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Terrorism and International Matters

-- Implementing legislation for international conventions against terrorism at airports, maritime terrorism, and maritime platform terrorism, and for the convention against torture.

-- New antiterrorism offenses, including offense of providing material support to terrorists, and offense of using weapons of mass destruction against U.S. nationals or property anywhere in the world.

-- Sentencing guidelines increase for terrorist crimes, increased penalties for travel document crimes likely to be committed by terrorists, and extension of statute of limitations for terrorist crimes.

-- Better coverage of crimes in extended territorial sea, and crimes against U.S. nationals on foreign ships.

*-- Other antiterrorism provisions in the President's violent crime bill included addition of terrorist offenses as RICO predicates, forfeiture for terrorist and other violent acts, admission to U.S. of aliens cooperating in terrorism or other investigations, strengthening of alien enemy act, increased access to communications and credit records in terrorism investigations, and strengthening of wiretap laws for use in terrorism investigations. These largely fell by the way during Congress's consideration of the crime bills, but some were included in weakened form in the Senate or House bill.

[The President's bill also included effective provisions for removing terrorist aliens from the United States, but the proposal was D.O.A. in Congress.]

Sexual violence, child abuse, and victims' rights

[The reforms in this part are generally limited in direct effect to federal cases, but most of them would have broader import as models for state reforms. A more detailed discussion of these provisions will be circulated separately.]

*-- General rule of admissibility in sexual assault and child molestation cases for evidence that defendant has committed offense or offenses of the same type on other occasions.

-- Increased penalties for recidivist sex offenders, for many sex crimes against victims below the age of 16, and for drug distribution to pregnant women.

-- HIV testing of defendants in sex offense cases, with disclosure of test results to victim; enhanced penalties for HIV

infected sex offenders who risk infection of their victims;
government payment of cost of HIV tests for victims.

-- Provisions strengthening restitution and enforcement of
restitution orders.

-- Giving victims of violent crimes and sex crimes a right to
address the court concerning the sentence to be imposed, parallel
to the offender's existing right of allocution.

-- Equalizing at 6 the number of peremptory challenges accorded
to each side in felony cases. (The defense now gets ten. This
has been included among victims' rights provisions as a measure
protecting the victim's right to an impartial jury.)

-- Removing cap on crime victims fund.

Equal Justice Act

-- Strengthened safeguards against racial discrimination in the
criminal justice process. Mandates administration of death
penalty and other penalties without regard to race. Prohibits
racial quotas and statistical tests for imposing the death
penalty or other penalties. Extends to crime victims protections
against racial bias which may now be available only to the
defense, including right of prosecutor to make inquiry on voir
dire concerning racial bias favoring the defendant, and change of
venue on motion of prosecutor where necessary to guard against
racial bias against the victim. These provisions would apply to
state cases as well as federal cases.

-- In federal capital cases, there would additionally be special
jury instructions and certifications guarding against racial
bias. Death penalty authorizations would be added for murders
committed in violation of the principal criminal provisions of
the federal civil rights laws. The fact that a murder was
racially motivated would be a statutory aggravating factor
permitting consideration of the death penalty under all federal
statutes containing death penalty authorizations.

Drugs

-- Drug testing of federal offenders on post-conviction release.

-- Drug testing in state criminal justice systems as a condition
of federal justice assistance funding.

-- Precursor chemicals provisions.

-- Interdiction provisions, including new offenses and other

provisions strengthening legal authority to stop aircraft and vessels.

-- Miscellaneous provisions increasing penalties or otherwise strengthening drug laws, e.g., increased penalties for drug trafficking in prisons.

-- There are some additional provisions in the pending bills which did not originate as DOJ proposals, and which we have been more-or-less neutral or indifferent about in the past, but which may merit further consideration in light of the discussion at the planning meeting. These include broadening drug-free zones to include additional areas (public housing, truck stops), and crackhouse eviction.

Public Corruption

-- The Senate bill contains a version of our proposal, albeit with lesser penalties than we want for the main offenses (10 years maximum rather than 20).

Other Provisions

[We have proposed various "miscellaneous" provisions which relate to issues that do not have a high degree of visibility, but which may have considerable practical importance from an operational standpoint. Some examples:]

-- Filling gaps in existing laws by adding attempt liability for robbery, kidnapping, smuggling, and property damage offenses; creating offenses of receiving proceeds of extortion, kidnapping, and postal robberies; and extending coverage of mail fraud statute to frauds perpetrated through mail carried by private interstate carriers.

-- Undercover operations against trafficking in stolen or counterfeit items are currently hampered by statutes which limit liability to cases where the item involved in a transaction is actually stolen or counterfeit. One of our provisions would eliminate this problem by providing that it is sufficient if the defendant believed on the basis of a representation by a law enforcement operative that the item was stolen or counterfeit.

JANUARY 21, 1992, TUESDAY

SECTION: DEFENSE DEPARTMENT BRIEFING

LENGTH: 7523 words

HEADLINE: REMARKS BY GENERAL COLIN POWELL, CHAIRMAN, JOINT CHIEFS OF STAFF
TO THE NATIONAL ASSOCIATION OF WHOLESALERS/DISTRIBUTORS
GRAND HYATT HOTEL
WASHINGTON, DC

KEYWORD:
POWELL REMARKS

BODY:

GEN. POWELL: Thank you very, very much, Alan, for your very, very kind words, and thanks to you and to Jay and to all the members of the association for this porcelain bowl. It is very, very beautiful. And without the contribution of every soldier, sailor, airmen, Marine, and Coast Guardsman, this award would not have come my way. So it really is to them that you are presenting the award, and I am merely their surrogate. I will keep it and treasure it in their honor. I can't tell you how very pleased I am to be with you today. Three months ago when Alan asked me to be here, I told him that I would be here subject to war, crisis, or congressional hearing. (Laughter.) I don't know which one is the worst of the three -- (laughter) -- but thank God there is no war. Thank God that at the moment there is no crisis and the hearings are still a few weeks in the future. (Laughter.)

But for two consecutive Christmas seasons, America was at war. In 1989, we were executing Operation Just Cause in Panama. And in 1990 at this time we were in the middle of Operation Desert Storm, having spent the previous five months in Operation Desert Shield, watching this incredible buildup of American force. And I missed standing at this podium last year because of that operation. On this very day one year ago we were four days into an incredibly successful air operation that paved the way for our ultimate victory in the Gulf. This year -- this year -- is thankfully different. First and foremost, we are at peace. I said about a year ago at a press conference that our strategy for defeating the Iraqi Army in Kuwait was going to be very, very simple. First, we were going to cut it off, and then we were going to kill it. We did. We won the Gulf War. And all -- (applause) -- and all of the second guessing and Monday morning quarterbacking isn't going to change that simple fact. Kuwait is free, and that's what we went to do.

Moreover, as a result of our victory the number one military threat to Israel and to our other friends in the region is a shadow of its former self. There's also underway an unprecedented Middle East peace conference. Our hostages are free. We are building a new regional security structure to prevent anything like this from happening again in that particular part of the world. Yes, Saddam Hussein is still there. He's still a problem. He still causes me to grind my teeth. But he's principally a problem for the people of Iraq, not for us.

He is hanging onto power tenuously. The UN is pulling up all of his means for unconventional warfare. The sanctions will stay in place as long as he is there and continues to perform the way he has for the last two decades. And in the final analysis, it is up to the people of Iraq to determine how much longer they wish to suffer under his leadership.

And so as you listen to all the one-year retrospectives that are so popular right now, don't be confused. The President set clear objectives. The United Nations set clear objectives. The Congress set a clear objective when they passed the resolution permitting us to use force. We achieved those clear objectives and then we came home. It was a victory for American leadership, it was a victory for the armed forces of the United States, and it was a victory for our vision of a new world order. Continue to be as proud of that victory as are all the young men and women who went out and accomplished that victory for America.

There is another war behind us as we begin 1992. The Cold War is also over. The Soviet Union was put in its grave last month and a new Commonwealth of Independent States was born, committed to the principles of democracy, the principles of free market economics, and respect for human rights. We, in a transformed Europe, have an unprecedented opportunity to build a new relationship of cooperation with those who had been our former enemies.

And if you look to the Pacific, we were helping South Korea mark out a new path with the hostile regime in North Korea. And if North Korea can put aside its ambitions to build a nuclear weapon, if it can put aside this Xenophobia that has existed in that country for the last 40 years, we have hope for peace in that final bastion of the Cold War in Korea.

President Bush's early January trip to the Pacific reassured our regional friends and allies of our concern, of our interest, and our commitment to peace and stability in the Pacific. And if you look in our own part of the world, in Latin America, democracy -- democracy -- dominates the horizon for as far as you can see for the first time in history. Yes, there is still Cuba and there's a troubled Haiti, but they are the only blemishes on that horizon. And who can believe that these two nations will not soon succumb to the powerful forces of freedom, powerful forces that forged an historic peace agreement in El Salvador just last week.

So these are great times. These are wonderful times, wonderful times to be the Chairman of the Joint Chiefs of Staff, a wonderful time to be an American living in this period of great and positive history. And yet at the same time, with all of this positive change, with all of the opportunity for the future, we must remember that we are just at the beginning of a new phase of history, not the end.

There is war in Yugoslavia. There is war in Georgia. There is war in Armenia. There is economic and political instability in the Commonwealth of Independent States. We have to remain concerned that about 27,000 nuclear weapons are still in what had been the Soviet Union. And we have to watch with some concern how the old Red Army and the old Red Navy will be broken up and disbursed among the various republics. And yes, there is still unease in Southwest Asia and in Southeast Asia. In Cambodia, we are moving in peacekeeping forces for the first time, in a solid effort to bring peace to that troubled country that has known nothing but war for almost a half-a-century.

And so as we enter 1992 we see hope and opportunity, we see challenge and danger. We see a brighter future but with remaining clouds of a darker past. America must have a national security that deals with this very challenging and unclear world, a strategy that holds the promise of opportunities fulfilled and the clouds dispersed. And we have such a strategy. Its most crucial pillar is continued American engagement in the world. We must remain active partners in our alliances across the Atlantic and across the Pacific.

In the meetings that I hold with my counterparts around the world, the message they give me is the same: America, don't go home. America, don't go home. We have seen twice in this century -- twice -- what happens when America does not play its destined role in world leadership. Both times it has cost the world dearly. Please, they tell me, please, don't let it happen again. Stay engaged, America. And we will stay engaged.

At the same time, though, the prospect of global war has disappeared. You won't

find any Colonel Blimps in the Pentagon wandering around, bemoaning the fact that the Soviets are no longer there for us to plan a global war against. We are proud of this, we are happy for this new environment to be on our doorstep to work with. And we can reshape our armed forces for a new military strategy that focuses on possible regional conflicts and unexpected crises but no longer on the prospect of a global war.

Across the Atlantic and Europe, we will maintain our military forces to cement this trans-Atlantic link as part of our new strategy. Those forces overseas in Europe will be smaller, much, much smaller, but they have to remain on European soil so long as our European allies want us there, and they do. There is no more positive way to ensure the continued coherence and strength of the Atlantic Alliance than to keep US military forces engaged in Europe. And today I'm even more convinced than ever that a strong and coherent NATO is critical to Europe's future, not to counter an longer the Red Army sweeping across the plains of Germany but to help build stability in the East while undergirding stability in the West.

Also across the Atlantic, we will have to keep military forces in the vital Persian Gulf area. Our decisive victory against Iraq last year has given us new opportunities for peace and stability in the region, and we must not squander these opportunities by picking up everything and coming home. We must be prepared to stand with our forces in the Middle East until permanent peace and stability are a reality. And we will keep a military presence in the Mediterranean no longer oriented as in the past toward the Soviet Union but looking south and East towards Africa, the Middle East and Southwest Asia, where we still see the potential for trouble and crises.

And so the forces we will maintain for the Atlantic will be oriented eastward. Some will be forward deployed in Europe, in Southwest Asia, and others will be here in the United States, capable of reinforcing at whatever point they are needed, just as we reinforced so effectively during Operation Desert Storm and Desert Shield.

I was talking to some of my table companions about the business of distributing things and what it's like to be a middle man. You've got nothing on us. If you want to know what it's like to distribute the supplies necessary for 541,000 people 8,000 miles away from home starting from zero, come see us later. We're the real experts in this business. (Laughter, applause.)

We will have continuing needs elsewhere than just across the Atlantic. If you turn to our other great ocean frontier across the Pacific, I maintain we have to keep a forward military presence in the Western Pacific, in Japan, and in Korea. The nations of the Pacific are major trading partners for us, as well as partners in providing security and stability. They are counting on us to remain engaged. Why? Because countries in the Pacific trust us. They look to us for leadership. They look to us for counsel. And they look to us for security in the broadest sense. No other power on earth can claim the position that we enjoy in the Pacific as a security partner. We abandon that position only at our peril. So our Pacific forces, those military forces that we have there, will ensure that we stay engaged in that dynamic region of the world.

In addition to these forward military forces across the Atlantic and across the Pacific, we must have military forces here in the United States that are able to react promptly to a crisis or to a contingency that no one had predicted, no one said would come along. On a moment's notice, these forces must be able to move to a trouble spot, such as to evacuate Americans in trouble as they did in Liberia and in Somalia, or eliminate a threat to American lives as we did in Panama in 1989. In the 28 months that I have been Chairman, I have dealt with some 14 separate crises that involved in one way or the other the armed forces of the United States. And nothing on the horizon, even in this most promising environment, indicates to me that such crises will vanish in the new world ahead of us. So we have to have forces able to deal with these sorts of crises.

And finally, and very, very importantly, we must have military forces that can

deter the use of nuclear weapons against this country. I never let a day go by without reminding myself that in all of this change there are 27,000 nuclear weapons in the Soviet Union and at any moment thousands of them are pointed at the United States. And until someone tells me that he has located and destroyed every nuclear weapon in the Soviet Union I will continue to include those nuclear weapons in my calculations. And I do not believe the American people would have it any other way. So we have to have the strongest possible nuclear forces on our side in order to be able to deal with the continuing, although low likelihood threat of nuclear warfare.

An essential new element to our strategic force posture, however, is the use of defenses to protect ourselves against nuclear weapons as opposed to relying solely on our own nuclear weapons to deter an enemy. And that is why the President's Strategic Defense Initiative, as reflected in the new Global Protection Against Accidental Launch System, as we call it in the Pentagon, is so, so essential. And you will see the President strongly defend the continued development of strategic defenses.

When you put these military forces together -- what we need for the Atlantic, what we need for the Pacific, what we need for crises response, and what we need to deter nuclear attack -- you have what we are calling the base force -- the minimum essential force America needs to meet the future in safety. It is a force much, much smaller than the size force we maintained to deal with the Cold War. Your Department of Defense is moving quickly to implement the base force. It is about 25 percent smaller than the force we had just 18 months ago. We are reducing your armed forces over the next several years by half a million young men and women, and we are doing this as rapidly as common sense and the art of the possible will allow us. We have taken strategic bombers off alert for the first time in the post-Cold War era -- in the Cold War era. We have deactivated 45 percent of our land-based intercontinental ballistic missile launchers. We have cut the number of Trident submarines that we're planning to have from 22 to 18. We are in the process of not only destroying many of our own strategic nuclear weapons, but we are also offering our help to the new Commonwealth of Independent States to do the same thing with theirs. And we are looking at proposals that would reduce our nuclear stockpiles even further. We are destroying and putting into storage thousands of tactical nuclear weapons. We are removing these weapons from all of our ships at sea. And in Europe, under the provisions of the recently-ratified Conventional Forces in Europe Treaty, we are beginning the monumental task of destroying hundreds of thousands of conventional weapons from tanks to infantry fighting vehicles to artillery cannon. Your Navy is mothballing two battleships, two aircraft carriers, and 24 other combat vessels in the near future.

Since the end of Desert Storm in February, your Army alone has pulled out of Europe 40,000 soldiers and 48,000 wives and husbands and children. And by September of this year, another 25,000 soldiers will have come home from the United States Army in Europe.

We are closing over 250 of our Army installations in Germany. The Air Force is reducing its main bases complex in Germany from a total of nine main base complexes down to five. We're closing bases all over the United States. Just this past weekend, we inactivated the two divisions in Europe that were sent to Desert Storm to help defeat the Iraqi army last year. The 1st Armored Division, all of those troops are now gone, and we've given the flag of the 1st Armored Division to the 8th Infantry Division so that we keep the lineage, and the 8th Infantry has gone out of the structure. And we have completely inactivated another division, the 3rd Armored Division, the division that I began my career in some 34 years ago. Gone. Finished.

The first post I ever went to is now being turned over to the Germans for use as a shopping center. The library that was at that base has had all of its books packed up, and the books are being sent to East Germany and behind the old Iron Curtain to help educate a new generation of Europeans.

On the other side of the world, we have closed Clark Air Force Base in the Philippines. We are now in the process of closing Subic. And by the end of this year, more than 15,000 people will have been withdrawn from our forces in Japan and in Korea.

So, every day a base is closing or a battalion furls its flag or a fighter squadron comes home or a troop who planned to stay in the service, a GI who volunteered and wanted to make a career of it is making a different career choice and is returning to civilian life, looking for help when he gets into civilian life with respect to a job or educational opportunities.

So, if you want to know where the peace dividend is, if you want to know why we're not cutting, the answer is we are cutting. We're cutting massively, and we're cutting across the world. And we're only one year into our planned 25 percent reduction. We aren't even halfway there yet. To put it in simple terms, over the next four years, a million people, civilian and military, both in the active force and in the reserve force, will be released from the rolls of the Department of Defense.

Now, we must not go any faster. There will be great enthusiasm in Congress next month to get us to move even faster. And the argument that Secretary Cheney and I and the Chiefs will give back is we don't want to go any faster. We have a strategy. We have a glide path. We have a base force that we're going down to. Don't try to do it any faster or we will break the force. We will break faith with the young men and women who have served us so well.

At the same time, we also don't want to move so fast as to exacerbate our economics problem here at home. Hundreds of thousands of young men and women must be worked back into the economy, into productive jobs, and must serve to boost our economic prospects and not degrade them. Hundreds of programs will be cancelled, and we have to do that over time so that the impact can be modulated somewhat as it goes through all of the American economy.

I want you to also understand in this group that you are having made available to you a great group of new American veterans. I know we're in a recession, but these young men and women are the best and brightest of the nation. They're drug free; they're motivated; they've demonstrated they can do a job. You saw them on television sets day after day after day. You're missing a bet, ladies and gentlemen, you're missing a bet if you're not active in your community and in your firms and in your association in seeing what you can do to integrate those fine young men and women back into civilian life.

Over the next several years, 500,000 active troops going out, tens of thousands of civilians. I hope that doesn't produce 500,000 more unemployed people because these are the best and the brightest. And I ask your help in making their transition back to civilian life as easy as possible. They are truly great talent.

We must also understand that no one is clamoring to leave your armed forces. This isn't like World War II or Korea, where there were tens of thousands of telegrams to Congress demanding that the draftees be let go, that sons and daughters and husbands all come home as soon as possible. Your armed forces are all volunteers. They are all under contract, all disciplined and proud. We simply in this environment cannot tell them, "Thank you for winning a couple of wars. Thank you for representing us so well," thanking them for being so wonderful, but now, you're out on the street. Do the best you can. Find a job. You're on your own. We can't let that happen.

And that is why on our side of the equation in the Pentagon we've put together a major transition program to help ease the restructuring pains for these outstanding young volunteers. We're setting up telephone hotlines for GIs to call businesses, and for businesses to call our GIs. We have established liaison with educators who want our young people to be school teachers under new alternative certification programs that exist in a number of communities. The Congress has also allowed us to create financial incentives and benefits to encourage young people to leave voluntarily rather than being eliminated

involuntarily. And these financial benefits and initiatives will also provide them a transition cushion for those, of course, who accept them.

All of this build-down effort takes time. These actions cannot be precipitous. They cannot be rushed. We are not demobilizing the force and breaking it apart as we did in 1919 and in 1945.

And so the point I want to make to you this afternoon is that your Defense Department does have a strategy. We are not living in the cold war past. We see the future, and it's a future of opportunity. It's a future of challenge. And we're going to take our force down to what we believe is the correct level in order to meet our responsibilities in this changing world. President Bush will lay this all out in greater detail to the American people in his State of the Union address next Tuesday. You will hear about a solid, well thought out strategy, and about a dynamic base force to support that strategy.

When we complete our reductions, we will be using in the Pentagon only 18 percent of the overall federal budget. You put this 18 percent beside our peacetime cold war high of just under 60 percent at one point -- you can appreciate how small that 18 percent really is. It amounts to about 3.6 percent of our gross national product. This will be the lowest percentage of the federal budget devoted to defense since before World War I. And so, to argue today that all of the domestic ills of America can be cured by tapping this 18 percent of the budget and ignoring the other 82 percent of the budget is really incorrect and quite misleading.

And so, you'll see us in the Pentagon fighting to protect the base force. We need that force to preserve our role in the world. We need it to ensure against that which is still unknown. The threats are no longer as clear as they used to be, but we have a pretty good idea of what parts of the world those threats are liable to emerge again if we do not remain engaged, if we do not remain strong. We owe that to the American people, and the American people would never forgive us if we let down our guard.

We also need the base force to protect your armed forces, especially to protect the young people who have given so much of themselves to serve this nation. For them, history has not ended. There are still 1,700 young GIs at Guantanamo Bay in Cuba caring for 7,000 Haitian refugees. There are 26,000 men and women still manning F-15 fighters in Saudi Arabia, or manning FA-18 fighters aboard our carriers in the North Arabian Sea. Our men and women still stand guard along the DMZ in Korea. The men and women of the North American Air Defense Command still watch the Soviet nuclear weapons half a world away pointed at us. Your Marines are still afloat in the Indian Ocean, remembering all too well the harrowing evacuation that they had to conduct last year of American citizens from the US embassy in Somalia.

Around the world, in a thousand places, these wonderful young troops still have a job to do. It is these wonderful young men and women who have sacrificed and have served so well; these American GIs about whom we must remain concerned. They are well-trained. They are proud. They are ready. They care about their profession. They are wise and they are brave. They love this country that they call America, and we must, above all, not break faith with them. And I assure you, as long as I'm around, we won't. Thank you. (Applause.)

Alan (sp) told me I could stay up here and take questions all by myself.

(Laughter.) Let me also say that I'm especially flattered to have been introduced by my good friend Alan Kranowitz (sp). You've got a heck of a guy in charge of your association. I was worried for a moment that he might really tell some of the stories -- (laughter) -- about our days together in the White House, but he didn't. Thank you, Alan (sp), for your kind words earlier.

I'd be delighted to take a few questions. Yes, sir?

Q (Off mike.)

GEN. POWELL: I don't have that at the tip of my tongue, but take off that thing you're wearing, and we'll get back to you -- let us have it. No, if you give us a business card --

Q (Off mike.)

GEN. POWELL: Call -- no, this -- Col. Smullen will have some one for you to call within an hour.

Q (Off mike.)

GEN. POWELL: In your case, Riley is probably best, but I'm going to do better than that. We'll have somebody at Riley call you. I guarantee it. (Laughter.) Fort Riley is about to have a lot of excitement. They're just -- (laughter) -- no, I guarantee it. You'll -- somebody from Riley, probably the division commander -- (laughter and applause) -- now I want everybody in this room -- no, in seriousness, that's what I need. And you let us have your card, and somebody from Fort Riley will be calling you, if not when you -- if not within the hour -- (laughter) -- then right after you get home. And I need each and every one of you who can help us with this to give Col. Smullen here your card, or give it to Alan, and get it to me, and I'll make sure that you're contacted.

But obviously we can't reach the whole country in this one room. I'm really pitching to the cameras so that people all over the United States in those communities look out for these great young men and women. But I do thank you, sir. Would you like to stand up and get a plug? If you'll give me your name, I'd be -- (laughter) --

Q (Off mike.)

GEN. POWELL: Thank you, sir. (Applause.)

Q One of the other great victories that -- I think that the country really appreciates with the war was not only winning it, but getting the rest of the world to participate in most of it. How do you see in the future, you know, you mentioned that different countries are saying they want our continued support. Do you see this as part of the overall strategy, and in the future, do you see other countries participating in such --

GEN. POWELL: Yes. I mean --

Q Once more, how in the future, when things come up and -- (inaudible) --

GEN. POWELL: Desert Shield and Storm, to a large extent, was not paid for by the American taxpayer in terms of money -- money-wise. Very generous contributions from those we came to help and others who had reason to want to participate, as well as the presence of forces from 28 different nations, there in the desert alongside our forces. It is becoming more and more common for that kind of ad hoc coalition to come together to deal with regional problems. When we had the humanitarian relief effort in northern Iraq and eastern Turkey right after Desert Storm, similarly about 12 countries came together there to help us. Sometimes these arrangements will be ad hoc as countries have common interests, but what I'm especially pleased about and proud of, frankly, because we worked it a bit at the tail end of the last administration, is that role that the United Nations is playing in solving one lingering regional crisis after another. It is a heck of a success story. The UN was instrumental in the Iran-Iraq War settlement in '88, in the southern Africa and Angolan situation, in the Nicaraguan elections, in the El Salvador situation, in southeast Asia, Cambodia. The UN is playing a much more important role. Why? Because they are willing to get involved, and secondly, the Soviet Union is no longer a spoiler. The Soviet Union has been on our side in almost every one of these recent issues that we could take before the UN. And I hope, even with the changes in the Soviet Union -- now the Commonwealth of Independent States, we can see an even more forthcoming attitude on the part of our former enemies. And I think this is all to the good. And I think you will find that more and more nations will be willing to make contributions to the settlement of these regional disputes and conflicts.

We also get good support from our Japanese friends, from those who want us to stay in the region, in the Pacific, we are getting very attractive offers. We are closing down our presence in the Philippines but we will be in Singapore, Malaysia, Indonesia, continue to be in Korea and Japan, they want us there and they are willing to do their share to keep us there.

Yes, sir.

Q Those of us in Florida do admire you a lot as a leader. What are the chances that we would be able to vote for you? (Laughter).

GEN. POWELL: Alan (sp) answered that. I have no political ambitions. I sometimes say "at the moment," I sometimes say "maybe," "never," you know. I don't know why I should preclude running for alderman in Kansas City at the age -- when I am 75 years old, so I don't feel the need to give Shermansesque-type statements but I am a soldier, chairman of the Joint Chiefs of Staff, that's all I want to do for the next two years and then I'll go into private life and at the moment private life does not include any political aspirations. But if Kansas City needs an alderman -- (laughter) -- when I am 75 years old. I'm kidding a little bit but I have no political -- nothing is motivating me in a political way.

Now, the other gentleman, who I should have called on. (Laughs and laughter)

Q General, I noticed recently on the news that they talked about reducing the reserve units here in the United States by 250,000 and in view of the role that they played in the recent war over in the Persian Gulf, maybe you can enlighten on the types of units that you're thinking of and how you plan to work on the replacement.

GEN. POWELL: The Reserves have performed magnificently in the last two years that I have been closely associated with them. We have no intention of breaking up the Reserves or breaking what we call the total force concept of active and reserve working together. The simple facts are that over the last 10 years, during the period of the Reagan buildup, we built up the Reserves by about 300,000 troops, roughly a 25 percent increase. The reason for that buildup was to orient on the Soviet threat in Europe. We discovered that we did not have enough force structure in the event that we had a sustained war in Europe, so we built up the Reserves for that purpose.

A large part of our reserve structure, particularly within the Army is oriented and associated with specific active units. So when we brought the active units out of the force structure and when the Red Army has disappeared, it's gone, it only seems prudent that we take down the growth that was put into the Reserves over the last (10 ?) years, and so we are planning to reduce it by about 250,000, especially taking out those units that are directly affiliated and associated with active units that are no longer there. It doesn't make any sense to take the active unit out but leave all the Reserve supporting units there. There is nothing there to support.

Congress has given us some degree of grief over this issue because Reserves are very popular, they should be popular. These are great units in communities throughout the country who are enormously helpful in sustaining public support for our efforts in Desert Shield and Desert Storm, and I wish I didn't have to cut or recommend cutting a single one of them. I'd just as soon not cut anything in the active Army either, or the Navy, or the Marine Corps, or the Air Force or the Coast Guard, but cutting the budget 25 percent, cutting the force 25 percent means cutting the force and pain is associated with cutting.

It's enormously frustrating to go up on the Hill and be told, "No, we don't want you to cut that. No, we don't want you to close any bases. Well, don't close these programs down because they are important to us, but when are we going to see our peace dividend?" (Laughter)

I don't know how to manage an environment like that, and so they want -- if you want the budget cut we have to cut it in a sensible way, it has to affect all parts of our total force. You can't protect this in order to have a disproportionate cut over here. And that will be the debate we will have will Congress, have been having with Congress.

And so we love the Reserves, we have no intention of breaking the total force concept that exists, but it is not good stewardship on our part to keep forces in the structure that the American taxpayer is paying for if that structure is no longer needed. It makes no difference whether it's active or reserve. If

it's not needed we ought to eliminate it from the structure and give that money back to the American taxpayer, and that's what those of us in uniform are saying and we are having difficulty with the Congress on that issue. Yes, sir, the gentleman.

Q General, at the risk of maybe putting you on the spot, one of the greatest risks still remaining perhaps to this country is drugs coming inside. In your opinion, and perhaps the military is playing a role in that I'm not aware of that you can't talk about, but in your opinion is there a role that the military could play to make sure some of that material doesn't get in?

GEN. POWELL: There is a role we can play and we are playing it. We're very -- I'm delighted to talk about it. We're very actively involved with the Coast Guard and INS and a number of other federal agencies in intercepting ships coming into the country as well as aircraft penetrating our air space. Most of the early-warning radar planes that we have in the United States are used for counter-drug purposes. The forces command, which is our Army command here in the United States, are using their troops and equipment to try to seal the border with Mexico. Our commander in Panama we call CINC South, responsible for Central and South America, is deeply involved with the countries of the Andean region not only in cutting the transit routes coming to the United States but in helping those countries go to the source of drugs within the country.

And so we're doing a lot, we're going to do lot more, we're spending billions on this. I think it's a legitimate role for the armed forces of the United States. Having said that, though, don't think that cutting off drugs is the solution. Until we kill the drug problem right in our own community, the money is just too good and you won't be able to cut it off. And so it begins right here in the United States, in our community, in our schools, and we have to just educate a generation of young people that the use of drugs is stupid, it's criminal, it's destroying our inner cities, it's destroying our country, and we've got to stop it here while the armed forces and other agencies are trying to interdict the amount of drugs coming into the country.

(Applause.)

Q The theft or transfer of even one Soviet tactical nuclear weapon to an undesirable entity could have profound and tragic implications. How comfortable are you with regard to the security and the controls in place to keep that from happening in the Soviet Union?

GEN. POWELL: Reasonably comfortable. You can't be completely comfortable when you're talking about 27,000 things that are not under your direct control. But historically the Soviets have shown a great deal of care with respect to the storage of nuclear weapons, the counting of nuclear weapons, the safeguards they have on their nuclear weapons. And in all the turmoil of the last six months in the Soviet Union and now the Commonwealth of Independent States, I have been impressed and I think my intelligence colleagues have been impressed at how their system for controlling nuclear weapons has not been buffeted the way every other segment of their society has been buffeted.

Their strategic weapons, the ones that can reach the United States, are firmly under control. The tactical weapons are all being removed from the outlying republics back into Russia for further control and dismantling, and that process is going well. They give us repeated assurances that they are handling it with the care it deserves and so far their assurances seem to be well founded and we can accept.

Having said that, one has to remain concerned. It is always possible that their very fine system could break down during this period of uncertainty and turmoil within that land, and we'll continue to keep our eyes on it. But it would be an event of profound consequences should one of them get loose and turn up in an awkward place. So we'll watch it, but so far we're reasonably comfortable with how they're handling it.

Yes, sir?

Q The other day the Wall Street Journal ran an article about demolition of

explosives and various mines and so forth in Kuwait, and they stated there that fully one-third of the ordnance dropped on the Iraqi army in Kuwait didn't explode. Would you care to comment on their accuracy?

GEN. POWELL: Yeah, I don't -- I didn't see the report and the one-third number seems -- does not seem right, it seems high. There is always a dud rate associated with munitions, especially dumb munitions, that is, it sets itself off by hitting the ground. And there are some problems with the type of battlefield we had with soft sand not detonating. We have a continuing demolition problem in Kuwait. The Kuwaitis have asked us for our assistance; we're providing it. And they've also contracted for private firms to come in and help remove munitions that have not exploded. A continuing problem. I haven't seen that particular report. The number of one-third sounds high to me. Yes, sir?

Q A recent news report talked about the Persian War and perhaps that President Bush called off the forces a little bit too early. Would you care to comment about this? (Laughter.)

GEN. POWELL: Thank you sir! (Laughter.) One of the generals who was intimately involved in the war, General Buster Glossan, who was the mastermind of the air campaign, was asked a similar question last week and he says it's never too early to call off a war.

The fact of the matter is that about the 26th of February, a day or so before we stopped the war, it was becoming clear that our objectives were rapidly being accomplished. The Marines were in Kuwait City, the Army units were sweeping around the flank, there was starting to be an incredible amount of destruction on the road going back into Basra, and it was becoming clear that we were near the end, that beyond a certain point it wasn't war. It isn't war when you're fighting after having achieved your objectives.

And so on the morning that we -- the day that we decided to terminate it, there was complete consultation between military authorities -- myself and General Schwarzkopf and his commanders in the region. We told the President that it was near the end, and after further consultation and watching the battle develop throughout the course of that morning and into the afternoon, and then also seeing images of some of the destruction taking place.

But fundamentally, we had done what the President told us to do. That's the time you should end a war, and that's what we did. The President was absolutely right. Whether you killed people and continued the war for another 12 or 24 hours -- which is what Newsweek was alluding and other critics have alluded to -- was irrelevant to what might have subsequently happened. We were only fighting the Iraqi army in Kuwait. We were not fighting the other half of the Iraqi army that was intact throughout all of Iraq and quite able to handle internal security matters within Iraq.

Every time this country has gotten in trouble it's because we lose sight of what our objectives were with respect to the use of military force. The President gave us clear political objects. We gave him a clear military plan to achieve those objectives. The military plan unfolded flawlessly -- I will stick with that, "flawlessly" -- compared to any other military plan in many a year. And when we reported to him that we had achieved the objectives set out, he ended the war. And that took leadership. That took courage. It would have been the easiest thing in the world to say, "No, somebody might say we stopped too soon. Let's just keep it up." And I think that would have -- history would not have treated us that well.

Now, obviously, it's become a source of great commentary. And lots of people who were nowhere around, and lots of people who didn't want to go to the war in the first place -- (laughter) -- suddenly are surfacing to say, "Yeah, but now that I know it wasn't going to be that hard I would have been there." (Laughter, applause). And I have played the tape back many times in my mind, as you can appreciate, and particularly last week when it was such an interesting subject of discussion.

The conclusion we came to a year ago last February was the correct one. The President made the right choice and the troops in the field know it. They accomplished their mission, they're home and we should be proud of it and not find ways to denigrate our success, which seems to be becoming something of a national pastime these days. (Applause.)

Q General, I appreciate and share your support of what the United Nations seems to be doing -- coming alive and doing with us. It's my understanding, however, that we're still badly in arrears in our financial support of the United Nations, and I'm wondering what we're going to do about. Particularly it seems to me a very cost-effective way to solve some of the problems of the future.

GEN. POWELL: It's a -- we are in arrears with respect to our obligations to the United Nations. Alan (sp) and I were together when we at least acknowledged we were in arrears a few years ago and reversed our policy to start being a more responsible financial partner. It has not been possible to clear up all of the arrears because of our own financial difficulties. What position the administration will be taking in the months ahead with respect to this issue -- I hate to take a dive on you, but that really belongs to the State Department, so I will take a dive on you. (Laughter.)

Yes, sir?

Q How has the television camera changed the way the Army or our armed forces fight?

GEN. POWELL: A fundamental question. A good question. It's changed the way national security policy in general has to be managed. A little story I tell is whenever I did a press conference, or any of the chiefs or General Kelly, my operations officer, who you all know and love so much, General Schwarzkopf, Secretary Cheney, the President, you always had to remember when you went out there that you were talking to five audiences at once.

First, you were talking to the media, the ladies and gentlemen who were asking the question. Then, you were talking beyond them to the American people, who were watching the whole press conference. The third audience was the international community. Every capital in the world, 150 nations, 150 kings and prime ministers and presidents, other heads of state, foreign ministers, defense ministers are watching and will make their own individual nation judgment based on what they see coming out of Washington. That's a third audience. A fourth audience is the enemy. Saddam Hussein and his folks are watching, or any other opponent that we may have to go up against will now be seeing it all in real time.

And then the fifth audience, which many people might not think about but which I had to think about, and so did my colleagues, the Joint Chiefs and Secretary Cheney, were the troops. We have some very smart, well-educated troops. Ninety-nine, roughly 98 percent of them are high school graduates, very sophisticated, and we were talking to them, too, and they had to receive the right message from home.

And so you just can't get up in front of a camera in a crisis situation like that without recognizing there were five audiences. Now, audience one, the media, would sometimes get upset because we didn't give information that we thought was not useful to give audience four -- (laughter) -- or which might have a morale effect on audience five, or which might affect audience two and three, as well.

So, we are accused of managing the news. We were accused of not handling this very well. Frankly, I think we handled it very well. (Applause.)

And, frankly, I think the press did a good job. There should be criticism between the press and the government. They ought to pull my chain all day long. That's their job. And they do it well. (Laughter.) It's the nature of our system. And by this conflict that sometimes exists between the government and the press, it's held in the public, in the open, and the American people are the beneficiaries of the conflict because you see your government in action.

So, I think we did reasonably well, as you might expect I would feel that way,

and television has fundamentally changed the way you do things. Everything is seen instantaneously now around the world as long as you can get a camera there, and it is not that hard to get a camera there, with jet travel and the ease of sending electronic images around the world.

I think I have to -- is that it?

Thank you all very much. (Applause.)



NEWS RELEASE

OFFICE OF ASSISTANT SECRETARY OF DEFENSE (PUBLIC AFFAIRS)

WASHINGTON, D.C. - 20301
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No. 26-92

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DOD TO SLOW PACE OF MODERNIZATION, CUT STRATEGIC NUCLEAR ARSENAL WHILE MAINTAINING ESSENTIAL FORCES

The President's FY 1993 budget calls for a new approach in the way the Defense Department buys major weapons systems and keeps its forces modern, while maintaining a military capable of responding to regional contingencies. And the President's FY 92-97 program includes changes to the US strategic nuclear program, beginning to move the US away from a relationship of nuclear confrontation with the republics of the former Soviet Union, Defense Secretary Dick Cheney said today.

The administration is seeking \$267.6 billion in DoD budget authority for fiscal year 1993, \$9.9 billion below the budget passed by Congress for FY 1992 and a decline of seven percent in real terms, adjusted for inflation. The cuts in the defense budget go beyond the steep cuts already undertaken -- amounting to a decline in budget authority of over one-third in real terms since 1985.

The FY 93 budget submission also cuts the Department's six year defense plan, for FY 1992-1997, by \$63.8 billion, compared to the six year plan presented last year for the same period. That total includes \$50.4 billion in cuts to the defense program and \$13.4 billion in adjustments required under the budget summit agreement, based on changes in the 1991 rate of inflation. The budget proposes FY 1993 outlays of \$272.8 billion, \$9.8 billion below FY 92. Outlays for FY 92-97 would be cut by \$27.4 billion over last year's defense plan.

"The national security picture for the United States has changed substantially since last year. The disintegration of the Soviet Union has reduced the threat to US interests and eliminated the urgency for producing several advanced weapons systems," Cheney said. Many of the developments were anticipated in the regional defense strategy first announced by President Bush in August of 1990, he said.

(More)

(More Budget, 3-3-3)

The growing proliferation of ballistic missile capability and weapons of mass destruction makes the funding of the President's program for global protection against limited strikes a high priority for our strategic programs. Funding for the strategic defense initiative remains a top priority, with a request for \$5.4 billion in budget authority for FY 1993, compared to the FY 1992 total of \$4.1 billion.

Defense budget trends

From FY 1993 through FY 1997, DoD budget authority will decline, in real terms, an average of four percent each year. By FY 1997, the cumulative real decline in budget authority since FY 1985 -- the year of peak defense spending -- will total 37 percent. Budget authority for FY 1997, adjusted for inflation, will produce about the same buying power as the 1960 defense budget and only slightly more than that of the post-Vietnam drawdown defense budgets of 1974-76.

Defense outlays as a share of the US gross national product are expected to fall to 3.4 percent in FY 1997, well below any time since before World War II. In FY 1997 defense outlays should be down to 16 percent of total federal outlays.

While defense spending has been shrinking since 1985, domestic spending has been growing -- going up by about the same rate at which defense spending is going down. By FY 1997, the cumulative real decline in defense outlays since FY 1985 will be 26 percent. Mandatory federal spending will increase about 33 percent in real terms over the same period, and domestic discretionary outlays will increase about 8 percent.

New approach to acquisition

The disintegration of the Soviet Union has reduced the military threat to US interests, making the need to produce advanced weapons systems less urgent. The Department of Defense can afford to take more time in developing and evaluating new technologies before making decisions on weapons production. With more reliance on its research and development efforts, the Department can preserve the technological capability to quickly equip larger forces if major threats to US interests emerge in the future.

While DoD will put fewer new advanced weapons systems into production in the future, the aggressive pursuit of new technologies will be essential to maintaining the advantages US armed forces need to deter and to prevail in future conflicts. A weapons program will move to full-scale production only after verifying the need for producing the system, and after minimizing technical, manufacturing, and operational risks. The Pentagon will also emphasize the upgrading of existing weapons

(More)

(More Budget, 5-5-5)

role in regional conflicts. The Gulf War confirmed the advantage of combining precision weapons and stealth technologies. Twenty B-2's will allow the Air Force to maintain two squadrons while also permitting aircraft maintenance. With the transformation of the Soviet threat, America's strategic bomber force is less likely to face the sophisticated air defenses for which the B-2 is designated. The current strategic force of B-1B's and B-52's can be adapted to ensure adequate capabilities for strategic nuclear and conventional missions. Stealth technology remains a key advantage for U.S. forces, and the Department will initiate vigorous exploration of improved stealth technologies. Total B-2 program adjustments will save \$14.5 billion through 1997.

Minuteman III ICBM. To help compensate for the termination of the Midgetman small ICBM, DoD will fund an improved guidance system for the Minuteman III ICBM and other measures to extend its service life, yielding net savings of \$1.0 billion through 1997.

Seawolf submarine. With the Soviet Union's collapse, the United States no longer needs to proceed with a new class of attack submarine. The Seawolf program will accordingly be terminated. The existing SSN-688 submarine is among the most capable in the world and will serve the nation well for many more years. DoD plans to consider a lower cost submarine design that will enable it to modernize in the future while maintaining adequate submarine force levels for the coming years. DoD also will continue to develop other antisubmarine warfare systems. These changes in the submarine acquisition program will save \$17.5 billion through 1997.

Comanche helicopter. With their focus shifted from a Soviet threat to regional contingencies, US forces can be adequately supported with the existing Apache helicopter fleet, to be upgraded with the Longbow advanced fire control radar system, OH-58D reconnaissance and light attack helicopters, and greater use of unmanned aerial vehicles. DoD will restructure the Comanche light helicopter development program by deferring production and concentrating instead on building prototypes, developing avionics, upgrading the engine, and incorporating Longbow. Redirecting the program will save \$3.4 billion through 1997.

Air defense antitank system. Because non-Soviet air threats to US ground forces are limited in number and capability, US forces can maintain adequate air defense assets with existing air defense fighters and with such defense systems as the Patriot, Hawk, and Stinger. The Department is therefore terminating the Army's air defense antitank system (ADATS). To compensate, DoD will initiate development of an improved aircraft tracking system and several advanced guidance

(More)

(More Budget, 7-7-7)

Enforcement Act, US spending on the Persian Gulf war is treated as an emergency funding requirement, not subject to the budget ceilings set by Congress and the Administration.

To offset these incremental costs, US allies have pledged to contribute \$54 billion. The US will not replace some types of damaged or destroyed equipment, valued at \$1.2 billion, because the Department has sufficient remaining supplies. That leaves a net cost to the US for the war of \$5.9 billion.

Of these costs, transfers within the previously appropriated 1990 defense budget covered \$1 billion, and a supplemental request in 1990 covered another \$2.0 billion, leaving \$2.9 billion in costs for long-term personnel benefits for those who served in the war. Those costs will be paid in future years by the Veterans Administration.

"The war in the Gulf set a remarkable standard of cooperation, and not only on the battlefield. It is absolutely unprecedented that more than four-fifths of the cost of the US part in the operation was paid for by our allies in the Persian Gulf and elsewhere around the world," Cheney noted.

As of January 1992, allied contributions to the US for Gulf war costs were \$52.6 billion -- \$47.0 billion in cash and \$5.6 billion in in-kind assistance. Allied payments continue, and the remainder is expected by July 1992.

Other FY 1993 Defense budget highlights

Readiness. Although the size of the US military is shrinking, the Department of Defense is committed to ensuring the maintenance of a fully manned, trained, and equipped force. The FY 1993 request accordingly provides the training, maintenance, and other requirements to sustain the high level of readiness achieved by US forces over the past decade. Active Army ground and air training operations are kept at 800 miles per year for combat vehicles and 14.5 tactical flying hours per month for air crews. Navy steaming days remain at 50.5 days a quarter for deployed fleets and 29 days a quarter for non-deployed fleets. Flying hours for active Air Force tactical air crews will hold at about 21 hours per month.

Research, development, testing, and evaluation. Reflecting the Department's emphasis on advanced technology research for application in weapons systems of the future, funding for science and technology -- research not tied to a specific weapons program -- will grow to \$12 billion in FY 1993, from \$10.6 billion in FY 1992, a real growth rate of 9.1 percent. Total RDT&E will show a 1.5 percent real growth in FY 1993.

- end -

Please refer to the attached charts for more details on the FY 1993 budget submission.

NATIONAL DEFENSE TOPLINE *

(Current \$ Billions)

	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>
<u>BUDGET AUTHORITY</u>						
DoD 051	270.9	267.6	267.8	269.9	270.4	274.6
DoE & Other	12.9	13.3	13.9	14.5	15.3	16.0
TOTAL 050	283.8	280.9	281.7	284.4	285.7	290.6
<u>OUTLAYS</u>						
DoD 051	282.6	272.8	267.4	267.9	270.9	273.6
DoE & Other	12.6	13.1	13.6	14.1	14.9	15.5
TOTAL 050	295.2	285.9	281.0	282.0	285.8	289.1

* Excludes Cost of Desert Shield/Desert Storm

DOD BUDGET AUTHORITY

(\$ Billions)

	<u>1992</u>	<u>1993</u>	<u>1994</u>	<u>1995</u>	<u>1996</u>	<u>1997</u>	<u>CUM 92-97</u>
President's FY 1992 Budget	278.3	277.9	278.2	280.7	282.6	287.4	
Adjusted Summit Level	277.5	275.6	275.8	278.3	279.9	284.6	(-13.4)
Program Adjustments (Rescissions/Supplemental)	-6.6	-8.0	-8.0	-8.4	-9.5	-10.0	-50.4
President's FY 1993 DoD Budget	270.9 *	267.6	267.8	269.9	270.4	274.6	(-63.8)

* Excludes cost of Desert Shield/Desert Storm.

DOD BUDGET AUTHORITY BY TITLE *

(\$ Billions)

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
Military Personnel	78.6	78.4	78.3	77.1
O & M	87.0	85.3	86.4	84.5
Procurement	81.4	66.5	58.5	54.4
R D T & E	36.5	36.1	36.9	38.8
Military Construction	5.1	5.2	4.9	6.2
Family Housing	3.1	3.3	3.6	4.0
Revolving Funds Transfer	-	-	-	2.0
All Other	-0.7	1.2	2.3	0.6
GRAND TOTAL	291.0	276.0	270.9	267.6

* Excludes Cost of Desert Shield/Desert Storm.

DOD BUDGET AUTHORITY BY SERVICE *

(\$ Billions)

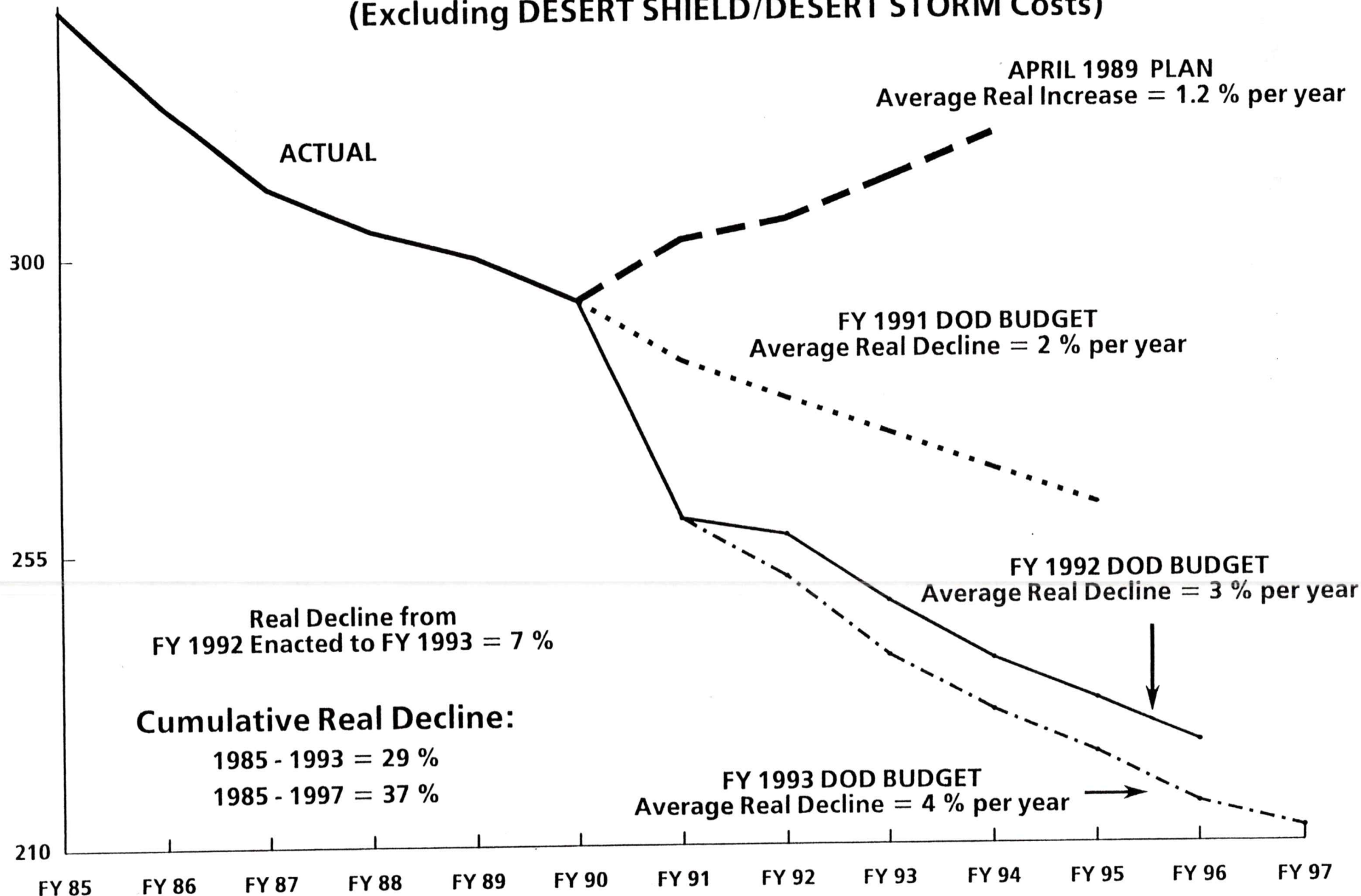
	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>
Army	77.9	72.5	67.0	63.3
Navy	99.5	94.9	84.8	84.6
Air Force	92.4	83.6	80.2	83.9
Defense Agencies	18.3	20.6	21.2	21.3
Defense Wide	2.9	4.4	17.7	14.6
Defense Medical Program	-	-	(9.1)	(9.5)
GRAND TOTAL	291.0	276.0	270.9	267.6

* Excludes Cost of Desert Shield/Desert Storm

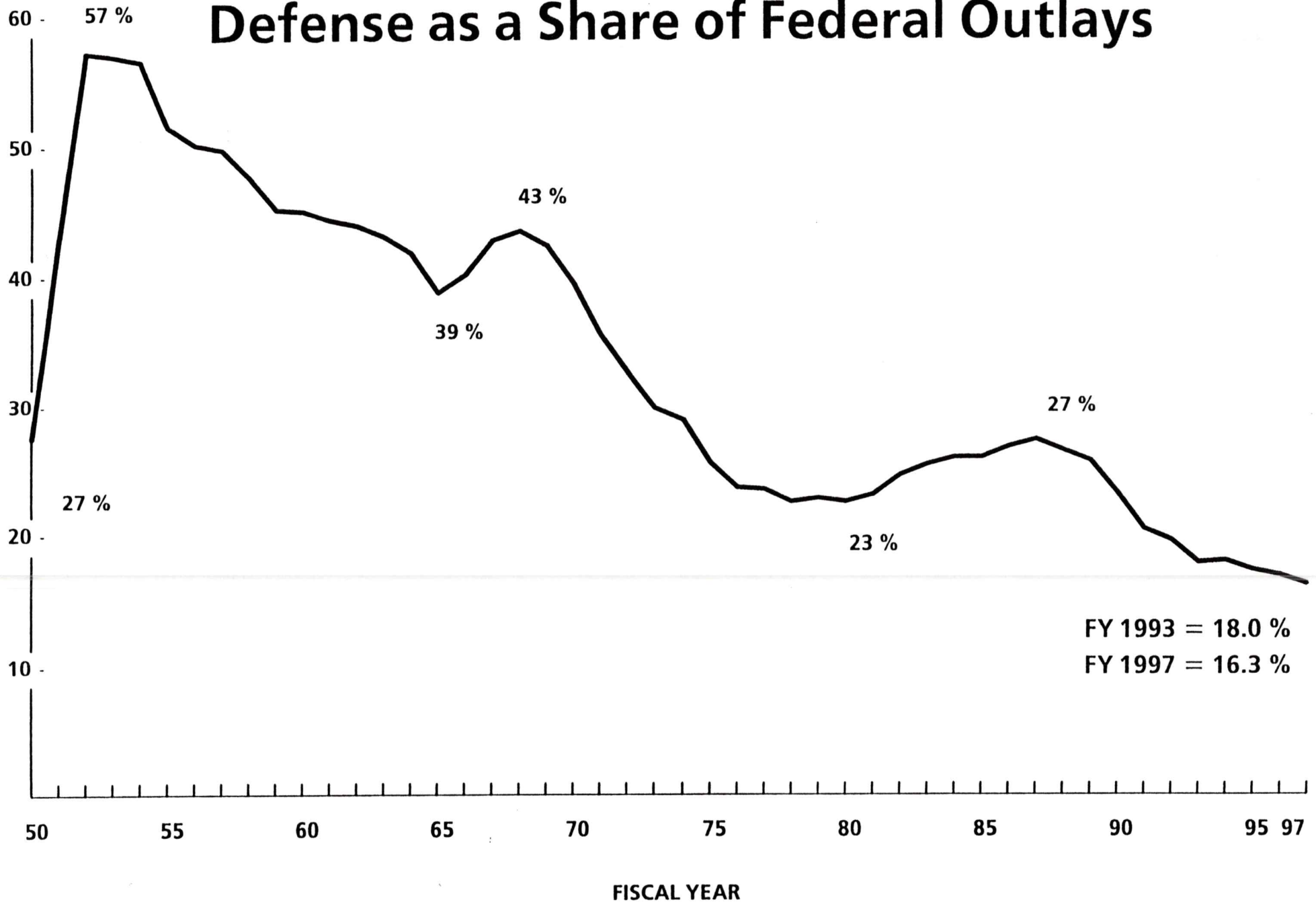
DoD BUDGET AUTHORITY

(Excluding DESERT SHIELD/DESERT STORM Costs)

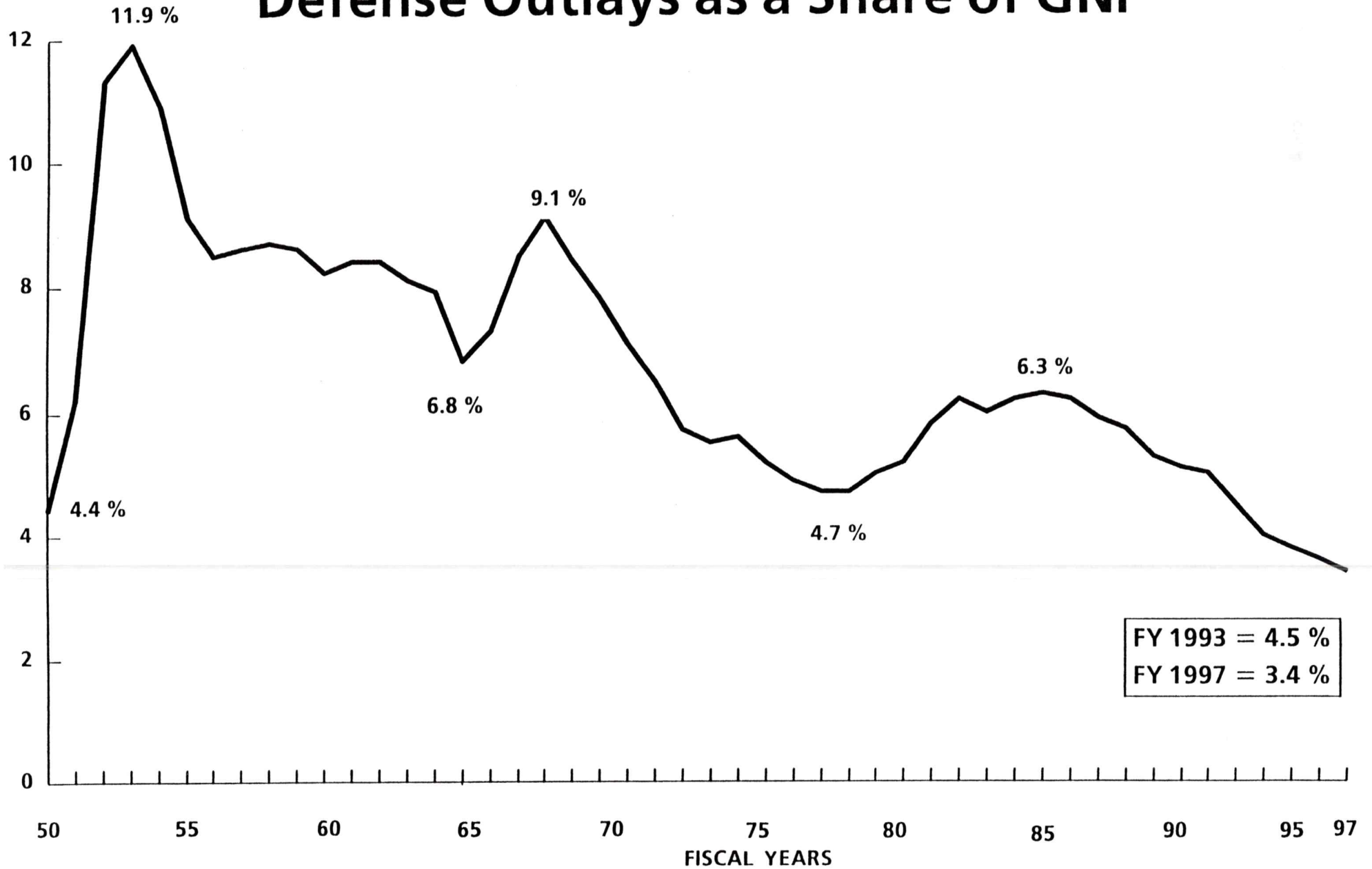
Constant Dollars
(in billions)



Defense as a Share of Federal Outlays



Defense Outlays as a Share of GNP



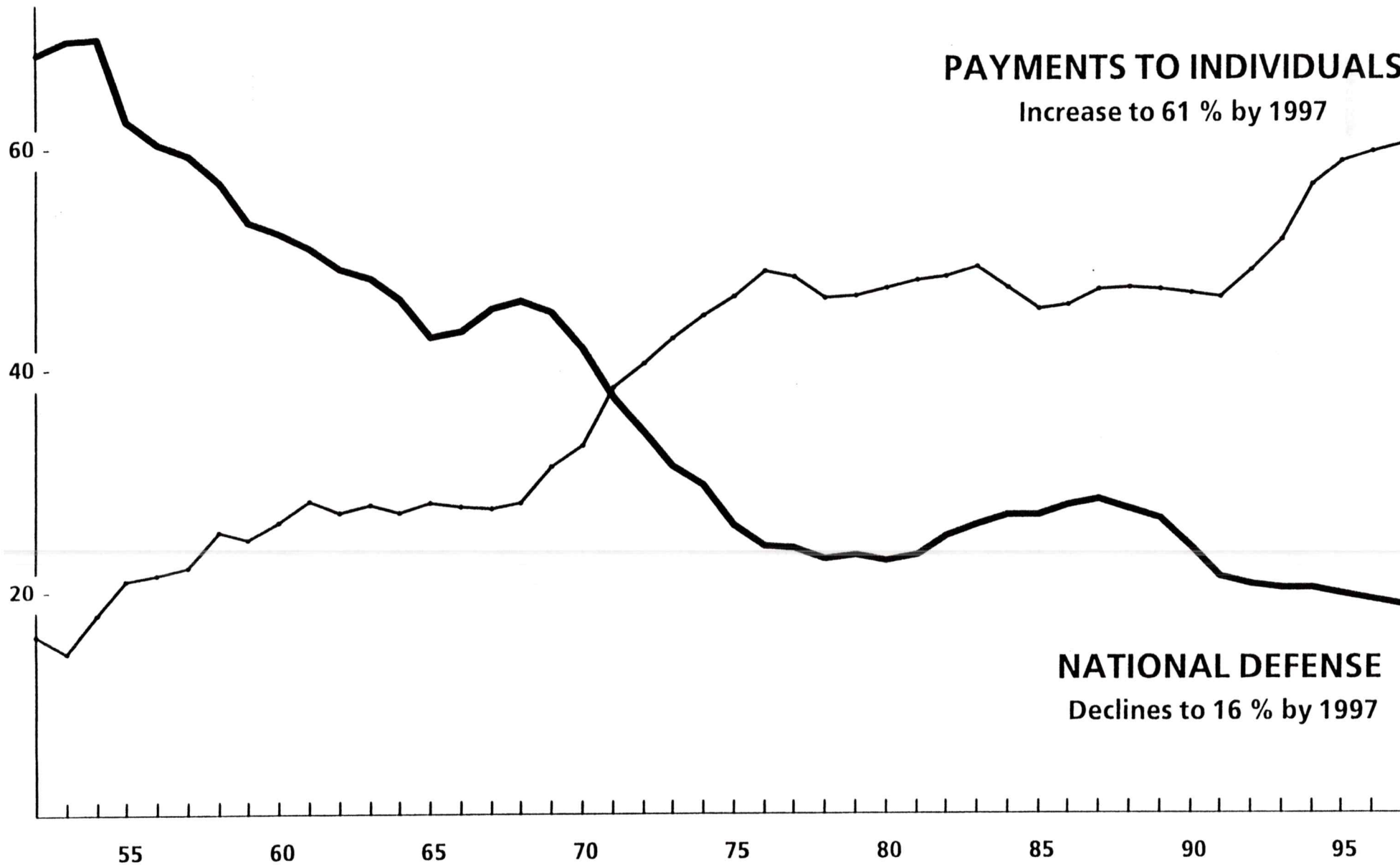
NATIONAL DEFENSE & PAYMENTS TO INDIVIDUALS (as a Percent of Total Federal Spending)

PAYMENTS TO INDIVIDUALS

Increase to 61 % by 1997

NATIONAL DEFENSE

Declines to 16 % by 1997



MANPOWER

(End Strength In Thousands)

	<u>FY 1987</u>	<u>87-95 DELTA</u>	<u>FY 1995</u>	<u>FY 1997</u>	<u>Total Reduction 87-97</u>
<u>ACTIVE MILITARY</u>					
ARMY	781	-245	536	536	-245
NAVY	587	-78	509	501	-86
MARINE CORPS	199	-29	170	159	-40
AIR FORCE	<u>607</u>	<u>-178</u>	<u>429</u>	<u>430</u>	<u>-177</u>
TOTAL ACTIVE	2,174	-530	1,644	1,626	-548
<u>SELECTED RESERVES</u>	1,151	-229	922	920	-231
<u>CIVILIANS</u>	1,133	-221	912	904	-229

IMPACT OF NEW ACQUISITION APPROACH

(\$ in BILLIONS)

	<u>Prior Years</u>	<u>FY 93</u>	<u>Cumulative Through 1997</u>
B-2/Stealth Technology		-0.6	-14.5
SSN-21 Submarine /Submarine Technology	-3.4	-2.5	-17.5
Comanche Helicopter/LH Prototype		-0.1	-3.4
SICBM/Improved Guidance	-0.2	-0.6	-1.0
ADATS Air Defense System/Anti-Aircraft Seekers		-0.2	-1.7
ACM Missile/Cruise Missile Targeting		-0.4	-1.3
FDS Sensor /Mobile Sonar		--	-0.7
AAAM Missile/Air-to-Air Seeker & Propulsion		-0.1	-0.6
BLOCK III TANK		--	-0.4
LOSAT Missile		--	-0.9
TOTAL ADJUSTMENTS	-3.6	-4.4	-42.1

Forget to include this in the earlier 1/3/92
package - a draft by Steve Schwalm at
Heritage

CONGRESSIONAL INFLUENCE PEDDLING: TIME TO REEXAMINE

"CONSTITUENT SERVICE"

With the pace of scandals breaking out in Washington, D.C. these days, the BCCI scandal is not the latest to break on the waters of the Potomac. However, as the scandal unfolds it highlights a greater threat to American liberties than the paltry personal scandals of the Members of Congress. Deliberately bouncing checks as a form of interest free loan may be tax evasion, and skipping out of the House Dining room on the taxpayers' meal ticket may eat at the average American, but the real problems occur when Members of Congress follow their chosen vocation: Administrators and ombudsmen for priveleged constituents, overseeing the operations of the Executive departments.

The new role assumed by Congress is that of ombudsman of an administrative state. A bureacracy created and managed by Congress to the advantage of certain constituents underlies many of the most major and costly scandals that have rocked the Capitol in recent years, and suggests that the very nature of the legislative body has altered. The corruption at the Department of Housing and Urban Development (HUD), and the BCCI and S&L scandals all highlight this phenomenon in different ways. All of the scandals originated in behavior that, when practiced by members of Congress, is called constituent service, but when by administrators and the private

sector, is denounced as influence peddling and corruption.

Much "constituent service" consists in managing the affairs of the Executive Branch agencies responsible for administering the laws passed by Congress. In each of the above mentioned cases, members of Congress influenced or managed the administration of executive power to assist an elite few. The result? Untold amounts in pork, wasted millions on ineffective programs, and billions in taxpayer bailouts.

Congress must change its ways. House and Senate Committees do not hesitate to pursue and prosecute the Executive Branch and the private sector for activities which it practices itself on a larger scale with tax dollars. If the reform laws and regulations Congress passes are to be meaningful, they should hew to the same standards they impose on others.

HUD: Pots and Kettles

Anyone familiar with the House investigation of corruption at the Department of Housing and Urban Development is aware of the righteous wrath Congress directed at the Executive branch officials responsible for wasting millions of taxpayer dollars. Using the influence of their position, they doled out Federal funds to their friends without consideration of program merit or necessity.

After an investigation lasting 14 months, the House Committee

on Government Operations, on November 1, 1990 released its report "Abuse and Mismanagement at HUD." It showed that consultants connected to the Reagan Administration collected hundreds of thousands of dollars in fees for securing multi-million dollar projects for their clients. Many of these costly projects were worthless. HUD officials, moreover, steered money to institutions that did not qualify under the law for funding they received. And, HUD allowed a finance corporation that cost taxpayers \$370 million in bad loans to maintain a free hand in making loans, but only after it contributed to a scholarship fund named for Secretary Pierce.

Some in Congress were particularly upset with abuses in the Secretary's Discretionary Fund. Congress appropriated almost \$60 million a year for the Discretionary Fund, which was theoretically intended to ease emergency situations and to provide undefined "flexibility" in state and local government "community development" projects. The Abuse and Mismanagement report showed irregularities with the fund. Example: Secretary Pierce sent \$300,000 to Tougaloo College by manipulating regulations that require Discretionary Fund money to go directly to states or localities, as opposed to institutions or individuals. In short, through the Discretionary Fund, the Secretary was distributing Federal funds to whomever he chose.

However, HUD appropriations also include a "Special Purpose Grants" fund, which Congress typically uses for its own pet

projects. When Jack Kemp became Secretary of HUD, he eliminated the Discretionary Fund that had incited Congressional ire, and challenged Congress to stop its own practice of pork barrel funding through the Special Purpose Grants fund. The results of this challenge reflect the seriousness with which congress guards its pork barrel privileges. Congress responded, among other things, by threatening to drastically reduce Kemp's staff and ban him from all travel.

Congressional pork barrel projects, like many of the projects assailed in the Abuse and Mismanagement report, are those projects that receive funding due to political clout rather than merit. Some of the projects sound worthwhile, but their common thread is money allocated by whimsy without a competitive selection process.

Indeed, last year when Congress was considering HUD appropriations, Senator Barbara Mikulski, the Maryland Democrat who heads the Senate Appropriations Subcommittee responsible for HUD, received from her colleagues \$26 billion worth of requests for pork-barrel programs. Like the money doled out by the HUD administration, the funds Congress appropriates for these projects would be spent without any merit review by disinterested observers, but merely for the purpose of satisfying constituents and perhaps campaign contributors.

Influence peddling is bipartisan and is abused by both the executive branch and Congress. In general, even the Democrats in

Congress rarely object to influence peddling in Republican Administrations, as long as Congress receives its fair share. What set off the HUD investigation is that Congress had been excluded from the pork available at HUD. Too much money went where Republican consultants wanted, at a time when Democrats had little leverage at HUD due to budget cuts.

Thus, it is noteworthy that missing from the congressional report was any examination of the roles that congress played in the decades old fraud and mismanagement at HUD. Despite expressions of shock over influence peddling, public records show that members of congress should have been well-aware of the scandal, and widely participated in similar behavior.

The HUD investigations to expose influence peddling and corruption in the executive department inadvertantly highlighted two additional scandals.

The first was the dismal failure of Congressional oversight. Despite years of warnings about corruption at HUD, and a huge oversight apparatus designed to prevent abuses such as those under Secretary Pierce, Congress only got involved after the story broke in the papers. It was not for lack of opportunity to obtain the information. In fact, Congress turned a deaf ear on repeated warnings from the department's Inspector General, and was in constant contact with the Department. How could they have missed it?

The second scandal is Congress' own influence peddling. Congress condemned HUD for giving away non-competitive grants without consideration of merit, in an ad hoc fashion. Yet Congress itself did and does specify grant money without using objective criteria, holding hearings, or casting votes. "Constituent service" has become a means of "taking care of the people (who can get me reelected) back home" outside democratic processes.

THE CONGRESSIONAL OVERSIGHT SCANDAL

The oversight failure is particularly egregious considering the massive oversight staff apparatus and the constant contact the Hill maintained with HUD. How could HUD have escaped congressional scrutiny? These questions are especially intriguing since Congress took a number of measures in the 1970's to increase their oversight over HUD. In 1978, for example, the Inspector General's (IG) office was made independent to insure that no interference could come from the HUD Secretary. In addition, funding for the congressional committees and subcommittees with oversight responsibility for HUD increased. And, detailed reports were required to be made semiannually to Congress by the IG whose staff now number 500. ¹ Appendix A lists reports demanded from HUD by Congress in the FY 1991 appropriations bill.

Documents obtained by The Heritage Foundation through a

¹ - Insight, "An Oversight by HUD Overseers," 1/28/91 p. 22.

Freedom of Information Act request show that Congress averaged 2,425 telephone calls to HUD each month over a 13 month period from 1986 to 1987, at about the same time the events uncovered by the House investigation took place. This means, on average, the entire Congress contacted HUD more than once a week.

During the same period, 111 committees and subcommittees exercised some sort of jurisdiction over HUD. They range widely and include committees involved with banking, civil rights, labor laws, Indian Affairs and the elderly to name only a few. With all this oversight, it is surprising that the misdeeds that apparently transpired at HUD could have occurred without congressional connivance. ²

² - To calculate the number of committees and subcommittees with jurisdiction, three publications which describe the jurisdiction and rules of the House and Senate were referred to. They are Rules of the House of Representatives, Rules Adopted by the Committees of the House of Representatives, and Standing Rules of the Senate. The descriptions in these books were compared with the programs funded by HUD and described in HUD FY 1991 Budget. Where a committee's jurisdiction matched the goal of a HUD program, the committee was considered to have jurisdiction over HUD.

Jurisdiction was also discovered by looking at the committees and subcommittees to which major HUD legislation was referred. Example: the Housing and Community Development Act of 1977 which provides funding through HUD for "community revitalization" was referred to the House Committee on Banking, Finance and Urban Affairs. This information was found on the Library of Congress' CICS-VS computer system, and authorizing legislation dating back to 1973 (the beginning of the computer's data base).

In addition, memoranda from HUD's congressional relations office to Secretary Pierce were scrutinized. These monthly memos describe proposed and enacted legislation that affect HUD, as well as detailing contact between HUD and the Congress. The Heritage Foundation obtained 13 months of these memos covering a time period from 1986 through 1987.

The large number of committees and subcommittees that oversee HUD results, at least in part, from the expanse of activities HUD undertakes. As paymaster for Congress' wish list, HUD can participate in any number of programs. Example: according to the HUD Budget, HUD can finance, "A wide range of physical, economic, and social development activities ... acquisition and disposition of real property, construction of public facilities projects, rehabilitation of housing and business properties, economic development assistance, and provision of a variety of public services." In short, almost anything.³ (The committees and subcommittees with jurisdiction over HUD are listed in Appendix B.)

The HUD Inspector General, meanwhile, filed with Congress semi-annual reports disclosing corruption at HUD. In addition, dozens of other reports were submitted by HUD to Congress during the period. The Committee on Government Operations Report, "Abuse and Mismanagement at HUD," is full of references to earlier audits by HUD's Inspector General that created little interest in Congress. Example: an IG report in 1985 exposed a major scandal in the HUD program which paid private citizens to handle home loan

Finally, the Congressional Information Service Digest for 1987, 1988 and 1989 was analyzed to see which committees and subcommittees called HUD officials for hearings, released reports on HUD activities or investigated HUD's acts and personnel.

³ - A similar program, Urban Development Action Grants, was defunded by Congress because it was such an obvious pork barrel even Congress was embarrassed by it.

processing functions previously performed by HUD employees. ⁴
Example: In 1981, the IG's office revealed thousands of instances in which Community Development Block Grant Program paid for construction work that was never done. ⁵

Despite dozens of reports generated by the IG spanning the decade, hundreds of congressional staffers assigned to oversee HUD, and thousands of phone calls, Congress somehow remained blind to what was going on at HUD. What finally brought the ongoing HUD scandals to the notice of Congress was an article in The Washington Post read by the Chairman of the Government Operations Committee's Subcommittee on Employment and Housing, California Democrat Tom Lantos. The article described a HUD report detailing abuses in the program which pays private developers to perform moderate rehabilitation of housing. ⁶

THE PROBLEM: "CONSTITUENT SERVICE" MICROMANAGEMENT

How could Congress ignore the problem for so long? The answer offered by former HUD Inspector General Charles Dempsey (1978-1985) is as easy to understand as it is difficult to swallow. He simply says "Constituent service."

⁴ - Id. at 37.

⁵ - Id. at 22.

⁶ - Id. at 23.

The congressional investigation of was not spurred by the fact of influence peddling, but by who was doing it. According to Dempsey, what really upset Lantos was that former high-ranking Republican officials such as James Watt, the Secretary of the Interior under Ronald Reagan, and John Mitchell, Richard Nixon's Attorney General, were making large fees by influencing HUD decisions. ⁷ Until then, Congress showed little interest in oversight of HUD. In all his years at HUD, said Dempsey he "never received so much as a phone call" from anyone in Congress. "I frankly will tell you, I didn't think anyone up there gave a darn."

8

IG Paul Adams, in May 1990, complained to the Senate Banking Committee on HUD that his reports often went unread. "Congress, when it enacts legislation and mandates reporting requirements, should at a minimum read the reports and provide some oversight", he said. ⁹

EXCUSES, EXCUSES

An aide to Senator Alan Cranston, the California Democrat, current Chairman of the Housing Subcommittee on the Banking Committee, which is HUD's primary oversight committee, was

⁷ - Id.

⁸ - Id.

⁹ - Congressional Quarterly, "Congress Lax About Oversight, Inspector General Says," 5/12/90, p. 1481.

unrepentant at the lack of congressional oversight. Referring to the Inspector General, Cranston's aide said, "If the guy was really onto something, he should have put the paragraph in red ink or called us." ¹⁰

The answer mustered by the House report is hardly satisfactory. It complains "the watchdog did not bark loud enough. Instead of shouting these warnings to Congress, they were whispered." ¹¹ The report goes on to conclude, "The Inspector Generals should send their warnings to Congress in big bold print."

¹²

But, in fact, the IG had been trying to get attention for his reports. Frustrated by a lack of congressional interest, in 1987, Paul Adams started putting strong concise summaries of HUD's problems on the first page of each semi-annual report including titles such as [TK]. ¹³

Former Sen. William Proxmire, who chaired the HUD subcommittee in the Senate Appropriations Committee, said, "There was plenty of evidence for those of us who wanted to get involved, and we just didn't do it. Clearly, the reports did not get the attention they

¹⁰ - Id.

¹¹ - Report at 6.

¹² - Id. at 8.

¹³ - Government Executive, "Formula for Scandal," 10/89, p. 28.

deserved." ¹⁴

WHAT WERE THEY UP TO?

No oversight? What about all the phone calls, the letters, the large staff? Records show that the correspondence between HUD and Congress, initiated by Congressmen, had nothing to do with trying to prevent corruption at HUD, but rather was often aimed at securing for the congressman's district or senator's state HUD funding for constituent projects. How many of these constituents were contributors and political allies has yet to be determined.

An examination of summaries of letters from congressmen to HUD, written from 1986 to March 1990, show that approximately 70 percent of the letters request a favor from HUD, occasionally funding for a project, but also jobs for friends, requests for waivers of certain regulations and appeals to take another look at a constituent's problem.

The breadth of types of requests is extraordinary, everything from a South Dakota pork plant to money for guards in a Baltimore homeless shelter. ¹⁵ But often the requests relate to simple constituent problems such as a lost check. Examples:

¹⁴ - New York Times, 7/3/89.

¹⁵ - Letter to HUD from Sen. Tom Daschle dated July 27, 1988 and letter to HUD from Rep. Kweisi Mfume dated August 11, 1988.

* A nun wants to know if houses scheduled for destruction could be used as a homeless shelter. ¹⁶

* Landlords concerned about regulations that allow children under 13 in their building. ¹⁷

* Constituents' desire to purchase home repossessed by HUD. ¹⁸

* Constituent's request to get mortgage interest payment [MIP?] refund. ¹⁹

* A request to exempt income earned by temporary census workers for purposes of computing eligibility for public housing assistance. ²⁰

¹⁶ - Letter dated 3/13/90 from Sen. Robert Dole (R-Kansas) to HUD.

¹⁷ - Letter dated 3/14/90 from Senator Herbert Kohl (D-Wisconsin) to HUD.

¹⁸ - Letter dated 3/13/90 for Congressman Jack Brooks (D-Texas) to HUD.

¹⁹ - Letter dated 3/17/90 from Congressman Ben Gilman (R-New York) to HUD.

²⁰ - Letter dated 3/14/90 from Congressman Thomas Sawyer (D-Ohio) to HUD.

It appears that Congress itself requires a little oversight. The American people should have the right to know what kind of pressure a congressman is bringing on the executive branch, and on whose behalf. To accomplish this, a public record should be kept of all contacts between congressional offices and federal bureaucrats.

This would be similar to the medicine Congress prescribed to the executive branch when it passed the Clean Consultants Act of 1989. America needs a Clean Congress Act. To quote the House Government Operation Committees Report, "Secrecy in government breeds abuse in government. When people believe no one is watching, they are capable of conduct and decisions they would never attempt in the open." ²¹ This is sound advice that Congress should follow. Yet Congress, in an FY 1991 appropriations bill for the Department of the Interior, inserted a requirement that would PROHIBIT some Executive Branch staff from logging Congressional phone contacts.

Do as I Say... Not as I Do

Despite extraordinary public disclosure of Reagan era corruption at HUD, Congress is continuing the very same practices. For FY 1991 HUD appropriation, Sen. Barbara Mikulski, Chairman of the Senate Appropriations subcommittee responsible for HUD,

²¹ - Committee on Government Operation, "Abuse and Mismanagement at HUD," p. 7, quoting Whitney North Seymour, Jr. (1990).

received 938 requests totalling \$26 billion for special projects from her colleagues, that is, projects to be funded through the appropriations process instead of merit review.²² Unfortunately for Congress, pork-barrel money is limited. Entitlements (social security, medicare, welfare) and interest payments account for about 60 percent of the federal budget. Much of the rest is military expenses, leaving only a small part for non-military discretionary spending. Congressmen fight over that money to build projects in their districts.

Congressmen prefer to allocate these scarce resources themselves rather than have an administration official do it. Furthermore, congressmen view HUD projects in their districts as sure vote-getters. Thus, the relative scarcity of discretionary funds in the budget makes a struggle between Congress and the Administration inevitable.

Testiness over this struggle appeared in the subcommittee hearings on the HUD scandal date TK. Al DelliBovi, Undersecretary of HUD, told Tom Lantos that the Republican consultants were merely doing the same thing as congressmen. Lantos exploded at the comparison. [quote TK] It is certainly true Congress takes a different attitude toward influencing funding decisions when it is done by fellow members of Congress. While Peirce and other HUD Bureaucrats were subjected to congressional inquisition and deposed

²² - Tacoma News Tribune, 10/8/91, p.1.

for their part in the HUD scandal, no Congressional lynch mob was arranged when Alphonse D'Amato used his considerable influence at HUD to:

1) win funding for 525 low-income housing units in Puerto Rico in 1987, while at the same time receiving \$18,000 in campaign funds from a Puerto Rican developer;

2) possibly rigged a HUD-subsidized homeownership program in the Senator's hometown of Island Park, L.I., so that friends of Mr. D'Amato were able to acquire reduced-rate housing. One bargain-priced home went to a cousin of the Senator's;

3) leveraged \$1 million for a swimming pool in Island Park.

Whether criminal conduct was involved is not certain. What is certain is that we are left uncertain, in part, because Congress has opted not to pursue the case rigorously, despite the apparent impropriety. It is also certain that, whatever Mr. D'Amato's personal reasons for directing these funds, the projects were granted due to his influence, not their merit.

Nevertheless, Matthew Martinez (D-CA) complained that Congress was unable to exert enough such influence under Pierce: "it was difficult for us to open doors for our constituents to the opportunities that should have been there for them." ²³

Barney Frank, the Democrat from Massachusetts, inadvertently

²³ - Wall Street Journal, 9/6/89.

highlighted the problem. Appearing dumbfounded during the Government Operations investigation he asked the woman who paid Jim Watt \$300,000 to help get funding for her project, "You would rather pay \$300,000 than ask your senator or congressman?" ²⁴ The problem (to Congress), and the political reasons for the investigation, stemmed from the fact that the woman probably could not have funded the project by going to a congressman at that time. HUD funds were being controlled by others, and this is precisely the reason why HUD funding became a matter of great concern to Congress.

CONGRESS STILL USES HUD TO ABUSE THE APPROPRIATIONS PROCESS AND SHOW FAVORITISM

Although Congress fails to receive funding for all the programs it would like, it still manages to extract millions of dollars out of HUD for pet projects. In fact, HUD Secretary Jack Kemp and Congress have fought a long battle over pork barrel programs. The fighting began after the 1989 HUD Reform Act was passed to prevent future abuses in the executive branch. To combat favoritism, the Act requires HUD to make public its selection criteria and make public all waivers of regulations granted by HUD officials. ²⁵

²⁴ - Los Angeles Times, 7/30/90.

²⁵ - 42 USC section 5307.

The requests made by congressmen for community development money provide some idea of where Congress would like to spend additional HUD funds:

* Congressman Charles Rangel, the New York Democrat, requested \$105 million for a Caribbean Institute and Trade Center to be located in his Harlem district. ²⁶

* Senator Tom Harkin, the Iowa Democrat, requested funds for a shopping mall in Des Moines. ²⁷

* Senator Kent Conrad, the Democrat from North Dakota, wanted UDAG money for an industrial park and manufacturing facility in his home state. ²⁸

* Senator Ernest Hollings, the South Carolina Democrat, asked for a grant to build a model home that "will withstand the forces of nature." ²⁹

* Senator Wendell Ford, Democrat of Kentucky, requested a UDAG

²⁶ - Correspondence between Rep. Charles Rangel and HUD, obtained through an FOIA request to review files of Deborah Gore Dean.

²⁷ - Letter from Tom Harkin (D-IA) to HUD dated 7/14/88.

²⁸ - Letter from Sen. Kent Conrad to HUD dated 7/13/88.

²⁹ - Letter from Sen. Ernest Hollings (D-S.C.) to HUD dated 1/30/90.

for production of parquet hardwood flooring.³⁰

* Congresswoman Mary Rose Oakar, Democrat from Cleveland, asked for a \$6.9 million UDAG to help develop a rock 'n' roll museum in her home town.³¹

The Special Purpose Grants section attached by Congress to HUD appropriations bills violates the spirit of the HUD reforms initiated by Congress. Kemp had acted quickly to eliminate the Secretary's Discretionary Account that Pierce had abused, and called on Congress to do the same with the Special Purpose Grants. Refusing to accept criticisms that their actions mirrored those of the convicted bureaucrats, Congress tried to fund 40 projects worth \$30 million that had been earmarked in the conference report to fiscal 1990 VA-HUD appropriations bill.

They didn't stop there however. Congress, which had initiated and prosecuted the investigation of corruption at HUD, now actually began to charge that Kemp's HUD reform program was too strict. Said Mary Rose Oakar of the rock 'n' roll museum: "I don't want to see some guidelines changed to inhibit my city's opportunity to use that money" and announced her intention to use the discretionary fund to obtain money for her pet project.³²

³⁰ - Letter from Wendell Ford (D-KY) to HUD dated 3/27/90.

³¹ - Washington Times, 10/13/89, p. 8.

³² Washington Times, 10/13/90

Kemp refused to fund the projects, rightly contending that report language, which is usually written by aides and never seen by representatives, is not legally binding. He also expressed his intention to target more UDAG grants to anti-poverty efforts and to eliminate the slush fund discretionary programs "to avoid both the appearance and reality of favoritism." ³³

"That was not the original intent of the program - a targeted war on poverty," said Rep

In May 1990 Congress struck back. The Senate appropriators forced Kemp to fund their pork barrel programs by inserting them in a fiscal 1990 Dire Emergency Supplemental Spending Bill. ³⁴ These projects were as arbitrary and ad hoc as those funded out of the Secretary's Discretionary Account by Pierce, which had been so vigorously denounced by the House Government Operations subcommittee. Money flowed to developers with the right connections for projects that were neither subject to competition nor approved on their merits. The only difference: Congressmen rather than the Secretary now would dish out the pork.

Examples include:

* \$1.2 million - Planning and building "outdoor space"

³³ Ibid.

³⁴ - Congressional Quarterly, 10/6/90 at 3231.

(actually a parking lot) at the Newark, N.J. performing art center.

* \$510,000 - Downtown revitalization and street improvements for a town of 2,500 in Speaker Tom Foley's district.

* \$390,000 - Building a library/recreation center on Mackinac Island (a summer resort for the wealthy in Lake Michigan where Congressman Traxler, chairman of the subcommittee responsible for HUD appropriations had bought an unimproved lot).

* \$970,000 - Building, furnishing and equipping a job training center in Saginaw, Michigan. (In Traxler's district)

* \$1,300,000 - To retain jobs in Hawaiian sugar mills (Sen. Inouye of Hawaii is on the Senate Appropriations Committee).

* \$3,000,000 - To fight ground subsidence in Philadelphia (At the request of House Majority Whip William Gray, a Democrat from Philadelphia). ³⁵

Outrage over this congressional abuse was bipartisan. Representative Henry Gonzalez, the Texas Democrat who convened congressional hearings into HUD, called the spending bill "morally indefensible." Said Representative Christopher Shays, the

³⁵ - Congressional Quarterly, 5/19/90, p. 1565.

Connecticut Republican who was a critic of HUD under the Reagan Administration: "To criticize the former administration for not funding programs based on merit or need and not running a competitive process, and then Congress goes and does the same thing ... It's just an outrage." ³⁶

Then-Congressman Steve Bartlett, the Republican from Texas, criticized the bill's funding of a performing arts center, saying the lack of such a center hardly constituted a "dire emergency." He characterized the forced funding by HUD as a "crazy, nutso, sneak attack." ³⁷

These pork-barrel practices, long since discontinued in HUD's administration, are still business as usual in Congress. Appendix D is taken from the FY 1991 appropriations committee reports from the subcommittees overseeing HUD.

PROGRAM RESTRUCTURING: MORE MICROMANAGEMENT

In addition to such overt pork, however, Congress restructures programs to please the powers back home, though it often makes them more wasteful and inefficient. While these examples are much less spectacular than the lists of overt giveaways, they are ultimately much more expensive and harmful to the effective operation of

³⁶ - Congressional Quarterly, 5/19/90, p. 1564.

³⁷ - Id.

government.

One example of many in the FY 1992 appropriations, is the restructuring of the HOME block grant program. The program was to require matching funds to those put up by state and local governments to rehabilitate or build housing. The program was structured so that the most efficient ways of improving housing availability, such as moderate rehabilitation of sound facilities, received the most matching funds per local dollar, while less efficient means of providing low income housing, such as completely new construction, received less Federal funding. This would encourage efficient mileage on the housing dollar by encouraging localities to provide the most housing for the least expense.

Congress changed the entire nature of the program by making the block grants gifts instead of matching funds. No longer is there incentive to be frugal or efficient with Federal dollars, and no longer is there a correlation between what a local government is willing to put to provide housing and what they will receive from government.

Who wins? Localities with clout in Washington and big labor, who will benefit from the increased likelihood of building more profitable but less cost effective new construction. Who loses? The American taxpayer, who will fork over more for housing and get less, and low income families for whom the programs are supposedly

intended, who will end up with less availability of affordable housing. HUD estimates that the changes will mean that 32,000 families who would have received assistance under the original structure of the program will go unaided without matching fund requirements.

Again, Congress' oversight or micromanagement of the executive branch (in this case actually restructuring a department's programs) results in serving the constituents most likely to provide political clout in return, even at the expense of those for whom the program ostensibly exists. The real scandal in this is not just the money stolen, wasted, and misdirected. The real scandal is the system which makes this fraud "business as usual."

KEMP'S CHALLENGE: THE FIGHT FOR THE RIGHT TO PORK

Through budget cuts and threats of investigation, Congress can exercise a great deal of control over the executive branch when it wants to. Such activity is the exception, rather than the rule. But when members of Congress are truly upset over something, they attack the executive branch. Kemp raised Congressional ire to that level by trying to cut congressional pork barrel programs.

Stung by the FY 1990 appropriations fight in which Kemp

refused to fund congressional special projects, and spurred on by the high publicity Kemp garnered while attacking congress during the Dire Emergency Supplemental debate in May, congressional leaders tried to take a more active role in management at HUD. This might be called micromanagement, where a legislative body injects itself into the day-to-day affairs of an executive department.

In this case, Barbara Mikulski and Bob Traxler decided to go after one of Kemp's most fervently sought goals, tenant management of public housing.

Although the disagreement came to a head in late September, it began in January 1990 when Kemp asked Mikulski's permission to, among other things, transfer \$13.7 million from the \$8.7 billion Assisted Housing program and use it to fund a program that would allow public housing tenants in Washington, D.C.'s Kenilworth-Parkside housing project to own their own apartments. Kemp also asked to transfer \$95,000 out of the \$24 million Nehemiah housing program.³⁸

There should not have been a problem. Compared to the size of the programs involved, the amounts Kemp sought to move were small. Furthermore, such reprogramming was permitted by the 1990 Appropriations Act. And, the Kenilworth-Parkside plan was a exciting innovation in public housing.

³⁸ - Letter from Kemp to Mikulski dated 1/29/90.

At issue was Congress' alleged right to approve reprogramming of funds within a department. Sometimes during a fiscal year it becomes necessary for departments to shift relatively small amounts of funds from one account to another. By custom, the cabinet official who wants to reprogram funds writes to the appropriations subcommittee responsible and asks "permission." Kemp, following that tradition sought permission, but Traxler and Mikulski wrote that they did "not approve" of either transferring the housing funds or the Nehemiah money.³⁹

The question revolved around the so-called legislative veto, that is, whether Congress can prevent the executive from spending appropriated money. In its 1983 decision Immigration and Naturalization Service v. Chadha, the United States Supreme Court decided that Congress can only effect spending decisions through legislation that receives a majority in both the House and Senate and is signed by the President.⁴⁰ In this case, not the House and Senate, or even an entire subcommittee, but merely subcommittee chairmen were trying to stop HUD from spending congressionally appropriated funds. The chairmen do not have that right.

Nevertheless, years of deference from dozens of cabinet

³⁹ - Letter from Mikulski and Traxler to Kemp dated 2/13/90.

⁴⁰ - Immigration and Naturalization Service v. Chadha, 462 U.S. 919 (1983).

officers has given the chairmen the impression that they do have that power, and customarily cabinet heads try to accommodate that point of view. Mikulski continued to threaten to withhold her permission for fund reprogramming at HUD, and Kemp continued to seek her permission, in the interest of comity.

Eventually, Mikulski and Traxler gave in after news accounts began questioning why they were interfering with Kemp's plan to encourage homeownership for tenants of public housing.⁴¹ But, before caving in, they made a last attempt to show Kemp who's boss. They included provisions in the FY 1991 Appropriation bill that would bar Kemp or any other HUD official from using first class travel and would have abolished HUD's Office of Public Affairs. Additionally, the bill would have prevented HUD from transferring funds from one function in the Department to another, something that is routine for most agencies.⁴² Most of these provisions were stripped from the final bill.

The lesson to Jack Kemp, and other administration officials who paid attention to the goings-on was clear, "try to cut congressional pork barrel spending and we will make you pay."

THE SCOPE OF ABUSE AT HUD

⁴¹ - See, Congressional Quarterly, 10/6/90 at 3231.

⁴² - The Washington Post, 9/29/90.

Despite the partisan righteous indignation on Capitol Hill among the committee and subcommittee chairmen (who could and should have responded to the reports from the HUD inspector general long before the scandal reached its pervasive proportions), abuse at HUD has been a bipartisan affair. Under the Carter Administration, HUD had much more money and much more pork projects. Despite allegations that Carter and Congress doled out HUD money in exchange for campaign contributions, no investigation was instigated by either of the Democratically-controlled branches.

Whatever is known about HUD abuses under the Carter Administration comes from anecdotal evidence, such as ad hoc investigative reporting by local media. In 1980, The Boston Herald American left no doubt that the Carter White House used HUD to raise campaign money. Carter's campaign solicited donors from a list of HUD developers. Those who contributed received additional HUD grants, those who did not were left out. ⁴³

In Massachusetts, 80% of section 8 grant money during 1979, and 90% in 1980 went to Carter campaign contributors. ⁴⁴ Approximately \$175,000 of the \$250,000 raised by the carter campaign in Massachusetts came from developers, contractors and investors in the section 8 program. ⁴⁵ Every single section 8

⁴³ - Boston Herald, 6/23/80, P. 1.

⁴⁴ - Id.

⁴⁵ - Boston Herald American, 6/22/80, P. 1.

developer who contributed to Carter or to the Democratic National Committee subsequently won approval for new projects. ⁴⁶ In every case, contributions were received first and approval granted later. This cannot be a coincidence.

Other press accounts indicate that House and Senate members used their influence at HUD to attract campaign money. Example: When Jack Brooks headed the House Government Operations committee, which oversees HUD, Brooks funnelled millions of dollars to developers in Texas who had contributed to Brooks and the Democratic Party. One project in particular encountered strong criticism. The congressman arranged for a \$5 million grant with no restrictions, to be sent to his friend and contributor Lloyd Hayes.

⁴⁷

Throughout the 1970's and 1980's those with influence over government funding have abused that power for personal advantage, in the name of "constituent service." The practice could more accurately be called "contributor service." Though this trend appears to be going strong into the 1990's, don't count on another Congressional investigation of corruption at HUD soon. The Special Purpose Grants are again included in the FY 1992 HUD appropriations Committee Report (though again not legally, in the bill itself) and hang out laundry list of congressional pork at HUD. (see appendix

⁴⁶ - Id.

⁴⁷ - New York Times, 8/13/89 at 27.

D) Congress again has a firm grip on the goodies dispensary at HUD.

The problems engendered by constituent service are not confined to one department in the Administration or a small cabal in Congress. Using "Oversight" as a means to manipulate the executive branch at the behest of wealthy patrons led to the S&L scandal, and the subsequent bailout that is now costing taxpayers untold billions.

HOW CONGRESS HELPED CAUSE THE S & L CRISIS

The ethics investigation into former Speaker of the House Jim Wright, and the "Keating Five" investigation, brought into the light congressional constituent services that would have otherwise remained obscure, and showed how the multitude of sins hidden in the words "constituent service" helped lead to the S & L disaster.

A brief history of S & Ls is necessary to appreciate what happened.

S & L's were established to provide low interest home mortgages. By law, they were limited in the interest they paid and received. For many years, thrifts loaned out money at 3% and paid interest on deposits at about 6%. As long as inflation remained low, this system worked.

In the late 1970's as inflation skyrocketed, wall Street brokerage firms offered uninsured money market accounts at high interest. Cash drained out of the S & L's and flowed into the money market accounts. To help the thrifts cope with this, Congress made a big mistake that led directly to the S & L crisis. It allowed thrifts to pay market rates on deposits but froze the mortgage rates they could charge at an unworkably low figure. And, importantly, it increased the FSLIC insurance coverage on deposits from \$40,000 to \$100,000 without raising the premiums paid by banks. ⁴⁸

Thrifts tried to entice depositors by creating high yield deposit certificates which were insured for up to \$100,000 by the government. Wall Street brokerage firms shopped around for the highest yielding CD's, and parceled \$100,000 packets into the thrifts. These were known as brokered deposits. Prior to 1980, only 5% of a thrift's deposit could be brokered. In 1980, that rule was repealed. By 1984, the Federal government was covering \$34 billion worth of brokered deposits in FSLIC-backed institutions. ⁴⁹

The problem here was that the thrifts were paying 12%, 13%, and 14% on deposits while receiving 3%, 4%, and 5% return on

⁴⁸ Warren Brooks, "Futile S & L Finger-Pointing, WT 8/8/90 p. G 1]

⁴⁹ [Harpers's. at 54]

mortgages they had made years earlier, and they were limited by law to charging 8% interest on then current home loans. They were going bankrupt. Something had to be done, but unfortunately what was done was counter-productive. First the regulators and then Congress took steps to make the S & L debacle inevitable.

The regulators, in an attempt to make the thrifts look healthy, lowered the reserve requirement (cash on hand) from 5% to 3%.***here note the failure of Congress to catch the fact that the regulatory efforts were cosmetic, and failed to address the problems in the industry. Find the proxmire quote***

Then, regulations were changed regarding who could enter the S & L business. Previously, thrifts were owned by their depositors or joint-stock companies subjected to severe restrictions. In 1982, the Bank Board changed the rules to allow anybody who could afford an S & L to buy one. And, the buyers could now purchase the thrifts with non-cash assets, such as real estate. Unlike cash, the value of real estate can be inflated through overappraisal. Further, despite their ailing condition and cash shortages, banks were no longer required to demand down payments from borrowers. ⁵⁰

Then Congress itself stepped in and made a bad situation worse. It passed the Garn-St. Germain Depository Institutions Act. In part, this bill allowed thrifts to invest up to 40% of their

⁵⁰ [Harper's Magazine at 54-55]

assets in non-residential real-estate lending, and up to 30% of its assets in consumer loans. The S & L's were getting out of the home mortgage business.

STAGE SET FOR SCANDAL

Constituent Service in the Financial Services Industry

With high depositor insurance, loose regulations and a wide variety of permissible activities, thrifts attracted rouges and shady characters. People who otherwise would have been selling used cars, or operating ponsi schemes, or ripping off widows through penny-stock scams entered the banking business. The government had made it irresistibly easy for them to loot S & L's. Now, the thrift owners needed political protection. They gravitated toward the leaders of the democratic party who controlled the House of Representatives and members of the Senate, and bought their cooperation.

The demise of Jim Wright and Toney Coelho were closely linked to influence peddling in the House for finance industry racketeers, while the multi-billion dollar S&L bailout was greatly abetted by practices involved in the Keating Five scandal.

WRIGHT'S WRONGS

Tom Gaubert was a strong supporter of Speaker of the House Jim Wright. Among other things, Gaubert had sponsored a fundraising event that raised \$1 million for Wright's campaign. Wright's desire to let this major contributor regain his post as head of the Independent American saving Association of Irvine, Texas, was the proximate cause of a huge jump in the cost of the S & L bailout. Gaubert had been removed by the Bank Board for a number of reasons and faces racketeering and possibly fraud charges.

By September 1986, around the time Gaubert was thrown out of the S & L industry by regulators, at least 252 S & L's with assets approaching \$95 billion were shaky candidates for government takeovers. But, that would have cost more money than the government insurance program had on hand. FSLIC's insurance fund only contained \$2.5 billion. Chairman Gray thought it should contain at least \$15 billion, and tried to get congress to recapitalize FSLIC through the Competitive Equality Bank Act proposed by the Reagan Administration. Wright blocked the recapitalization out of anger at Gray, One of the things that made Wright most angry was Gray's refusal to allow Tom Gaubert back into the thrift industry. ⁵¹

Without the recapitalization, Gray could not close down the thrifts because there was no money to pay off the insured accounts.

⁵¹ [Harper's at 63; WT, 6/19/90]

Thus, many poorly run thrifts that should have been closed continued to operate and run up bigger and bigger debts.

THE KEATING FIVE

The Keating Five investigation shows that constituent service in the form of interference with regulatory activities of the Executive branch is the not isolated to one corrupt Speaker of the House. The "constituent service" rendered by the Keating Five is the norm. Interfering with Federal regulators on behalf of contributors is a regular form of Congressional "oversight."

"Those Senators did exactly what every Senator is called on to do every day.", said sen. Terry Sanford (D-N.C.)⁵² Sen. Daniel Inouye (D-HI) said, "If that is improper, I think all of us at one time or another have done that."⁵³ Sen. Dennis DeConcini, one of the Keating five, claims that twenty colleagues have told him, "There but for the Grace of God go I."⁵⁴ The excuse provided is that the Keating Five did nothing more than "constituent service."

All of the Keating Five received campaign contributions from Keating and his associates, and all of them intervened on his behalf with Federal regulators.

⁵² Roll Call, 4/2/90, p. 5

⁵³ Wall Street Journal, 1/10/91, p.1

⁵⁴ Id.

Senator Cranston's 1984 presidential campaign received \$49,000 from Keating, his family or associates.⁵⁵ "Mr. Keating's corporate contributions, made at Senator Cranston's behest, included an \$85,000 contribution to the California Democratic Party just prior to the 1986 election to fund a get-out-the-vote drive. and a \$10,000 contribution in 1989 to Senator Cranston's political action committee (PAC)..." "In addition, over a 12-month period in 1987 and 1988, Mr. Keating's companies contributed a total of \$850,000 to several voter registration groups closely affiliated with Senator Cranston. Senator Cranston's campaign committee received a \$300,000 line of credit from Lincoln in 1986 on an expedited basis, although it was never drawn upon."

Though it almost could go without saying, the report of the Ethics Committee's special counsel emphasized at several points that "it cannot be denied that he (Sen. Cranston) derived substantial political and other benefits from Mr. Keating's contributions."

Keating served on Senator DeConcini's finance committee during both his 1982 and 1988 campaigns. Keating and associates contributed \$31,000 to the DeConcini campaign in 1982 and \$47,000 to the 1988 campaign, as well as \$1,000 to DeConcini's PAC. \$10,000 to \$12,000 also flowed to the DeConcini campaign in 1987

⁵⁵ All Keating Five figures, quotes, and information not otherwise footnoted are taken from the Ethics Committee's Special Counsel report.

from Michigan residents due to a reciprocal fund-raising arrangement with Senator Riegle, funded in part by Keating.

Senator Glenn received \$18,200 from Keating and his associates for his 1984 Presidential Campaign, and \$24,000 for his 1986 Senate race. A Keating company, ACC, gave \$200,000 to a PAC for which Glenn was spokesman.

Keating and associates contributed \$56,000 to Senator McCain's House races in 1982 and 1984, and \$54,000 to his 1986 Senate campaign, as well as providing the Senator and his family vacations in the Bahamas between 1983 and 1986.

"In February and March 1987, Mr. Keating raised approximately \$78,250 for Senator Riegle's 1988 Senate race. Mr. Keating housed a fund-raiser for Senator Riegle at the Pontchartrain Hotel in Detroit on March 23, 1987." This immediately predated the most controversial contacts, which occurred on April 2, 1987 and April 9, 1987. At the April 2nd meeting four of the Senators (Senator Riegle was absent) met with Edwin Gray, then Chairman of the Federal Home Loan Bank Board. Keating had complained separately to Riegle and DeConcini that the bank board examiners were harassing Lincoln by putting it through an extensive audit. With the encouragement of Sen. Riegle, Sen. DeConcini arranged the meeting. DeConcini banned all Senate staff from the meeting, and told Gray to come alone. During the meeting Sen. DeConcini took the lead in

arguing Lincoln's case. He urged that an investment rule be withdrawn for Lincoln and in return Lincoln would make more home loans. Gray told the Senators that he was not familiar with the Lincoln case and that they should talk to the regulators in San Francisco.

A meeting with all five Senators and four officials from the Federal Home Loan Bank Board's San Francisco office took place on April 9th. During this meeting deconcini engaged in very specific negotiations with the regulators. He said that Lincoln was willing to go a long way toward placating the regulators who had been conducting an extensive audit of Lincoln's books. DeConcini said Lincoln would put 55% of its assets into the home loan program, limit its high risk bondholding in real estate investments, and phase out of the insurance process. Additionally, DeConcini asked the regulators to allow Lincoln to hold onto its direct investments until Lincoln's lawsuit against the bank board, in which Lincoln argued it had the right to keep its direct investment, was settled.

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The regulators laid out their reasons for thoroughly investigating Lincoln, and let the Senators know that criminal charges were soon to be referred to the U.S. Attorney regarding Lincoln. That information was enough to deter McCain, Glenn and Riegle from further intervention on Lincoln's behalf. Incredibly,

⁵⁶ [CQ 11/17/90]

DeConcini and Cranston persisted in their efforts.

However, it is not only the fact of contributions by a "constituent" and favors on his behalf that gave rise to the ethical questions of the Keating Five investigation. The manner in which some of the Senators associated themselves with Keating made it clear that this was the expected arrangement. When Cranston met Keating's chief lobbyist, James Grogan, he said "I've been very good to the savings and loans. I've worked hard for the California savings and loans. You all should really support me."

The Ethics Committee's special counsel report goes on: "Shortly thereafter, Mr. Grogan received a call from Joy Jacobson, Senator Cranston's campaign fundraiser. This initial contact precipitated Mr. Keating's subsequent support for Senator Cranston and his causes. In April 1985, Mr. Grogan organized a fund-raiser for Senator Cranston in connection with the Senator's appearance at Lincoln's headquarters in Irvine, California."

Mr. Keating also worked with Senator DeConcini principally through his fundraiser, Earl Katz. "According to Mr. Katz, this happened with each of Mr. Keating's four major issues regarding Lincoln" the Direct Investment Rule; the Henkel appointment; the Lincoln exam; and the sale of Lincoln."

When DeConcini first met Keating in August 1981, he offered to

assist him to become ambassador to the Bahamas. "'I know most of the Foreign Relations Committee members on a personal, first-name basis and would be more than happy to assist you in any way,' he said in a letter to Mr. Keating. Senator DeConcini then wrote the President of the United States in support of Mr. Keating's nomination. 'I have known Mr. Keating for some years,' he wrote, 'and you could not make a better appointment.'"

Senator DeConcini pursued an effort to become better acquainted with Mr. Keating despite being told of Keating's involvement in a consent decree involving fraud charges in 1982 "because, Senator DeConcini testified, his political advisors told him that Mr. Keating 'would be very helpful.'" Senator DeConcini said he considered Mr. Keating as "a political friend."

Another consideration is the nexus between the times Keating contributed to the Senators' campaigns or causes and the times when the Senators intervened on behalf of Keating. In Sen. Riegle's case, the day after he informed Gray that a number of Senators were concerned about Lincoln, Riegle flew out to Phoenix for a Keating-sponsored fundraiser for the Riegle campaign. And, at about the same time Riegle was pushing for the Senators to meet Gray, Keating presented Riegle with \$78,250 raised at an event in Michigan. [cite TK]

The circumstantial evidence surrounding Cranston is even more

damaging. On three separate occasions, Keating donated money to Cranston around the time Cranston agreed to do, or actually did do, something for Keating. On January 28, 1987, a Keating lobbyist met with Cranston to seek his advice in a Lincoln problem. On March 3, 1987, Lincoln issued a \$100,000 check to a Cranston group that promoted the registration of Democrats (although it was nominally non-partisan). On September 24, 1987, at a time Cranston knew criminal charges might be lodged against Lincoln, he met with Keating to discuss incoming Bank Board Chairman M. Danny Wall. At that meeting, Keating agreed to give \$250,000 more to the voter registration groups. On November 6th, a Keating lobbyist gave Cranston the money. Keating then asked Cranston to call Chairman Wall. Cranston did, to inquire about the status of the Lincoln exams.

Then in January 1988, Cranston asked Wall to meet with Keating. Wall did so on Jan. 28th. On Feb. 10th, Keating's son gave Cranston two checks totalling \$500,000 for the Democrat registration projects.⁵⁷

Another question raised by the Keating affair involves the "strange bedfellows" issue. Keating was a conservative Republican, active in anti-pornography efforts who had once headed the John Connally for President campaign. Don Riegle and Alan Cranston are among the most liberal members of the Senate. As Special Counsel

⁵⁷ CQ, 1/26/91, p. 227.

Robert Bennett put it, "One is forced to ask, didn't the thought ever occur to sen. Cranston... why would Mr. Keating, the anti-pornographer, the well-known Republican - why would he be giving hundreds and hundreds of thousands of dollars to someone so that more black citizens and more Hispanic citizens can vote?"

Looming above these issues is the question of constituent service. Zeal for constituent service seems to have tripped up Sen. DeConcini. As one of DeConcini's aides put it, his boss' style is "to kick ass and take names." [cite TK]

It may very well be that DeConcini would have rendered the services for nothing. The amount of money DeConcini received, \$48,100, was the least given to any of the Senators. After all, Keating's companies were major employers in Arizona. But, in this instance, DeConcini may have gone over the line. He wrote to White House Chief of Staff Donald Regan and urged that Keating's lawyer, Lee Henkel, Jr., be appointed to the Federal Home Loan Bank Board.⁵⁸ Once appointed, Henkel promptly supported an amendment that would have greatly benefitted Lincoln. Later, he was forced to deny it had been drafted by Lincoln's attorneys. He resigned after four months on the Board when the Justice Department began investigating his Keating connections.⁵⁹

⁵⁸ CQ, 11\10\90, at 3791.

⁵⁹ CQ, 1\26\91, p. 226.

DeConcini also appeared to violate the Senate code of Ethics by negotiating with federal officials directly on behalf of an individual. It was DeConcini who negotiated with Gray at the April 2nd meeting on behalf of Lincoln (see above)⁶⁰, and who negotiated with Bank Board officers on behalf of Lincoln at the April 9th meeting.⁶¹ More embarrassing for DeConcini, he continued his efforts on behalf of Lincoln even after being told by the Bank Board officers that Lincoln had engaged in criminal acts.⁶²

Constituent service practices are endemic throughout congress. Aside from attending the April 2nd and April 9th meetings, John McCain and John Glenn wrote letters to regulators on behalf of Keating. But so did hundreds of members of Congress, for a variety of thrifts. Unfortunately, the Keating Five's efforts aided a bad cause. The government filed a \$1.1 billion suit against Keating and other Lincoln officials accusing them of fraud and racketeering.

Lincoln's failure alone is expected to cost the American people \$2 billion. L. William Seidman, head of the Federal Deposit Insurance Corp., said that regulatory action should have been taken in 1986, almost a year before the Keating Five intervened to thwart

⁶⁰ CQ, 11\17\90, p. 3891.

⁶¹ id. at 3892

⁶² id.

the regulators.⁶³

Judge Not Lest Ye be Judged

Senate Banking Chairman Reigle seems to have suffered a memory lapse regarding his recent involvement in the costly collapse of the thrift industry much like those he occasionally experienced during the Ethics Committee investigation. His present opposition to the reconfirmation of Robert L. Clarke as Comptroller of the Currency is based "on Mr. Clarke's record in the are of safety and soundness in the regulation of banks." Senator Reigle asserts that "More than ever before, America today needs bank regulators who are tough, fair, and who have the integrity and independence of thought and action needed to restore safety and soundness to the banking industry and the deposit insurance system."

Financial institutions **have** failed at phenomenal rates in recent years - in no small part due to the collapse of the Savings and Loan industry he protected **against** the regulators. Does "integrity and independence" include the ability to withstand the pressure of a Banking Committee Chairman trying to strongarm regulators to "back off" a crumbling institution?

The Aftermath

⁶³ Washington Post, 10/18/89 p.F1.

A look at who suffered from the Lincoln debacle raises the question "which constituents did the Keating Five think they were serving? Example: Keating fleeced elderly depositors. A class-action suit filed by 22,000 senior citizens alleges that Lincoln duped them into buying \$255 million in now worthless subordinated debentures in Keating's company American Continental. Apparently, the securities were sold by Lincoln and the purchasers were told that they were buying the equivalent of insured certificates of deposit. All but \$3 million worth of the debentures were sold after the Home Loan Bank Board recommended that Lincoln be taken over for "unsafe and unsound practices." That occurred in May 1987, a month after the Keating Five tried to stymie regulators.⁶⁴

The S&L industry collapsed amidst a myriad of bad laws aggravated by Congressional hobbling of regulatory efforts in the name of serving "constituents." Again, the constituents Congress was anxious to help were Keating, Gaubert, and the like, while the American taxpayer gets stuck with bills in the billions for their trouble. A look at the recent S & L crisis offers a textbook example showing how Congress' "contributor services" at HUD are more the norm than an isolated case in one Department.

BCCI: THE SAGAS CONTINUE

⁶⁴ [Warren Brooks, "Bailing Cranston Out?", WT 7/28/89]

The uproar over the BCCI scandal again shows that constituent service by any other name is often "corruption and influence peddling" when it is performed other than by members of Congress. The BCCI scandal may be the worlds biggest-ever banking scandal, in which "prominent political figures could be tarred with allegations that they were compromised, or worse, that they engaged in influence peddling in behalf of what one congressional aide described as 'a secret financial empire owned by a drug-corrupted Ponzi scheme.'"⁶⁵

While the details of the BCCI affair are still unraveling, some salient facts of the case indicate that key players associated with BCCI were well aware of the value of political connections, and worked to foster them assiduously.

WHAT HAPPENED?

BCCI, the Bank of Credit and Commerce International, may be the culprit that spawned the world's biggest-ever banking scandal. Founded in loosely regulated Luxembourg in 1972, it became "riddled with fraud and corruption" according to Bank of England Officials, and was finally seized in July of 1991 by the U.S., England, and six other nations. According to a report by the House Judiciary Subcommittee on Crime and Criminal Justice, the Federal Government had enough information on BCCI by the mid-1980's to put BCCI on the

⁶⁵ 9/7/91 CQ, p. 2548

most wanted list.

The Federal Reserve is investigating BCCI for massive fraud and moneylaundering activities, including illegally obtaining control of the District's First American Bankshares Corporation, National Bank of Georgia, and Centrust Savings Bank of Miami, FL. The collapse of Centrust alone could cost taxpayers about \$2 billion, and, according to the Senate Judiciary Subcommittee on Antitrust, Monopolies, and Business Rights, is a microcosm of what went wrong with the Savings and Loan industry in the 1980's.

Though there is no conclusive proof to date, there is mounting evidence that "BCCI ingaged in a massive game of influence peddling in the United States and abroad. Why else did BCCI do favors for former President Jimmy Carter or Andrew Young when he was mayor of Atlanta? Why else would the bank hire prominent Democrats such as Clark Clifford and Frank Mankiewicz as its attorneys and publicists?"⁶⁶

Each of the banks were closely associated in a variety of ways with powerful political figures present and past. Bert Lance introduced Aga Hasan Abedi, BCCI's founder and top executive officer, to Clark Clifford and Robert Altman in 1977. The Washington power lawyers became First American's top executive officers in 1982. Clifford and Altman are now under investigaiton

⁶⁶ 9/7/91 CQ p. 2548

for their knowlege of First American's secret BCCI link. Mr. Lance also introduced Abedi to Carter in August 1982. Abedi contributed as much as \$8 million for Carter's projects as part of BCCI's "RAF" (Rent A Face) program.⁶⁷

According to Warren Brookes, the CenTrust PAC contributed \$30,000 to the Democratic Senatorial Campaign Committee, and funded the campaigns of Democratic Senators Lloyd Bentsen (TX), George Mitchell (ME), Howard Metzenbaum (OH), Ted Kennedy (MA), Tom Harkin (IA), Joseph Biden (DE), Terry Sanford (NC), Jim Sasser (TN), and Frank Lautenberg (NJ), among others. "Centrusts Political Action Committee (PAC) contributed \$328,000 for political campaigns and other political purposes such as the Democratic National Convention of 1988 and the Alliance for Capital Access, a junk bond lobbying group."⁶⁸ These gifts also included \$2,000 for the failed reelection bid of former House Banking Chairman Fernand St. Germain, whose cozy relationships with the savings-and-loan industry cost him his seat.⁶⁹

The question yet to be answered: What did the renters expect in return? According to the Senate report, "It is unclear to what extent CenTrust's political contributions, coupled with the

⁶⁷ "Potomac Watch" The Wall Street Journal 7/26/91

⁶⁸ Senate Judiciary Subcommittee on Antitrust, Monopolies, and Business Rights report on Centrust, p.5

⁶⁹ Warren Brooks in The Washington Times 8/20/91

campaign spending of other savings and loan institutions, may have influenced Congress to take a permissive posture toward savings and loan regulation during the 1980's." ⁷⁰

The Senate report shows that according to Paul's (David Paul, Centrust Chairman and principal shareholder) desk calendar and telephone logs, there were at least 120 individual contacts between him and elected officials or their staffs. The report also notes that "Paul threatened at least one Federal Home Loan Bank examiner with political pressure if the examiner did not ease his regulation of Centrust." Even Senator John Kerry (MA), chairman of the Senate subcommittee investigating the BCCI scandal, had close ties to David Paul. Kerry was the Chairman of the Senatorial Campaign Committee that received \$30,000 from Centrust, and was a guest at Paul's home for the "French Chefs Dinner".

David Paul has not yet been called to testify under oath, and much is still unknown of BCCI's global operations and the bank's connections to elected officials. A Federal grand jury in Florida has brought new indictments against the bank for laundering drug money for General Manuel Noriega, and it appears that other indictments will continue as more of the truth emerges from the shadows. "As the scandal continues to develop, members of Congress seek to immunize themselves from blame or to heap it onto others,

⁷⁰ Ident. 68

and the truth begins to emerge."⁷¹

What is certain is that dozens of Members had some association with BCCI and its subsidiary banks because of the new role of ombudsman assumed by legislators. Interest groups or businessmen, particularly those trying to skirt regulatory provisions, often turn to Congress to solve problems with Executive Branch agencies. These people can hedge their bets with hefty donations to Congressmen of their choice. As in the case of the S&L scandal, politicians may have impeded efforts to tighten up regulatory restraints on faulty institutions.

RECOMMENDATIONS

Congress's involvement in the BCCI, S & L and HUD scandals go beyond exchanges of intervention for campaign money on the part of individual Congressmen and Senators, to the way Federal money is doled out unfairly on a noncompetitive basis by individuals to special interests without hearings or votes on the expenditures. It is not just a case of improprieties committed by a few bad apples. It shows that the growth of government has shifted the fundamental role of Congress from a legislative body to primarily a constituent service organization.

⁷¹ 9/7/91 CQ p. 2549

Every year Congress creates dozens of new programs and thousands of new regulations, and with these an increased bureaucratic administration. The increased bureaucracies in turn make Congressmen indispensable as ombudsmen to otherwise relatively defenseless constituents confronted by a bureaucratic juggernaut created by Congress. Through their expanding "oversight" powers, Congressmen can act as saviors to overwhelmed constituents, especially those constituents who can return the favor at election time.

Congressmen like to give constituent service because it is the most powerful weapon in their re-election arsenal. Ask any congressman what is most important to him and he will say, "Taking care of the folks back home." Past constituent service is the primary element that distinguishes an incumbent from a challenger. It makes him almost unbeatable, when added to the already potent incumbent advantages of taxpayer funded mail, telephones, and large full time staff; access to free TV and radio studios, and to political action committee contributors. It helps explain why more than 95 percent of House members get re-elected at a time when 67 percent of Americans say we need new people in Congress.

As congressmen got used to the idea of their own permanence in Washington, and began to believe that they could never be voted out of office, they expanded their powers and tried to arrogate functions granted by the Constitution to the Executive Branch. This

is illustrated by the nasty fight congress picked with Jack Kemp.

Whether by accident or design, Congress benefits from the rapid spread of government, because they have it both ways. Congressmen take credit for the benefits of new programs they create. When the programs unleash an unwieldy bureaucracy, they intervene on behalf of constituents and win campaign money and votes. As the S & L scandal illustrates, if those constituents are businessmen, they can expect a contribution.

A return to a responsible and ethical government of the people, by the people, and for the people requires a return to the principles of separated powers and Federalism that were the basis of the new nation brought forth upon this continent over 200 years ago. The system of checks and balances has been broken, and needs to be restored for the branches to resume their Constitutional roles. To ameliorate the abuse of power that has become standard procedure under the aegis of "constituent service", the following steps should be taken.

1. Publicize the way Washington Works: Government has become immense. The bureacracy has truly become a leviathon in its own right, weilding awsome regulatory powers. Utilizing an unweildy tangle of regulation, that ties up countless man-hours in inspections, filling out and filing forms, and costing billions in lawyers' fees. Procedure has become so complex and fragmented, and

laws have become so ponderous and virtually incomprehensible (and I know there is a quote about this) to all but the elite initiate, that even Congressmen themselves usually don't know exactly what they are voting on.

Americans have very little chance, then, of knowing what the government, with its tremendous effect upon everyday life, is doing with almost half their income. The President must proclaim and promulgate the new direction that the House and Senate have taken away from the role of a legislature. However, the President alone cannot accomplish the task of manifesting these maladies, because it is likely to come off as a partisan squabble or dispute over the prerogatives of the branches. The press, Administration officials, responsible legislators, scholars and others familiar with incidents of constituent service abuses have to contribute to bring them into the open and place them in the proper context.

2. Federal Agencies and Departments Should Maintain Logs of Contact with Congress: This can be accomplished by compiling and publicizing examples of Congressional influence peddling. Senator Robert Dole, the Minority Leader from Kansas, has introduced as part of S.6, his campaign finance reform plan, a section titled "Ethics in Government." It would require members of executive departments and agencies to compile a log of all unwritten communications with Congress regarding (a) enforcement matters (b) proceedings relating to the award of contracts. These logs would be

available for public inspection. Additionally, the bill would mandate the creation of a public file containing all written communication from Congress relating to the same issues. Ethics in Government deserves support.

Executive agencies should also publicize which committees attempt to exercise jurisdictional authority over them and riders to bills instructing them on the manner in which to execute the law.

3. Instruct Agencies and Departments to resist Congressional demands on behalf of private or special interests that contradict good policy, and publicly support them when they do:

Too often, executive branch employees who have challenged Congress and the special interests have been left to hounds by a president unwilling to be sullied in a fight for Executive prerogatives. Many have been publicly chastised, and some even lost their jobs. If the President is to break the alliance between the permanent establishment of Executive Branch employees and an entrenched Congress, he must be willing to unambiguously and firmly support those who stand up to Congressional threats and influence-peddling.

Apply to Congress the Same Rules that Congress Forced on the Administration: In 1989, largely as a result of the HUD scandal,

Congress passed three reform measures to insure against influence peddling in the executive branch. The Keating Five and S & L scandals show that Congress is also in need of reform.

Mirroring the HUD Reform Act of 1989, Congress should be required to make public the selection criteria for all HUD special projects that emerge in an appropriation bill. All waivers of regulations that would be needed to fund the special projects also should be made public.

Reflecting the Clean Consultants Act, congressmen should be prohibited from accepting contributions from people on whose behalf they have contacted members of the executive departments and agencies. Congress needs its own Ethics Reform Act. It should prohibit a congressman, for one year after leaving office, from lobbying former colleagues.

4. Federal Term Limitations: Under present circumstances, big government bureaucracy collaborates with Congress by creating the demand for the "constituent services" offered by Congressional ombudsman. Special interests such as Keating turn to Congress to alleviate regulatory restraints, or, in the case of HUD, to find some loose cash for them sloshing in immense bureaucratic budgets. Congress, in turn, becomes dependent upon special interests to keep them perpetually in office.

Term limits would make an expansive Federal bureaucracy hostile and intractable to Congress as well as to American citizens. Congress would value simplicity in the Federal bureaucracy, and cease micromanaging the Executive branch in the interest of certain constituents. Constituent service would no longer be the quid pro quo of Congress: politicians would not become beholden to wealthy "constituents" to insure eternal reelection.

Congress would also be forced to think more carefully about the laws they create and customarily exempt themselves from: they would eventually have to live with the laws they make too. Term limits would recast our Federal ombudsmen into legislators again.