

Number Nine: Federal Taxes and Spending.

To support programs, to increase production and share inflation-produced hardships, we need additional tax revenues. I am aware that any proposal for new taxes just four weeks before a national election is, to put it mildly, considered politically unwise. And I am frank to say that I have been earnestly advised to wait and talk about taxes anytime after November 5.

MORE

But I do say in sincerity that I will not play politics with America's future.

Our present inflation, to a considerable degree, comes from many years of enacting expensive programs without raising enough revenues to pay for them.

The truth is that 19 out of the 25 years I had the honor and the privilege to serve in this Chamber, the Federal Government ended up with Federal deficits. That is not a very good batting average.

By now, almost everybody -- almost everybody else, I should say -- has stated my position on Federal gasoline taxes. This time I will do it myself. I am not -- emphasizing not -- asking you for any increase in gas taxes.

I am -- I am asking you to approve a one-year temporary tax surcharge of 5 percent on corporate and upper-level individual incomes.

This would generally exclude from the surcharge those families with gross incomes below \$15,000 a year. The estimated \$5 billion in extra revenue to be raised by this inflation-fighting tax should pay for the new programs I have recommended in this message.

I think, and I suspect each of you know, this is the acid test of our joint determination to whip inflation in America. I would not ask this if major loopholes were not now being closed by the Committee on Ways and Means' tax reform bill.

I urge you to join me before your recess, in addition to what I have said before, to join me by voting to set a target spending limit -- let me emphasize it -- a target spending limit of \$300 billion for the Federal fiscal budget of 1975.

When Congress agrees to this spending target, I will submit a package of budget deferrals and recissions to meet this goal. I will do the tough job of designating for Congressional action on your return those areas which I believe can and must be reduced.

These will be hard choices and everyone of you in this Chamber know it as well as I.

MORE

They will be hard choices, but no Federal agency, including the Defense Department, will be untouchable.

It is my judgment that fiscal discipline is a necessary weapon in any fight against inflation. While this spending target is a small step, it is a step in the right direction, and we need to get on that course without any further delay.

I do not think that any of us in this Chamber today can ask the American people to tighten their belts if Uncle Sam is unwilling to tighten his belt first.

Now, if I might, I would like to say a few words directly to your constituents and, incidentally, mine.

My fellow Americans, ten days ago I asked you to get things started by making a list of ten ways to fight inflation and save energy, to exchange your list with your neighbors, and to send me a copy.

MORE

I have personally read scores of the thousands of letters received at the White House, and incidentally, I have made my economic experts read some of them, too. We all benefitted, at least I did, and I thank each and every one of you for this cooperation.

Some of the good ideas from your home to mine have been cranked into the recommendations I have just made to the Congress and the steps I am taking as President to whip inflation right now. There were also firm warnings on what Government must not do, and I appreciated those, too.

Your best suggestions for voluntary restraint and self-discipline showed me that a great degree of patriotic determination and unanimity already exist in this great land.

I have asked Congress for urgent specific actions it alone can take. I advised Congress of the initial steps that I am taking as President. Here is what only you can do: Unless every able American pitches in, Congress and I cannot do the job.

Winning our fight against inflation and waste involves total mobilization of America's greatest resources, the brains, the skills and the will power of the American people.

Here is what we must do, what each and every one of you can do. To help increase food and lower prices, grow more and waste less. To help save scarce fuel in the energy crisis, drive less, heat less. Every housewife knows almost exactly how much she spent for food last week. If you cannot spare a penny from your food budget -- and I know there are many -- surely you can cut the food that you waste by 5 percent.

Every American motorist knows exactly how many miles he or she drives to work or to school every day and about how much mileage she or he runs up each year. If we all drive at least 5 percent fewer miles, we can save almost unbelievably 250,000 barrels of foreign oil per day by the end of 1975.

Most of us can do better than 5 percent by car pooling, taking the bus, riding bikes or just plain walking. We can save enough gas by self-discipline to meet our one million barrels per day goal.

MORE

I think there is one final thing that all Americans can do, rich or poor, and that is share with others. We can share burdens as we can share blessings. Sharing is not easy, not easy to measure like mileage and family budgets, but I am sure that 5 percent more is not nearly enough to ask, so I ask you to share everything you can and a little bit more. And it will strengthen our spirits as well as our economy.

Today I will not take more of the time of this busy Congress, for I vividly remember the rush before every recess, and the clock is already running on my specific and urgent request for legislative action. I also remember how much Congress can get done when it puts its shoulder to the wheel.

One week from tonight I have a longstanding invitation in Kansas City to address the Future Farmers of America, a fine organization of wonderful young people whose help, with millions of others, is vital in this battle. I will elaborate then how volunteer inflation fighters and energy savers can further mobilize their total efforts.

Since asking Miss Sylvia Porter, the well-known financial writer, to help me organize an all-out, nationwide volunteer mobilization, I have named a White House coordinator and have enlisted the enthusiastic support and services of some 17 other distinguished Americans to help plan for citizen and private group participation.

There will be no big Federal bureaucracy set up for this crash program. Through the courtesy of such volunteers from the communication and media fields, a very simple enlistment form will appear in many of tomorrow's newspapers, along with a symbol of this new mobilization, which I am wearing on my lapel.

It bears the single word WIN. I think that tells it all. I will call upon every American to join in this massive mobilization and stick with it until we do win as a Nation and as a people.

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Mr. Speaker and Mr. President, I stand on a spot hallowed by history. Many Presidents have come here many times to solicit, to scold, to flatter, to exhort the Congress to support them in their leadership.

Once in a great while Presidents have stood here and truly inspired the most skeptical and the most sophisticated audience of their co-equal partners in Government.

Perhaps once or twice in a generation is there such a Joint Session. I don't expect this one to be. Only two of my predecessors have come in person to call upon Congress for a declaration of war, and I shall not do that.

But I say to you, with all sincerity, that our inflation, our public enemy number one, will, unless whipped, destroy our country, our homes, our liberties, our property, and finally our national pride, as surely as any well-armed wartime enemy.

I concede there will be no sudden Pearl Harbor to shock us into unity and into sacrifice, but I think we have had enough early warnings. The time to intercept is right now. The time to intercept is almost gone.

My friends and former colleagues, will you enlist now? My friends and fellow Americans, will you enlist now? Together with discipline and determination, we will win.

I thank you very much.

END (AT 4:47 P.M. EDT)

From the office of  
Senator Philip A. Hart (D-Mich)  
Washington, D.C.

FOR RELEASE: WEDNESDAY PMs  
November 20, 1974

Pleading for similar attention to monopoly power in the private sector, Senator Philip A. Hart (D-Mich) today endorsed establishing a commission to propose reform of regulatory agencies.

First on Hart's list of needed changes for the agencies is to divest them of their antitrust responsibilities. "Not only are they incapable of promoting competition," he said, "but they actually stifle it."

Hart acknowledged that serious problems caused Congress to create the agencies initially, but said they are not performing today in the broad public interest.

The agencies stifle competition, he said, "by colluding with their regulated clients in price-fixing, market division and a variety of other anti-competitive practices which in the private sector would constitute per se violations of the antitrust laws."

Hart suggested that two agencies, the Interstate Commerce Commission and the Civil Aeronautics Board, be exempted from the study commission's assignment.

"We know enough from the past studies of these agencies to commence legislative hearings on their reorganization," he said.

As examples of anticompetitive agency decisions, Hart listed:

\*CAB fixing minimum prices on international charter flights to protect the higher-than-competitive fares already set with CAB approval by scheduled airlines. "It is estimated that the CAB decision will raise charter fares by 30 to 40 percent next year and deprive thousands of North Atlantic travelers of competitive, low-cost air transportation," he said.

\*ICC allocating markets for trucking clients. "As a result, an estimated one out of every five trucks on the road moves empty across a competitor's exclusive territory," he said. "This means wasted fuel as well as higher consumer prices."

\*CAB refusal to approve new airlines. "Immediately after its inception 36 years ago, CAB imposed a total blockade on entry into the trunk air carrier industry. Yet from 1946 to 1965, in California where CAB has no jurisdiction, 16 interstate air carriers entered the market. Significantly, to fly from Los Angeles to San Francisco costs only half as much per mile as from Washington to New York," Hart said.

He called for repeal of the Reed-Bullwinkle Act, which confers antitrust immunity on regulated industries and for divesting regulatory agencies of their antitrust responsibilities.

"Although the law requires regulators to consider anticompetitive impact of their actions, they frequently conclude that social factors outweigh the value of competition," Hart said.

He cited the El Paso case--where three times the Supreme Court ruled its acquisition of Pacific Northwest Gas Company violated the antitrust laws and "to the very end" the Federal Power Commission defended the act as socially redeemable.

"It is conceivable that the regulators have become too closely identified with the regulated to consider in an impartial and judicious manner the anti-competitive implications of their rulings," Hart said. "I would suggest the problems of public health and safety should be left to the regulators and the problems of competition should be left to the judicial guardians of our antitrust laws."

While strongly endorsing eradicating public monopolies, Hart said, "this is only a small part of the monopoly problem in America.....It has been estimated that the cost of monopolistic regulation in the public sector may amount to as much as \$21 billion a year. But the costs of monopolistic practices in the private sector is about \$59 billion a year. Hopefully, the Administration will begin to move against this second monopoly front soon."

Senator Hart appeared today before the Senate Commerce Committee on S. J. Res. 253, To Establish a National Commission on Regulatory Agencies.

# # # #



TESTIMONY OF SENATOR PHILIP A. HART  
BEFORE THE SENATE COMMERCE COMMITTEE ON S.J. RES. 253  
TO ESTABLISH A NATIONAL COMMISSION ON REGULATORY AGENCIES

NOVEMBER 20, 1974

MR. CHAIRMAN:

We live in an age of concentrated economic power, an age which has witnessed the decline of free enterprise and the steady advance of monopoly. By inaction, we have inherited a New Industrial State in which a handful of private monopoly enterprises dictate the price, quantity and quality of roughly half the goods we purchase. At the same time, by our apparent ineptitude, we have fashioned a Modern Regulatory State in which a handful of public regulators and their corporate clientele dictate the price, quantity and quality of a wide range of essential services on which we depend. As a consequence, we must procure our goods and services from an economic system founded on private and public monopoly and dedicated to the enrichment of a few producers at the expense of millions of consumers.

As Chairman of the Subcommittee on Antitrust and Monopoly, I have presided over dozens of hearings which sought to identify the adverse economic and social impact of monopolistic practices in the private sector of our economy. I commend you, Mr. Chairman, for your current efforts to determine the impact of anticompetitive practices in the public sector of our economy. It is the public sector that I wish to discuss today, but in doing that I do not intend to diminish the importance of its private counterpart. We must not in our zeal to remedy one part of the monopoly problem disregard our obligation to remedy the other. And I would hope that President Ford, who has done much to underscore the need to break-up publicly created trusts, also will lend his support to the break-up of privately created trusts.

The joint resolution to establish a national commission to study and report on the competitive impact of the federal regulatory commissions is indeed a worthwhile undertaking. However, I feel that with respect to at least two agencies, the ICC and the CAB, we need not await the commission's recommendation. We know enough from past studies of these agencies to commence legislative hearings on their reorganization.

In general, my support for the proposed Commission is based on my objections to the current economic regulatory framework: First, federal  
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regulatory commissions stifle competition at the expense of their intended beneficiary, the consumer. Second, federal regulatory commissions are inherently incapable of promoting competition and therefore should be divested of their antitrust responsibilities. Finally, a pro-competitive regulatory policy would provide consumers with the benefits both of the marketplace and of the independent commission.

There was a time when the regulatory commissions promoted competition for the benefit of consumers. Prior to 1920, regulation was oriented toward preventing the abuses of monopoly. The Interstate Commerce Act of 1887, for example, was drafted for the purpose of attacking the multitude of social problems associated with concentrated economic power in the railroad industry. But after passage of the Transportation Act of 1920, the regulatory mandate changed perceptibly from antimonopoly to anticompetition. For the first time, the 1920 Act authorized the ICC to set minimum rates and to preside over the orderly development of an industry. The delegation of responsibility, once specific, became general; agencies became managers of entire industries in the "public interest." Before long, they began to manage their regulated industries as legal cartels, federal protectorates. Activities that would have constituted palpable violations of the antitrust laws if practiced by trade associations or a concert of private executives were immunized by the regulators.

In stark contrast to an earlier period, there is mounting evidence today that federal regulatory agencies stifle competition at the expense of consumers. They impose unjustified public restraints on competition which increase prices, depreciate quality, promote inefficiency, retard technological innovation, discourage conservation and misallocate resources. Public regulators collude with their regulated clients in price-fixing, market division and a variety of other anticompetitive practices which in the private sector would constitute per se violations of the antitrust laws. The CAB, for example, recently fixed minimum prices on international charter flights to protect the higher-than-competitive fares already set with CAB approval by scheduled airlines such as TWA and Pan American. It is estimated that the CAB decision will raise charter fares by 30 to 40 percent next year and deprive thousands of North Atlantic travellers of competitive, low-cost air transportation. Likewise, under the guise of "furthering national transportation policy," the ICC permits motor carriers to collaborate in rate conferences to fix higher-than-competitive fares which increase prices

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on everything we buy that once moved by truck -- which is practicably everything. Although the ICC can independently investigate rate proposals, it does so in less than one percent of those filed by the carriers.

Regulators divide markets for the anticompetitive benefit of their industrial regulatees. The ICC allocates markets among its trucking clients, diminishing competition and enhancing monopolistic profits. As a result, an estimated 1 out of every 5 trucks on the road moves empty across a competitor's exclusive territory. That means wasted fuel as well as higher consumer prices. In addition, out of deference to the powerful trucking interests, the ICC sets prices for truck and rail movement at the costs of the highest-cost least-efficient mode: trucks. This prevents the railroads from lowering prices and thereby capturing much of the long-distance shipping business from trucks. This means not only more wasted fuel and even higher consumer prices, but presages the economic collapse of the nation's railroads.

Public regulators exclude competitors by regulating entry in the interest of their established clients. Immediately after its inception 36 years ago, the CAB, for instance, imposed a total blockade on entry into the trunk air carrier industry. Yet within the State of California alone, where CAB jurisdiction does not extend, 16 intrastate air carriers entered the market between 1946 and 1965. Significantly, unregulated (intrastate) air fares within California are substantially lower than regulated (interstate) fares everywhere else in the country. To fly from Los Angeles to San Francisco, for example, costs only half as much per mile as to fly from Washington to New York. In short, increased competition would yield lower prices in the public as well as private sectors of the economy.

Public regulatory agencies also stifle competition by allowing wholesale mergers of competitors. The examples of regulatory permissiveness in this area are rife. The ICC, for example, has approved 30 of the 34 major railroad mergers it has considered. And nearly all of them have resulted in the economic debilitation of both merging partners.

In addition, regulatory agencies may retard cost-saving technological innovations that threaten either to shift substantial business from one regulated industry to another or to decrease profits for regulated firms generally. Thus, it has been alleged that the introduction of container

(more)

ships, truck-rail piggybacking, and telephone interconnects have been delayed by the Federal Maritime Commission, the ICC and the FCC, respectively, for the protection of the industries they regulate.

The costs of public restraints on competition are no less than those which arise from private restraints. Economists Moore, Passell and Ross have estimated that economic losses in the transportation sector alone due to government-sponsored price-fixing and the allocation of traffic from energy-efficient rail and barge carriers to energy-inefficient trucks amount to more than \$6 billion each year. Economists McGowen, Noll and Peck estimate the losses from public restraints on competition in the communication field at more than \$8 billion a year. In my opinion, these estimates of enormous economic losses by themselves would warrant the establishment of a national commission to study the anticompetitive impact of our regulatory agencies.

My second reason for favoring a study commission is that federal regulatory agencies are inherently incapable of promoting competition and therefore, I think, should be divested of their antitrust responsibilities. The record of regulatory agencies on promoting competition within and among the regulated industries is frankly appalling. Although the law requires regulators to consider the anticompetitive impact of their actions, they frequently conclude that social factors outweigh the value of competition. Often the social factors reflect the interests of the regulated rather than the public. Three times the Supreme Court ruled that the acquisition by El Paso Natural Gas of the Pacific Northwest Gas Company, approved each time by the Federal Power Commission violated the antitrust laws; and yet, to the very end, the FPC vigorously defended El Paso's unlawful act as otherwise socially redeemable.

It is conceivable that the regulators have become too closely identified with the regulated to consider in an impartial and judicious manner the anticompetitive implications of their rulings. One possible remedy would be for Congress to repeal legislation such as the Reed-Bullwinkle Act which confers antitrust immunity on regulated industries and to divest regulatory agencies of their antitrust responsibilities. The Bank Merger Acts of 1960 and 1966 provide an enlightening precedent in this regard.

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They vest the Attorney General and the courts with an antitrust veto on bank mergers which have been approved by the Comptroller of the Currency. If within 30 days after the Comptroller approves the merger, the Attorney General commences an antitrust action attacking its validity, the agency's approval is stayed and the issue becomes a matter for the courts to decide de novo. In this way, the determination of anticompetitive impact is transferred from the regulatory agency to the Nation's antitrust enforcement authorities. In like manner, the proposed study commission might wish to consider the merits of shifting antitrust review of mergers and other public restraints on competition from the regulatory agencies which create them to the Attorney General and the courts which may impartially consider them. The problems of public health and safety, I would suggest, should be left to the regulators; the problems of competition should be left to the judicial guardians of our antitrust laws.

My final reason for supporting the proposed commission is that it may enable Congress to formulate a new pro-competitive regulatory policy which would provide consumers with the benefits both of the marketplace and of the independent commission. The traditional view of economic regulation is that it complements antitrust policy. "It appears that the basic goal of direct governmental regulation through administrative bodies," the D.C. Circuit Court of Appeals recently noted, "and the goal of indirect governmental regulation in the form of antitrust law is the same -- to achieve the most efficient allocation of resources possible." (Northern Natural Gas Co. v. FPC, 399 F.2d (1968) 953, 959). That is the theory; but in fact, the result of much economic regulation would appear to be protection of the regulated regardless of the impact on the economy. As the Neal Antitrust Task Force concluded: "In the regulated sector of the economy, the bias of policy and its enforcement is overwhelmingly against competition."

It is not my suggestion that we abolish regulatory agencies. Rather, I am suggesting that they be relieved of their power to immunize anti-competitive practices. We will always need regulation which complements

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rather than replaces competition in those areas where the marketplace is less qualified to serve, including public health, safety and conservation of the environment. And in these non-economic areas, our regulatory agencies have provided this country with an invaluable and irreplaceable service. In addition, we may require some form of government intervention where private industry is uninterested or incapable of fulfilling certain social needs, such as in providing urban and intercity mass transit. But our economic policy with respect to both the private and public sectors should be uniform: to promote the maximum amount of competition consistent with the public interest.

President Ford is to be commended for his decision to push for reform of our regulatory system, with its public monopolies and its federal protectorates. But I must stress again that this is only a small part of the monopoly problem in America. Approximately 20 percent of our national income is directly or indirectly controlled by federal regulation and government enterprise. What about the remaining 80 percent of our economy? It has been estimated that the cost of monopolistic regulation in the public sector may amount to as much as \$21 billion a year. By contrast, it has been estimated that the costs of monopolistic practices in the private sector may amount to nearly three times that figure, or \$59 billion a year. Hopefully, the Administration will begin to move against this second monopoly front soon.

\* \* \*

Monday 11/25/74

10:20

Joe Dawahare (pronounced Dawhare) -- Legislative Assistant to Sen. Cook -- said he had read several articles in the paper about the study they were considering concerning the functions of all agencies and any overlap, where it could be streamlined, etc.

224-4343

Wondered how it looked, etc.

I have checked John Carlson's office and he advises Lou Engman of FTC has made a speech about it recently, and the President has referred to it a number of times in speeches (Mr. Carlson will bring up a copy of the Engman speech)

*(attached)*





FEDERAL

TRADE

COMMISSION

WASHINGTON, D. C. 20580

FOR RELEASE UPON DELIVERY OR AT NOON (EDT), MONDAY, OCTOBER 7, 1974

ADDRESS BY

LEWIS A. ENGMAN

CHAIRMAN

FEDERAL TRADE COMMISSION

BEFORE THE

1974 FALL CONFERENCE OF THE  
FINANCIAL ANALYSTS FEDERATION

DETROIT HERITAGE HOTEL

DETROIT, MICHIGAN

OCTOBER 7, 1974



I imagine many of you followed with the same interest I did the summit and pre-summit economic conferences last month.

Probably you were not surprised at the fact that inflation or perhaps, to put it more accurately, "stagflation" -- was widely agreed to be the country's number one problem.

You should not have been surprised either that there was little agreement on how to deal with it. You get that many economists, businessmen and labor leaders together and you will be lucky if you can get them to agree on where to go to lunch.

Can you imagine acting as moderator for that group? I can think of less frustrating jobs. Like being the construction foreman on the Tower of Babel, for instance.

I don't want to be unfair to the summits. Although gatherings like that do not exactly produce an ideal decisionmaking environment, I believe it was worthwhile to get everyone's views out on the table. It also demonstrated that the present inflation is not a problem susceptible to a quick or easy "fix".

As for getting a consensus from that many independent minded people on a subject as complex as how to stop inflation, I suspect that anything resembling agreement would be most likely to be a sort of eclectic anthology of economic wisdom, and I'm not at all sure that is a good idea.

If we are going to make it up the long haul ahead of us, it is more assuredly not going to be in an economic policy vehicle that has John Kenneth Galbraith's engine block, Otto Eckstein's clutch, Dick Gerstenberg's drive shaft and Leonard Woodcock's transmission.

That kind of compromise approach reminds me of the husband and wife, one of whom wanted to paint the house red, and the other blue. Since neither would settle for the other's color, they mixed the two paints together and got purple, which was ugly but okay because neither one of them liked it.

In economic planning as in painting, the only thing to be said for that approach is that it is equitable.

Certainly there is no shortage of suggestions for how to deal with inflation.

On the front shelf is the traditional medicine, prescribed since time immemorial for the symptom of uppity prices: tight money and a balanced budget. There are those who doubt the effectiveness of this old cure in a cost-push world, but its proponents still outnumber its detractors.

In addition, there are some, myself among them, who also believe that inflation can be reduced by purging the economy of anti-competitive behavior. The FTC and the Justice Department's Antitrust Division are both looking with especial care for the types of trade restraints,



collusion and unfair marketing practices which reduce competition and lead to higher prices for consumers.

Some have suggested that import duties and quotas be lifted to permit entry of more lower priced foreign goods.

Others cast their vote for the reimposition of controls or, at least, for some form of guidelines.

But the suggestion enjoying perhaps the greatest vogue at the moment is that inflation can be curbed by reducing the government's involvement in the economy; more specifically, by reducing its regulatory role.

It is not just ~~the survival-of-the-fittest, every-man-for-himself~~ free-marketeers who make this suggestion. It has the support of many people generally viewed as liberal and interventionist in their approach to the economy.

It has received the blessing of Ralph Nader.

And it is about to be endorsed by Lew Engman.

And here's the reason. Though most government regulation was enacted under the guise of protecting the consumer from abuse, much of today's regulatory machinery does little more than shelter producers from the normal competitive consequences of lassitude and inefficiency. In some cases, the world has changed reducing the original threat of abuse. In other cases, the regulatory machinery has simply become perverted. In still other cases, the machinery was a mistake from the start. In any case, the consumer, for whatever presumed

abuse he is being spared, is paying plenty in the form of government-sanctioned price fixing.

Take the airline industry for instance. Under the Federal Aviation Act, the Civil Aeronautics Board controls the entry of new carriers to the market, controls the distribution of routes and has the power to disapprove or modify an airline's rate change proposal after hearing complaints from the so-called competition.

The result is that in the areas of rates and routes for all intents and purposes there is no competition at all. Competition, where it exists, is concentrated on the one unregulated aspect of airline activity, customer service. That is why the average airline commercial looks like an ad for a combination bawdy house and dinner theatre.

This may lead to some pleasing amenities. But it puts the customer in the position of captive buyer. Nobody asks him if he would rather have the money than the movie, or if he would like to brown bag it from New York to California instead of having the steamship round of beef au jus on the little plastic plate. He is just asked to pay up.

If you have any doubt that one consequence of the CAB's control over rates and routes is higher prices, you need only look at what happened some years ago in California when Pacific Southwest Airlines, an intrastate carrier not subject to CAB rate regulation or entry restrictions,



entered the San Francisco/Los Angeles market with rates less than half those being charged by the interstate CAB certified carriers TWA, Western and United. What happened? After attempting to ignore PSA's lower fares, the CAB carriers were forced to cut their rates to meet the competition. Even today, to fly from L. A. to San Francisco it costs only about half as much on a per-mile basis as it costs to fly from Washington to New York.

Of course, it is true that a major airline will try to make a fat profit on a high volume run like Los Angeles/San Francisco because it knows it is going to lose a bundle flying between Black Rock and Where-am-I City which the CAB, with the full support of concerned and interested members of Congress, requires it to do.

Except in those instances where it encounters competition from a PSA, it will succeed in this little book balancing act, charging one customer to pay for the flight of another so the CAB can perpetuate a network of routes which no longer and perhaps never did conform to the pattern of demand.

Certainly, no interstate carrier need be excessively concerned about new competition. The CAB has not approved entry of a new trunk carrier to the market since 1938. And just last month, the CAB rejected an application by Laker Airways, a privately-owned British airline, to fly regularly scheduled New York/London flights for



\$125 each way. That price, by the way, is little more than one-third of the economy fare charged now by Pan Am, TWA, and the other members of the international rate-fixing cartel.

As if that were not enough, the CAB also has been moving in directions which would raise prices in the heretofore unregulated charter market. Recently, it approved discussions between scheduled and charter carriers in hopes that a mutually satisfactory rate-floor for charter flights could be agreed to. I hardly need add that any such floor would be higher than current rates.

I would find it hard to imagine a more obvious instance of prices being pushed up by regulation than the case of the airlines.

Unfortunately, I do not have to imagine such a case, for we have the Interstate Commerce Commission. That body, as you know, was created way back in 1887 supposedly to protect shippers against the monopolistic power of the railroads.

But by 1935, the nation had sprouted a network of highways, and the trucks which rolled over them were biting deeply into the market power of the railroads.

With the trucking field still wide open to new entrants, this might logically have been the time to dismantle the ICC. The railroad monopoly was broken, competition could take its course.

Did that happen? No sir. Instead of freeing the railroads from regulation, Congress, in the Motor Carrier Act of 1935, just cast the regulatory net wider to include the interstate truckers as well.

As a result, today we have a situation in which market entry by new trucking firms is restricted by the ICC at the same time that rates are being fixed by the carriers who are given antitrust immunity to do so. Though the ICC has authority to investigate rate findings by the carriers, according to testimony given before a House Committee two years ago, the Commission was doing so in less than one percent of the cases.

And what is the result? Well, when the Supreme Court held some time ago that fresh dressed poultry was an agricultural commodity under the ICC Act and thus not subject to regulation, the average rate for shipping it fell by 33 percent. It is gratifying to note that the party who got the short end of the 5-4 decision was a certificated carrier who was trying to stamp out the competition of an uncertificated carrier who had the temerity to haul chickens without a license.

I have given you just a couple of examples. But, when you take all of the industries subject to direct federal regulation -- that's air, rail and truck transport, power generation, television, radio, the securities industry and others -- it works out to a substantial fraction of the economy.

In fact, it is estimated that these regulated industries account for 10 percent of everything made and sold in this country. What makes them even more important from the point of view of inflation is that they tend to be industries whose prices show up as costs buried in the prices of hundreds of other products.

Take transportation for example. When you change the price of hauling freight, that change is going to show up in a lot of other products. Moreover, it will show up not just once but again and again. By the time you get a piece of meat from the pasture to the plate, it carries with it numerous transportation charges.

And these industries subject to direct regulation are only part of the story.

There are, in addition, the dozens and dozens of federal and state regulations, prohibitions, proscriptions and requirements all of which subvert competition in the name of a greater objective -- though sometimes it is hard to see exactly what that greater objective is or on whose judgment its greatness rests. I refer to things such as:

- \* state laws against advertising the prices of eyeglasses or prescription drugs;

- \* the Jones Act forbidding foreign competition in the shipping business between U.S. ports;

\* the Federal Government's own "buy American" procurement preferences which can allow domestic producers to charge as much as 50 percent more than foreign sellers for some items. I should add that many states have similar preferences;

\* an agricultural price support program which asks the consumer to buy with his tax dollars what he does not want, cannot use and will never eat;

\* an agricultural export subsidy program which asks the consumer to pay the farmer to sell his product to some foreign buyer at a price lower than that at which the consumer himself can get it.

The effect of some of this regulation may perhaps be seen in some recent events in California. This summer the California Milk Producers Association dumped 420,000 gallons of fresh skim milk into Los Angeles harbor. The dairy co-op said that it was necessary to dump the milk "because no market could be found for it."

At what price, I might ask. I suspect that more milk could be sold if it were not for the elaborate government programs designed to maintain higher than competitive prices on the producer, processor and on the retail levels.

I mention only a few. Former Council of Economic Advisers' member Hendrik Houthakker has compiled a list of 45 regulatory policies that contribute to inflation.



The list of noble goals advanced to support these regulatory subsidies is virtually without end. I'm as humane as the next guy. I am not criticizing these goals. A responsive government must take action to address the demands of the people.

But mischievous means are not justified by noble ends.

To me, the most distressing development is the pervasive and well-accepted dishonesty that pervades the government's approach to regulation.

The existing crazy quilt of anti-consumer subsidies embodied in the intricately woven fabric of federal and state statutes and regulations is pernicious because:

- The subsidies are deliberately hidden from public view.
- The government has irresponsibly lost track of the actual cost of these subsidies.
- In most, if not all, cases, we have adopted the least efficient form of subsidy with the purpose of hiding the subsidy from the public and obfuscating its true cost.

From time to time, proposals have been made to provide direct cash subsidies in lieu of the patchwork of regulatory subsidies that now pervade our economy. Opponents rise indignantly to object that



hard-working individuals and businesses don't want handouts. Well, a rose by any other name . . . .

Our airlines, our truckers, our railroads, our electronic media, and countless others are on the dole. We get irate about welfare fraud. But, our complex systems of hidden regulatory subsidies make welfare fraud look like petty larceny.

I have no way of knowing what the numerous regulatory measures cost the consumer each year. I have seen private estimates indicating that the annual costs in the transportation area alone may exceed \$16 billion.

I invite students of this kind of thing to come up with their own figures. Whatever they are, I think we can all agree on this: the costs are too high.

There are free market purists who are reveling in the growing disenchantment with heavy-handed regulation. They have contended all along that the market was the fairest and most rational allocator of resources; that you could no more improve its performance by regulation than you could improve the performance of a fine watch by poking around in its works with a paperclip.

It seems to me that these arguments -- taken to the extreme -- are both naive and destined to be ignored. They are naive because they stress only the virtues of the long range adjustment facility of the market

system. They ignore the short term dislocations that market forces produce and they discount legitimate social objectives that enlightened peoples choose to pursue. Voters do not live on bread alone. And to the extent they do live on bread, it is this year's bread, not next year's.

The market will not prevent bank failures or compensate their victims. It will not guarantee safe toys or unadulterated drugs. And it will not ensure a clean environment.

If we want to be assured of these things, we may need some regulation.

Regulation may also be needed to protect the consumer where natural monopolies exist, that is, where economies of scale argue strongly for a market being served by a single producer. Electric power and local phone service are good examples of this.

These are instances in which some would say that the benefits of regulation can be said to exceed its costs.

But the trade-off between benefits and costs is not always an easy determination to make. Moreover, neither the benefits nor the costs will remain constant over time. Some of the costs, such as direct expenditures, are obvious. Others, such as the costs the consumer pays for diminished competition, are not so obvious.



The problem of weighing costs and benefits is made more complex because often it is necessary to compare unlike qualities. (How, for instance, do you give pain and suffering a monetary value?) Or because those who bear the costs may be far more numerous than those who reap the benefits. (In order to spare one person 100 units of discomfort, is it fair to assess 100 people more than one unit each?)

I don't know the answers to these questions. The point is that each and every regulation or regulatory policy that contributes to inflation should be re-examined to make sure that the trade-off between costs and benefits which presumably brought about its institution, is still valid. We may well find that some of the more costly ones look a lot less attractive in a world of 12 percent inflation than they did in a world of 3 percent inflation.

We should also re-examine them to see whether those imagined trade-offs were accurate in the first place. For instance in the case of the ICC, rates wasted no time in going up immediately after the agency's creation.

When truckers are permitted to fix prices and are subject to a panoply of regulations all because the transportation mode with which they compete once had excessive market power, one is hard pressed for a logical explanation. When airlines are going broke despite the fact

that they charge twice as much as others are willing to fly for, something is seriously wrong.

The fact of the matter is that most regulated industries have become federal protectorates, living in the cozy world of cost-plus, safely protected from the ugly specters of competition, efficiency and innovation.

There are those who hold the businessman to be so unprincipled and greedy that they regard any governmental interference with his free movement as an addition to the social welfare.

Experience would seem to contradict that point of view. In point of fact; the effect of government interference frequently has been to remove the one thing that stood in the way of the anti-social exercise of greed; I am referring to competition. Meanwhile, the scheme of regulation has proven at least as susceptible to the lure of protectionism as the private interests it replaced.

As a political matter, we will not be able to pare away our excessive regulatory fat unless the public can be assured of adequate protection against the abuses that regulation was designed to curb.

We at the Federal Trade Commission can help provide that assurance. Through a vigorous antitrust policy, we can help prevent the aggregations of private market power which permit consumer abuse and create a need for regulation.

But there will still be cases in which regulation is necessary.

For those cases, the advice I would offer is that the costs of the regulation -- and I mean the direct costs, the indirect costs, the present costs and the future costs -- be fully understood and consistent with what we hope to gain. The task won't be simple. Cost calculations of the type I propose are likely to be imperfect. We currently lack not only accepted calculation methodologies but also much of the raw data necessary to informed estimates. But unless substantial progress is made, our regulators will continue to stumble around in an increasingly expensive game of blind man's bluff. Unless and until these facts are brought to light, I see little hope for assuming that public actions will match up to public expectations or the public interest.

Monday 11/25/74

11:40 Checked with the House Documents and they advise that there are three bills sent up to establish a National Commission on Regulatory Reform --

H. R. 17417, <sup>in the</sup> /House Committee on Interstate and Foreign Commerce.

H. R. 17461 --- in the same Cmte.

S. 4145, in the Senate Government Operations Committee.

Advised Joe Dawahare in Sen. Cook's office.



Monday 11/25/74

10:20

Joe Dawahare (pronounced Dawhare) -- Legislative Assistant to Sen. Cook -- said he had read several articles in the paper about the study they were considering concerning the functions of all agencies and any overlap, where it could be streamlined, etc.

224-4343

Wondered how it looked, etc.

I have checked John Carlson's office and he advises Lou Engman of FTC has made a speech about it recently, and the President has referred to it a number of times in speeches (Mr. Carlson will bring up a copy of the Engman speech).



JUNE 25, 1975

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

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THE WHITE HOUSE  
PRESS CONFERENCE  
OF  
RODERICK HILLS  
COUNSEL TO THE PRESIDENT  
PAUL MAC AVOY  
COUNCIL OF ECONOMIC ADVISERS  
JOHN O. PASTORE  
SENATOR FROM THE STATE OF RHODE ISLAND  
JOHN E. MOSS  
REPRESENTATIVE FROM THE STATE OF CALIFORNIA  
AND  
JAMES C. WRIGHT, JR.  
REPRESENTATIVE FROM THE STATE OF TEXAS

THE BRIEFING ROOM

10:05 A.M. EDT

MR. NESSEN: The President met for slightly over two hours with 12 Members of the Senate, 12 Members of the House, and various members of his staff on his proposals to simplify the regulatory agencies.

Let me just quickly give you one or two highlights from the President's opening statement, and then we are going to have to brief you on this Rod Hills, the Counsel to the President, who is heading the Domestic Council review group that is overseeing the President's ideas in this area; Paul MacAvoy, a new member of the Council of Economic Advisers, who also is working in this area, Senator Pastore; Congressman Jim Wright, and Congressman Moss, whose committees will be dealing with this problem.

MORE



The President said that since he has been in the White House and even before that, in Congress, he has sensed a growing apprehension and concern about regulatory agencies, the amount of time they consume and the amount of added costs they put into the economy, and lay on the consumer.

He said that they were established to serve the public interest but that with the passage of 25 or 30 or 50 years, they have got to be looked at again now to make sure they are still serving the public interest.

The discussion was broken down into three areas -- economic regulation, health and safety regulation, and administrative procedures.

The President made clear that he does not want to dismantle the regulatory agencies. He has no intention of dismantling environmental regulations, health protections and consumers' rights, but he did say that the cost-to-benefit ratio needs to be looked at.

He wants to make sure that these agencies still serve the public interest in the 1970s rather than having gotten away from their original intention of serving the public interest.

He told the Members of Congress that he hoped that they could work together, the White House and Congress, because regulatory agencies are a joint responsibility of the Executive Branch and of Congress.

That is a summary of what the President said at the beginning, and for more details on the meeting I am going to give you these gentlemen from Congress and from the White House.

MR. HILLS: Let me say, generally, the purpose of the meeting was to seek a consensus from the group gathered as to the major objectives of regulatory reform. I think the President was extremely gratified to find that there was indeed not only a consensus but unanimity that regulatory reform was a critical item for the future.

The purpose of the consensus, of course, is in preparation for his meeting with all the commissioners of the independent regulatory agencies, which will take place two weeks from today. The consensus, which I think I can state without fear of dissent, was broadly in the area of economic regulation, the need for more flexible pricing, more redefinition of the objectives of agencies that had been in effect for a very long period of time, and in some areas more ease of entry.

MORE



Of course, as regulation falls away from certain economic types of regulation, it is generally agreed today that the antitrust procedures and more effective antitrust protection must take its place.

In the area of general regulation, the need for more cost benefit analysis was generally accepted; in other words, regulation should not be passed in a vacuum, rather they should have the benefit of an intensive cost analysis, not necessarily that you can trade off lives or safety against money, but that people passing regulations must know what it costs in order to choose the best alternatives.

Finally, and certainly the most dramatic assent, was that regulation takes too long and that the substance that is created by that form of regulation is perhaps the most deleterious effect upon the regulatory efforts of Government.

The form of problems with big business and little business was particularly harmful. The trouble of small businessmen to deal with regulation was a prime matter. There was not complete agreement on every matter. Certainly, in the area of consumer representation, there was a difference of approach.

There are a number of people, a number of Senators and Congressmen, that feel there should be a consumer agency to represent the consumers' points of view. The President and others present felt that there was indeed a stronger role for the consumer, but that it could best be met by an effort in each individual agency; in other words, redoing the agency.

So there was broad assent, there was broad consensus the President sought, but of course there were some areas of disagreement, and we are all available for questions.

Senator, would you care to speak?

SENATOR PASTORE: First of all, I think this is one of the better meetings called by the President. He should be applauded for it.

There is no question at all that the habits of 1950 cannot be the procedures of the 1970s. A great deal needs to be done to modernize our regulatory agencies.

On the other hand, it is not an easy solution and it will require time, it will require patience, and will require public confidence.

MORE



I pointed out, of course, that there are several elements that could be taken into account as a remedy, on a short-term basis. For instance, only too often -- and this is not a reflection on the present Administration, it has been with all Administrations -- certain candidates who failed an election are usually dumped over on a regulatory agency.

Many, many times we take people out of industry and put them on a regulatory agency that is to regulate that particular industry. And that is number one.

In other words, we ought to have people who are independent, people who can be impartial, and people who are not using that position as a training ground to get a job with a regulated industry once they leave that position. And that is one of the first things.

Another thing, too, we have to be very, very careful that the bureaucrats, the people who are charged with dealing with the public, will use courtesy, will not act as though they are despots, will not act as though they have plenipotentiary powers, that they will be patient with people.

I have known of cases where under OSHA they would walk into an establishment and summarily fine people for an offense where it was innocently done.

Now you can carry out the meaning of a statute, you can carry out a meaning of a regulation without being arrogant about it, and there has been too much of that, and that has been a harrassment on the part of business.

On the question of a speedy conclusion, we are all interested in that, but in the process we have got to be very, very careful in that we are dealing with the public and we cannot deprive the public from a judiciary remedy.

In other words, if they feel that they have been aggrieved, you can't deny them the right to go to court and our court calendars are crowded and for that reason, of course, there is delay upon delay.

Now, all of this has to be taken into account and it won't be easy, as I said before, but it needs to be done and I repeat again this is the first of a series of meetings with the President. It can't be done by the Congress alone. It can't be done by the Administration alone. It has to be a joint effort and we all have to look at the objective and do it in a very impartial way.

Thank you very much. If anyone wants to ask me a question, I will be glad to answer.

MORE

Q Senator, do you agree with Mr. Hills that there was a broad consensus in this meeting?

SENATOR PASTORE: Yes, there was. There was a broad consensus that something needs to be done, and rather quickly.

Q Senator, you mentioned specifically the quality of the nominees to these agencies. In fact, your own subcommittee has passed on a number of these nominees so would you not say the Senate would have to share the blame?

SENATOR PASTORE: Absolutely, but we have rejected quite a few of them. As a matter of fact, we have the Coors amendment (nomination) before us now. That is highly controversial. You wait and see what happens to that.

Q Senator, how much of this can be done without new legislation?

SENATOR PASTORE: First of all, I think there ought to be an admonishment on the part of all of these people who are entrusted with enforcing regulations to act with decency, with dignity and courtesy.

Q Senator, excuse me. Backing up to the Coors nomination, are you saying that your subcommittee is left with the position to reject that nomination?

SENATOR PASTORE: I did not say that at all. As a matter of fact, I said it is highly controversial. We have separated it from the other seven nominees because we have to deal with that separately. There is a lot of objection to it.

Q Senator, did you get the impression that you were far apart from the Administration on the matter of health and safety regulations?

SENATOR PASTORE: Not too much. Not too much. Of course, you have got to realize that the President talked in general terms and it is a matter of implementation. I thought it was a very healthy meeting and I think it was a very productive one and I think something good will come out of it.

MORE

Q Senator Pastore, do you kind of reject the charge Ralph Nader made this week that the regulatory reform is merely a ploy by the Ford Administration to build political support for 1976?

SENATOR PASTORE: I think it is too soon to say that.

Q Do you think there is any kind of scapegoatism looking for somebody to blame the economic crisis on?

SENATOR PASTORE: I would not say that. I would not accuse the President of the United States of that deception.

Q Mr. Hills, the Administration a few weeks ago proposed some regulatory reform in surface transportation, in rails. Supposedly, there is going to be some more reform in trucks and some easing of regulations of the airlines. Nothing has been heard. When is it coming?

MR. HILLS: This meeting is an effort to find the consensus for most matters, and they are coming. Considerable work has gone on over the last few weeks between various of us on the White House staff and the Hill staff with the agencies.

I think considerable has been done, if you consider how such a short period the President has been in office. I think you will find considerable efforts at specific legislation in the very near future. I think also you will find a greater consensus around such legislation when it comes to the Congress.

Q May we hear from the two experts from the House?

CONGRESSMAN MOSS: I want to first agree that there was a very broad consensus that reform must take place, and particularly in the area of economic regulation. There was not sufficient in depth discussion of health and safety to characterize it as a reform, but it was not marked disagreement.

Another broad consensus of great significance is the recognition of the fact that neither the Congress nor the Executive can effect the changes necessary by themselves. It is going to require the closest cooperation on a continuing basis if a restructuring of the regulatory agencies is to be achieved.

There is a recognition that far too much time is wasted in the regulatory process. It can be expedited without the sacrifice of due process, and due process is certainly an essential protection, both to industries and to the public.

MORE

We have a disagreement on the matter of a consumer advocate. There is a division. It is not a partisan division because support and opposition surfaces from both sides of the political spectrum here in Washington.

I think the significance is that we did meet. and, after a meaningful discussion, agreed to seek to work cooperatively and try to expedite the process of re-evaluating these agencies.

We in the House in several committees -- mine having the broadest jurisdiction over regulatory agencies -- are working on a greatly accelerated timetable, reviewing each of the agencies within the jurisdiction of the House Commerce Committee.

We will have that work completed during the life of this Congress, and we will have recommendations for actions which will not in many instances require additional legislation.

There was a consensus that a change of attitude on the part of those engaged in the regulatory process would be refreshing, would be constructive and would restore a great deal of public confidence, a very essential ingredient, in the work of these agencies.

I think that is a fair summary of the achievements of this morning.

Q Did you discuss deregulation of gas prices?

CONGRESSMAN MOSS: We did not discuss deregulation of gas prices.

Q Mr. Moss, somewhere down the road, can we anticipate a reduction in the number of regulatory agencies through consolidation?

CONGRESSMAN MOSS: I would not rule it out, but at this moment, I think it would be premature to state that there would be a reduction.

Q Mr. Moss, how do you evaluate the present Office of Consumer Affairs?

CONGRESSMAN MOSS: The evaluation of the present Office of Consumer Affairs operates really within a very limited scope of jurisdiction. I don't think it would be a adequate substitute for the consumer advocate agency, which is being urged in both Houses of Congress at this time.

MORE

Q Sir, when you talk about regulatory reform, are you talking about this year or next year, or beyond that? What kind of time?

CONGRESSMAN MOSS: I hope I am talking about a continuing review correcting faults as they surface and starting at this time to accelerate the process of identifying problem areas. I don't think we will ever be finished with regulatory reform.

Q Mr. Moss, if Congress approved a consumer advocacy agency and the President vetoed this legislation, do you think the Congress would be able to override the veto?

CONGRESSMAN MOSS: I would want, first, to hear the reasons for the veto and see the final form of the agency presented to the President before being able to make that kind of judgment.

Q Congressman, is there a consensus in the view that disputes on economic matters that are now empaneled as matters of equity by the regulatory agencies should be referred to the courts? And if so, would that not delay things further?

CONGRESSMAN MOSS: Well, it presupposes that we would have them have direct access to the courts from the beginning and that, of course, is not in my judgment anticipated. We have two very recent complete re-enactments of regulatory agency legislation -- the Federal Trade Commission Act of last year and the rewrite of the Securities and Exchange Commission Act this year -- and I would suggest that those two indicate both the consensus of Congress and of the Executive.

They resulted in a clarification of authority, a broadening of authority of the agencies, and that was achieved with the support of the White House, the Department of Justice, the regulatory commissions, and a major part of the regulated industry.

Q You do not have any consensus on abolition of, say, the Interstate Commerce Commission or the Civil Aeronautics Board?

CONGRESSMAN MOSS: I do not. A restructuring, yes; an abolition, no.

Q You were talking, Mr. Moss, of having something ready in your committee by the end of this Congress. That doesn't seem to be very speedy action, to me. Don't you expect something before that?

MORE

CONGRESSMAN MOSS: Oh, I expect a great deal before the end of this Congress. I was talking in that context about an evaluation of the work of each of the agencies within the jurisdiction of the House Interstate and Foreign Commerce Committee, which has the independent regulatory commissions and the Federal Food and Drug Administration, and related agencies.

The total review by the end of this Congress -- we will be prepared to move with reports setting forth very precise recommendations before the end of this session of this Congress in some areas.

Q Which areas, Mr. Moss?

CONGRESSMAN MOSS: I think one of the first will be with the Federal Power Commission, secondly with the Federal Energy Administration, and from there on there are several candidates, but we have not advanced sufficiently to make a final decision.

Q Was any thought given to reforming the wordage used in writing regulations, any thought given to making regulations simple so that plain people can read them and understand them?

CONGRESSMAN MOSS: There was a considerable discussion about a need of the change in attitude. Certainly, basic to a change of attitude would be to remove much of the bureaucratic verbiage and to get down to the essential use of the good English concisely stated in all of these regulations.

Q In that regard, sir, you might start with this Democratic policy statement here because -- (Laughter)

CONGRESSMAN MOSS: That was a committee production.

Q Sir, at this meeting this morning, did you discuss at all the Administration's proposals on transportation, loosening controls over transportation? And if so, do you have any prediction about what Congress is going to do to Administration proposals in that area?

CONGRESSMAN MOSS: I do not have any predictions. We discussed transportation and recognize a need for freer entry in some markets.

On the other hand, we cannot abandon regulation because there are markets where there is no effective competition.

Q Well, do you foresee, for example, free entry into air routes in the near future?

CONGRESSMAN MOSS: I think a freer entry is a distinct possibility.

MORE

Q Mr. Moss, if it is true, as many have charged, that some supposedly independent regulatory agencies have become captives of the very industries they are supposed to be regulating, then do you expect that these industries are going to support these reform efforts? Don't they have a vested interest in maintaining the status quo?

CONGRESSMAN MOSS: I do not expect that they will support reform efforts enthusiastically, but faced with the inevitability of reform they will attempt to give as much as they have to and no more, and then Congress and the Executive will have to apply the pressure to go the additional step required to serve the public interest.

MORE

Q Why didn't some Republican Congressmen come out here? Are they just giving yes to the President?

CONGRESSMAN MOSS: I don't think so. My Members on my committee have split on a number of issues as we have moved along. They have not been a monolithic block in working on the committee, but I don't know why they didn't come in here at this time.

CONGRESSMAN WRIGHT: There is relatively little that I could add. I think all of us agreed that it was an extremely useful initiative that the President has begun. I think all of us agreed that this is a most important and an extremely vital effort that is being undertaken.

To expect unanimity from so diverse and heterogeneous a group would be impossible. To expect consensus would be rosier, but I think there is broad consensus among those present, first, that: (a) regulation has become entirely too burdensome in many instances; secondly, that there seems to be an almost inexorable tendency on the part of regulatory agencies to proliferate guidelines never intended by a Congress in enacting the parent legislation; thirdly, that the regulatory process consumes entirely too much time and that it imposes far too burdensome a paper-work requirement upon applicants of all sorts.

I think there was general agreement that the chief victims were the public themselves, and primarily small business, which is required in many instances to fill out the most elaborate forms that a General Motors itself would have difficulty in completing.

I think there was agreement that there is no excuse for the kind of internecine warfare that sometimes exists within Government, pitting Government agencies into adversary relationships against one another and leaving Government at war with itself where the public becomes the innocent victim.

Illustrations abounded. One, for example, found consensus that there can't be any justification for safety representatives telling the owner of a small industrial plant that he must put in corrugated sidewalks and corrugated floors so as to prevent slippage and a hazard to safety, and when he does so, then representatives of the health agencies telling him that he must take it out because it can't be kept clean.

Any others could enumerate several such instances. All of them make Government look ridiculous.

MORE



I believe there was agreement that we must, at all costs, simplify procedures, that both administrative and legislative branches have some responsibilities in seeing that this is done.

I think finally there was agreement that it is not going to be easy. Fighting red tape is like fighting a pillow, you can hit it and knock it over in the corner, but it just lies there and regroups.

Q This meeting is being billed, as is the July 9 meeting as a regulatory summit, and the last time this Administration convened the summit, it dealt with the problem of inflation at a time when the public was concerned about recession.

Particularly, with the Congressional calendar full of problems, like antirecession legislation, and tax reform, what makes you think that there is a public consensus for this summit conference or this kind of discussion on regulation.

CONGRESSMAN WRIGHT: I am not certain that there is a public consensus for a summit conference or a discussion of this sort. I am reasonably sure, and my opinion was strongly re-inforced by reports from those who are closest to the public in their respective States -- and many of the States represented -- that there is great concern on the part of the public over a great deal of regulation all the way from the IRS on the one hand that touches to the newer agencies such as the Environmental Protection Agency and the Occupational Safety and Health Agency, which were created with high hopes to fulfill high purposes, but which in some cases have become so proliferated with jungles of red tape that they have become counter-productive for the purposes for which they were created.

I think there is a general public concern over that.

MR. HILLS: If I can bear with you a minute, Dr. Paul MacAvoy, a new member of the Council of Economic Advisers, would like to speak for a minute.

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MR. MAC AVOY: Let me just add two points. As an economist usually dealing with mathematical models, I was shocked by the unanimity of concern about the things that I always miss: First, too much paperwork; second, the proceedings take far too long; third, that the proceedings in good part end out protecting the interest of the commissioners rather than the consumers.

That is all in what we call variance in the data and it seems to have grown to enormous proportions, and perhaps the economic analysts ought to pay attention to that, starting now.

The second point is in the area of economic regulation I think there were two strong issues discussed, even if indirectly.

One is that if you look at the basis for regulation, the reason for starting regulation, it was supposed to serve as a substitute for imperfectly operating markets. It was supposed to do better than competitive or non-competitive markets in serving the interest of the consumer, but as you review regulation and transportation, energy, and communications the commissions have attempted to thwart the operation of competition wherever it may appear, so rather than substituting for markets it has tended to subvert what market performance there is.

In the area of energy, there was a point made that the use of historical costs and rate base procedures in the Federal Power Commission and the State commissions have wound down investment in gas and in electricity, and that the present gas shortage wasn't in good part due to the price freeze put in for a decade in the Federal Power Commission over wellhead prices in interstate commerce.

In the electricity area, this may very well be on the way to occurring in the next decade due to the slow and cumbersome and historically based rate-setting procedures of the State commissions.

That is enough for an economist, I think.

THE PRESS: Thank you.

END

(AT 10:35 A.M. EDT)

