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MEMORANDUM

To: Joe Levin

From: Mary King

Subject: Medical Malpractice and NHI

Date: September 27, 1976

Mr. Bernzweig is a preeminent authority on malpractice and is available for further refinement of his proposals. Ruth Hanft could help with any costing.

MEDICAL MALPRACTICE AND NATIONAL HEALTH INSURANCE

By

Eli P. Bernzweig, J.D.

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MEDICAL MALPRACTICE AND NATIONAL HEALTH INSURANCE

By

Eli P. Bernzweig

Introduction

It is beyond the scope of this paper to discuss all the dimensions of the medical malpractice problem. Without question, the dramatic increase in malpractice claim frequency and severity since the mid-1960's has had a profound effect on our health care system, affecting to one degree or another the costs of malpractice insurance for doctors and hospitals (and thereby doctors' fees and hospital rates), the availability of such insurance in the open market, the choice of medical specialty and geographic distribution of health professionals, modes of practice including the extent of utilization of health care facilities and resources, attitudes of physicians towards their patients, and other health system effects. The 1973 Report of the HEW Secretary's Commission on Medical Malpractice identified and explored most of these health system ramifications in considerable detail, obviating the need to do so here.

There is justification, however, for examining more closely how the malpractice problem might affect and be affected by national health insurance (NHI). This obviously is important because of the cost containment and quality improvement objectives of NHI --- matters integrally related to the malpractice issue --- but perhaps of even greater importance when one considers the disastrous effects of the widespread withholding of medical services by disgruntled doctors in

retaliation for enormous malpractice premium hikes, such as the highly-publicized doctor strikes in California in mid-1975 and early 1976. In short, given the present malpractice environment we no longer have the the luxury of scheduling the malpractice problem for "later action" and any NHI scheme which fails to reckon with the malpractice problem head on is destined for serious trouble.

Health system factors influencing malpractice litigation

It is a fundamental thesis of this paper that medical malpractice claims and their many negative consequences are a direct outcome of the manner in which health services are organized and delivered under our present health care system. In a very real sense malpractice claims are a microcosmic reflection of the many imperfections of the system and directly or indirectly focus on such issues as (a) the availability of health manpower, (b) the costs of health care, (c) acceptable standards of care, (d) the existence -- or absence -- of mechanisms for monitoring the quality of care, (e) proper or improper utilization of health facilities and resources, (f) unrealistic expectations regarding medical outcomes, (g) effective communication and rapport between physicians and patients, and the like.

If nothing else, the rising level of malpractice litigation is a strong indicator of growing consumer dissatisfaction with a health care system perceived by many patients to be fragmented, impersonal, expensive and not responsive to their needs. It also suggests that existing methods for assessing medical quality fall

seriously short of the mark. To a large degree, therefore, the malpractice problem facing the health care industry today is symptomatic of basic defects in the health care system itself and we may expect little hope for improvement in the overall malpractice picture until these underlying system problems are remedied.

The problem of iatrogenic injuries

Far too little attention has been devoted to what is undoubtedly one of the leading causes of malpractice litigation--- medical injuries themselves. Iatrogenic injuries (i.e. injuries caused by the treatment process itself) have long been recognized by the medical community' as an inescapable byproduct of the increasingly technical nature of medicine, sometimes referred to as diseases of medical progress. They can and do occur with the best of medical care and need not involve negligence in any manner, but this does not diminish their ability to precipitate malpractice litigation, particularly where extensive disability occurs and substantial economic losses are sustained.

The HEW Secretary's Commission on Medical Malpractice sponsored a major study of iatrogenic injuries which concluded that roughly 8% of all hospital inpatients suffer treatment-related injuries, and that probably 30% of the latter can be attributed to negligent treatment. Extrapolating to the 35 million hospital admissions annually, one could expect approximately 2.8 million iatrogenic injuries, with roughly 840,000 of them due to negligence.

Note that these figures do not include injuries arising out of the more than 250 million outpatient visits or those which occur in physicians' offices or other health care settings. Given these injury statistics it is truly amazing that so few malpractice claims are filed against doctors and hospitals --- not more than 20,000,- 30,000 a year --- but the steady 12 - 15% increase in claim frequency per year clearly shows what lies ahead.

A medically-injured person who suffers disability and/or economic loss is far less concerned with the cause of his loss than with its consequences. The more severe the damages, the more likely he will file a malpractice claim, particularly where his economic losses are not covered under other private or public insurance mechanisms. To the extent NHI affords an individual necessary follow-up care without additional cost, he will have less incentive to sue for malpractice; on the other hand, NHI will not diminish the incentive to sue where the patient's losses are due to loss of income or wage earning capacity, where his disability is permanent in nature, or where his physical pain and suffering has been significant.

With or without some form of NHI the iatrogenic injury problem is of major importance for several reasons. First, because it highlights the need to lower the incidence of all medical injury and not just injury due to substandard (negligent) treatment. Second, because it foreshadows the demise of the present claims-handling system, already showing signs of distress though handling only a small

fraction of the potential universe of malpractice claims. And finally, because it properly shifts the focus of the malpractice problem from the insurance needs of doctors and hospitals to the compensation needs of literally millions of patients whose treatment related injuries are presently going uncompensated.

Inadequacies of the malpractice claim system

As already noted, there is serious doubt that the present malpractice claim system can survive over the long term. Its inadequacies have been apparent to knowledgeable observers for a long time but its troubles became more widely apparent only when liability insurance costs went out of control, causing health care providers and their insurers to "go public" with the issue and press for major reform of the system by which claims are prosecuted. Acceding to these pressures, the legislatures in a majority of the states enacted a variety of laws ostensibly designed to bring about insurance rate stability. In almost every instance, however, the legislation seriously limits a patient's right to assert or litigate a claim for medical injury or limits the amount he can recover.

Thus, with the implied threat of renewed disruptions of health services, the malpractice insurance problems of health care providers suddenly became a matter of grave public concern and the medical establishment, backed by the insurance industry, was able to legislate the withdrawal or suspension of long-established rights of injured claimants while legitimizing new immunities or privileges

for doctors and hospitals not accorded defendants in other types of personal injury litigation.

Notwithstanding these unprecedented changes in tort doctrine, the system remains grossly dysfunctional. By its very nature it is arbitrary and erratic: a few injured patients receive vast sums while the majority go completely uncompensated. As the HEW Malpractice Commission pointed out, the odds are strongly against the many patients with small, albeit valid, claims because the potential recoveries are just not great enough to attract lawyers. The crux of the problem is the necessity to prove fault in order to recover, a process which (in the case of alleged negligent medical care) is inordinately difficult and extremely costly.

Bear in mind that the system as we know it has never been structured as a compensation system, but rather an indemnification system. The objective of the doctor's or hospital's insurance carrier is to avoid payment of compensation if at all possible, and the extremes it will go to in pursuit of this objective inevitably lead to high transactional (friction) costs. Those who criticize the inefficiency of the malpractice claim system by pointing out how small a percentage of the malpractice premium dollar winds up in the hands of injured claimants simply ignore the realities of the situation: malpractice insurance is a device whose prime function is to provide legal defense in order to protect the assets of the insured doctor or hospital. This objective is totally inconsistent with a system whose function is to provide prompt, equitable and adequate compensation to

the interests of health care consumers, taxpayers and the public as a whole. They are as follows:

- a) assurance of continued availability of health services without threat of interruption because of malpractice insurance problems;
- b) reduction of those costs of health care directly or indirectly attributable to malpractice claims and the malpractice environment;
- c) assurance of improved health care quality controls aimed at minimizing or preventing the injury-producing incidents which give rise to malpractice claims;
- d) a system for assuring the prompt, adequate and equitable compensation of medically-injured persons while reducing the friction costs thereof as much as possible.

To the extent NHI incorporates any of these objectives into its statutory scheme, the malpractice problem will tend to diminish in intensity; but we cannot realistically expect any long term solution to the malpractice problem if all we achieve is modification of a malpractice claim system that not only treats injured claimants badly, but in the process dissipates the resources that could otherwise provide more adequately for their needs. In the final analysis it makes more sense --- for economic as well as compassionate reasons --- to establish an injury reparations regime which recognizes treatment-related injuries as an inevitable byproduct of the treatment process and undertakes to replace the economic losses of the fortuitous victims of such injuries in a far more equitable and efficient manner than the tort system now provides.

In the proposals which follow only the first deals with the malpractice problem in the manner just described. The remaining proposals represent modifications of the present system or are otherwise geared to the present system on the pragmatic assumption that major reform of the legal system may not be politically feasible at this time.

Proposal No. 1

Abolish the right to bring a malpractice suit for injuries arising out of any NHI-funded treatment, and substitute a medical injury compensation scheme to compensate patients for their economic losses arising out of treatment-related injuries without requiring proof of negligence.

The basic benefits program would provide to all eligible claimants reasonable and necessary hospital and medical treatment, skilled nursing facility care, home health services, drugs, physical therapy, and rehabilitation services. While no cost sharing would be required with respect to these benefits, they would be reduced by any benefits received from other sources to cover the same items of expense. In addition to the foregoing, eligible claimants would be paid a percentage of their actual or imputed wage loss, such benefits to be paid monthly following a four-week waiting period and extending for a period not to exceed two years, and in no event to exceed a stated maximum (e.g. \$15,000). Should disability extend beyond two years, or the maximum be reached, a lump sum disability benefit would be paid at that time (e.g. 50% of the amount already received or a maximum of \$7,500).

Benefits would not include allowances for noneconomic detriment (pain, suffering, inconvenience and other nonpecuniary damage) but provision would be made for lump sum allowances for permanent loss of wage earning capacity, loss of body members, or death during the benefit payment period.

The compensation program would be integrated with and coordinated with the NHI program, and it would be financed out of NHI funds.

The program would be administered by fiscal intermediaries in accordance with Federal guidelines which would spell out the applicable procedures, criteria for making payments or denying payments, and appropriate administrative and judicial avenues of appeal.

A comprehensive medical injury compensation scheme of the sort described would solve a number of current malpractice-related problems. It would eliminate the need for malpractice insurance and would thereby remove any future malpractice insurance cost/availability predicate for disruption of health services. At the same time, it would remove the costs of malpractice insurance (presently estimated at \$2 billion annually) from the costs of health care. Similarly, it would eliminate the need for physicians to resort to defensive medicine practices, thereby eliminating the enormous costs thereof to the health system, and it should improve the increasingly-strained relationships between physicians and their patients attributable to the threat of

malpractice litigation.

Perhaps the greatest benefit of all would be the revised emphasis given to the unmet needs of vast numbers of medically injured patients. The preoccupation of the malpractice system with assigning fault has caused us to neglect the injuries themselves and the economic needs of the victims. Since the inevitable (and exorbitant) costs associated with proving fault under our present system would be eliminated, the proposed system should prove far more efficient and cost effective as a compensation mechanism.

Finally, the proposed system would focus proper attention on the root cause of all malpractice litigation -- medical injury -- and would encourage medical injury prevention by making the health system itself financially accountable for the injuries which it causes. The routine compensation of medical injuries should lead to greater conservatism in the treatment process, a desirable end in itself.

With respect to the alleged deterrent effect of malpractice litigation it should be noted that the greatest incidence of malpractice claims is against the so-called "good" doctors, those with specialty board certification and other credentials. Physicians who perform difficult and complicated operative procedures on patients with only the slimmest hope of survival are frequent targets of malpractice litigation, while the physician known by his colleagues to be a substandard practitioner somehow eludes service of process all

his professional life. The fact that malpractice claims are increasing in number each year is an indication that the threat of malpractice litigation is not much of a deterrent either to outright negligent treatment or to other causes of medical injuries. In any event, it would seem that the threat of litigation encumbers prudent physicians as much as it deters careless ones, with consequent costs to the health system all out of proportion to the presumed benefits. At best the present system has a mixed effect on the quality of care and at worst it has had a baleful effect on its cost.

There is no conceptual impediment to compensating injured persons (including those negligently injured) under a non-fault-based compensation system and to exercising the most stringent quality controls (including the discipline of malpractitioners) under an entirely separate system. The imposition of "tort fines" in cases of egregious medical conduct should prove far more effective as a deterrent to the substandard physician than the assessment of damages which are paid on his behalf by his malpractice insurer.

Proposal No. 2

Provide financial incentives under the NHI reimbursement formula to hospitals and other health care institutions that develop and implement rigorous medical injury prevention programs and related quality monitoring mechanisms in accordance with Federal guidelines.

If one accepts the thesis that medical injuries -- whether or not due to negligence -- are the prime cause of malpractice

claims and suits, then all possible steps should be taken to prevent such injuries. In addition, since the incidence of medical injury is known to be much greater in the institutional setting, the institution provides fertile soil for prevention programs.

Utilizing an appropriate method for evaluating the effectiveness of these efforts (e.g. a point system) the NHI formula would provide financial incentives for those institutions which (1) develop injury-identification and monitoring mechanisms, (2) utilize injury data in development of continuing education programs, (3) implement quality monitoring mechanisms which deal not only with the institutional environment but with the medical intervention process, (4) coordinate all the foregoing with ongoing standards and standard-setting agencies (e.g. JCAH; PSROs), and (5) develop and implement stringent medical staff standards which include effective disciplinary controls.

Proposal No. 3

Provide financial incentives under the NHI reimbursement formula to hospitals that assume total legal responsibility for claims alleging negligent medical treatment within the institution, in accordance with Federal guidelines.

The essence of this proposal is the belief that malpractice claims can be minimized by upgrading the environment in which most malpractice claim-producing incidents occur. To achieve greater accountability for health care delivery, the hospital would be responsible for all malpractice losses which occur within the institution, whether or not the involved physician is an employee of the

hospital. The concept is frequently referred to as "channeling" because the bulk of all malpractice insurance costs are channeled through hospitals. The insurance benefits which flow therefrom include: a broadening of the malpractice insurance distribution base; a reduction in the cost of processing malpractice claims since only one defendant is involved in the litigation; a more equitable rate structure among medical practitioners and immediate relief for high-risk specialists who perform most of their services in hospitals; and an eventual reduction in malpractice claims.

The real potential of the channeling approach is in upgrading the quality of care by fixing legal responsibility with a body that can do something about reducing the causes of malpractice litigation: the hospital's governing authority. This centralization of liability in the hospital conforms with evolutionary changes in the law, beginning with the landmark 1964 decision in Darling v. Charleston Community Memorial Hospital, 200 N.E. 2d 149, aff'd. 211 N.E. 2d 253 (1965), cert. denied, 383 U.S. 946 (1966). Darling held that a hospital has a direct duty to see that competent medical care is furnished to all patients and that the hospital may be held liable for its own negligence in failing to supervise private physicians who have staff privileges.

Though the Darling decision has been referred to by the Law Division of the AMA as "unfortunate," it has met with widespread approval by the courts in a number of states and clearly rep-

resents the developing trend of the law in this area. The Joint Commission on Accreditation of Hospitals (JCAH) has duly noted the effect of Darling and subsequent legal decisions and in 1974 wrote:

" The hospital must be concerned with identification and solution of performance problems, or else it must itself face liability. The hospital's governing authority must delegate performance review tasks to the appropriate peer group, the medical staff, and it must have appropriate mechanisms to assure that the staff is in fact carrying out careful reviews of the performance of its members and is taking action where problems are disclosed. But while it can and must delegate these review tasks, the governing authority cannot delegate the ultimate responsibility for review."

PEP PRIMER, PART 3: THE RATIONALE
FOR OUTCOME AUDIT, JCAH (1974) p. 8.

By giving financial incentives under the NHI reimbursement formula to hospitals that assume full legal responsibility for the performance of their medical staffs, hospitals would have added motivation to implement the types of quality/performance mechanisms most calculated to deter negligent conduct and minimize malpractice claim-producing incidents. An effective stimulant to provider performance (and one that might well be incorporated in the Federal guidelines) would be to make a physician personally liable to reimburse the hospital for the first \$2,000 of any claim successfully brought against the hospital as a result of the physician's negligent conduct. Sanctions of this nature would go a long way toward assuring adherence to desired standards of care.

Proposal No. 4

Provide under the NHI legislation that no malpractice claimant seeking damages arising out of NHI-funded treatment shall have a legal right to recover the imputed cost of such treatment.

The "collateral source" rule is a rule of damages applicable in personal injury litigation in the majority of states. It provides that an injured plaintiff may recover from the negligent defendant who caused his injury the full amount of his special damages without mitigation for any economic benefits received by the plaintiff from collateral sources. The theory behind the rule is that a negligent defendant (and his insurer) should not be allowed to benefit from a prudent plaintiff's foresight in insuring himself against an anticipated loss.

This theory is no longer persuasive today when the collateral sources available to plaintiffs --- workers' compensation, Social Security, state and federal disability, Medicare/Medicaid, Blue Cross and Blue Shield, etc. --- are largely public in nature or form part of employment or union benefit programs and hardly can be said to reflect the "prudent" acts of those plaintiffs. Most students of the problem agree that the collateral source rule simply creates an undesirable duplication of payments, the costs of which ultimately are passed on to the general public.

In states where the collateral source rule prevails,

a beneficiary under NHI who brings a malpractice claim against a doctor or hospital would (in the absence of some contravening law) be permitted to recover the imputed costs of his NHI-funded treatment. It is bad enough for the Government to subsidize the added health care costs attributable to the negligent treatment itself, but even worse to sanction the recovery of those costs by a claimant who has not suffered a direct pecuniary loss, for inevitably those costs will be reflected in higher malpractice premiums and translated into higher health care (NHI) costs in general.

The problem can be resolved by incorporating in the proposed NHI legislation a provision which would bar an individual's right to recover in a malpractice claim the imputed cost of his medical/hospital treatment provided and paid for by the Government under NHI, notwithstanding any state collateral source rule to the contrary.

Proposal No. 5

Authorize under the NHI legislation a Government right of recovery for the costs of any NHI-provided care claimed as damages by plaintiffs in all other types of personal injury litigation.

For the same reasons mentioned above, all that has been said regarding the recovery of hospital and medical care costs (paid for under NHI) in malpractice litigation has comparable application to all other forms of personal injury litigation. Thus, if a plaintiff's NHI treatment has been necessitated by the negligent actions of a

third party wrongdoer, his right to recover from such wrongdoer the imputed costs of such treatment by way of damages will depend upon the applicability or inapplicability of the collateral source rule in that state. If the rule is applicable, the plaintiff would be permitted to claim and recover the costs of NHI-funded care even though he had not incurred any actual expense therefor.

Because the treatment costs in a case of this sort are ancillary to the gravamen of the action and do not involve malpractice in the treatment process itself, there would be no legal (i.e. constitutionally supportable) basis for overriding the state's collateral source rule to achieve some paramount NHI objective. However, in comparable circumstances the Federal Government has been given specific statutory authority to recover such treatment costs from negligent third parties. The Federal Medical Care Recovery Act, 42 U.S.C. 2651 et seq., is the statute in question which has been applied with respect to care provided Federal beneficiaries (military personnel and their dependents, VA beneficiaries, PHS beneficiaries) since enactment of the law in 1962. Though the statute entitles the Government to enforce its right by various legal means --- subrogation, assignment, legal intervention --- in practice the vast majority of the claims are resolved without direct Government involvement in the court proceedings.

There being no Governmental right of recovery in the absence of specific statutory authority, the Federal Medical Care Recovery Act should be amended to permit recovery of NHI treatment costs

necessitated by the negligent acts of third parties. It should be noted, however, that all amounts recovered by the Government under the Federal Medical Care Recovery Act are required to be returned to the Federal Treasury and not to the agencies that provided the care in question. Accordingly, it would be preferable to include specific authority in NHI legislation for the Government to recover the costs of NHI care from negligent third parties, and to permit the amounts so recovered to be returned to the NHI trust fund.

Given the tremendous volume of personal injury litigation in this country, and the correspondingly huge amounts of hospital and medical bills which form the basis of this litigation, a governmental right of recovery which earmarks all amounts recovered for the NHI trust fund would be of considerable help in maintaining the fiscal integrity of the NHI program. The Canadian national health insurance system permits recoveries from negligent third parties and the restoration of the recovered funds in precisely this manner.

Proposal No. 6

Provide under the NHI legislation that every physician wishing to participate in the program shall be required to submit proof of malpractice coverage or, alternatively, be required to contribute annually to a Federally-established Uninsured Physician Claim Fund.

One of the most disturbing side effects of the malpractice insurance crisis has been the growing number of physicians who have decided to relinquish malpractice coverage entirely ("go bare.")

A survey conducted by the American Medical Association in mid-1976 revealed that slightly over one-third of the doctors interviewed were considering dropping their malpractice coverage, while approximately 13% had already done so. According to the survey, those most inclined to "go bare" were high-risk specialists in areas most affected by the insurance cost/availability problem.

If we accept the fact that medically-induced injuries are an inevitable concomitant of the treatment process, then we should focus our attention on the economic needs of those who suffer such injuries, particularly where attributable to negligent conduct. Under the circumstances, the only compassionate approach to this problem of physician non-coverage, apart from establishing a compensation system as described in Proposal No. 1, would be to require every physician who treats NHI patients to have minimum malpractice coverage which meets Federal standards. Those who can not or choose not to purchase such coverage in the open market should be permitted to participate in the NHI program only (a) upon submitting proof of financial responsibility for malpractice claims, or (b) by contributing annually an amount (geared to the physician's specialty/risk class) to a Federally-established Uninsured Physician Claim Fund. Injured claimants would be able to file malpractice claims directly against the Fund and recoup their provable economic losses. The Fund, in turn, would be given subrogation rights against those negligent physicians on whose behalf payments were made, a circumstance which should encourage physicians to think twice

before forsaking malpractice coverage otherwise obtainable in the private market.

An uninsured physician claim fund approach has precedent both in law and in logic. Uninsured motorist laws have been on the books for years, as have state motor vehicle financial responsibility laws. Their widespread passage has evidenced the growing concern of society that automobile accident victims should not go uncompensated simply because some motorists choose not to buy insurance coverage. This rationale applies with equal force to the victims of medical treatment injuries, and the uninsured physician poses as much a burden to our society as the uninsured driver, if not more so. Thus, legislative action is imperative if we hope to reverse the unwholesome trend toward relinquishment of malpractice coverage and substitute societal responsibility for professional irresponsibility.

Proposal No. 7

Mandate the arbitration of all malpractice claims in which the damages sought are under \$20,000 in amount.

Any device that encourages the speedier resolution of malpractice claims is bound to have a beneficial effect on the costs of malpractice claims handling (friction costs), and thereby lead to an eventual reduction in malpractice premiums. Though not yet widely used in medical malpractice disputes, arbitration is a well established procedure used to resolve disputes in a wide variety of fields. It is an

alternative forum to litigation in which the issues are decided by a panel of arbitrators instead of by a judge and jury. Because it permits the use of sophisticated decision-makers, arbitration of malpractice disputes is more likely to result in fairer awards, taking only a fraction of the time now consumed in courtroom proceedings in malpractice cases.

Even though many of its widely-proclaimed virtues have yet to be demonstrated in practice, the HEW Malpractice Commission recommended the more general use of arbitration, particularly in the resolution of smaller disputes.

The enactment of NHI provides a unique opportunity to test the effectiveness of the arbitration process, and there would appear to be ample Federal interest in lowering malpractice costs to warrant the compulsory arbitration of all malpractice claims below \$20,000 in amount. Potential constitutional objections raised by some students of the problem (e.g., excess delegation of judicial powers; deprivation of due process; denial of equal protection of the law; etc.) would not represent serious challenges if the arbitration mechanism is linked directly to the provision of NHI treatment in a comprehensive scheme covering the entire population. Federal guidelines could make the arbitration process applicable uniformly throughout the states, eliminating and avoiding the disparities in dispute resolution which might otherwise constitute grounds for voiding the legislation. The existing Federal Arbitration Act, 9 U.S.C. 1-14, would provide the

basic legal framework for the malpractice arbitration procedure, appropriately amended to more clearly delineate the substantive and procedural rights of malpractice disputants.

Proposal No. 8

Give financial incentives under NHI to hospitals that demonstrate their ability to contain or reduce malpractice insurance costs through self insurance, interhospital pooling arrangements, or other cost-saving devices.

As malpractice insurance costs have ballooned in recent years many hospitals have been seeking more effective ways of handling these costs. One device that has shown real promise is self-insurance, where a large hospital or a group of hospitals under common ownership or management set up reserves out of operating income to meet potential future malpractice payouts, thereby reducing their normal insurance premium costs. However, current reimbursement formulas followed by Medicare, Medicaid and Blue Cross do not recognize as reimbursable expenses the costs of establishing in-house reserves of this nature, and it is likely that the NHI reimbursement formula would treat the matter in similar fashion.

To encourage more financially sound approaches to the funding of a hospital's malpractice liability, the NHI reimbursement formula should permit hospitals to self insure and be granted the right to treat these self insured retentions as reimbursable "costs" in accordance with Federal regulations. Other cost-saving arrangements

a hospital might make with respect to its malpractice liability also should be given consideration in the reimbursement formula.

Proposal No. 9

Authorize out of NHI research funds several experimental programs of medical injury compensation not based on fault.

Throughout this paper emphasis has been placed on the malfunctioning (and ultimate breakdown) of the present malpractice claim system, with frequent reference to the inequities and enormous friction costs of the system. If it is determined that fundamental reform must be undertaken but that the comprehensive approach outlined in Proposal No. 1 raises too many unanswered questions about system costs and the like, then it would make sense to fund several experimental medical injury compensation programs out of NHI research funds to obtain the answers to these questions.

HMOs would provide ideal study settings for such experiments because of the ability to test the effects of the proposed systems on fixed population groups. To determine whether private insurers can or should play a role in such alternative systems, perhaps they should be given financial incentives to experiment with new forms of first party medical injury coverage for patients of specific physician or hospital groups. The various experiments would be evaluated and compared with each other from the standpoint of their equitability, efficiency, cost, and ease of administration.

The problems inherent in abandoning the existing fault-based malpractice system in favor of a non-fault-based system are extremely complex and match, in some respects, the complexities in moving toward a national health insurance system itself. Nevertheless, the issue is too important to delay much further and NHI legislation would be the appropriate vehicle for learning all we can about how an alternative system might work.

√The foregoing 9 proposals represent only the major recommendations for dealing with the malpractice problem in NHI legislation. A host of subsidiary proposals could be suggested designed either to avert the likelihood of malpractice litigation or to cushion their negative impact on the health care system. These proposals would deal with improvements in continuing medical education, medical licensure and discipline, patient grievance mechanisms, coordination of quality controls under various Federal statutes, greater consumer involvement in the quality review process, and the like.

Many of these issues, assumably, would be covered in various sections of the basic NHI legislation, so they have not been included in this paper. By the same token, other desirable changes in the legal system have been omitted since they require action at the state level only.⁷

Conclusion

The malpractice problem will be with us for a long time to come because its roots are so deeply entwined with our legal and health care systems, neither of which can undergo substantial reform without courting the stiffest of opposition from entrenched

vested interests. NHI presents the greatest opportunity yet to resolve the festering malpractice problem, but the task will not be an easy one. An administration dedicated to improving the health of the American people by means of enhanced access to high quality health services simply cannot afford to overlook the leverage of the malpractice problem as a vehicle for bringing about beneficial health system and legal system reforms. The time was never better for achieving vitally-needed improvements in both systems for the benefit of all our citizens.

Eli P. Bernzweig
September 20, 1976

Eli P. Bernzweig
10003 Stoneybrook Drive
Kensington, Maryland 20795

September 13, 1976

MEMORANDUM

TO: GOVERNOR CARTER
FROM: JERRY JASINOWSKI
THRU: STU EIZENSTAT
RE: BUDGET OUTLOOK

The attached is a crude analysis of the budget outlook between now and fiscal 1981, the last budget you would submit in your first term. The numbers are for your background and not for public release. If you should want to go into further details, please let me know.

BUDGET OUTLOOK

The following is a rough budget picture between now and fiscal 1981, the last budget year of the first Carter Administration. It is based on inputs from Charlie Schutze, Nancy Teeters, Jim Storey, Doug Lee and other budget experts. Although there are some disagreements, the following rough budget outlook emerges:

1) HIGH GROWTH. The entire budget analysis is based on the premise that we can achieve an average real growth rate of about 5.5 percent over the next four years. Although this is much higher than the 4% historical average, we have achieved such high rates before -- particularly during the 5 years of the Kennedy-Johnson years of 1962-66 and the 3 years of Truman from 1950-52 (6.9 percent). Because of the importance of high growth to achieving your other objectives, you should continue to say that your growth goals are 4-6% -- with the emphasis on the upper end of the range. If we were able to achieve only the 4.5% average for the total Kennedy-Johnson years the budget margin of \$60 billion would be at least cut in half and conceivably eliminated altogether. Achieving a 5.5% real growth rate is essential to achieving all the other objectives of the Carter program--and a 5.5% real growth rate is probably somewhat unrealistic.

2) GENERAL BUDGET ASSUMPTIONS. The projections assume no changes in the tax laws, existing programs are only increased as required by existing laws and inflation adjustments,

and defense spending is only allowed to increase to maintain the real level of appropriations which approximates your statement that you would reduce defense expenditures by \$5-7 billion. Remember that it is assumed that existing programs are only maintained in terms of existing law and not expanded. Also note that these budget assumptions do not expect any tax revenue gains from tax reform because your tax reform strategy is to cut taxes as the quid pro for eliminating special tax provisions.

3) PRELIMINARY FISCAL DIVIDEND OF \$60 BILLION. Given a 5-6% growth rate, and the above budget assumptions, revenue will grow to \$600 billion by fiscal 1981, expenditures will rise to \$540 billion, yielding a budget margin of \$60 billion. See Attachment A from Charlie Schultze.

4) CONTINGENCY ALLOWANCE OF \$10 BILLION. Good budget planning would subtract \$10 billion from the fiscal dividend for unforeseen contingencies in the future. If no contingencies occur, this money could be used to reduce taxes.

5) EFFICIENCY DIVIDEND. Outside budget experts have identified possible budget cuts in ineffective or low-priority programs in a range from \$10-\$23 billion. Since most of these cuts would be extremely difficult to do politically, the lower range of \$10 billion is more realistic. We are evaluating the feasibility of these cuts further, and under no conditions should you bring them up publicly until we have made a more

detailed analysis and you have weighed the political consequences of the cuts. But an efficiency dividend of \$10 billion could bring your budget margin back up to at least \$60 billion by fiscal 1981.

6) BUDGET SURPLUS IN 1981. It is sensible economic policy to plan for a budget surplus of about \$10 billion in fiscal 1981 because the economy will be at full employment. This would again reduce your budget margin to \$50 billion, which is roughly the net amount of money available to finance your social programs.

7) BUDGET MARGIN SUMMARY.

--\$70 billion total budget margin consisting of a \$60 billion fiscal dividend and a \$10 billion efficiency dividend;

--minus a \$10 billion contingency allowance or tax cut;

--minus a \$10 billion budget surplus in fiscal 1981;

--yields a \$50 billion net budget margin to finance social programs by fiscal 1981.

8) 21% RULE. You have said that you favor holding Federal spending to its historical trend of 20-21% of GNP. A \$50 billion expenditure increase would be 21.1 percent of projected GNP in fiscal 1981; a \$60 billion expenditure increase would be 21.4 percent of projected GNP in fiscal 1981. We need a 21.4% ratio in order to spend \$60 billion. I suggest you say that the share should be held to 20 to 22% when you are pressed for a number. Don't go below 21% because then we will not be able to spend enough money to pay for your social programs.

9) THE COST OF REPUBLICAN PLATFORM. The Senate Budget Committee has made some rough estimates that show the Republican platform would cost about \$60 billion. \$20 billion would be in increased domestic expenditure programs; \$10 billion additional in defense; and about \$30 billion in tax reductions. These numbers are quite crude and must be further refined before they are used publicly. A very conservative estimate of the Democratic platform indicates that it would cost about \$60 billion.

10) ESTIMATES OF THE COST OF THE DEMOCRATIC PLATFORM. The Republicans have charged that the Democratic platform could cost \$100 to \$200 billion when fully implemented. These are of course overstatements of the costs, particularly with respect to child care, education, health insurance, and jobs programs.

The Senate Budget Committee has estimated that the Democratic platform costs range from \$53 to \$125 billion, depending upon what interpretations are given to statements in the platform. In general, the Democratic platform is more expensive than the Republican platform. But a conservative estimate of the Democratic platform would place the cost at about \$60 billion -- which is within your budget margin -- and which is roughly equivalent to the cost of the Republican platform.

11) COST OF CARTER PROGRAM. There is no way to know precisely how your program would differ from the platform, but there are substantial differences. The following is a rough outline of what your program might cost when fully implemented. These are the crudest possible estimates and should only be used to begin making decisions on where you want to spend your budget margin. (not for public release)

a) Jobs	\$ 6.0
b) Welfare	\$ 8.0
c) Child care	\$ 1.0
d) Education	\$ 5.0
e) Health	\$20.0
f) Social Security	\$ 1.5
g) Veterans	\$ 1.0
h) Housing	\$ 3.0
i) Other	\$ 4.0
 TOTAL	 \$50.0 billion

FORD'S ECONOMIC RECORD

Unemployment When Ford entered the White House there were 5 million people unemployed and today there are 7.5 million unemployed - a 50% increase. Unemployment has risen in the last 3 months from 7.3% to 7.9%. There has been no progress against unemployment because the 7.9% rate of unemployment today is the same as it was 20 months ago.

Inflation The 6% inflation rate today is higher than any rate under Presidents Eisenhower, Kennedy or Johnson. Mr. Ford has cut the rate of inflation from the highest in 50 years to the highest in 25 years. During the entire period from 1949 through 1969 - war years and peace years - the inflation rate averaged only 2% a year.

Private Employment There are fewer private non-farm jobs today (64.2 million in August 1976) than there were when Ford took office (64.5 million in August 1974.)

Deficits Mr. Ford's budget deficit last year of \$65 billion (FY 1976) was the largest single deficit in our 200 year history. (note that the deficit he proposed was \$52 billion) The public debt under Ford is more than one-third of that amassed during the history of our country.

Paycheck The real value of the worker's paycheck is less today than it was in 1968.

Housing starts are lower today (1,387,000 units) than there were in 1968 (1,500,000 units). Housing starts have fallen by 2% - from 1,417,000 units in March to 1,387,000 units in July 1976. The cost of the average new home today is \$16,000 more than it was in 1968.

UC

MEMORANDUM

TO: Governor Carter
FROM: Al Stern/Stu Eizenstat *SA*
SUBJECT: MIA Statement

The proposed statement (attached) will relieve us of considerable pressure from:

Dermot G. Foley, attorney for the MIA National League of Families, who wants you to meet with leaders of his organization.

Walter Wojcicki, of Free Our POW's-MIA's, who threatens to picket and attack you if you don't charge Vietnam with violating the 1970 UN resolution on human rights.

NMacNeil
9/2/76

MIA ISSUE AND RECOGNITION OF VIETNAM

705
ok as
rewritten

I would not block Vietnam's entry into the UN, or refuse diplomatic recognition of Hanoi, if I were satisfied that the Vietnamese government had made a complete accounting of those who are missing in action, whether they be alive or dead.

It may be difficult to convince the Vietnamese government that we are not requesting this information to imply guilt or immoral behavior on the part of the Vietnamese. We were fighting a war, and there were casualties and MIA's on both sides. Now that the war is over, recriminations and accusations should come to an end as well.

As far as relations between MIA families and the U.S. Government are concerned, I pledge that as President I will ensure that all information available to these families under the Freedom of Information Act is provided to them. There is no reason why MIA families should feel that their own government is not being honest and truthful with them.

I will not normalize relations with the Vietnamese government until I am convinced that they have made a complete accounting of those who are missing in action.

MEMORANDUM

September 23, 1976

TO: Stu Eizenstat & Pat Anderson

FROM: Si Lazarus

RE: Some points about gang violence

-- With inner-city unemployment among inner-city youth over 40%, and with no program to reduce it, it is not surprising that leading metropolitan areas are being threatened by a wave of juvenile gang violence.

-- There are between 1000 and 2500 juvenile gangs in the four largest cities alone, *with 80,000 members.*

-- In Los Angeles there were 112 gang-related murders last year.

-- In Detroit gangs attacked and robbed the audience at an entertainment event at a major civic auditorium this summer. In that city, gangs have moved out of the inner-city and have begun to terrorize the suburbs and motorists on the streets and expressways.

-- This is a difficult, tragic problem and no one should promise magic solutions. But LEAA has initiated no program to assist communities, no clearing-house to inform authorities in different cities as to what techniques are being tried around the country and how they are working.

-- This seems to be an area in which community organization may be a promising avenue to explore. Right here in Philadelphia, on the North Side where gangs have been a bad threat, some brave women organized a series of Mothers' Security Patrols in cooperation with the police department. These women have been patrolling at night in their neighborhoods and they have actually reduced gang violence by a substantial margin.

MEMORANDUM - 9/15/76

TO: MILT GWIRTZMAN AND PHIL ZEIDMAN
FROM: STU EIZENSTAT
RE: APPROPRIATIONS BILL ON PUBLIC WORKS AND JOBS

Governor Carter earlier strongly supported the public works and jobs authorization bill. It had overwhelming Democratic support including practically every southern Democratic Senator.

The initial bill was a \$6.1 billion bill which Ford vetoed. The Senate refused to override the veto.

A second authorization bill was then passed for \$3.9 billion. Ford likewise vetoed this bill, but his veto was overridden. The Senate and House conferees have now agreed on an appropriations bill of \$3.73 billion to fund the legislation (\$2 billion for public works; \$1.25 billion in counter-cyclical assistance and \$480 million in sewage disposal funds). It is esimtated that this bill will create 300,000 jobs.

The override vote on the \$3.9 billion authorization bill was supported by even a majority of Republicans.

Congressman Row of New Jersey has suggested and I strongly recommend a telegram which would be released to the press from Governor Carter to Ford urging his leadership in getting the appropriation bill passed and further urging that he not again veto this bill.

MEMORANDUM

TO: GOV. CARTER, JODY POWELL, MILT GWIRTZMAN, ~~PAT ANDERSON~~ JIM FALLOWS
FROM: STU EIZENSTAT
RE: ITALIAN-AMERICAN DINNER SPEECH
DATE: SEPTEMBER 16, 1976

The Italian-American dinner speech is a crucial one to dispel many of the problems we have with Catholics. It can and should be our "Dallas ministers speech".

The following points should be included in the speech:

④ A direct acknowledgement that many Catholics and others are concerned with your religious beliefs. A direct statement that there is no basis for such concern:

- (d) I grew up on a farm in the South, and my roots go deep into the history of that part of the country. I'm proud of my heritage as you are of yours. I'm proud of my beliefs.*
- (a) You have never used your official position as Governor to espouse your religious beliefs and never would.
 - (b) As Governor you brought into state government people historically barred from participation by race and religion.
 - (c) You respect every persons right to hold his own religious beliefs and to practice those beliefs in the way he sees fit. No ones religion is better than anothers. Each can speak to their God in their own way.
 - ~~(d) People have the individual right to hold no religious beliefs, if they wish. You would not castigate them as President.~~
 - (e) Georgia has supported candidates regardless of religion-- Al Smith in 1928; JFK in 1960 got his biggest majority in Georgia--bigger than in Massachusetts
- ② A direct acknowledgement that discrimination historically existed and continues to exist against Italian-Americans, Irish-Americans, Polish-Americans, and other Southern and Eastern European-origin Americans.

- (a) It is within the memory of all in this room, when signs saying Italians, or Irish or Poles or Jews Need Not apply.
- (b) While those signs do not exist today, the vestiges remain and discrimination still exists(They feel strongly about this and believe we think only blacks are the victims of discrimination). The people in this room have succeeded in spite of this discrimination.
- (c) The absence of Italian Americans from the Supreme Court(none in history) or from the highest levels of government(Only 2 in history in the Cabinet, virtually none at sub-Cabinet and other levels), and the absence of other Eastern and Southern European ethnic groups is a blight on our nations history which you intend to correct as fast as possible.
- (d) EEOC has no program to enforce Civil Rights laws which explicitly protect against discrimination on the basis of ethnic origin. Without diluting the EEOC's actions on behalf of blacks, you will see to it that an active program of enforcement is undertaken. Discrimination against any American for any reason is equally abhorrent-- whether race, religion or ethnic origin. *Let State you oppose quotas of any kind.*

② A direct statement of the value of diversity in American life, the need for each to maintain the traditions which he and his family brought to this country. The richness that diversity brings. The beauty of America is that we each respect our differences-- I respect yours, as I would hope you would respect my being a Southern Baptist.

To be sent to the
plane by 9/25

~~MEMORANDUM~~ TO JODY POWELL
~~ATTN:~~ ~~Pat Anderson~~
FOR:
To: Milt Gwirtzman
Pat Anderson
FOR:
Thru: Stu Eizenstat
From: Doug Robinson
Subject: Medicaid Fraud Recoveries

The attached statement concerning the refusal of the federal government to work with the state and city of New York in obtaining recovery of Medicaid moneys from which they have been defrauded. The best place to use this would be New ~~York~~ York City. Since it will be awhile before you are there, however, I would suggest you use it in Albany, Buffalo or Syracuse when you are there on Wednesday, September 29.

O.K.
AZS

ON SHARING MEDICAID FRAUD RECOVERIES
WITH THE STATES AND CITIES

Creative federalism means the federal government should be working with the state and local governments to assist them in solving their ~~the~~ common problems, rather than looking out only for itself. If I am elected President, all federal officials will have standing orders to ~~consider themselves as working~~ in partnership with the states and local governments, ~~and I~~ ^{to the extent possible} intend to establish a means ~~with~~ by which state and local officials can communicate their problems with the federal government directly to me.

The Republicans profess to be the party for ~~decentralized~~ ^{-ed} ~~government and~~ strengthen state and local governments. But a recent conflict involving recovery of Medicaid funds of which the government ^{at all three levels} has ~~been~~ defrauded demonstrate the arrogance with which the federal government has dealt with the states in recent years.

It has recently been reported that the federal government has successfully sued to recover about \$600,000 from Medicaid "mills" in New York City that had defrauded the ~~g~~ program. Although this recovery is a mere pittance compared to the estimated \$3 billion ^{in fraudulent claims that have been paid by} ~~out of which~~ the government ^{at} ~~has been defrauded~~ ^{at} least it is a step in the right direction and portends possible future recoveries.

The problem is that the federal government has arrogantly moved ahead to institute these lawsuits without allowing New York State and New York City to participate in these recoveries, ^{even} ~~even~~ though each contributed 25 percent of the funds out of which

~~signatures~~

the Medicaid program was defrauded. Since the federal government ~~recovers twice the amount of the fraud~~ ^{is allowed to recover double damages, plus penalties,} it usually leaves the defendants with no assets from which the states and local governments can recover, and ^{in addition} it puts them ~~through~~ to the unnecessary expense of having to bring separate lawsuits.

When the New York ~~is~~ health ~~is~~ commissioner complained ~~and~~ about this practice, the Secretary of HEW and the U.S. Attorney in New York, both appointees of President Ford, flatly refused to assist the city or even to indicate any sympathy for its predicament.

In the interests of efficiency, the state and local governments should be allowed to join with the federal government to recover monies ~~from~~ of which they jointly have been defrauded, and they should share ~~jointly~~ in the recoveries. If that is not possible under the present law, the ^{Administration} ~~President~~ should promptly send to the Congress a recommendation that the law be changed to permit it, rather than simply throwing up its hands and saying that nothing can be done.

As a state governor during the years of the Republican ^AAdministration, I can relate from first hand experience that the problem New York is now experiencing with respect to Medicaid fraud refunds is not an unusual experience in trying to deal with the federal government. This kind of approach ~~is~~ by the federal government must come to a stop.

When I appeared before the mayors' and governors' conferences in July, I pledged to them, as I pledge to ~~you~~ ^{you}/now, that if ~~I~~ am elected President, I will not ignore the lessons of my

own personal experience as governor. I will be/^asensitive ~~x~~
ally of the cities and states, I will view them as full partners
with the federal government. I ~~will~~ pledge to work with them to
bring about a restoration of true federalism.

TO: Stu Eizenstat / Pat Anderson
FROM: David Berg
Re: ~~Speech in~~ ^{Speech in} McAllen, Texas on 10/30

1. We have been advised by the Mexican-American desk to emphasize ~~bread and butter~~ ^{economic} issues in the ~~valley~~ ^{McAllen as "rally" area}. The major ~~issues are:~~ ^{the following issues:} (1) education, and a strong commitment should be made ~~to programs like~~ ^{to} bilingual education, ~~and to~~ the Governor should reemphasize his commitment to full employment ~~and his commitment to hiring~~ ^{including the} Mexican-Americans ~~for~~ ^{of} federal jobs. Remember, ~~while the rally is being held in McAllen, it is really an area-wide rally and unemployment in this area is approximately 16 percent.~~ ^{where unemployment runs 16%} ~~(3) border/economic problems.~~ ^{also} The Governor should ~~mention~~ ^{reiterate} his statement of October 21 calling for an appointment of a special envoy to Mexico, emphasizing the fact that in recent years our friendship with Mexico has been "neglected and allowed to go unattended. This is wrong and a matter of deep concern to me." "As a result of this neglect and the total absence of leadership on the part of the Republican Administration over the last eight years, a number of major problems have accumulated which must now be urgently addressed. Foremost among them are those problems related to the Mexican economy, which has received no sympathetic attention from Washington, D.C. -- the contraband in human labor which victimizes the innocent on both sides of the border, the contraband in drugs, and the contraband in merchandize and violence. " "As a first step toward ameliorating these conditions and bringing about a resolution of these difficulties, a Carter Administration will appoint a prominent Mexican

also we have been cautioned against the use of "Chicanos" and "Latinos" -- please say Mexican-American.

To: Pat Anderson and ~~xx~~ Milt Gwartzman

From: Sam Bleicher

Subject: Response to Ford's Crime speech today - 9/27/76

The following ~~xxx~~ paragraphs are suggested for use at the Evansville, Indiana, fundraiser tonight for an immediate response to Ford's crime speech to the International Association of Chiefs of Police in Miami today:

President Ford told the police chiefs today that a "crusade against crime" would keynote the first 100 days of his new term if he is elected. It is a strange promise from the man who has been ~~in-office~~ President for more than 700 days already. But perhaps it is a necessary one, since the record of that 700 days shows serious neglect of the crime problem. Let's look at that record:

-- The President claims to be concerned about the drug traffic, yet he ~~has~~ acquiesced in the destruction of the Narcotics Traffickers Tax Program, a ~~program that a little known but~~ ^a highly effective ~~effort~~ ^{effort} program to put major drug dealers in jail ^{for tax evasion.} Ford finally told his IRS Commissioner and Treasury Secretary to reestablish the program last April, but the IRS still refuses.

-----~~The Drug Enforcement Administration~~ The International Association of Chiefs of Police, ^(note) the group before whom Ford spoke, ~~is~~ ~~considering this week~~ ^{will be voting this week on} a resolution condemning the Ford Administration for its failure to re-establish this program.

-- The Drug Enforcement Administration, the government's ~~center~~ chief drug control agency, has been so neglected that after its first Director was forced to resign in May, 1975, for corrupt activities, Mr. Ford did not get around to replacing him for 6 months.

(more)

-- The Law Enforcement Assistance Administration has been so badly mismanaged over the last 8 years that the House of Representatives has refused to re-authorize it for 5 more years, but instead gave it one more year, which it considers a probationary period. Responsible critics from every side have urged that LEAA be either abolished or completely restructured, yet Mr. Ford called for a 5 year re-authorization without proposing a single *legislative* change. ~~in its operations.~~

The-Pre--

Mr. Ford's proposals are equally indicative of his neglect of the real problem of crime control:

promise *today*
-- His ~~promise~~ to control "political terrorism" was totally lacking in specifics. When questioned, Ford's aides said there were none and none would be offered until after the election. The Republicans seem to think the Americans *(people)* are still willing to accept "secret plans" to solve our problems.

-- His proposal to set up a a new council on crime made up of the heads of all the Federal anti-crime agencies is nothing more than the same people talking to each other who should have been doing so all along. Or is Mr. Ford saying that he has never been able to get his appointees to talk to each other before ~~the~~? Surely no one believes that ~~making~~ holding ~~new-council-of-his~~ more meetings in the Justice Department is going to put more criminals in jail. It is time for more action and less talk.

Finally, Mr. Ford included in his remarks the statement that "Just as the police ~~examine-their~~ identify career criminals, American voters will examine their ballots in November and identify those candidates who have demonstrated indifference or permissiveness toward crime, and they should." I endorse that view, and I hope the voters will consider carefully who has ^(been) most insensitive to criminal activities ^(including the highest levels) when ~~they vote~~ at every level of American society. If that is the ^(and government) criterion, I am confident of ~~a~~ sweeping Democratic victory in 1976.

To: Pat Anderson and ~~xx~~ Milt Gwartzman

— URGENT

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To: Jody Powell
THRU: Milt G WIRTZMAN
FROM: Bob Ginsberg

Re: Nixon - Ford Economic Study

Date: September 15, 1976

1. The press release and the study have been completed and revised. Walt is beginning his mailing today. We will get 100 copies of the release and the study to you ~~by~~ or fax Thursday evening in Washington for distribution to the travelling press. Joe Dubby will also be making distribution to selected D.C. press.

2. You are right that unemployment was high in 1940 (14.6%) and 1941 (9.9%). However, the Great Depression ~~was~~ is not considered over until Pearl Harbor, and

unemployment was down to 4.7% in 1942. Therefore, our statements re unemployment being higher today than at anytime between Great Depression and inauguration of Ford are OK.

3. If you still have the 2 copies of the study I gave you last week, please throw them away — we have made major revisions.

TO: JODY POWELL

FROM: BOB GINSBURG

RE: Nixon-Ford Economic Study (For Sunday Papers)

Date: September 14, 1976

In order to get the study and the
press release xeroxed and mailed out in
time, I need to have ~~my~~^{your} comments on
the press release by this afternoon. ~~##~~

~~I don't hear from you, we will go
ahead with the press release as if we
don't hear from you in a serial.~~

for maximum coverage
and distribution,

max distribution
coverage

1633

Jeff Warner Pitts

Gov. Carter

To: Milt Burdeman and Phil Zidman and Judy Powell
From: Jim Hagerstedt
Re: Hyde Amendment - Abortion
Date: September 15, 1976

Governor Carter will be asked about the Hyde amendment which has now been approved, without exception, by a House-Senate conference committee.

The amendment will ~~be~~ to deny Medicaid and other federal funds for abortions - except ^{to save} ~~in the case of~~ a mother's ~~health~~ ^{life}.

Gov. Carter has previously stated his opposition to the use of federal funds for abortions. Of course, what this does under the Supreme Court decision, is deny abortions for unwanted pregnancies by the poor (who can't afford abortions on their own funds) but to allow it for others.

It is for this reason that numerous federal district courts have ruled such a prohibition of federal funds is unconstitutional. The issue is currently before the Supreme Court.

Therefore, when asked about the amendment - or the whole issue of federal funding - rather than repeat his formulation (which hurts with liberals and doesn't help with pro-lifers) he should say: "This matter is now before the Supreme Court.

It is ultimately a judicial question. I will abide by their decision. My legal advisers indicate the bar of funds is of dubious constitutionality."

Jim Hagerstedt

The first rule in politics is to play to your strength (almost all Americans are against a constitutional amendment limiting a woman's choice). On abortion we keep trying to play to those who oppose us anyway, while dissipating our strength among the vast majority who support a woman's right to choose.

It is also extremely important to avoid any discussion of the wisdom of exceptions (eg. to save the life of the mother) lead to the limitation on use of funds. This just leads to a long series of questions like "What about Rape, Incest, when the mother is ~~in~~ ⁱⁿ mortal danger, Spina ~~in~~ ⁱⁿ danger, etc."

Al Stern has
OK'd this. Please
send right
away.

To: Jody Powell

Thru: Milt Givitzman

From: Bob Engley

Re: ~~Fed~~ \$60 Billion Fiscal Dividend

Date: September 15, 1976

~~The~~ New York Times' article today
quotes you as saying \$60 billion
fiscal dividend would be available
in fiscal 1981 (which begins October,
1980) when unemployment had fallen
to "5.5% at the most."

The \$60 billion dividend ~~is~~ projection
is based on an unemployment rate of
4% by the last quarter of 1980 (which
is OK and consistent with our strategy).

51.3% ♀

TO: BARBARA BLUM
FROM: ANITA NELAM
DATE: SEPTEMBER 10, 1976
RE: HYDE AMENDMENT

I talked to Carol Burris who is the Director of the Women's Lobby and who is also the person who was talked to by the Congressmen about the Carter position.

The Congressmen are:

Representative Patten of New Jersey- He apparently has been opposed to this for some time but is opposed by a John Bircher type this election. He is looking for an easy way out of this and thinks that he has found it.

Representative Flood of Pennsylvania- He is the chair of the Labor-HEW appropriations subcommittee and is beginning apparently to get a sense about getting the bill back in time to do something about the President's promised veto. It seems as if he is continually bringing in JC's name in the committee meetings to get the amendment through. Senator Childs of Florida-I am not sure if he is saying this publicly or just in committee, but he is saying it.

The word today is that it will probably pass on Monday. So it becomes even more important that we not be used as the scapegoat in this situation. I told Carol that we would be calling them and that seemed to satisfy her.

I am attaching a copy of the memo I wrote last night (which I did not hand out) and the Congressional Record of August 25th that gives some of the debate. If you get a chance to look it over you'll notice that Senator Buckley made it his business to tell the Senate that JC's position supported the Hyde amendment. Talk about being in rotten company, that is really the pits.

Thanks, and I am glad you're back.

JIMMY CARTER FOR PRESIDENT

51.3% ♀

TO: Hamilton Jordan, Barbara Blum, Patt Derian and Landon Butler
FROM: Mary King, Cooki Lutkefedder, and Anita Nelam
RE: Hyde Amendment
DATE: September 9, 1976

The Hyde amendment is an amendment which deals with the federal financing of abortions. This amendment if passed in conference would prohibit federal moneys being spent for abortions. This of course hits at the whole Medicaid issue. Poor women can not afford abortions. However, that has not and will not stop them from having them. If this amendment passes, irregardless of what the Supreme Court has said about a woman's right to a abortion, we will be forced back into the days of poor women trying to abort themselves with hangers and sticks and bottles or anything else they can get their hands on. I don't know if you have ever seen a woman die from trying to abort her child but I have and believe me it is not a pleasant experience.

The Hyde amendment is currently in joint conference committee. It was voted on today and the vote was tied 8-8. Their are two soft votes on the pro-choice side of the issue. They were hard votes until today. The reason they are soft now is because they have this idea in their head that they would not be good Democrats if they don't support this amendment because this is Jimmy Carters position also.

Now, if this amendment passes and it is laid at JC's doorstep it is going to be awfully hard to get women to work or vote for Jimmy Carter no matter what happens.

JIMMY CARTER FOR PRESIDENT

Please do not underestimate the political explosiveness of this issue. We cannot afford to have these women sit on their hands the next seven weeks. Everyone realizes that the timing of this issue is not the Governor's fault. We also understand that he cannot change his position at this time, nor are we asking him to do. We are asking you however as the political leadership of this campaign to help us work through this very serious problem.

Thank you.

time. I can speak only for myself, but I do not know of anybody who is pro-abortion.

Under the Hyde language, even if it is to save the life of a mother, the mother cannot have an abortion. This goes further than any amendment language we have had before—that is, the Hyde language.

Mr. BAYH. A mother with five dependent children at home can be pregnant. The doctor says: "It is either a case of saving a child or saving the mother, or maybe you are going to lose both; but if we have an abortion now, we can at least save the mother of those five children."

The PRESIDING OFFICER. The time of the Senator from Indiana has expired.

Mr. BAYH. I yield myself a couple of more minutes.

I am prepared to let a mother who wants to make that decision go ahead with the pregnancy.

The PRESIDING OFFICER. The time of the Senator from Indiana on the amendment has expired.

Mr. BROOKE. I yield the Senator 1 minute.

Mr. BAYH. I thought the Senator from Indiana had a half hour.

The PRESIDING OFFICER. The Senator from Indiana has 15 minutes.

Mr. BAYH. It seems to me that here we are getting to the nub of the whole abortion question—whether this is something that the Federal Government should become involved in and say, "Thou shalt do thus and so" or "Thou shalt not do thus and so." That is where the Senator from Indiana decided that we are talking about life, and I am prepared to let people make that determination for themselves. However, in this situation, if we accept the position of the Senator from North Carolina, a mother who is poor, with dependent children, cannot make that decision.

Mr. BROOKE. Even if a mother's life is to be saved, or even if the woman is raped and becomes pregnant, or even if the woman becomes pregnant by incest, in any of those situations she would be denied the right to have an abortion at Federal expense.

Mr. HELMS. The Senator may have a different understanding of this amendment than does the Senator from North Carolina. Mr. HYDE said that it is not the intent of his amendment to prohibit those medical procedures necessary to save the life of the mother.

Mr. BROOKE. The language is clear and concise. It rules out all abortions at Federal expense. That is what the Hyde amendment intended to do and that is exactly what it does.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 13 minutes.

Mr. BAYH. I ask this of the Senator from North Carolina. I think it is rather basic. I will read the language of the Hyde amendment. It says:

None of the funds appropriated under this Act shall be used to pay for abortions or to promote or encourage abortions.

It says "none." How does the Senator come to the conclusion that if the mother's life is in jeopardy, it makes an exception? It does not say, "None of the

funds, except in the case the mother's life is in jeopardy, shall be appropriated."

Mr. HELMS. The doctrine of self-defense is also applicable here. I do not think there is any question about the effect of the Hyde amendment as to the saving of a mother's life. Essentially such operations concern the removal of a diseased uterus, or removal of an ectopic pregnancy which are simply not considered to be abortions. In any case, the record is clear regarding the position of Mr. Hyde as to the intent of the amendment in that regard.

Mr. BAYH. The self-defense doctrine does not say that you can have Federal funds for self-defense. It says that none of the funds shall be applied. It seems to me that we have to recognize the consequences of this amendment.

Mr. BROOKE. Mr. President, I have to reserve the remainder of my time, but I say to the distinguished Senator from North Carolina that Mr. HYDE did not make any exception where the life of the mother was to be saved, under this amendment.

I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, I think we should yield to the distinguished Senator from Oregon, under his 30-minute time agreement, in order to get into debate, and then I will yield some time to the Senator from New York, for discussion with him.

Mr. PACKWOOD. Mr. President, I asked for 30 minutes for myself in case we got into a time bind. I often have found myself in a situation in which I did not get any time. The Senator from New York just told me that there is no time for anybody on the side of anti-abortion. I do not know how that came to pass, but that appears to be the situation.

Mr. President, the Senator from North Carolina makes the argument—or claims that I made the argument—that it is cheaper to have abortions than to have women bear pregnancies to term and then to take care of the children in a variety of ways if they happen to be poor or welfare cases. That is not why I am opposed to the Hyde amendment, any more than I support capital punishment because it might be cheaper to execute criminals than to imprison them for life. I do support capital punishment, but not on the basis of fiscal conservatism.

I think the woman is entitled to determine for herself whether or not she wants to terminate an unwanted pregnancy. It is not the business of the Senator from North Carolina nor me nor the U.S. Government, nor anybody else. It is a decision for that woman to make.

To try to draw analogies to other countries—and the Senator from North Carolina made reference to Nazi Germany—does no good. Actually, the situation was that under the Weimar Republic, abortions were legal in Germany. When Hitler came to power, the Government of the Third Reich made abortions in Germany illegal, because there was a manpower shortage in Germany. I do not know what that proves.

Japan has had legal abortion since 1947. Japan is a perfectly civilized, mature country, able, when they have scandals in their government, to put their own house in order. What does that prove about abortions? That abortions are all right because Japan is a democratic government, or that abortions are bad because some government we do not like allows them? I do not think it proves anything at all. It is a non sequitur.

Abortion is a moral issue. It is one of the most evenly divided issues that this country has faced in this century. Although the position on abortion throughout history has changed from time to time—just look at the common law, forgetting for the moment the rest of Europe. By and large, under common law, until 1800 in England, abortions were legal, not a crime, and they were legal in this country under common law. It was not until the early and mid-1800's that laws were passed against abortions.

Part of the reason for the change was moral. People began to think that abortions were bad. Part of it was medical; abortions were a very unsafe procedure. Many, many more women died from abortions than died from carrying pregnancies to term. So, for a variety of reasons, starting roughly in the 1830's and 1840's, we began in this country to see States passing laws prohibiting abortions.

Then, starting in the early and mid-1960's, we began to see States again changing their laws on abortion. The State of Colorado was a forerunner in passing what was regarded then as a modern abortion statute. The State of New York, in its legislature, passed a statute legalizing abortion in that State. The State of Washington had the issue on the ballot; the State of Washington voted for legalized abortion. Some States have had it on the ballot and have turned it down.

All I am using these illustrations for is to prove that there has been a cycle of opinion about abortion. Never, in our history, either in terms of religious annals or in terms of legal annals, has there been an irrevocable time when everybody said, "It is right" or "It is wrong." Never has there been a 100-percent agreement on the subject of abortion. But we can say that in 200 years, we have gone full circle, in terms of at least a majority opinion, from legal to illegal and back to legal again.

I maintain that God did not talk to any of us at any time in that complete circle and say, "At this point in time, we have reached the final decision on abortion: it is right, it is just, it is moral;" or "It is awful, it is illegal, it is immoral."

If anything, it is a personal decision, a very, very personal decision, and one that should be left to a woman and her physician to determine whether or not the abortion is going to be performed.

The argument of morality is brought into this so often that each time we have this argument, I want to read the list of just religious organizations—not the dozens of others, just the religious organizations—that are on record in favor of legalized abortion.

The religious organizations which have endorsed abortion rights are:

National Federation of Temple Sisterhoods, 1965.

Commission on Social Action of Reform Judaism, 1967.

Clergy Consultation Service on Abortion, 1967.

American Baptist Convention, 1968.

American Friends Service Committee, 1969.

Connecticut Council of Churches, 1969.

Church Women United, 1970.

Presbyterian Church in the U.S., Committee on Women's Concerns, 1970.

Presbyterian Church in the U.S., General Assembly, 1970.

Lutheran Church in America, 1970.

B'nai B'rith Women, 1970.

Moravian Church in America, Northern Province, 1970.

Council of Churches of Greater Washington, 1970.

Federation of Protestant Welfare Agencies, 1970.

Connecticut Conference of the United Church of Christ, 1971.

Board of Homeland Ministries, United Church of Christ, 1971.

Center for Social Action, United Church of Christ, 1971.

Council of Churches of the Mohawk Valley Area, 1971.

United Church of Canada General Council, 1972.

American Humanist Association, 1972.

American Jewish Congress, Women's Division, 1972.

Board of Church and Society, United Methodist Church, 1972.

Church Women United of Connecticut, 1972.

Church and Society Unit, United Presbyterian Church, USA, 1972.

Washington Office, United Presbyterian Church, USA, 1972.

Women's Program Unit, United Presbyterian Church, USA, 1972.

Church of the Brethren, 1972.

Pennsylvania Council of Churches, 1973.

Baptist Joint Committee on Public Affairs, 1973.

Women of the Episcopal Church, 1973 (reaffirmed 1970 endorsement).

National Association of Lally, 1973.

American Ethical Union, 65th Annual Assembly, 1973.

Young Women's Christian Association, 1973.

Baptist Joint Committee on Public Affairs, 1973.

Southern Baptist Convention, 1974. (Reaffirmed 1971 endorsement).

American Lutheran Church, 1974.

Women's League for Conservative Judaism, 1974. (Reaffirmed 1972 endorsement).

Reorganized Church of Jesus Christ of Latter Day Saints, 1974.

Central Conference of American Rabbis, 1975.

Unitarian Universalist Association, 1975.

Unitarian Universalist Women's Federation, 1975.

Women's Division, Board of Global Ministries, United Methodist Church, 1975.

Friends Committee on National Legislation, 1975.

United Methodist Church, Women's Division, 1975.

Union of American Hebrew Congregations, 1975.

American Ethical Union, National Women's Conference, 1975.

Reformed Church in America, 1975.

National Council of Jewish Women, reaffirmed in 1975 their previous 1969 endorsement.

Catholics for a Free Choice, 1975.

United Synagogue of America, 1975.

That only takes the religious list through the last few months of 1975. It does not include religious organizations

that, in 1976, have endorsed legalized abortion. I cite that list simply to say that there is a religious division in this country as to whether or not we should have legalized abortion: a very significant portion of religious leadership in this country says yes, and a very significant portion says no. Under those circumstances, we should not, in this country, attempt to intervene on one side or the other in what is essentially a moral dispute.

Let us make no mistake about it: We are not going to stop abortions by passing the Hyde amendment. Rich women will have safe abortions. Poor women will either bear their pregnancies to term, whether they want to or not, or they will have illegal abortions and, in many cases, they will die from infection and the other aftereffects of cheap, backroom, butcher shop abortions.

We are not going to stop it. What we are going to do is make a distinction between the rich and the poor. If that is what this Congress wants to do, if this Congress wants to weigh in on one side of a very personal, moral issue, then let them know full well that they are not weighing in to stop abortions; they are weighing in to stop abortions for a small slice of this country that is so poor, so barren of any economic resources, that unless they have Government help for medical assistance, they get no medical assistance. In this case, they would get no medical assistance for abortion.

I hope that will not be the position of this Congress, because if that is the position of this Congress, then we are being hypocritical in the sense of thinking that we are going to stop abortions, and we are sentencing many women to death who will try to have abortions that will be badly, unscientifically performed, and who will die as a result of those abortions.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. How much time does the Senator from New York desire?

Mr. BUCKLEY. Five minutes.

Mr. BROOKE. I yield 5 minutes to the Senator from New York.

Mr. BUCKLEY. Mr. President, I thank my friend from Massachusetts for the time. I am afraid that somebody let the ball slip in not allowing a greater period of time for those who support the Hyde amendment. My position is clearly known on the moral aspects of this issue. I shall not delve into them at this point. Rather, I would like to cover some of the specific arguments that have been advanced in favor of deleting the Hyde amendment.

First of all, it has been stated that any woman entitled to Medicaid has a constitutional right to public funding for an abortion which is not necessarily essential to her health. We are talking about permissive abortion in this context. Some 250,000 a year are funded by the Federal taxpayer. But in the suit that is now being brought before the U.S. Supreme Court, I would like to point out that the Solicitor General has advised the court as follows:

The United States is of the view that neither Title XIX of the Social Security Act nor the Fourteenth Amendment requires a

federally-funded state Medicaid program to pay for abortions that are not medically indicated. . . .

Moreover, the fact that a woman has a qualified right to an abortion does not imply a correlative constitutional right to free treatment. Individuals presumably have a "right" to undergo many recognized medical procedures by a licensed physician, but the Equal Protection Clause does not affirmatively require a state to cover the costs incurred by indigents in undergoing such procedures (Frank S. Beal, et. al. vs. Ann Doe . . . Memorandum of the U.S. as Amicus Curiae, March, 1976).

It seems to me, therefore, that until the Supreme Court rules to the contrary we are fully entitled to go on the premise that there is no obligation on the taxpayers to fund a discretionary procedure that appalls the conscience of a very substantial percentage of the American taxpayers, the American voters, and the American public.

I might add, incidentally, that the position of the Solicitor General represents and reflects the views of the Democratic candidate for President of the United States. In an interview published on August 10, 1976, Governor Carter answered the following questions in the following ways:

Q. Under what circumstances, if any, would you approve of the use of Medicaid funds, for example, to pay for abortion?

A. I would not approve of it at all. If the court should rule that it must be done, obviously I would have to comply, and carry out the laws of our country, but I don't favor the use of federal money for abortions.

Q. And you oppose payment for abortion in programs like national health insurance?

A. That's correct.

Well, in this one instance I am pleased to follow the lead of Governor Carter.

It is also suggested that it is somehow unfair that the poor be denied the rights or that which the rich people can afford.

Well, I think Dick Gregory has the definitive answer to this particular question, and I would like to quote him:

I know a man in Chicago who wipes out 125 black babies a day in one of those abortion clinics. You say a poor black woman has as much right to an abortion as a rich white one. Well, then, give her the right to a Cadillac, a mink, and a trip to Paris.

Again we are not talking about medical necessity but choice.

This brings me, Mr. President, to one part of the Hyde bill that I know disturbs a number of people who, nevertheless, approve of its thrust. On the face of it, the Hyde amendment appears to make no exception in the case of a woman whose life is at stake, whose life is literally at peril, unless an abortion is performed.

Lest this question bother some of our colleagues who are here, I would like to point out that the legislative history of the Hyde amendment makes it amply clear that it would not preclude the use of Medicaid funds in the instance where a woman's life is at stake. I would like to quote from the words of the author of the amendment, Mr. Hyde, uttered on the floor of the House on August 10, 1976. He states as follows, speaking of the major objection to the amendment:

"If permitted to stand it will prevent abortions to save the life of the mother."

Let me make it crystal clear that this amendment is not intended to prohibit any abortion deemed necessary to save the life of the mother. Such operations do not even fall within the medical terminology of abortion. They are called removal of a diseased uterus, or removal of an ectopic pregnancy, or some similar terms. Also, the medical indications for so-called therapeutic abortions today are almost zero due to advances in medical science and technology.

Mr. President, I urge that the Hyde amendment be sustained by this body.

Mr. BROOKE. Mr. President, I yield 3 minutes to the distinguished Senator from Mississippi.

Mr. STENNIS. Mr. President, I especially thank the Senator from Massachusetts. This is a subject that I do not take any delight in trying to discuss, but I would feel a sense of neglect if I did not at least try to express some sentiments on this subject that, it seems to me, has just run away and moved over into the semipolitical or the political field, and which I do not think is a political question at all. I am talking about abortions generally and, more particularly, a State-supported and thereby a State-encouraged abortion.

I do not think it is a political question one way or the other. I do not think it is a question of money. No one begrudges the amount of money involved or especially begrudges it.

I do not think, Mr. President, it is just strictly a legal question either, with all the greatest deference. I do not see how the Supreme Court of the United States could properly wander into this field and lay down the predicates and guidelines, legal and illegal terminology, and restrict the States and the Federal Government in this field which is not a legal question. It is murder, the wrongful taking of human life, which is to be condemned, and certainly some kind of abortions ought to be condemned which, I think, is a question of old-fashioned morality.

What is the moral position, not this high, new concept of morality, but the basic moral question involved? I am a former district prosecuting attorney, and I know something about the feel that a person has in prosecuting for the wrongful taking of human life. I think this is virtually analogous.

But other than that I believe this trend that we have drifted into, and drifted is a soft word, with reference to abortion as a whole, strikes at the very basic foundations of the family, which is not just an isolated institution, but the family that I refer to is the basic concept of our present civilization, whatever religious sect or whatever religious views, if any, one may have. I am talking about the basic concept of the family and family life.

As I understand human nature there is no doubt in my mind that this drifting trend we have taken and that we argue and try to justify on a narrow concept is leading us over the abyss on the basic question of what does the family mean and what is its place and how essential and necessary and indispensable it is if we are going to have a society anywhere near the standards of morality and decency and the basic concept of life as we have inherited it and as we have been trained in it.

I think it is as certain as night follows day that we are getting lost in the track here, and it is going to result in a lot of terrible consequences.

I thank the Senator.

Mr. BROOKE. Mr. President, I yield 2 minutes to the distinguished Senator from Missouri.

Mr. EAGLETON. Mr. President, I thank my colleague from Massachusetts.

The Senate should recede to the House on the Hyde amendment to H.R. 14232, the appropriations bill for the Departments of Labor, and Health, Education, and Welfare for the coming fiscal year. Of course, if the Senate does recede and thereby agrees to the Hyde amendment, this will have the effect of prohibiting HEW from using its funds to pay for abortions.

This, in my view, is the only proper policy to be adopted by the Federal Government. We should not be in the business of financing abortion on demand.

I was privileged to have a major role in securing passage of the Family Planning Services Act of 1970, the first categorical Federal program for providing family planning services to those in need of them. When we went to conference with the House on that bill, the situation was similar to that we find ourselves in today. The House-passed bill contained a prohibition against the use of family planning funds for abortion. There was no comparable provision in the Senate-passed bill. I moved that the Senate recede to the House and adopt the abortion prohibition. I was ultimately successful in persuading the other Senate conferees to adopt my motion; thus the policy of prohibiting the use of Federal funds for abortion was first established in the family planning legislation.

That was a sound policy 6 year ago, Mr. President, it remains a sound policy today, and it should be extended by the Hyde amendment to cover all programs financed by HEW. The 1973 Supreme Court decision in Roe against Wade has since changed the law to say that Government cannot ban the performance of abortions, but the Supreme Court has never rendered any decision saying that the Federal Government has to pay for the performance of abortions.

Finally, Mr. President, I want to point out that the position I take on the Hyde amendment is the same as that espoused by our Democratic nominee for President, Gov. Jimmy Carter. In an interview conducted on August 9, 1976, by Jim Castelli of the National Catholic News Service, Governor Carter stated as follows:

Q. Under what circumstances, if any, would you approve of the use of Medicaid funds, for example, to pay for abortion?

A. I would not approve of it at all. If the court should rule that it must be done, obviously I would have to comply, and carry out the laws of our country, but I don't favor the use of federal money for abortions.

Q. And you oppose payment for abortion in programs like national health insurance?

A. That's correct.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EAGLETON. I thank my colleagues.

Mr. BROOKE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Massachusetts has 13 minutes.

Mr. BROOKE. Mr. President, I reserve the remainder of my time.

Mr. HATHAWAY. Will the Senator yield?

Mr. BROOKE. I yield to my distinguished colleague 2 minutes.

Mr. HATHAWAY. I thank my distinguished colleague from Massachusetts.

I rise in opposition to the Hyde amendment. I think the constitutional argument has been adequately made not only during this debate, but in the previous debate we had when this measure was before us on the floor of the Senate and we defeated it by a margin of 57 to 28. Hopefully, we will knock out the Hyde amendment by an even greater margin this time.

Mr. President, I would like in this brief time to point out to the Members possible ramifications which might be brought about as a result of endorsing the Hyde amendment.

The language is so broad that the full implications and injurious effects cannot be predicted. However, possible ramifications which might occur include: Coverage of those widely used birth control methods which may have abortifacient qualities—IUD's, morning after pills—prohibition of teaching abortion methods in medical schools or hospitals, pregnancy counseling, genetic counseling, use of abortifacient drugs—includes all cancer chemotherapy drugs plus many others in common use—or even discussion of abortion in a federally funded university classroom. It would also restrict availability of abortion or related services in any hospital, et cetera, which receives Federal funds. It is also clear that employees of the Departments of Labor and HEW would no longer have coverage for abortion services available under their Government insurance.

So the ramifications of the results of this very broad language are so great that—

Mr. BUCKLEY. Will the Senator yield?

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. HATHAWAY. I do not have control of the time.

Mr. BUCKLEY. Will the Senator be kind enough to yield half a minute so I can pose a question?

Mr. BROOKE. Yes.

Mr. BUCKLEY. Is the Senator aware that Congressman Hyde, in establishing legislative history for his amendment, made it absolutely clear that it would not have the side implications that the Senator just listed; it would not affect teaching or these other procedures; it would be limited only to the funding of the actual operation?

Mr. HATHAWAY. Is the Senator aware, if I may have 30 seconds to respond, the cardinal rule of statutory construction, if the language is clear on its face, do not go beyond it.

It says "shall be used to pay for abortions or to promote or encourage abortions."

TO: Jody Powell and Stu Eizenstat
FROM: Bob Ginsberg
RE: DEBATE ANSWER TO MEDIAN TAX QUESTION
DATE: September 21, 1976

There follows a suggested answer for any median tax question. I think it is preferable to the other answers I've seen--much less defensive on this issue and more aggressive in getting our case out to the public.

Please consider getting this to Governor Carter.



*or an aggressive answer
along this line*

MEMORANDUM

September 24, 1976

TO: Pat Anderson

FROM: Si Lazarus

RE: Comments on Integrity

1. I suggest the following rewrite of your first paragraph:

"If I become President, I intend to instill in every department, agency, and program, the highest standards of competence and professional ethics of every agency and program of

"If I become President I intend to instill, in every federal department, agency, and program, the highest standards of competence and professional ethics. That is a big job, and it will require many specific steps. Some will require legislation, and a President ready to fight for his legislative program. But much can be accomplished by the President himself, through a stroke of his pen on executive orders, through strong appointments to leadership positions, and through active oversight and direction, to assure that new standards of management and morality are carried to the far corners of the government."

In my administration I will begin with a series of executive orders providing much tougher guarantees of integrity and openness than presently exist. I will also see that these standards are ~~faithfully~~ faithfully enforced, not simply filed away and forgotten, as the existing rules have been ~~in the~~ in the last years."

2. After the third paragraph on page 1, I would insert the material beginning with the second paragraph on page four and continuing through the last full paragraph on page five. In other words, I would put the Comptroller General's ~~findings~~ findings on weak enforcement ahead of the examples of misconduct. On reflection, this seems to me to make the paper ~~more thoughtful~~ ^{begin} ^{and serious.}

3. ~~I~~ I would strike the first sentence in the paragraph now located at the bottom of page 1. I would substitute the following: "As a result of this pervasive neglect of the conflict-of-interest laws, even gross instances of impropriety have gone unredressed." (I would also drop the second sentence--"Here

are a few." Even if you don't reverse the order of the examples and the documentation of nonenforcement as I suggest, you should get rid of the sentence, "There are many examples." We don't really know if there are many examples. What we do know is that, where examples of misconduct have come to light, no enforcement steps have been taken.

4. On page 2, in the second paragraph, change the word "understanding" to "negotiations."

6. On page 7, in the last sentence on the page, strike that sentence and substitute the following: "Plainly, the company's prosperity in the years following his resignation from the government could hardly have been unrelated to profits ~~xxx~~ produced thereafter from contracts signed with DOD during Mr. Packard's tenure as the nation's second ranking defense official."

5. On page 6, in the second to last paragraph, last sentence, insert the word "appropriate" before

5. On page 7, in the first sentence of the paragraph numbered "2,"

5. On page 7, in the ~~f~~ third paragraph, strike the phrase "all persons entering government service at a level requiring Senate confirmation ~~and~~ as well as certain others," and substitute: "top officials"

7. On page 9, in the carry-over paragraph, final sentence, strike everything after ". . . .legislation to . . ." and substitute the following: ". . . prevent the subversion of public policy by this insidious practice."

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September 14, 1976

NOEL - P/S sent to
Jody

TO: Hamilton Jordon and Jody Powell
From: Stu Eizenstat^{ee} and Dick Holbrooke^{rh}
Subject: James Schlesinger and the defense debate

We suggest that Governor Carter meet publicly with Jim Schlesinger a few days before the October 6 debate on defense and foreign policy. Schlesinger will have just returned from his well-publicized trip to China, and we know that he would be favorably disposed towards any meeting.

It would send a shudder through the Ford camp. They would anticipate that Schlesinger was providing inside information of defense issues, and introduce confusion and apprehension into their preparations at the last moment. Even more importantly, since Schlesinger was ostensibly fired by Ford for insisting on an increase in the defense budget which Ford was then resisting (and has subsequently authorized), it would give us substantial help in conveying the impression that Carter's position on the critical issue of the defense budget was acceptable to that symbol of a strong defense, James Schlesinger.

If Schlesinger agreed, Carter could even mention during the debate such things as "I was discussing this issue just the other day with ex-Secretary Schlesinger and he agreed that. . ." etc.

Dick Holbrooke has been in constant touch with Schlesinger all spring and summer about the Carter campaign, and we know that Governor Carter has talked with him once by phone. The time has come to close the circle. Please let us know if we can proceed with Schlesinger to test the waters as soon as he returns from China.

9/26/76

TO:

~~AL STERN~~

MILT

FROM: BOB GINSBERG

PURCHASING POWER FALLS 3%

Insert ①

② The government reported yesterday that the combination of inflation and recession further eroded the purchasing power of American families in 1975 -- marking the second year in a row that this standard has declined.

Government analysts said that after inflation is taken into account, earnings levels dropped by 3% (actually 2.6%) -- reflecting a \$360 a year reduction in consumer buying power.

1975 was the second consecutive year and the fourth year out of the last six in which the purchasing power of the typical American family has declined.

③ The American dream of reward for hard work is being steadily eroded by the ~~poor~~ uncaring lack of policy in the Republican administration.

MEMORANDUM

TO: Milt Gwirtzman & Pat Anderson

Sept. 15, 1976

FROM: Si Lazarus

RE: ~~E & N~~ Critique of Legion Speech Defense Savings

In the American Legion speech, delivered August 24, 1976, ~~three paragraphs appeared which specified three areas in which~~ ~~important~~ ^(we) ~~three paragraphs~~ identified ^(three) areas of significant ~~fat~~ ^(waste) in the defense budget. The three areas were: excessively short "tours of duty;" excessive training personnel in training programs; and cost-overruns. On September 6, 1976, Evans & Novak ran a column attacking ^(the accuracy of) these figures, entitled "Carter's Advice from Brookings." (Evidently, the Pentagon source which ^(presumably) gave Evans & Novak their information ~~correctly~~ identified our source as Brookings' analysis of these issues. In fact, Brookings (Barry Blechman) was the source for the "tours of duty" number and the training program number. Les Aspin was the source for the overrun number.) This memorandum will

~~explain~~ recount the fruits of exchanges with Blechman and another Brookings researcher, one Martin Binken (from whom Blechman evidently got his figures) and with Aspin. It will attempt to ~~x~~ provide an understanding of

explain the ^{origin of} ~~basis~~ for the figures in the speech, and provide a basis for dealing with these issues in the future.

In brief, ^(summary) our figures on the training program and "tours of duty" issues ~~were not precisely accurate, though~~ ^{can be questioned. However,} they are much closer to the mark than the counter-figures stated in Evans & Novak's column. The cost overrun figure taken from Aspin was ^(overstated) accurate as of the time of the speech; The newer (and higher) fi-

appears to have come

(Standard Acquisition Report)

("SAR")

(copy the speech)

figure for overruns given in Evans & Novak ~~came~~ from a new Pentagon report issued September 3, 1976, which among other things revealed a huge jump in overrun costs during the three-month period following the previous report (on which Aspin had ~~xxx~~ relied in advising us). This latter ~~fact~~ ^{increase} may provide a basis for an offensive statement at an opportune point on the ~~overrun defense~~ ^{issue}. Details ~~follow.~~

Insert 2A

(SAR reports are classified, but a SAR Summary is published.)

I. The American Legion Language

In case you do not have on hand a copy of the ~~xx~~ Legion speech, here are the relevant paragraphs:

Insert 2B

II. Evans & Novak

The offending Evans & Novak paragraph is as follows:

Insert 2C

III. Analysis

Ax A. "Duty Tours"

We said the ~~xx~~ annual savings from extending tours of duty an additional two months ~~xxxx~~ ~~xxxx~~ would be \$400 million. ~~xx~~ Evans & Novak ^(presumably) (and the Pentagon) say the correct figure is (only) \$180 million. Brookings, in the person of ^(on whom Blackman relied) Martin Binken, now says the correct figure is \$350 million. Aspin has offered an analysis

and to whom he referred me)

~~Our basic conclusions from~~

~~In brief~~

2A

In summary, we can conclude: first, there is agreement between ourselves and Evans & Novak (and their Pentagon sources) that there is tremendous waste in each of the three areas identified in the speech; second, as to two of those areas (~~XXXXXXXXXX~~ (time between moves and training personnel) there is dispute as to the extent of the waste--these disputes turn largely on ~~XXXXXXXXXX~~ ~~assumptions~~ technical ~~diff~~ definitional and accounting matters; third, on the overrun issue, the one in which waste is greatest, we were not only accurate, but new figures released since our speech show that the amount of waste has been increasing this year at a calamitous pace.

Hobbes believes, and I agree, that we should continue to ^(press) ~~put~~ the defense fat issue, we are on strong ground. Our claim is reasonable and plausible. However, any number can always be attacked. Obviously, any number we use will be attacked. Hence, any numbers we use should come as citations to sources. In addition, our emphasis should be that, while definitional and accounting differences may produce differing estimates of the amount of waste, no one seriously disputes the fact that there is considerable waste, which tough management can reduce.

3

which would support the original \$400 million figure. But Brookings (Binken) will not go along with that. Hence, ~~even though it may be tempting to go along with an analysis~~ ^{Aspin's} ~~which would permit us to say we were completely right, it would probably be best not to, since both Brookings and the Pentagon would say we were too high.~~ ^{pressed to specify a figure} ~~seem~~ ^{might}

Here is the underlying analysis.

Brookings' original \$400 million suggestion to us was ~~w~~ based on the number of moves ~~which~~ reflected in the budget for FY '74. Since then, the Pentagon has increased the time between moves to 15 months. At this level, the amount of savings realizable from a further two months extension of the time between moves is not as great as it was for FY '74--Brookings' total, as ~~recounted~~ ^{noted} above, would now be \$350 million.

Our ~~#~~ \$350 million is still a long way from the Evans & Novak figure of \$180 million. The difference is this: Evans & Novak (the Pentagon) have evidently computed only the savings in ~~actual~~ ^{direct} moving costs resulting from fewer moves. But Brookings (strongly supported by Aspin) include also ~~the reduced~~ ~~costs~~

~~manpower costs~~ ~~(since people are kept on hand in order to assure that they are at full strength despite the fact that some individuals are constantly changing assignments at any given moment; the fewer the moves, the fewer the time number of such extra personnel required. Brookings estimates that each month's extension of time between moves cuts manpower needs by 5,000 people a year. If one~~ ~~manpower costs, covering the salaries of people in transit. Brookings~~

Erans & Novak's Pentagon figure of \$180 million must come from taking 12% as the percentage of total of 13%

To quantify: Total Permanent Change of Station costs in FY 77 include an estimated \$1.5-1.7 billion in moving costs, plus \$1 billion in salaries for people in transit. (Pentagon figures) Extending the time between moves from its present figure of 15 months to 17 months in effect saves about 13% of the costs associated with moving. Thirteen percent of \$1.5-1.7 billion (moving costs alone) equals \$195-220 million; thirteen percent of \$1 billion (salaries) equals \$130 million. The net is that Brookings' figure for total savings from a two months' extension would be \$330 - \$350 million. We can stand on that.

For our purposes, of course, the main point is that very substantial savings could be realized by an extension of the time between moves.

Holbrooke has suggested that we could, if pressed, state that our \$400 million figure is based on the last year for which there was no dispute. But looking at the language in the text, I don't think that response would be adequate.

N.B. Brookings (Binken) emphasizes that we should use the term "time between moves" rather than the term "tours of duty," since the latter may seem only to refer to extended duty assignments (which in fact generally average about 26 months); "time between moves" includes all moves, including the relatively frequent moves now undergone by new recruits.

Following Blechman, we used "tours of duty" in the speech, but Evans & Novak and the Pentagon evidently did not pick us up on that point.

Trinell - Instructor

B. Teacher-Student Ratio in Training Programs

Evans & Novak stated that we incorrectly alleged that the

JA-5

trainee-instructor

Insert SA

~~teacher-student~~ ratio ~~xxx~~ in ~~xxxx~~ DOD training programs was 1.5/1; in fact, they claim, the ratio is 5/1. The fact is that the ratio was 1.5/1 thorough FY 1976, if one includes support personnel (slide projector operators, janitors, etc.) along with the "teachers." For FY 1977, the ratio is 2.2/1 because, Binken says, DOD has altered its accounting systems and moved certain types of training-related personnel into some other category.

The correct position for us now to take is that the ratio of instructors plus support personnel is either 1.5/1 or 2.2/1, depending upon whether one uses the Pentagon's old or new accounting categories. The message in either ~~of~~ event is the same: training programs use far too ~~many~~ much personnel and are extremely costly. (No one has challenged our projection of a \$1 billion saving from moving the ratio to 3/1 from 1.5/1.)

One can compare the ratio, however figured, in DOD, with the ~~ratio (teachers plus support personnel) to~~ ratio (students ~~p~~ to teachers plus support personnel) in public high schools--19/1. While there may be differences between the content of high school programs and the content of DOD training programs, it would appear doubtful that the differences could possibly justify the gap between 1.5/1 or 2.2/1 and 19/1.

C. Cost Overruns.

Evans & Novak also criticized us for understating the current cost of overruns. Their figure ~~of~~ ^(\$13.4 billion) ~~came from~~ the September 3 edition of (ISAR) a Pentagon report called the Selected Acquisition Report, ~~xx~~ which is published quarterly. Our speech was given before publication of this report, on August 24, and our figure of \$10.7 billion was based on the data published

appears to have come

(As noted, ~~the~~ the SAR is classified, but a SAR Summary is released.)

Here are the raw numbers, as stated in DOD testimony before the House Armed Services Subcommittee on Military Personnel on March 2, 1976. (A) The total Active and Reserve Training ~~xxxx~~ Load (trainees) = 251,000. (B) The total "Training and Direct Training Support Personnel" = 113,700; this category includes "instructors," "instructional support," "school administration," ~~xxxxxxxx~~ "student supervision," and an (allocated) "part of student support personnel" (all DOD definitions). The ratio of (A) to (B) is 2.2/1. If you add to ~~to~~ (B), as was done in years prior to FY 77, ~~xxxxxxxx~~ in the category of "Base Operating" personnel, the ratio becomes 1.46/1.

Insert 5 ~~A~~

at that time.

Hence, not only was our figure accurate, but the new figures show a remarkable increase in waste during the three-~~xxx~~ month period between the publication of the two reports. (The first report, showing an overrun total of \$10.7 billion, was published ~~xxxxxxx~~ May 14, 1976, and ~~xxxxxxx~~ its figures were calculated as of March 31, 1976. The second report, published September 3, 1976, was calculated as of June 30, 1976.

Hence,

Actually, it appears that the Evans and Novak

~~In other words, between March 31 and June 30 of this year,~~

~~the total overrun cost rose \$2.7 billion. Les Aspin calculates~~

~~that at least \$972 million of this total represents pure ~~xxxxxxx~~~~

~~waste. His analysis was forwarded to me in a memo which I have~~

~~attached. It ~~xxxxxxx~~~~

~~Any further questions?~~

cc: Stu Eizenstat, Al Stern, Richard Holbrooke, Bob Hunter, David Aaron

Pure cost increases and quantity increases; quantity increases should be excluded from overrun calculation.

the correct figure for pure cost increases is

[Handwritten signature]

This analysis proceeds as follows. As of March 31, 1976, ~~the~~
~~cost of~~
total cost increases on weapons system in process ~~x~~ was, in base
year dollars ~~x~~ (in current dollars it would be higher, obviously),
was \$10.7 billion. On June 30, that figure had risen to ~~\$13.4 billion~~.
The total difference is \$2.7 billion. *This includes* Subtract from that
the cost of adding another aircraft carrier to one of the programs
(\$1,342.9 million) and subtract also other changes in quantity
of weapons purchased (~~\$491.1 million~~). *mother words,* The pure cost increase
~~over the three month period is \$972 million, i.e.,~~ almost \$1 bil-
lion in that short span of time.

Aspin points out that, while this is but one percent of the
current estimated total program cost of the ~~x~~ programs included,
it is nevertheless significant. A one percent per quarter increase
in ~~x~~ the cost of a weapons system which took ten years to develop
would amount to 50% over the life of the ~~program~~ program.

Aspin also notes two systems in which large increases occurred.
In the F-15 program, increases totaled ~~\$224~~ ~~\$224~~ ~~x~~ \$324 million in
base year (FY 70) dollars over this ~~x~~ three-month period (\$7,189
million to \$7,513 million). This equals 4½ percent of the cost of
the program in just one quarter. Moreover, he relates, the SAR *Summary*
states that additional cost increases of "approximately \$500 million"
are already anticipated, with \$200 million due to inflation and \$300
million *(due to)* real cost overruns.

Aspin also notes that the cost estimate for the Trident pro-
gram is up \$188.5 million in base year 1974 dollars, despite a
reduction of \$80 million because of a 12 missile net reduction in
program quantity. According to the SAR Summary, ~~which~~ the causes

for the increase include:

- (1) delay in the operational availability date of the missile;
- (2) a 4-month delay expected in delivery of the lead ship;
- (3) a resulting revised estimate of system initial operational capability from April to September 1979.

In any statement we make on this x issue, we may want to use a quote exhumed by Blechman by Congressman Donald Rumsfeld on March 13, 1963 on the House floor, when he voted against the RF-70 included in H.R. 2440:

"National defense is sacrosanct, but waste in defense spending is not. Waste and inefficiency are always present in a fifty billion-dollar plus operation."

Any further questions?

cc. Eizenstat, Holbrooke, Hunter, Aaron, Kramer, Stern

JIMMY CARTER WALTER MONDALE



Leaders, for a change.

TO BETTY MAYO

FROM BILL JOHNSTON
10 of 2

October 14, 1976

Dear Tribal Council Leader:

Last week in Albuquerque, I met with leaders of the National Congress of American Indians, the National Tribal Chairmen's Association, and tribal chairmen from ten states. It was a good opportunity for me to learn more about the concerns of our First Americans.

As the Democratic candidate for President, I recognize the unique relationship between the federal government and Native Americans, and I believe that to the greatest extent possible, programs for Indian tribes should be designed, implemented, and managed by Indian tribes. Indian people should be able to make their own decisions regarding budget priorities, the operation of their schools, the best use of their land, water, and mineral resources, and the direction of their economic development. Self-government must mean that the majority of decisions affecting Indian tribes will be made in the Tribal Council room and not in Washington D.C.

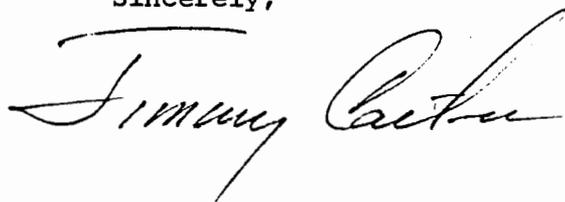
Today, duplication of effort, waste, and neglect pervade the administration of programs and inhibit self-determination, while newly enacted legislation is often bogged down for months waiting for the bureaucracy to develop confusing administrative regulations. A large percentage of federal money is eaten up through the administrative overlap and waste. Federal dollars appropriated for Indian programs are often misspent and misallocated to programs that are unwanted by, and of little use to Indians.

As part of my plans to reorganize government, I intend a complete review of all federal programs designed for Indian people, to be conducted with the full participation of Indian leaders from tribal, urban, and national organizations. This review will determine the best manner by which the trust responsibility should be assured and maintained; it will consider how Indian legal interests, including land, water, and energy resources, can best be represented in the future; it will analyze the administration of Indian programs and recommend changes to cut overhead costs and to assure that Indian needs are really being served; and it will develop plans for full participation by Indian tribes in the operation of their programs. We must obey and implement our treaty obligations to the American Indians.

I will review and revise as necessary, the federal laws relating to the American Indians, and the functions and purposes of the Bureau of Indian Affairs. The guiding principles of my review will be a strengthened reaffirmation of our legal and moral trust responsibilities to the American Indians, and a strong, personal respect for the dignity of each of our First Americans.

Finally, I will not take unilateral action on any issue regarding Indian affairs, or Indian programs without full consultation with tribal representatives. Ours will be a government of participation, of action, of program involvement, and of true self-government.

Sincerely,

A handwritten signature in cursive script, reading "Jimmy Carter". The signature is written in dark ink and is positioned below the typed word "Sincerely,".

MEMORANDUM

Oct. 21, 1976

TO: Stu Eizenstat

FROM: Si Lazarus

RE: Actions by Executive Order (I)

Following is a list of measures which the new President can (or the incumbent President could have) take by executive order, in two fields: (1)

in three fields: (1) elimination of conflicts of interest within the executive branch; (2) increasing openness; (3) improving management efficiency. I am in the process of gathering additional suggestions for possible executive orders in the areas of jobs, housing, health, and the elderly. My results in these latter areas will be forwarded to you as soon as possible.

I. Eliminating Conflicts of Interest

1. Let sun shine on personal financial holdings of high officials. Present order requires that such reports be "kept in confidence." Will open these reports to public. No one will serve who has something to hide.

2. To curb revolving-door musical chairs routine, will require officials to sign contract. Contract will provide for no lobbying of their former agency for one year after they leave on matters within their authority. Will also provide for divestiture of financial interests in potential conflict with their regulatory responsibilities.

II. Openness

3. Let sun shine on officials' meetings with lobbyists. Will supplement Sunshine Law (applicable only to multi-member agencies), with order requiring public logging of contacts with outside persons regarding policy matters.

III. Management Improvements & Efficiency

III. Management Improvements & Efficiency

4. Protection for "whistle-blowers." An executive order will provide that no federal employee who discloses the existence of illegality, fraud, or waste in a federal program thru testimony before Congress or otherwise thru official channels shall not be subjected to any sort of reprisal, as was Ernest Fitzgerald.

5. Reward for employees proposing economizing measures. An executive order will provide that employees proposing measures which save the government money will be rewarded with a bonus, as was done in Georgia.

6. An executive order will establish an experimental program, subsequently to be expanded when appropriate guidelines are defined thru experience, to reward agency managers discovering major economizing reforms, by permitting their agencies or bureaus to retain a portion of savings and redirect them toward more productive uses within the agency or bureau in question.



Conservationists For Carter/Mondale

Carter/Mondale Presidential Campaign

October 21, 1976

MEMORANDUM:

To; Pat Anderson
From: Jane Yarn
Re: Speech material for Friday night debate

The principles and the leadership of such men as Thomas Jefferson, Abe Lincoln, Woodrow Wilson, Franklin D. Roosevelt, and Harry Truman have made America a great nation. These principles include a deep respect for individual freedoms with liberty and justice for all. These principles include passion for our fellow humans, compassion founded in a basic trust in the dignity of man. These principles also include government of the people, by the people and for the people or, in other words, government responsible to and responsive of its people.

It is now time that we as American people reaffirm these basic principles; these principles which have made America a nation of strong spirited and beautiful people. The spirit of our people is America's most valuable resource and the preservation of beauty is man's highest art.

National Headquarters, P.O. Box 1976 Atlanta, Ga. 30301 404/897-5037

A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D. C.

To: Phil Zeidman and Stu Eizenstat
From: Sam Bleicher 10/1/76
Subject: Attacks on Defense Spending

In light of your request for information about increased defense spending and social program vetoes by Ford, Al Stern and I thought we should bring to your attention the results of a poll reported on p. 6 of the Washington Post today.

It finds that:

- (1) 71% of all Americans feel that total spending for defense purposes should be either increased or kept at the present level (up from 49% in 1972).
- (2) 52% feel that the U.S. should endeavor to be "number one" in world power and influence (up from 39% in 1972).
- (3) 56% favored defending European allies with military force (up from 48% one year ago.)

In short, an attack on defense spending, even if very carefully qualified, may be counter-productive. ~~Maybe-you-can-argue-that~~
~~le~~ Maybe you should use industrial subsidies as the inflationary example.

To: Stu Eizenstat

October 7, 1976

From: Kitty Schirmer

Re: Telegram to Western Governors Regional Energy Policy Office Meeting

Attached is a telegram which we would like to send to each of the Democratic Western governors as soon as possible today. The Governors are meeting today in Billings Montana.

Almost all of the substance of the telegram comes from previous statements, including the energy reorganization paper. The only new point is the sentence concerning the applicability of the provisions of state law to federal lands where the state law is more stringent. (It is still up to the government to make the finding of whether the state law is more stringent, and we do not say that the state will be the enforcement agent.) Gov. Carter is reported by Lamm's people to have agreed with this kind of provision when he met with Gov. Lamm in Colorado last Monday. Joe Browder has reviewed the proposed telegram and thinks its fine.

The Western Governors will hold a short press conference today and issue an endorsement of Jimmy.

Need to get word on whether to send it as soon as possible.

For Holbrooke

~~FROM OFFICE OF CLARK CLIFFORD IN WASHINGTON, D.C.~~

The following is a statement made by Sen. Frank Church at a press conference at the Los Angeles City Hall at 9:30 am today (Oct. 26):

Sen. Frank Church declared here today that "Jimmy Carter is right about Yugoslavia while President Ford and Henry Kissinger are just plain wrong." The controversy over Yugoslavia erupted during the third debate when Carter asserted, ^{that} ~~if~~ as President, he would not send American troops to war in Yugoslavia should the Soviet Union invade that country. ² Ford replied that he would not reveal what the American response would be and that it was a grave mistake to do so.

On Sunday, Secretary of State Kissinger endorsed the President's position and criticized Carter for inexperience and naiveté.

The Idaho Senator, the rank ^{ing} of the Democrats on the Senate Foreign relations committee, said, "A devious course should be avoided at all costs in dealing with the Yugoslavs. They are best served by knowing now that the United States has no intention of intervening with an American army to fight the Russians behind the Iron Curtain."

Church said, "We are morally bound to avoid raising vain hopes by behaving as though we might just go to war in the Baltic. Twenty years ago the Hungarian freedom fighters misinterpreted an ambiguous American foreign policy taking it for granted we were prepared to

breach the iron curtain and join them in repelling the Russians, once an uprising in Hungary occurred.

"But it was never our intention to start a third world war over Hungary, and John Foster Dulles, Eisenhower, and Secretary of State knew it perfectly well. Still we spoke beguiling, of rolling back the iron curtain, and liberating 'Eastern Europe,' thus fanning the flames of revolution in Hungary. We will never know how many brave Hungarians died in the streets of Budapest, holding desperately to the empty hope that American tanks would soon appear to save them."

Church asked, "Would President Ford and Henry Kissinger now practice this same deceit on the Yugoslave people? If the Russians ever felt compelled to intervene in Yugoslavia, they won't be deterred or deceived by the pretense on the part of the United States anymore than they were in the tragic case of Hungary. The true victims will be the people of Yugoslavia. Like the Hungarians, they could pay with their own spilt blood for our posturing."

"It is better, by far, to tell the truth, as Jimmy Carter has told it than to replay the treacherous theme of Hungarian roulette. Carter has learned the lesson of Hungary; President Ford and Henry Kissinger have not."

To: Jody, Stu, Pat A.

From: Bob Ginsburg

Re: Carter Should Continue to Hammer

Away at Effects of Republican Economic
Policies on Middle ~~Class~~ ^{Class} Americans

Date: October 29, 1976

I heard on radio news late
last night ~~and~~ (it was not shown
on early evening TV) excerpts from Carter
speech in Ohio using material on effect
of Republican economic policies on the
middle class. It was very effective.
Strongly urge you to continue to hammer
away on this issue in coming days,
particularly Ford's phony tax cut proposal
and favoritism for corporate over ~~individual~~
~~low and middle income~~ individual taxpayer.

To: Al Stern

From: Bob Ginsburg

Re: Tax Memo.

In presiding over the dispatch of the tax memo, I have become ~~strongly~~ convinced that it is much too long and ^{needlessly} complex to give to ~~Go~~ Carter. I ~~strongly~~ ^{urge} ~~strongly~~ that he be given, ~~at~~ at most, Part I only. To give him more will risk all our credibility. ~~And even so, if~~ ~~After~~ If, after giving him the whole memo, we decide we want to change any part of it (even the cutoff point language) he will rightly be very upset.

To: Stu Eizenstat and Jody Powell

From: Bob Ginsburg

Re: Carter TV Special

Date: October 6, 1976

Joe Kelyveld's article in the Times this morning makes the point that a lot of the voters in a St. Louis suburb feel they don't really know Carter and are going to stick with Ford (even though they don't think much of him). Two days ago there was a similar Times article about working class voters in Milwaukee. Several days before that a similar piece in the Times about

California voters. ~~All~~ This ~~merely~~
feeds on itself.

All this reaffirms our view that
the most important thing ~~Jimmy~~ we do
in the ~~next week~~ to we can do
for the campaign in the next week to
10 days is to get taped and aired on
TV a half hour ~~Carter~~ special
setting in which Jimmy presents his
views on the economy, domestic issues,
etc. # If we do not plant a solid,
positive image of Carter soon, we risk
losing a substantial chunk of voters
who would probably ~~not~~ like to vote
for Carter but ~~who~~ will stick with
a moderate unknown rather than ~~as~~ ^{take}
a chance on a person whom they first

but
interesting ~~but maybe you can~~ ~~advice~~
~~they~~ do not feel they know. Short
news spots and commercials cannot
~~cut through~~ really get Jimmy's
depth across or create the image we
need.

There would probably be a
greater payoff from this kind of
presentation (even if expensive) done by
October 15, ~~rather~~ while the voters
are in flux, ^{rather} than done in the closing
days of the campaign.

To: Stu Eizenstat

From: Bob Ginsbury

Re: Taxes

Date: October 14, 1976

You have requested an explanation for reporters of the meaning of General Carter's statement that: "no one who earns his income from working and who reports all of his income will have his taxes reversed under our tax reform". The simplest explanation is that people who earn wages and salaries report all their income and do not

take advantage of the sheltered and
loopholes we will eliminate. ~~Since~~
Accordingly,
~~they will not lose any tax dollars,~~
they will have the benefit of the
reduced tax rates (particularly for low
and middle income brackets) and lower
taxes for the average taxpayer ~~that our~~
~~reform will~~ which will result from
our reform. ~~It~~ ← [R1]

If reporters follow up by asking how
about dividends and interest, the answer
is that these are ~~fully reported and subject~~
~~to tax now except for municipal bond~~
~~interest, about which nothing should~~

are fully reported and subject to tax now, and accordingly would not be subject to any increased taxes. (This excludes municipal bond interest, about which nothing should be said.) ~~The same applies to~~ farm income which is not sheltered would also not be subject to higher taxes.

For the future, I think Governor Carter should just say: "those who earn their living from wages and salaries ~~should~~ will have their taxes reduced under our reform." This avoids complicated questions about the reporting and non-reporting of income.

Governor Carter may be asked about Congressman Verik's report that prominent U.S. corporations (Ford Motor, etc.) paid no U.S. taxes last year. He should not discuss any particular case as we don't have all the facts. He can say ~~that~~ ^{in general} ~~that to the extent this is due to tax~~ ~~provisions~~ he has already opposed reduction ^{of corporate} tax liabilities due to ~~tax~~ DISC and deferral. Care is required, however, because the foreign tax credit and the investment tax credit (both of ~~are~~ which we have supported) are probably the ~~the~~ principal causes of low and zero tax payments by large corporations.

To: Dick Holbrooke for debate

From: Mike Markel

Subject: Zimmwatt

Please
telecopy
this
10/22

Zimmwatt called Thursday, said he had talked to Gardner, Vance, Morley and Brzezinski in New York, and that these suggestions ~~are substantiated by~~ resulted!

1. Ford will try to regroup on Eastern Europe. ~~best rebuttal is~~ Soviet failure to live up to Helsinki human rights commitments (avoid term Basket 3).

2. Ford will allege ~~best rebuttal is~~ ~~to stress~~ careful assessment of democratic platform; talk of turning fat into muscle but ~~will~~ say you will ~~be~~ ^{PROVIDE} ~~benefits~~ ^{BENEFITS} to make a military career meaningful. Put B-1 in ~~under~~ careful assessment category.

3. ~~Ford may~~ ~~the~~ world ~~is~~ ~~not~~ ~~lacking~~ ~~experience~~
Ford may list trouble spots to show ~~that~~
~~that~~ Carter's positions or experience are weak. We must ~~stand~~ ~~fast~~ ~~on~~ ~~to~~
~~the~~ uphold Korea and Taiwan.

4. List global concerns in doing summary, include neglect of allies, secrecy in government.

5. Don't hit Brown, it will martyrize him like Kelley, seem like hip shooting.

6. Navy needs strengthening, smaller faster vessels etc.

7. Japan: why relations low, how they can be strengthened. ~~the~~

8. Italy: forestall ~~a~~ Communists ~~even~~ ~~more~~ ^{BY INVESTING WITH} ~~the~~ Common Market ~~for~~ ~~the~~ ~~in~~ ~~investing~~ Italy's long term economic growth

9. Stress Administration's ^{food or energy} lack of ^W planning, ~~only~~ legislative authority

Legislative Authority not money needed for \$25 million to cover European oil deficits, in case of embargo.

TO: GOVERNOR CARTER, JODY POWELL, PAT ANDERSON, STU EISENSTAT

FROM: BILL KEEL

RE: GOLFING TRIPS

Oct. 4, 1976

Copies of Aviation Daily of December, 1975, reprinted texts of letters between former Chairman Robert Timm of CAB and Phillip Buchen, Counsel to the President, concerning the successful White House effort late last year to force Timm to resign. The White House charged that Timm was guilty of "neglect of duty" because he accepted an invitation from Harry J. Gray, Chairman of United Aircraft Corp. (NOT United Airlines) to be his guest on a golfing trip to Bermuda for a weekend in June, 1974.

A number of executives of airlines were also guests of Mr. Gray that same weekend.

Buchen in letter dated Dec. 5, 1975, on WH stationery said, in part:

"I have no choice but to specify the following grounds for removal...

(The first relates to a CAB investigation of illegal political contributions by airlines.)

"II. Your conduct in connection with your June 1974 Bermuda trip amounted to neglect of duty within the meaning of 49 U.S.C. 1321 (a) (2) in that:

"A. You failed to pursue information that came to your attention before your departure indicating the likely presence of invitees that would give your own presence an appearance of impropriety.

"Facts Alleged

"Despite your denial of advance knowledge that airline executives would be among the guests at golfing weekend in Bermuda in June 1974 you had, in fact, been warned that airline executives had been invited, but made no inquiry on that account...

"B. In responding to earlier Congressional inquiries on this incident you not only failed to disclose such prior notice but implied the contrary by insisting that you had no prior knowledge of who the invitees would be...

"The foregoing grounds for removal are limited to neglect of duty and inefficiency..."

This concludes the excerpt from the Buchen letter.

As you know, Ford has said he was the guest of corporation officials on golfing trips, and saw nothing wrong with that.

This appears to be a double standard of conduct--before it was disclosed that the President had been a guest on such trips, it was wrong--suddenly when his trips are disclosed, it becomes right.

Neglect of duty for a regulatory member becomes clean fun for the President.

Hotel
415-392-
8600
convy shields
865

TO PAT ANDERSON
FROM JIM FALLAWS

1/10

CRIME DRAFT

Teletyped 10-11-76

"WE WILL NOT LIE, CHEAT, OR STEAL, OR TOLERATE THOSE AMONG US WHO DO."

THESE WORDS COMPRISE THE ANCIENT CODE OF HONOR WHICH WAS ADOPTED AND IS STILL USED BY OUR MILITARY ACADEMIES.

TWO MONTHS AGO, WHEN I ADDRESSED THE AMERICAN BAR ASSOCIATION, I ASKED WHETHER THIS WAS TOO STRICT A STANDARD FOR OUR PUBLIC OFFICIALS TO OBEY.

I THINK NOT.

TODAY I ASK WHETHER IT IS TOO STRICT A CODE FOR ALL OUR PEOPLE TO OBEY.

I THINK NOT.

THE TIME HAS COME TO DECLARE THAT CRIME IS UNACCEPTABLE IN OUR NATION. TO DECLARE THAT OUR EFFORTS TO RESTORE TRUST IN OUR GOVERNMENT, PROSPERITY TO OUR ECONOMY, STRENGTH TO OUR FAMILIES AND NEIGHBORHOODS, AND EQUAL OPPORTUNITY TO ALL OUR PEOPLE DEPEND ON ACHIEVING AN ORDERLY SOCIETY.

THE PURPOSE OF OUR SYSTEM OF LAW IS TO ENSURE JUSTICE. BUT FIRST IT MUST ENSURE THAT PEOPLE ARE SAFE IN THEIR HOMES, ON OUR STREETS, AND IN THEIR PLACES OF BUSINESS, MEETING, AND WORSHIP.

EIGHT YEARS AGO, MR. NIXON RAN FOR OFFICE ON A PLATFORM OF LAW AND ORDER. HE PROMISED HE WOULD WAGE A WAR AGAINST CRIME.

BUT IN EIGHT YEARS WE HAVE SEEN A FAILURE OF LEADERSHIP. SERIOUS CRIMES HAVE GONE UP BY 58 PER CENT DURING

THE REPUBLICAN ADMINISTRATION, and 27 PER CENT IN THE LAST TWO YEARS ALONE. AT THE CURRENT RATE, BURGLARIES TAKE PLACE ON AN AVERAGE OF ONCE EVERY TEN SECONDS. THERE ARE SEVEN RAPES EVERY HOUR. DURING THE TIME WE ARE MEETING HERE TNOIGHT, 180 BUILDINGS WILL BE BROKEN INTO THROUGHOUT THE COUNTRY, TWENTY PEOPLE WILL BE ROBBED, AND, SOMEWHERE IN OUR NATION , ONE PERSON WILL BE MURDERED.

GANGS OF TEENAGED CRIMINALS HAVE BECOME A MAJOR THREAT IN MANY OF OUR CITIES. THERE ARE AS MANY AS 2500 OF THESE GANGS, WITH 80,000 MEMBERS, IN OUR FOUR LARGEST CITIES. IN LOS ANGELES THERE WERE 112 GANG-RELATED MURDERS LAST YEAR. HERE IN DETROIT YOU UNDERSTAND THE WAY THESE GANGS CAN TURN THE RULE OF LAW INTO THE RULE OF ANARCHY IN PORTIONS OF A CITY.

WE MUST REMEMBER THAT CRIME AND LACK OF JUSTICE ARE ESPECIALLY CRUEL TO THOSE LEAST ABLE TO PROTECT THEMSELVES. LAST MONTH IN ~~WASHINGTON DC~~ ^{NEW YORK}, AN ELDERLY COUPLE, IMMIGRANTS FROM GERMANY, HANGED THEMSELVES TO ESCAPE THE CONSTANT HARRASSMENT OF TEENAGED CRIMINALS.

RESTORING ORDER TO OUR SOCIETY IS NOT A QUESTION OF LIBERAL VERSUS CONSERVATIVE, REPUBLICAN VERSUS DEMOCRAT, BLACK VERSUS WHITE, RICH VERSUS POOR.

IT IS A QUESTION OF LEADERSHIP DEDICATED TO PRESERVING THE GROUNDRULES OF OUR SOCIETY, AND LEADERSHIP WHICH WILL MAKE THE LAW WORTHY OF RESPECT.

RECENTLY WE SAW ANOTHER EXAMPLE OF THE FAILURE OF LEADERSHIP IN THIS REPUBLICAN ADMINISTRATION. TWO WEEKS AGO, IN THE HEAT OF THE CAMPAIGN, MR. FORD PROMISED THAT HE WOULD START A HUNDRED-DAY WAR AGAINST CRIME NEXT JAN-

UARY IF HE IS ELECTED FOR ANOTHER TERM.

MR. FORD HAS ALREADY BEEN IN OFFICE FOR 800 DAYS, JUST A FEW MONTHS SHORTER THAN JOHN KENNEDY'S ENTIRE TERM. THERE ARE A HUNDRED DAYS LEFT BEFORE JANUARY 20, 1977.

IF HE HAS A PLAN, WHY HASN'T HE TOLD US ABOUT IT BEFORE THIS? IF HE HAS A WAY TO REDUCE CRIME, WHY DOESN'T HE START HIS CRUSADE NOW, WHEN IT CAN DO OUR PEOPLE SOME GOOD?

WHY SHOULD WE THINK THAT THIS NEW CRUSADE WILL WORK, WHEN THE REPUBLICAN RECORD IS A RECORD OF EIGHT YEARS OF FAILURE?

THE REPUBLICANS' SHOW-CASE AGENCY HAS BEEN THE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION. THE CONCEPT OF FEDERAL ASSISTANCE TO STATE AND LOCAL ANTI-CRIME FORCES IS A GOOD ONE.

BUT WASTE, POOR COORDINATION, AND WIDESPREAD MISMANAGEMENT HAVE ENABLED THE LEAA TO SPEND \$5.2 BILLION WHILE MAKING ALMOST NO CONTRIBUTION TO THE FIGHT AGAINST CRIME. THE LEAA HAS DONE NOTHING ABOUT YOUTH GANGS. IT HAS DONE VERY LITTLE TO ASSIST OUR OVERCROWDED COURTS, WHICH ARE THE BOTTLENECK IN OUR SYSTEM OF CRIMINAL JUSTICE.

INSTEAD IT HAS ^{OFTEN} SPENT ITS MONEY ON WASTEFUL, UNNECESSARY EQUIPMENT. AFTER A TEST PROGRAM COSTING \$1.5 MILLION CONCLUDED THAT LIGHTWEIGHT VESTS WOULD NOT STOP BULLETS, THE LEAA BOUGHT 3000 OF THE VESTS FOR POLICEMEN TO USE. THE LEAA HAS DEVELOPED EXPERIMENTAL POLICE CARS, COSTING \$49,000 EACH, WHICH POLICE FORCES FIND IMPRACTICAL TO USE. IN ONE LARGE CITY, THE LEAA PROVIDED SEVERAL HELICOPTERS, WHICH THE CITY IS UNABLE TO MAINTAIN. POLICE OFFICERS ^{IN THAT CITY} RIDE A HELICOPTER OWNED BY A TELEVISION STATION WHEN THEY GIVE

THEIR MORNING TRAFFIC REPORTS.

THE REPUBLICANS HAVE ALSO SET AN EXAMPLE NOT OF RESPECT FOR THE LAW, BUT OF ABUSE AND BENDING AND EVASION OF THE LAW.

THE ATTORNEY GENERAL OF THE UNITED STATES SHOULD BE THE HIGHEST SYMBOL OF HONEST, IMPARTIAL ADMINISTRATION OF THE LAW. BUT THE REPUBLICANS HAVE REPLACED THE POST-MASTER GENERAL WITH THE ATTORNEY GENERAL AS A POLITICAL DUMPING GROUND. TWO REPUBLICAN ATTORNEY GENERALS IN THE LAST EIGHT YEARS HAVE BEEN CONVICTED OF CRIMINAL ACTS.

THE FBI HAS BEEN SHAKEN AND DEMORALIZED BY ACCUSATIONS OF ILLEGAL CONDUCT.

THE DRUG ENFORCEMENT AGENCY, CREATED IN 1973, HAS ALREADY BEEN TAINTED BY SCANDALS THAT FORCED ITS DIRECTOR TO RESIGN.

HOW CAN WE ^{EX}~~RESPECT~~ OUR PEOPLE TO RESPECT THE LAW WHEN THEIR LEADERS BREAK THE LAW AND GO FREE?

IF I BECOME PRESIDENT, I INTEND TO TURN THE TIDE AGAINST CRIME, NOT BY ^{RECITING} SLOGANS ABOUT LAW AND ORDER, OR BY DESTROYING THE RIGHT OF PRIVACY, OR BY SINGLING OUT GROUPS OF PEOPLE AS SCAPEGOATS, BUT BY STRICT, FAIR, AND HONEST ENFORCEMENT OF THE PRINCIPLES OF AN ORDERLY SOCIETY.

IN AN ORDERLY SOCIETY, THE RIGHTS OF THE VICTIM WILL BE RESPECTED, ALONG WITH THOSE OF THE ACCUSED.

IN AN ORDERLY SOCIETY, PEOPLE WILL NOT BE ABLE TO MAKE A CAREER OUT OF CRIME.

IN AN ORDERLY SOCIETY, LAWS WILL APPLY EQUALLY TO ALL OUR PEOPLE, WHETHER RICH OR POOR, BLACK OR WHITE, RESPECTED OR DISREPUTABLE, WHITE-COLLAR OFFICIALS OR CRIMINALS ON

THE STREET.

IN AN ORDERLY SOCIETY, OUR LAWS WILL BE ENFORCED HUMANELY, SO THAT WE DON'T SEND PEOPLE OUT OF PRISON AS WORSE HUMAN BEINGS THAN WHEN THEY WENT IN.

MY FIRST STEP WILL BE TO TAKE THE ATTORNEY GENERAL OUT OF POLITICS, AND MAKE THE DEPARTMENT OF JUSTICE HONEST AND HONORABLE AGAIN.

IT IS DISGRACEFUL THAT, BECAUSE OF ACTUAL CRIMES WITHIN THE DEPARTMENT OF JUSTICE AND A LACK OF TRUST IN OUR ATTORNEY GENERAL, A SPECIAL PROSECUTOR HAD TO BE APPOINTED JUST TO ENFORCE THE LAW. AS MUCH AS HUMANLY POSSIBLE, THE ATTORNEY GENERAL SHOULD BE REMOVED FROM POLITICS AND SHOULD ENJOY THE SAME INDEPENDENCE AS THE SPECIAL PROSECUTOR DID DURING THE LAST FEW MONTHS OF THE WATERGATE INVESTIGATION.

WE SHOULD BE SURE THAT JUDGES AND UNITED STATES ATTORNEYS ARE APPOINTED ON A STRICT MERIT BASIS.

WE ALSO NEED TO REORGANIZE THE JUSTICE DEPARTMENT, SO IT CAN DO A BETTER JOB OF FIGHTING CRIME. IF I AM ELECTED, I WILL APPOINT A SECOND DEPUTY ATTORNEY GENERAL, WHO WILL BE RESPONSIBLE FOR COORDINATING THE EFFORTS OF THE LEAA AND THE STATE AND LOCAL OFFICIALS WHO ARE IN THE FRONT LINE OF THE FIGHT AGAINST CRIME. POOR COORDINATION OF THESE EFFORTS IN THE LAST EIGHT YEARS HAS WASTED BILLIONS OF DOLLARS AND HAMPERED OUR PROGRESS AGAINST CRIME.

SECOND, WE SHOULD MAKE JUSTICE SWIFT AND SURE AND REDUCE THE DISCRETION IN SENTENCING. OUR OVERCROWDED COURT SYSTEM IS NOW A MAJOR CAUSE OF CRIME. IT TAKES AN AVERAGE OF ____ DAYS

BETWEEN THE TIME A SUSPECT IS ARRESTED AND THE TIME HIS CASE COMES TO TRIAL. INNOCENT PEOPLE WHO CANNOT AFFORD BAIL ARE WRONGFULLY IMPRISONED FOR MONTHS. CAREER CRIMINALS TAKE ADVANTAGE OF THE SYSTEM, OFTEN COMMITTING ADDITIONAL CRIMES AND TERRORIZING POTENTIAL WITNESSES WHILE THEY ARE OUT ON BAIL. THIS SOMETIMES LEADS TO A PARODY OF JUSTICE, IN WHICH WE PUT A WITNESS OR VICTIM IN JAIL TO PROTECT HIM OR HER AGAINST A CRIMINAL WE HAVE SET FREE.

IN WASHINGTON, DC, ONE THIRD OF THE PEOPLE ARRESTED FOR ROBBERY WERE OUT ON BAIL FROM PREVIOUS ARRESTS. IN PENNSYLVANIA AND WISCONSIN, SIXTY PER CENT OF THOSE CONVICTED FOR A SECOND FELONY OFFENSE SERVE NO TIME IN PRISON AT ALL.

IN OUR OVERCROWDED COURT SYSTEM, NINETY PER CENT OF ALL CASES DO NOT COME TO TRIAL, BUT ARE DISPOSED OF THROUGH PLEA-BARGAINING. FOR EACH 100 SERIOUS CRIMES REPORTED TO THE POLICE, ONLY TWO PEOPLE EVER SERVE TIME IN JAIL.

WE SHOULD TARGET OUR ASSISTANCE ON PROGRAMS WHICH EMPHASIZE SWIFT TRIALS, ESPECIALLY FOR THE CAREER CRIMINALS WHO ARE MOST LIKELY TO ABUSE THE RIGHT TO BAIL. ONE MODEL WHICH SHOULD BE EXPANDED IS THE "CAREER CRIMINAL PROGRAM" IN NEW YORK CITY, WHICH FOCUSES ON REPEAT OFFENDERS, OBTAINS VERY SWIFT TRIALS, REFUSES TO PLEA-BARGAIN, AND HAS NOT YET LOST A CASE.

WE SHOULD PROVIDE MORE HELP FOR OUR COURTS AND FIND WAYS TO SIMPLIFY THEIR PROCEDURES. WHILE THE LEAA HAS BEEN SPENDING BILLIONS ON INEFFECTIVE EQUIPMENT, ONLY SIX PER CENT OF ITS FUNDS HAVE GONE TO OUR OVERBURDENED COURTS.

ANDERSON 7/10

7

WHEN I WAS GOVERNOR OF GEORGIA, WE ESTABLISHED SENTENCE REVIEW PANELS TO REDUCE INEQUITIES IN SENTENCING. ANYONE WHO IS SENTENCED TO MORE THAN FIVE YEARS IN PRISON CAN HAVE HIS SENTENCE REVIEWED, TO SEE THAT IT IS IN KEEPING WITH STATEWIDE STANDARDS. FEDERAL SENTENCE REVIEW PANELS WOULD HELP ENSURE MORE UNIFORM SENTENCING FROM OUR FEDERAL COURTS.

THIRD, WE SHOULD MAKE OUR LAW ENFORCEMENT AGENCIES CONCENTRATE ON CATCHING CRIMINALS AND STOPPING VIOLENT CRIMES. OUR NEW DEPUTY ATTORNEY GENERAL WILL BE RESPONSIBLE FOR CONTROLLING THE FBI, SO THAT IT STARTS ARRESTING CRIMINALS AND FIGHTING ORGANIZED CRIME^{MAIN} AND STOPS SPYING ON OUR PEOPLE. IN THE LAST EIGHT YEARS, THE REPUBLICANS HAVE LET ORGANIZED CRIME OFF THE HOOK.

WE SHOULD ENCOURAGE LOCAL POLICE TO COMBAT THE VIOLENT CRIMES--ASSAULT, ROBBERY, RAPE, MUGGINGS, MURDERS--THAT MAKE OUR PEOPLE LIVE IN FEAR, AND^{TO} SPEND LESS TIME ON OFFENSES LIKE DRUNKENESS~~A~~

THE WAY TO FIGHT DRUG ADDICTION AND THE CRIME IT CREATES IS TO MAKE A RUTHLESS ATTACK ON THE PEOPLE WHO PUSH DRUGS.

FOURTH, IF WE WANT TO HAVE OUR LAW RESPECTED, WE MUST MAKE IT WORTHY OF RESPECT THROUGH IMPARTIAL ENFORCEMENT.

I HAVE TRAVELLED MANY TIMES THROUGH THE PRISONS OF GEORGIA. I DON'T KNOW IF POOR PEOPLE ARE THE ONLY ONES WHO COMMIT CRIMES. I DO KNOW THAT THEY ARE THE ONLY ONES WHO SERVE PRISON SENTENCES.

WHITE COLLAR CRIMES COST THIS COUNTRY \$40 BILLION A YEAR. YET THERE HAS NOT BEEN A SINGLE INDICTMENT FOR PRICE-FIXING SINCE MR. FORD TOOK OFFICE.

IF I AM ELECTED, WE WILL CREATE A NEW DIVISION OF WHITE-COLLAR CRIME IN THE JUSTICE DEPARTMENT. IT WILL BE DIRECTED BY AN ASSISTANT ATTORNEY GENERAL RESPONSIBLE FOR SEEING THAT THESE CRIMES AGAINST OUR PEOPLE NO LONGER FALL THROUGH THE CRACKS IN OUR CRIMINAL JUSTICE SYSTEM.

WE MUST REMEMBER THAT OUR GOVERNMENT SETS THE EXAMPLE OF RESPECT OR CONTEMPT FOR THE LAW. FIFTY YEARS AGO MR. JUSTICE BRANDEIS WROTE, "OUR GOVERNMENT IS THE POTENT, THE OMNIPOTENT TEACHER. FOR GOOD OR FOR ILL IT TEACHES THE WHOLE PEOPLE BY ITS EXAMPLE. CRIME IS CONTAGIOUS. IF THE GOVERNMENT BECOMES A LAWBREAKER, IT BREEDS CONTEMPT FOR THE LAW. IT INVITES EVERY MAN TO BECOME A LAW UNTO HIMSELF. IT INVITES ANARCHY."

FIFTH, WE URGENTLY NEED TO REFORM OUR PRISONS. WE RECOGNIZE THE LIMITS OF REHABILITATION, BUT ^{OUR PRISONS} ~~WE~~ SHOULD ENCOURAGE THE BEST IN A PERSON, RATHER THAN CONFIRMING THE WORST.

WHEN A CRIMINAL COMES OUT OF JAIL AND LIVES IN A NEIGHBORHOOD WITH OTHERS, HE SHOULD BE ABLE TO HOLD A JOB AND RAISE HIS HEAD AND SAY, "I'VE PAID MY DEBT TO SOCIETY. NOW IT IS TIME TO GIVE ME ANOTHER CHANCE."

EVERY TIME A PERSON GOES BACK TO PRISON AS A REPEAT OFFENDER, IT IS ANOTHER SIGN THAT OUR PRISONS HAVE FAILED.

ANDERSON

9/10

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SIXTH, WE SHOULD STRENGTHEN THE BONDS OF FAMILY THAT HOLD OUR PEOPLE TOGETHER, AND STOP MAKING IT SO HARD FOR PEOPLE TO EARN AN HONEST LIVING.

THERE IS NO EXCUSE FOR CRIME--NOT UNEMPLOYMENT OR POOR HOUSING OR URBAN DECAY. OUR COUNTRY IS BASED ON THE QUIET DETERMINATION OF OUR PEOPLE TO OBEY THE LAW IN GOOD TIME AND BAD.

BUT I DO NOT THINK IT IS A COINCIDENCE THAT IN OUR LARGEST CITIES, WHERE 40 PER CENT OF THE YOUNG PEOPLE ARE UNEMPLOYED, CRIMES COMMITTED BY YOUNG PEOPLE JUMPED BY TEN PER CENT LAST YEAR.

SEVENTY FIVE PER CENT OF ALL SERIOUS CRIMES ARE NOW COMMITTED BY PEOPLE UNDER TWENTY FIVE. WE MUST FIND WAYS--THROUGH IMPROVED VOCATIONAL EDUCATION, PUBLIC INCENTIVES FOR JOB TRAINING, AND URBAN-RENEWAL PROJECTS MODELED ON THE CIVILIAN CONSERVATION CORPS--TO CHANNEL YOUNG PEOPLE'S EFFORTS INTO JOBS.

WE MUST GET ALL OUR PEOPLE BACK TO WORK AGAIN.

I ALSO BELIEVE IT IS NOT A COINCIDENCE THAT TEENAGE GANGS HAVE GROWN AS THE STRENGTH OF THE FAMILY HAS DECLINED. MANY STUDIES SHOW THAT YOUNG PEOPLE LOOK ON THE GANGS AS SECOND FAMILIES, TO MAKE UP FOR ^A ~~THE~~ FIRST FAMILY WHICH HAS BEEN DESTROYED.

FOR TOO MANY YEARS, OUR WELFARE, TAX, AND DAY-CARE PROGRAMS HAVE TORN FAMILIES APART, INSTEAD OF BINDING THEM TOGETHER. IF I AM ELECTED, I WILL DO EVERYTHING POSSIBLE TO SEE THAT GOVERNMENT POLICIES HELP STRENGTHEN OUR FAMILIES, FOR A CHANGE.

let the peso float last month, resulting in an effective devaluation of

TO: Stu Eizenstat
FROM: Bob Ginsburg
DATE: October 7, 1976
RE: Carter Trip to El Paso--Mexican Devaluation of Peso

FOR: GOVERNOR CARTER

Governor Carter

In connection with his trip to El Paso tomorrow, ~~Jimmy~~ should be aware that Mexico ~~devalued the peso by~~ approximately 40% ~~last month~~

Mexico has had high rates of inflation recently and the devaluation was ^a perfectly proper attempt to put her economic house in order. Devaluation is painful medicine because it means ~~a deterioration in the terms of trade~~. Mexico will now be paying relatively more for her imports and getting relatively less for her exports. This should increase Mexican exports and reduce her imports, thereby improv^{ing} her balance of trade. The devaluation is hurting American merchants on the U.S. side of the border, because

-- and is currently the major issue in El Paso --

~~their~~ Mexican customers now find American goods approximately 40% more expensive in dollars than they used to be. ^{Many cities along the border do nearly half their business with Mexican customers;}

Governor Carter

~~Jimmy~~ can express sympathy with this hardship (which, hopefully, will be temporary) but should not criticize the devaluation. He should say that he hopes Mexico will have a vigorous economic recovery because that is both in our interest and the interest of Mexico. (In 1975, U.S. exports to Mexico were \$5.1 billion and our imports from Mexico were only \$3 billion). He can also note that U.S.-Mexican relations have been unnecessarily tense in recent years and that he

thinks the U.S. should devote more attention to harmonious relations with Mexico and looks forward, if elected, to working together with the new Mexican administration (President Jose Lopez Portillo) which takes office December 1.

To: Stu Eisenstat, Mitt Gwartzman
For: Governor Carter
Re: Albuquerque Update

~~ALBUQUERQUE~~ ~~****ISSUE UPDATE****~~

NATURAL GAS RATE HIKE

The recent FPC proposal to raise natural gas rates from 52¢/mcf to \$1.01 for 74 gas, and \$1.42 for post-74 gas is the most important current statewide issue, for it is anticipated that natural gas rates in New Mexico will triple, if this proposal is implemented, due to the nature of local contracts between suppliers and producers. Under these contracts, which contain a "favored nation" clause, suppliers must pay producers the highest going price in the state, ~~although only a small percent of the market~~ ^(no more than 1%) although normally only a small fraction of the ~~market would be~~ ^{market} New Mexican market would have to pay the \$1.42 rate if the FPC proposal were implemented, ^{since this is the highest going price.} under the favored nation provision all suppliers will have to pay producers the \$1.42 rate. This means that ~~the~~ ^{an} average family of four will be facing winter gas bills of \$300 a month if and when the increase takes effect. ~~The legality of the price increase is presently under court review.~~

You will not want to comment on New Mexico's unique situation since it is clearly a situation which requires a local remedy, nor will you want to comment on the legality of the price increase ^{per se} since it is under court review. However as a general matter, you may wish to question whether ~~the FPC proposal will in fact increase supplies sufficient to justify the \$1.5 billion~~ ^{will} consumers will be required to spend the \$1.5 billion which these regulations ~~would~~ cost consumers ^{are} really going to have the effect of increasing the supply of natural gas since ~~it~~ ^{it} raises the price for gas already found and keeps new gas under regulation. Your ~~proposal~~ ^{proposal}, on the other hand, -- deregulation of new gas for a 5 year period -- is directly designed to encourage new exploration and development.

THE FUTURE OF ERDA

As was mentioned in an earlier memo, New Mexico receives the 2nd largest amount of money nationwide from ERDA for energy research and has two important research centers in Albuquerque and Los Alamos. Your recent energy reorganization statement has left a feeling of concern that you wish to do away with ERDA or significantly reduce its functions. You may wish to disperse any concern by indicating that you do not wish to abolish the ~~functions~~ ^{strength} of ERDA but rather integrate these important research operations into energy policy making.

USE OF INTERSTATE NATURAL GAS PIPELINE

New Mexico, which has a limited intrastate natural gas pipeline, has requested from FPC use of the "unused" portion of the interstate gas pipeline in order to reach local communities which are presently not being served. First use would ~~naturally~~ be reserved for interstate use. If you are asked your opinion about this request, do not comment one way or another -- indicate, instead, that under your energy reorganization proposal questions like this would be better able to be addressed because pipeline regulations are in need of consolidation. Presently, these regulations are fragmented -- oil pipelines being ~~managed~~ ^{managed} by the ICC; natural gas pipelines by the FPC.

TO: JODY POWELL

FROM: JERRY DOOLITTLE

NBC is to interview Gov. Carter from 9-9:30 a.m., California time, Monday Nov. 1, in the Green Room next to the Theatre Stage of Convention Center, 1100 14th St., Sacramento. Brinkley and Chancellor will do this electronically, then in New York and Gov. Carter in California, for broadcast at 10 p.m. EST election eve. Contacts are Les Crystal, 212-664-4444, ext. 4805, or 914-941-3181, and Ed Fuchy, 212-664-4444, exts. 5493 or 4805.

jhd ~~JWD~~

cc:

Betty Rainwater
Fran Voorde

*Please send
ASAP -
Jerry Doolittle
Press -*

TO: GOVERNOR CARTER

FROM: DICK HOLBROOKE

Here are Jim Schlesinger's views on Project Seafarer,
per your request:

"We will probably need a low frequency system for submarine communications, not in the next year but eventually. I would want to be absolutely sure of the need for it before embarking on such an expensive system, and I am not at this point certain of the need to locate it in Michigan. Such decisions should be made only after the most careful study, and not in a casual manner by the Department of the Navy." End Schlesinger comment.

He also recommends that you stick to the center road that you have now established on defense matters, including this one -- not getting into position where you appear to be favoring the cutting of any systems or projects, and continuing to hold to the approach which worked so well recently.

16 Oct 76

see Noel for priority

TO: Jody Powell, Stu Eizenstat

From; Dick Holbrooke

Subject: The Irish Question, now in its 437th straight year

1. Irish Embassy called to say that Irish government will take no action, they appreciative of telegram.
2. Calls have been flooding us, especially from London and Belfast. Evening newspapers in Belfast carry frontpage headline "Mr. Carter: Mind Your Own Business." I have been recording as many interviews as requested --but only with Irish and British radio and television stations--in effort to stop spread of what is clearly one of the most misreported stories that I have ever seen in ¹²~~2~~ years in the government and ⁴~~1~~ as an editor.
3. The latest caller--from Irish National Radio--has just informed us of the following: 1) Irish government has made public, as we knew they would, Governor Carter's cable to Fitzgerald. This ^{may}~~will~~ help. 2) Irish and British new agencies are carrying pictures of Carter wearing "British troops Out of Ireland" button. I asked if picture appeared to date from a parade and was informed it did. Clearly this picture is from St Patrick Day parade in New York City in March. We have already been denying categorically report he wore this button last night and statting that in NYC he removed button as soon as it was put on.
4. First calls from American media have just begun, coming from NBC. Jerry Doolittle is trying to turn them off. Our line throughout is that there is literally no story whatsoever--simply a case of totally inaccurate reporting.

5. Final key point: In endorsing Carter last night Irish National
Caucus statement included language allegedly from Democratic party
platform that called for "support ^{for} ~~of~~ a united Ireland." This language
has also caused us problems and questions during the day. The fact is
this sentence is not repeated not in the Democratic platform at all
but was inserted into otherwise correct quote from platform by ~~someone~~
~~(Mr. Stern not sure who, is still checking)~~. It is important not to
let anyone think that Carter endorses this sentence which has no
status whatsoever. At same time, we should not appear to be opposed
to idea. We are simply pointing out that sentence is not in platform,
and that Carter supports platform. I am not commenting any further on
this sensitive point.

Yugoslavia
Let's respect it.

MEMORANDUM - October 25, 1976

TO: GOVERNOR CARTER
FROM: STU EIZENSTAT

The Yugoslavs have shown again and again their fierce desire for independence, their courage and their ability to fight to maintain their own way of life.

The Yugoslavs have never asked for United States military troops and have stated that if faced with a Soviet invasion they would counter it by a return to the guerrilla warfare tactics they employed so successfully in World War II against the Nazis.

We should make it clear to the Soviets in the strongest terms that we view the independence and integrity of Yugoslavia as absolutely essential to the stability of Europe.

As President, I would view with grave concern any Soviet effort to invade Yugoslavia. While there is no reason to think at this point that such intervention would occur, the Soviet Union must recognize that such intervention would jeopardize the totality of U.S.-Soviet relations - diplomatic, political, economic and strategic. The disadvantages to the Soviet Union would far outweigh any short range gains they might seek to achieve. I expect that the Soviet leaders are fully aware of the dangerous forces that would be set loose by such a conflict and will refrain from initiating it creating conditions so fraught with uncertainty that no one can confidently predict the consequences for world peace.

"I said in the televised debate, as I have intended all along, that 'I would take the strongest possible measures short of actual military action there of our own troops.' As early as last March, I specifically expressed my concern for the future security of Yugoslavia, and I stand on that statement."

In the improbable event of a direct Soviet invasion and the resulting Yugoslav resistance, it is clear that neither the U.S. nor its NATO allies would remain indifferent. At the very least diplomatic support, military material and economic aid would be forthcoming.

We should not forget the painful lessons of 1956. Secretary Dulles' rhetoric of liberation was followed by complete passivity when Hungarian freedom-fighters fought for their liberty.

Secretary Kissinger should not lightly inject a similar note of uncertainty concerning American policy, especially at the height of an election campaign.

The essence of effective deterrence is clearly stated and credible commitments. A policy of ambiguous military threats rarely followed by action is counterproductive. It generates tensions in relations with potential adversaries, raises false hopes among potential allies, and weakens our long run credibility.

Threats of military action are only meaningful if they are used sparingly and in circumstances where they can be believed.

MEMORANDUM

October 14, 1976

TO: Stu Eizenstat
Thru: Al Stern
FROM: Jay Carlson
RE: Press Conference

Si Lazarus and I talked to Marcus Cohn this morning, and he suggested that if Governor Carter wants to reply to statements made in Ford's press conference, we should rely on the fairness doctrine and not on the "equal time" provision of Section 315 fo the Communications Act. The Supreme Court on Monday declined to review the DNC's unsuccessful challenge (handled by Cohn) to the FCC's practice of treating Presidential news conferences as "bona fide news" events exempt from the federal equal time law.

In view of this unsuccessful challenge, Cohn urged us to use an appeal to basic fairness and the so-called "fairness doctrine" (which requires fair coverage of competing viewpoints) to convince the networks to give the same coverage to the Governor's next news conference. The nature of tonight's press conference will obviously have a bearing on whether the fairness doctrine is arguably applicable.

We can argue

TO: SYD EISENSTAT

FROM: BILL JOHNSTON

RE: *Suggested* Remarks on New York's Transit Problems

DATE: October 14

New York has the most extensive transit system in the world. Each day ~~over~~ ^{3.5} million people ride the city's ²³⁰ ~~hundred~~ miles of subway. Over two thirds of all New York commuters travel by transit, and it is no exaggeration to say that without mass transit New York could not exist.

It has been estimated that in order to park all the cars that would be needed if all commuters drove, it would require a parking garage 5 stories tall covering all of Manhattan.

Yet anyone who has ridden the subway recently knows that New York's subway system needs help. Not only has the system deteriorated physically, but the annual deficit of ^{\$350} million is forcing drastic cutbacks in service and a severe strain on the city's already overloaded budget. Worse, the growing deficits have forced ³ fare increases in ^{the last 6} ~~1~~ years, a circumstance that has driven away hundreds of thousands of riders.

The federal government has a responsibility to the nations mass transit systems, and especially to the New York system that carries ^{31 almost one third} ~~21~~ percent of all transit riders in the country. But the Ford Administration has tried to renege on this Congressionally mandated responsibility. For the Administration has proposed to cut the proportion of federal formula grants which can be used for operating subsidies to only 50%. For some cities this will mean little but for New York the impact will be catastrophic. In New York this proposal ^{could} ~~will~~ mean that the transit deficit that has to be paid

⁴⁴⁰
by New Yorkers will rise by ^b a million.

That means one thing--higher fares.

I don't believe such irrational policies have to be enacted.

I believe that the federal government should be a strong supporter of urban transit, and that this support should be designed to meet the needs of our cities rather than the theories of Washington bureaucrats.

Instead of building exotic systems in West Virginia, we need to be dealing forcefully with the transit problems of New York.

In stead of spending millions to plan and design systems that will never be built, we need to provide more direct assistance to the poor, the handicapped and the elderly who are trapped without automobiles in our central cities.

In stead of dictating spending priorities, we need to be more flexible in allowing urban areas to decide how this wish to spend their transporation dollars - whether on highways or transit and wether they wish to invest in new systems or support those they already have.

Most importantly, we need a firmly established transportation policy for our cities that balances environmental, energy, mobility, and human needs.

FROM: M STERN
TO: STU EIZENSTAT
RE: FORD'S YONKERS, WHITE PLAINS TALK
OCT 13

President Ford claims at last to have got the facts straight about Soviet dominion in Eastern Europe, but his speechwriters still seem to be having trouble getting at the truth about his record and my positions on the issues which affect our welfare here at home.

It is gratifying that the President is no longer hiding in the Rose Garden, but unfortunate that he feels unable to face the voters without hiding his record behind a tedious litany of misrepresentations.

If you look at the new script which the President's speechwriters have drafted for him, you have to conclude that they feel they need the big lie approach to win. I think that sort of thing is bush-league politics, and I know it won't work.

There are real issues of leadership, of policy, of purpose in this

campaign, and it is a distraction and a disservice to force us to spend our time ~~refuting~~ ^{dismissing} foolish charges and misrepresentations which Mr. Ford knows to be false. But we will do so, in the hope that he will ultimately learn to read his own record right, as he has had to learn to read the map of Eastern Europe right.

Mr. Ford talks about government spending. He should know. His Administration has given us the most unbalanced budgets and the largest deficits in our history.

Now it turns out that there's \$15 billion in our budget which they've lost and can't account for. Maybe Mr. Ford can find it on the golf course.

I know what it means to meet a payroll, and I know what it means to balance a budget. In my business, on my farm, as Governor of Georgia, I've never known an unbalanced budget.

Mr. Ford keeps repeating the charge that my programs would cost the federal government \$100 billion, even though he heard me say in the debates that I intend to balance the federal budget by the end of my first term, and that any new programs under my administration will be phased in only as new revenues permit. With adequate growth, new revenues could equal \$60 billion by FY 1981.

The FACTS OF THE MATTER ARE

THAT The Senate Budget Committee has estimated that full implementation of the Democratic Platform would cost roughly \$40 billion, \$10 billion less than the Republican Platform. ~~There~~

The important point is that there is only one candidate in this election who actually has placed a \$100 billion spending program before the Congress. That is Mr. Ford's \$100 billion proposed give-a-away to the big energy corporations--his Energy Independence Authority--an incredible ^(man) Christmas Tree of subsidies to the biggest profit-makers and the most effective tax-avoiders in the nation. *(a. dis. of ...)*

My programs will help people--to have adequate health care, liveable cities, a safe environment--not the corporations and the rich. But I will not under any circumstances deviate from my commitment to produce a balanced budget by FY 1981.

Mr. Ford says he is for the taxpayer. He must mean the corporate taxpayer, because it is only the corporations and the people who own them who are going to get real, permanent tax relief under Mr. Ford's tax proposals.

Twenty years ago the corporate income tax produced over one-fourth of federal revenues. Today it produces between one-seventh and one-eighth. In the budget Ford sent to Congress last January for FY 1977, Ford proposed ~~changes~~ *ten new corporate loopholes* which would further lower corporate ~~taxes~~ taxes by 20% when fully effective.

Mr. Ford talks about tax cuts for individuals, but when you read the fine print, it turns out that these cuts are entirely wiped out by increases in Social Security and unemployment taxes. Not only are Mr. Ford's tax proposals phoney as far as middle-income tax payers are concerned, but they'll actually take money out of the pockets of the working poor.

On the other hand, he has proposed ten new tax loopholes, and \$20 billion of tax cuts for corporations and people with property income. Taking from the poor and giving to the corporations is not my idea of tax relief or tax reform.

Mr. Ford sadly seems to feel the need to insist that I would change the law to increase taxes for home-owners and for religious institutions. That is not my position. I have stated so clearly and precisely many times and his speechwriters know it.

Home-ownership

Candidate Ford ~~is reported by the New York Times to have~~ said yesterday that, "I'm not going to let homeowners become the next endangered species." ~~President Ford has presided over the worst housing situation in American history.~~

~~He~~ Mr. Ford seems to know ~~about~~ as much about the cost of housing in New York, as he does about the nature of freedom ~~in Eastern Europe~~ in Poland. ~~The dream~~ Home-owner has virtually become extinct, already.

In the last eight years, average monthly payment for a single-family home has risen 137%--while median income is up 12%. For 2/3 of Americans, ~~the~~ dream of home-ownership ~~is~~ now beyond their reach.

What Ford did not mention

It is as interesting to note the issues which Mr. Ford's speechwriters left out of his new stump speech, as it is to examine the misrepresentations they included. They did not mention inflation--now moving at a double-digit pace once again. They did not mention deficits--his \$65 billion total last year was larger than the deficits of all the Kennedy-Johnson years put together. They did not mention unemployment--Mr. Ford's vetoes "saved" \$4 billion--compared to the \$17 billion increase in unemployment and welfare benefits which the government has sustained because of his high-unemployment ~~ment~~ **ment NO-GROWTH Policies.**

Jimmy Carter Presidential Campaign

INTER-OFFICE MEMORANDUM

To: Issues Department

Date: September 3, 1976

Andy Chishom

From: H. Alexander Aguiar, Ph.D.

Date Reply Requested:

Re: Campaign Debates

Among the most important issues affecting the Hispanic Community of the country are the following:

(1) Capitol Access and Involvement: After the Johnson Administration, the Hispanic Community lost all access to the Governmental process. Community input into government was only apparent with the Kennedy and Johnson Administrations, and with the Republican control, this participation has been restricted to a few high G. S. level bureaucrats that are not involved in the decision making. There is a complete absence of Hispanic participation on the boards and commissions that affect policy, as well as in the regulating agencies and cabinets. There is a total lack of sensibility for the Hispanic needs by the S.B.A. They do not include any surname persons of Spanish origin within their advisory board.

(2) Education: The efforts made by the Democratic members of Congress to increase the impact of Title 7 for the Bi-Lingual and Bi-Cultural Bills has always found objections by the Republican Administrations. The program with the most optimistic percentages is only reaching five (5) to nine (9) percent of the population that it should serve. With reference to the bi-lingual and bi-cultural education, we are not only appealing to the 12 and 1/2 million Spanish surnamed citizens, but to the rest of the foreign born immigrants. We ought to remember that this is, if not the only nation in the world, one of the very few to consider that an educated person can be mono-lingual.

(3) Man power Training: Unemployment is at its highest level. Rather than increase the number of social benefit recipients, the strong policy of man-power and vocational training should be developed.

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Campaign Debates/Hispanic Affairs

(4) Undocumented Aliens: This very delicate issue has been totally ignored, by the Republican Administrations and yet it is one that divides the sentiments at home, and also our international posture as well. The undocumented alien is not only applicable to the Spanish speaking individuals, but to the rest of the world as well. Solutions should be found on bilateral agreements and not on unilateral decisions.

These are only a very few issues directly affecting the Hispanic community. The others, housing, health, and urban problems have definite community impact.

As I have mentioned personally to Governor Carter, the Hispanic inner city problems are the same as that of Black America, and even though the solutions are the same, the delivery system should be different.

M E M O R A N D U M

Although I am reasonably certain that the following is carrying coals to Newcastle, sometimes it helps to emphasize the obvious.

The Carter-Mondale campaign has increasingly focused on the "poor" and the "disadvantaged". This populist thrust has been verbalized in ways which may well antagonize that large proportion of upper middle-class citizens who vote strictly from the pocketbook.

I have no qualms about the thrust of the campaign. But it is a fact that massive numbers of the targeted "poor" and "disadvantaged" ordinarily do not vote, and certainly not in the percentages of those in higher economic brackets.

Accordingly, it is an imperative corollary of such a campaign that extraordinary efforts in terms of manpower and economic resources be devoted toward getting out the vote of the "poor" and "disadvantaged".

Sherwin J. Markman

September 30, 1976