

NOMINATIONS OF INSPECTOR GENERAL

GOVERNMENT

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HEARING

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COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-SIXTH CONGRESS

FIRST SESSION

ON

NOMINATION OF

MARY BASS, TO BE INSPECTOR GENERAL, DEPARTMENT OF
COMMERCE, FRANK SATO, TO BE INSPECTOR GENERAL, DE-
PARTMENT OF TRANSPORTATION, AND ELDON TAYLOR, TO BE
INSPECTOR GENERAL, NATIONAL AERONAUTICS AND SPACE
ADMINISTRATION

APRIL 30, 1979

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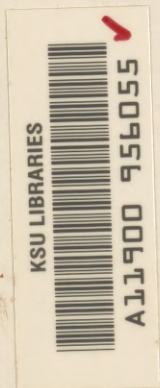
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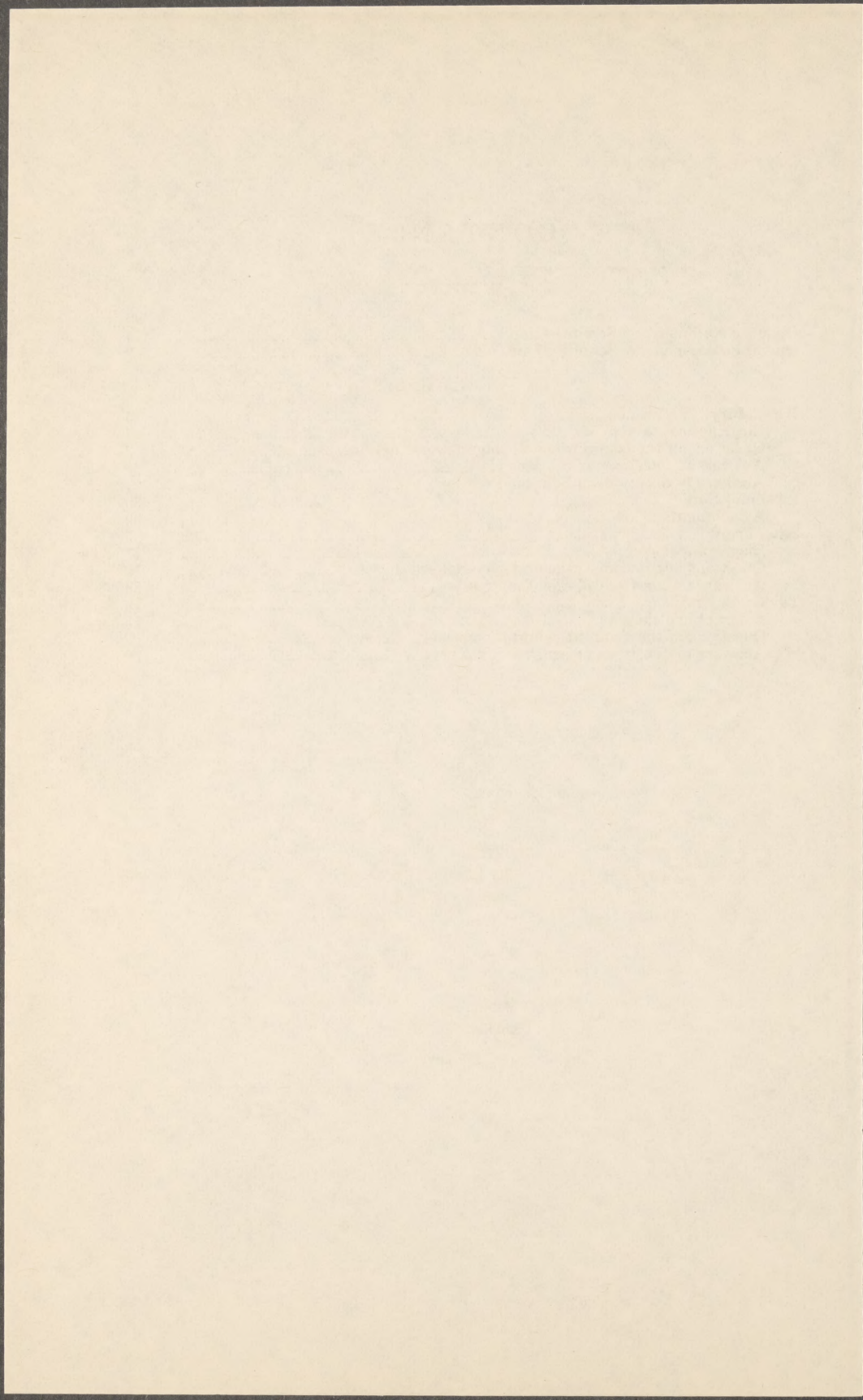
MARY E. MCAULIFFE, *Minority Professional Staff Member*

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NOMINATIONS OF INSPECTOR GENERAL

MONDAY, APRIL 30, 1979

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The committee met at 10 a.m., in room 224, Russell Senate Office Building, Hon. J. James Exon presiding.

OPENING STATEMENT BY SENATOR EXON

Senator Exon. We will call the hearing to order.

Today the committee is holding hearings on the nominees for Inspector General of three agencies under the jurisdiction of the Committee on Commerce, Science, and Transportation.

The nominees and their agencies are:

Mary Bass, nominee for Inspector General, Department of Commerce;

Frank Sato, nominee for Inspector General, Department of Transportation;

Eldon Taylor, nominee for Inspector General, National Aeronautics and Space Administration.

I am very pleased to see the three nominees here today. In just a few moments we will ask you to make any opening statement you care to make, and then there likely will be some questions from the members of our subcommittee.

Each of these nominees will play a very important role, because they will be serving as the first inspector general of these agencies under the Inspector General Act.

In 1978 Congress passed the Inspector General Act because several congressional investigations, newspaper accounts, and criminal prosecutions had demonstrated that substantial fraud and waste were occurring in Government programs. Congress first created the Office of Inspector General in the Department of Health, Education, and Welfare in 1977. Although established only a short time, the Inspector General of HEW has made substantial progress in reducing fraud and waste in that agency.

I believe that Congress made the right decision in extending the Inspector General Act concept to all major Government departments and agencies, including the three under the jurisdiction of this committee.

The concept of the Inspector General Act is that the appointment of a high-level person who must answer only to the head of an agency or the second in command of an agency will insure that audits and investigations of fraud and abuse will not be scuttled or aborted within the individual units of an agency. This will insure

that abuses will be brought directly to the attention of the head of an agency.

The law also insures the independence of the Inspector General by providing that neither the head of an agency nor anyone else in the agency shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation. Finally, an Inspector General can be removed only by the President, who must state his reasons for doing so.

Currently, audits are carried out within the various operating divisions of the agencies. For example, audits of the Federal Aviation Administration are carried out by auditors assigned to that agency. Under this system a situation can arise where the FAA administrator could order the termination of an audit or investigation which might embarrass the agency.

I just want to say that I think that no plan is perfect. But I think what we have attempted to do in the Congress by appointing people to these very, very important duties that you have been nominated for to carry out the will and the concern of not only the Congress but the people of the United States. And in starting out I just want to say I just can't tell you how important we think each and every one of you are in the positions that we hope that you will carry out, and expect you to carry out, with great dignity.

By centralizing the audit and investigations staff, the law intends to allow the Inspector General to concentrate his efforts on those programs within the agency which are most susceptible to fraud and abuse. Centralizing the audit and investigation function will also, of course, insure that the head of an agency and the Congress will be promptly alerted to problems when they arise.

Congress is very hopeful, and I am very hopeful, that these Inspector Generals can improve the effectiveness and the honesty of Government—certainly, when honesty in Government is being challenged again and again, almost every time you pick up a newspaper, turn on your radio, television. Once again, I think we are zeroing in on something that is very important to try and improve the attitude of the people in general about not only the Congress but the agencies over which we, for the most part, have oversight authority.

So we are very pleased this morning to consider the nominations of Mary Bass, Inspector General of the Department of Commerce; Frank Sato, Inspector General of the Department of Transportation; Eldon Taylor, Inspector General of the National Aeronautics and Space Administration.

In just a few moments I will invite each of you to make an opening statement. But before I do that, I would like to call now on one of my colleagues from our neighboring State of Virginia, Senator Warner, who may have an opening statement and maybe some people to introduce.

Senator Warner.

OPENING STATEMENT BY SENATOR WARNER

Senator WARNER. Thank you, Mr. Chairman.

I am privileged this morning to have two of my constituents before the chairman for the purposes of confirmation. I would like to associate myself with your remarks. When I was Secretary of

the Navy, we had the system of Inspector General. It worked very effectively, and it was extremely useful to me over the period of 5-plus years that I had the two top posts in the Navy Department. I have said publicly, and I say once again, I commend the President of the United States for pushing forward and adopting this concept for the principal departments and agencies of the U.S. Government.

Both gentlemen whom I introduce this morning have the good commonsense, as I said, Mr. Chairman, to make their residences in Virginia, and, as such, I am pleased to speak on their behalf.

Both have compiled long and distinguished records of public service in the Federal Government, and both have received repeated honors and significant recognition for their accomplishments.

Mr. Sato, who comes before us as the President's nominee for Inspector General of the Department of Transportation, has served in the Department of Defense for almost a quarter of a century. He is a certified public accountant and has risen through the ranks of career civil service to the post he has held for the past 5 years as Deputy Assistant Secretary of Defense—Audit. He is a 1953 graduate of the University of Washington in Seattle, member of the American Institute of Certified Public Accountants, Virginia Society of CPA's in its Northern Virginia Chapter, and is president-elect of the Association of Government Accountants.

He has received numerous professional honors, including eight separate annual outstanding performance awards from the Department of Air Force and the Office of the Secretary of Defense.

He lives in Annandale, Va., where he is active in a wide range of community activities; married, and the father of five children, including one in high school. I am pleased to note one graduated from William and Mary; one graduated from VPI; and two are undergraduates at the University of Virginia. That is total support of our educational system.

Now, Mr. Taylor, nominated for Inspector General of the National Aeronautics and Space Administration, likewise has had a noteworthy career in the Federal service. He joined the Office of Naval Research as a civilian in 1949, served on active duty in the U.S. Air Force from 1951-54. In the intervening years he has received two degrees from American University in Washington, D.C.; served in the Navy Department, NASA, and the Environmental Protection Administration. And for the past 5 years, he has held the post of Assistant Director for Administration of the National Science Foundation.

Mr. Taylor is a member of the American University Honor Society, American Society for Public Administration. He has been honored for outstanding professional achievements by each of the four Federal agencies in which he has served.

He also lives in Annandale, is married, and has a 24-year-old daughter.

Mr. Chairman, I am very pleased to submit these nominees to the committee. Thank you very much.

Senator EXON. Thank you very much, Senator.

We will now proceed. This will be a rather informal type of hearing, except that I do wish to invoke the 10-minute maximum time limit for those making statements before the committee. That

does not include the questions that might be asked. So I would hope that in just a moment, when I call on each of you, you will probably hold your remarks to no more than 10 minutes in selling yourselves. If you can't do it in that time, you're probably going to have great difficulty, in any event.

And then after that, the committee will certainly be open to any testimony from anyone who wishes to give support or information to the committee pro or con on the President's nominations.

We will start out with statements from each of you.

Mary Bass, we will start out with you, and then we will follow with questions and answers from the members of the committee, and, hopefully, we might be able to go through all three of the nominees with your opening statements followed by general discussion and questions.

So, Mary Bass, if you will proceed at this time.

STATEMENT OF MARY BASS

Ms. Bass. Thank you, Senator Exon. I will be very brief in the interest of economy and efficiency, your time and ours.

Your statement basically expressed what I think are the goals of the Congress in having provided the Inspector General Act of 1978. I am not only fully in accord with those goals, I am pleased and honored to have been given by you the opportunity to be here today to qualify myself for that position.

In my opinion, the act has done two very important things. The first is—or three. The first is: By giving the Inspector General a new stature and status with the Department, Congress has indicated to the public the importance that Congress has given to the important audit and investigative role that the departments must now, more than ever before, carry out. By giving the Inspector General this stature within the Department, I think that the Congress has attempted to guarantee, insofar as it can, the highest level of cooperation and support within the agency for these important goals of stopping fraud, waste, abuse, and inefficiencies in Government.

I believe also that the reporting requirement that has been written into the law will have a similar effect of achieving for these important goals the necessary procedures and methods for the success of those goals.

The reporting requirement will keep the Inspector General function in the eye of the agency. It will keep the Inspector General in the eye of the public. And it will give, most importantly, to the appropriate congressional committees the information that they need so very much in these times to be able to exercise their oversight function.

Third, there is a protection that is afforded for the employees who will be given a new direction and a new ability to come forward with complaints that they may have about the agency, and to permit those to be heard and to be resolved.

I believe there are many employees in the Federal Government and elsewhere as well who are troubled by what they may see around them, but are not entirely certain about what they are supposed to do when they see wrongdoing. These people committing these wrongs are often their colleagues, people they know. They do

not feel that it is necessarily incumbent upon them to come forward and to give to the public and to the agency the information that is required to solve some of the problems that do arise inevitably in an agency.

The whistle-blower protection role will be twofold. It will, first of all, give people the feeling that they are supposed to be coming forward to give the kind of information that will permit these problems to be solved.

And second, and most importantly, it will give them the protection that they need in terms of their own job security.

I am looking forward a great deal, if I am confirmed, to working within the Department on training programs, on programs that will permit us to assess the vulnerability of our programs, to create priorities so that we can get to the most important things first, and to hopefully supply new elan to these functions which have been too long kept in the back seat and now must come forward so that all of our programs can be carried out in the best way for the American people.

Senator EXON. Thank you very much, Mrs. Bass.

Senator WARNER. Mr. Chairman, while this nominee is not from the Commonwealth of Virginia, she did have the courtesy to come by and talk with me. I have had the opportunity to carefully review her file, and I wish to indicate now my total support and intention to vote favorably on behalf of the nomination.

As a fellow member of the bar, I can certainly look over your dossier and see how you have achieved an extraordinary number of accomplishments during your career—bearing in mind, and I say this with sympathy and compassion, it has not always been easy for a lady to achieve these accomplishments.

Thank you very much.

Senator EXON. Thank you.

Mr. Sato, we will proceed with you, then, at this time.

STATEMENT OF FRANK SATO

Mr. SATO. Thank you very much, sir.

I appreciate the opportunity to appear before the Committee today. I am very honored that President Carter has nominated me to be the Inspector General at the Department of Transportation.

I have been employed in the Department of Defense for the past 25½ years, the last 14 years in the Office of the Secretary of Defense.

During that time, I have been fortunate to have participated in many different aspects of audit work, both at the field and Washington levels. I have seen the audit function in the Federal Government emerge as a significant part of the management process over the last 20 years.

The Inspector General concept continues this evolutionary process by combining and raising the audit and investigation functions to a level comparable to other senior management functions, thereby assuring the degree of management attention necessary to obtain corrective actions.

One of the key features of the act of course is the matter of independence. Its importance to the Congress is clearly reflected in

the safeguards embodied in the act. I fully support the need to maintain the Inspector General's independence.

I also believe it is equally important to recognize that the Inspector General must assist management and work together for a common goal of good management and yet be able to voice differences objectively and in a responsible way.

All of us in the public service ultimately are responsible to the general public and our goals are generally the same. We have a partnership to further the public interests.

I believe the Congress has been both progressive and highly perceptive in passing the Inspector General legislation. I recognize the high expectations of the Congress from the Inspectors General. The responsibilities and obligations of an Inspector General are unique and demanding.

If confirmed, I intend to serve the Government in general, and the Department of Transportation in particular, by seeking more efficient and effective ways to get the job done, working toward preventing and detecting fraud, abuse, and error, and fulfilling the mandate of the act to the best of my ability.

Mr. Chairman, that concludes my prepared statement.

Senator EXON. Mr. Sato, thank you very much.

Any questions?

Senator WARNER. No.

Senator EXON. Mr. Taylor, we will now proceed with you.

STATEMENT OF ELDON TAYLOR

Mr. TAYLOR. Thank you, Mr. Chairman.

I would like to particularly thank Senator Warner for those kind words of introduction.

I am very pleased to have this opportunity to testify in support of my nomination as Inspector General of the National Aeronautics and Space Administration. I have provided biographical and other specific information to the committee which I will not attempt to duplicate here.

In this statement I hope to provide a brief summary of the training and experience which support my qualification for the position of Inspector General.

The Inspector General Act of 1978 identifies several specialized areas of activity from which individuals are to be considered for Inspector General positions. Examples include the fields of accounting, law, auditing, and public administration.

My entire adult life has been devoted to the study and practice of public administration at the Federal level. I entered the Federal service at the age of 19 as an accounting clerk with the Office of Naval Research here in Washington, D.C.

In the decade that followed, I completed a tour of active duty with the U.S. Air Force and occupied several accounting and budgeting positions as a civilian with the Navy Department. Also, during this period I continued my academic study of public administration and received the Bachelor of Science degree from American University in 1959.

From April of 1960 through December of 1970, I was employed by the National Aeronautics and Space Administration where I was assigned to several managerial and budget positions.

I was the Director of Program Review and Resources Management in the Office of Space Science and Applications for about 8 years, and during this exciting period I participated in the planning and budgeting for all early—1960–70—unmanned space and launch vehicle programs. In 1966, I received the Master of Arts degree in Public Administration from the American University.

In August of 1970, I was detailed to the Office of Management and Budget as a member of a small team dedicated to preparing for the establishment of the Environmental Protection Agency.

When this agency came into being in December of 1970, I accepted the position of Deputy Assistant Administrator for Resources Management. This job included agencywide responsibility for accounting, budgeting, and management reporting.

I transferred to the National Science Foundation in 1973 to become the Deputy Assistant Director of Administration and in 1974 I was promoted to the position of Assistant Director for Administration.

In summary, I have had the remarkable good fortune of challenging jobs with several Federal agencies at a time when they were engaged in exciting and challenging missions. I am grateful for these opportunities and I am honored to be nominated by the President for Inspector General of the National Aeronautics and Space Administration.

Senator EXON. Mr. Taylor, thank you very much.

[The biographical sketches and questions and answers follow:]

BIOGRAPHICAL SKETCH OF MARY BASS

Name: Mary P. Bass. Maiden Name: Mary Ellen Popkin

Address: 435 Riverside Drive, New York, N. Y.

Date and Place of Birth: July 10, 1935, Detroit, Michigan

Marital status: Divorced. Hyman Bass

Names and ages of children: Anne Roth Bass, 19; Ivan Philip Bass, 17.

Education: Mumford High School, Detroit, Michigan—graduated 1954; University of Chicago, 1952–54, BA 1954; University of Chicago Law School, 1954–57, JD 1957; Columbia University 1963–65, MLS 1965.

Employment Record: 1957–59: Jewish Family and Community Service, Wells Street, Chicago, Ill., lawyer; 1960: Prentice-Hall, Englewood Cliffs, New Jersey (part time), legal writing; 1961: Russell and Seifert (part time), 11 E. 44th St., NYC, lawyer; 1966–68: Law Department, City of New York, 100 Center Street, NYC, Division of Opinions and Legislation; 1968–69 (part time): Jeantet LePaull, lawyer, Paris, France; Pierre Salinger, Paris, France, executive assistant; 1969–70: Office of Collective Bargaining, 125 Broadway, NYC, Executive Assistant to the Director; 1970–71, Law Department, City of New York, NYC, Appeals Division; 1971–1972: Law Department, City of New York, Chief, Education section of the General Litigation Division; 1972–73: Law Department, City of New York, Assistant-in-Charge, Family Court Division; 1973–present, Board of Higher Education, City of New York, 535 E. 80th Street, NYC, General Counsel and Vice Chancellor for Legal Affairs.

Government Experience: See above.

Memberships: Bar Association of the City of New York, Committee on Labor Law; Member, City College Research foundation; Member, Committee on Collective Bargaining, National Association of State Universities and Land Grant Colleges; Member, Advisory Council, Public Employment Relations Service, a not-for-profit corporation.

Political affiliations and activities: Broadway Reform Democrats, member (dues c. \$20/annum). Financial contribution: Friends of Governor Carey, \$50, 1978.

Honors and awards: BA, with honors.

Published writings: I have written many briefs. They have been published only in the legal sense.

Speeches: Speeches given to groups of college administrators on higher education labor law; Bryn Mawr, summer 1977; University of Connecticut at Storrs, 1978. No copies extant.

Qualifications: I am qualified to serve. As chief legal counsel to the Board of Higher Education, governing the third largest higher educational institution in the United States, and as Inspector General of City University. I have had broad and thorough experience in the legal, managerial, business and investigative problems of a large government organization.

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. How many positions are assigned to the Office of the Inspector General? Of these positions, how many are within the investigations unit?
How many of these positions are within the audit unit?

Answer. As of April 1, 1979, the Office of Inspector General positions are as follows:

Authorized ceiling:		Actual:	
Audit.....	112	Audit.....	98
Investigation.....	20	Investigation.....	16

Question. Of those persons in the investigations unit, how many are lawyers?

Answer. None are.

Question. How many are former FBI agents or former agents of other federal law enforcement investigative agencies?

Answer. None are former FBI agents.

Four persons were formerly with other federal agencies as criminal investigators. Five were formerly with the Department of Defense or military services as investigators.

Question. How many persons assigned to the audit unit are CPAs?

Answer. 29.

Question. What is the total number of budget accounts (as defined by OMB or by the agency) within the agency?

What is the total budget of the agency?

Answer. The Budget of the United States lists 56 budget accounts for the Department of Commerce. The total budget authority for the Department for 1979 is approximately \$2.5 billion.

Question. How many programs within the agency are scheduled for financial audit in fiscal year 1979?

What is the level of funding for these programs?

Answer:

Scheduled financial and compliance audits for fiscal year 1979

<i>Agency and assignment title:</i>	<i>Millions</i>
NOAA, Energy impact formula grants authorized through fiscal year 1984.....	\$50
Census, design and development of the decennial supplemental pay system	300
MARAD, State Maritime Schools.....	2.85

In addition, the Office of Audits issued 1,361 contract/grant/loan reports for the six months ending March 31, 1979, and we estimate that approximately 1,300 should be issued for the remaining six months of fiscal year 1979. These reports related to the financial aspects of more than 24 different programs; however, they were not programmatic audits. The funding for all these programs is not readily available.

Question. Under the Inspector General Action Plan of your agency, how often are audits scheduled for programs within the agency? (3-year cycle, 5-year cycle etc.) Are the auditor positions assigned to the Inspector General adequate to meet this goal?

Answer. Our policy is that the principal operating, administrative, and financial programs and activities shall be audited and reported on a 5-year cycle, that is, at least once during each 5-year period. The auditor positions assigned to the Inspector General are not adequate to meet this goal; based on our current resources our present audit cycle is estimated at 16.5 years.

The vulnerability assessment—indicating the vulnerability of programs within the agency to fraud and waste—indicates that according to a GAO report on fraud, grant programs are particularly susceptible to false claims, false statements, bribery, and corruption. During 1979, it is estimated that about \$700 million in grants will be awarded by the Department of Commerce. The majority of these grant awards will be by three organizations in the Department: Economic Development Administration, National Oceanic and Atmospheric Administration, and Regional Action Planning Commissions.

Question. Page 31 of the Audit Plan indicates that information regarding unaudited awards of the regional commissions is "not readily available," and indicates no information with respect to planning audits of the regional commissions. In light of the statement contained in the vulnerability assessment, do you think this aspect of the Audit Plan is adequate?

Please explain.

Answer. At present, I believe the audit plan is inadequate. For overall planning purposes, we have current budgetary information pertaining to the program areas at each Commission. However, our audit inventory of the Commissions is not adequate because we do not now have a complete and current listing of the Commissions' unaudited contract and grant awards. Our cognizant audit manager will be working with the Department's Office of Regional Development and the various Commissions to arrange for the full range of needed grant and contract information. It is expected that all of this data will be obtained during the coming year.

Question. Page 18 of the Audit Plan describes the Audit Plan for the local public works program under title I of the Public Works Act. The Plan calls for 600 work days of effort over a period of one year, thus indicating the work of approximately two (three) auditors. What is the number of grants that will be made in fiscal year 1979 and the number of grants that are currently receiving funds?

Answer. The 600 man days are for management audits of the LPW program.

With respect to the grants, no grants will be made in fiscal year 1979. There are currently in excess of 10,000 grants actually receiving funds.

Question. What is the value of these grants?

Answer. These grants are valued at \$5.98 billion.

Question. How many of these grants will the auditors actually review and what will be the estimated value of the grants reviewed?

Answer. Our staff and other auditors will review approximately 8,500 grants valued at about \$5.75 billion. All grants in excess of \$120,000 will be audited. A statistical sample of all grants under \$120,000 will be selected and audited.

Question. Given the statement regarding EDA grants made in the vulnerability study, does this plan appear adequate?

Answer. Yes, for LPW grants; however, for other EDA grant programs there are not enough resources available to provide minimal audit coverage to identify abuse.

Question. On page 28 of the Audit Plan, there is a statement that the equivalent work years to audit local public works grants is 69 work years. What does this figure mean? Is that the number of work years required to audit all local public works grants, or is that the number of work years that will be devoted by the Office of the Inspector General to audit local public works grants during fiscal year 1979?

Answer. In the Department of Commerce there are 65 term professionals and 4 permanent staff professionals working full time on the program. The 69 work years is the number of person years that will be devoted by the Office of Inspector General to auditing and administering local public works grants during fiscal year 1979.

Question. The resource analysis indicates that the National Marine Fisheries Services, a division of NOAA, will not be transferred to the Office of the Inspector General because they are characterized as essentially law enforcement responsibilities. This appears to be consistent with the intent of the Inspector General Act. However, the vulnerability study indicates that NOAA activities may be susceptible to fraud since they own or have control of a large inventory of vessels and high-cost scientific equipment. Does the Audit Plan include the assignment of audit personnel from NOAA to the Inspector General's office to assure that no fraud or waste exists with respect to the procurement and repair and use of the vessels and instruments under the control of NOAA? (Indicate the number of NOAA personnel transferred to the audit unit and the number of NOAA personnel transferred to the investigation unit of the Inspector General.)

Answer. When the Department's audit function was centralized in 1967, audit positions were transferred from the Environmental Science Services Administration, now NOAA, to the Office of Audits. Later, two additional positions were transferred to the Office of Audits from the National Marine Fishery Service, NOAA. At no time were positions transferred from NOAA to the Office of Investigations and Security. The responsibility for examining the efficiency and effectiveness of procurement and property management rests with the existing staff of the Office of Audits. However, as shown in my answer to question number 6, the number of auditor positions is not adequate.

Question. The vulnerability assessment of the Regional Commissions indicates that these programs may be subject to abuse because "the recipient Commissions are not Federal agencies subject to appropriations restrictions and other fiscal

controls applicable to Federal agencies." Do you consider audits and investigations of Regional Commissions within the scope of your authority as Inspector General? If so, explain the audit and investigation plan you intend to employ in monitoring Regional Commission expenditures.

Answer. I do consider the Regional Commissions within the scope of my authority as provided in Title VII of the Public Works and Economic Development Act of 1965. In response to the direction of the Secretary of Commerce, the Office of Audits recently completed a large scale audit of the policies, procedures and practices used in administering activities at six of the Regional Commissions. In addition to evaluating internal management practices, the audit also included selected grant awards made by these Commissions. As part of this overall evaluation process, the auditors assessed the role of the Department in coordinating and monitoring Commission operations. The resulting audit reports contained a number of broad-ranging recommendations, including proposed legislative changes, designed to correct significant problem areas pertaining to Commission operations. At present, the Commission's relationship to the Department is being completely reassessed. The audit staff will soon be undertaking major follow-up efforts to ascertain whether the recommended corrective actions are being adequately implemented. Future audit needs will be identified after this assessment and considered in relation to other audit needs within the Department.

Question. The vulnerability study indicates that the National Bureau of Standards may have purchased excess scientific equipment because they have a large amount of equipment now in storage. In fact, most recent building requirements for the National Bureau of Standards have been to add storage space for this unused scientific equipment. What plans do you have for auditing the purchase and use of scientific equipment by the National Bureau of Standards?

Answer. The Office of Audits has identified the equipment inventory of the National Bureau of Standards (NBS) as having a high potential for fraud and abuse. In preparing the FY 1980 audit plans, this high risk potential will be given considerable weight in selecting the audits to be carried out. It is quite possible that an audit of the NBS equipment inventory will be selected for audit. A final decision on this will be made when the auditors have had an opportunity to assess the relative importance of the NBS inventory in regard to all potential risk areas in the Department.

Question. The vulnerability study indicates that it is possible that MARAD (Maritime Administration) research and development grants may be shifted to construction, maintenance, or operational expenditures. Does the audit and investigation plan adequately address these issues?

Answer. This is a problem area. To ensure that adequate emphasis is placed on areas susceptible to fraud, waste and abuse, we have provided an evaluation factor for sensitivity to fraud and abuse to rank audit assignments in the fiscal year 1980 audit inventory.

Question. The Inspector General Plan appears to indicate that no auditors were transferred from the Maritime Administration to the Inspector General's staff. How do you intend to audit the MARAD grant (subsidy) program without the services of some auditors experienced in the MARAD grant program? Do you intend to seek the transfer of any MARAD auditors to the Inspector General's staff?

Answer. As a result of the recommendations contained in a General Accounting Office report dated July 12, 1967, on review and appraisal of the efficiency and effectiveness of audit activities in the Department of Commerce, the Department consolidated all the separate audit staffs, with the exception of the external audit activities of the Maritime Administration, into a single audit organization within the Office of the Secretary of Commerce. Because of the specialized nature of the Maritime Administration's external audit work and the generally effective manner in which it was carried out, GAO concluded that there would be no substantial advantages in including this audit activity in the consolidated audit staff at the Department level. The activities of the Maritime Administration's external audit functions, however, are subject to review by the departmental audit staff.

In a subsequent report dated June 1, 1977, on reporting staffing and other changes that would enhance the internal audit functions in the Department of Commerce, it was GAO's opinion, based on the desirability of having subsidy audits made by personnel familiar with the subsidy program and GAO's evaluation of the quality of Maritime audits, that the Maritime Administration should retain its external audit functions.

The Inspector General Act of 1978 did not transfer this staff to the Office of the Inspector General.

Question. How many auditors and investigators were transferred from the Office of Minority Business Enterprise to the Inspector General's staff?

In your opinion, are the audit and investigation plans for OMBE grant activities adequate?

Answer. There were no auditors in the Office of Minority Business Enterprise. The Office of Audits had the audit responsibility for this program from the outset.

There is at present no investigative plan for OMBE grant activities. Limited resources have not permitted planning use of investigative time. We hope to be able to institute planning in this area.

In our opinion, the audit and investigation plans for program management and contract and grant audits are not adequate because of the limited personnel resources.

Question. Please indicate the number of investigations conducted, the number of investigations referred to the Department of Justice, and the number of indictments or criminal informations returned during 1978. Please break down these figures for each major activity within the Department: EDA, NOAA, Regional Commissions, OMBE, etc.

Answer. The EDA investigations staff and the investigative portion of the Office of Investigations and Security were not consolidated during fiscal year 1978. The figures are as follows:

Investigations and inspections staff, EDA

Activity—EDA:

Cases.....	263
Referral to DOJ.....	2
Indictments	0

CRIMINAL INVESTIGATIONS PROGRAM, OIS

Activity	Cases	Referral to DOJ	Indictments
CEN	1	1	0
CPRC	2	1	0
EDA	3	2	0
FCRC	1	0	0
ITA	2	1	0
MARAD	1	0	0
NBS	1	0	0
FPC	1	1	0
NOAA	5	2	1
NTIS	1	1	0
NERC	4	3	0
OMBE	21	5	0
SEC	2	0	0
PTO	0	0	0
USTS	1	0	0
UGLRC	2	2	1
Total	48	19	2

BIOGRAPHICAL SKETCH OF FRANK SATO

Name: Frank Saburo Sato.

Address: 4105 Whispering Lane, Annandale, Virginia 22003.

Date and Place of Birth: March 16, 1929, Puyallup, WA.

Marital Status: Married—June Noriko (Matsusawa) Sato.

Names and ages of children: Teresa L. Sato, 24, College of William & Mary, 1976, Schoolteacher, Palmyra, VA.; John R. Sato, 23, VPI, 1977, Accountant with Arthur Anderson Co., CPAs, Washington, D.C.; Gregory F. Sato, 21, Junior at University of Virginia; Glenn C. Sato, 19, Sophomore at University of Virginia; Dean F. Sato, 16, Sophomore at Thomas Jefferson High School, Alexandria, VA.

Education: University of Washington, Seattle, WA., September 1949 to June 1953 BA in BA June 1953; University of Washington, Seattle, WA., January 1957 to

March 1957; UCLA, Los Angeles, CA., January 1962 to January 1962; UCLA, Los Angeles, CA., September 1962 to January 1963; Also attended: USCSC Executive Seminars, Kings Point, N.Y.; Naval Post Graduate School, Monterey, CA.; Federal Executive Institute, Charlottesville, VA.

Special Qualifications: Certified Public Accountant, CPA Certificate Number **xxxxx**, CPA License Number **xxxxx**, California, issued in 1959, current through 1979; Certified Internal Auditor, issued by Institute for Internal Auditors, 1973.

Employment record:

Title and grade; employer and location and dates

Deputy Assistant Secretary of Defense (Audit), GS-18; Office Secretary of Defense, The Pentagon; October 1974 to present.

Director, Defense Audit Service, GS-18; Office Secretary of Defense, The Pentagon; March 1977 to present.

Deputy Comptroller for Audit Operations, GS-17; Office Secretary of Defense, the Pentagon; March 1973 to October 1974.

Director, Defense Agencies Audits, GS-16; Office Secretary of Defense, The Pentagon; June 1971 to March 1973.

Director for Audit Operations, GS-15; Office Secretary of Defense, The Pentagon; June 1969 to June 1971.

Director for Special Activity Audits, GS-15; Office Secretary of Defense, The Pentagon; March 1965 to May 1969.

USAF Auditor General; Bldg T-D, 4th & Independence Ave., Washington, D.C.; October 1955 to February 1965.

Moss Adams & Co., CPAs; Tacoma, WA; January 1955 to April 1955.

Puyallup Ice Co., Puyallup, WA; June 1953 to October 1953.

Government experience: See item 7 above. Served on American Institute of Certified Public Accountants Advisory Committee—Industry & Government, 1975–1978.

Memberships: Beta Alpha Psi, Treasurer; Alpha Kappa Psi, Vice President; Beta Gamma Sigma, None; Synkoa (also known as Univ. Students Club, Inc.), President & Treasurer; Japanese American Citizens League, None; American Institute of Certified Public Accountants (CPAs), None; Member, Advisory Committee, Industry & Govt, 1975–1978, None; VA Society of CPAs (VSCPA), None; Northern Virginia Chapter, VSCPA, None; California Society of CPAs, None; Institute of Internal Auditors (IIA), None; Washington Chapter, IIA, None; American Society of Military Comptrollers, None; Association of Government Accountants (AGA), President-Elect, Natl Executive Committee, Natl Board of Directors; Los Angeles Chapter, Treasurer, Board of Directors; Washington, D.C. Chapter, None; Northern Virginia Chapter, President, Board of Directors; Interagency Auditor Training Center, Board of Directors; Federal Audit Executive Council, None; National Intergovernmental Audit Forum, None; Sleepy Hollow Run, Forest Hills Civic Ass'n, None; Forest Hollow Swim Club, Treasurer, President, and Board of Directors; Braddock Road Youth Club, None; Annandale Boys Club, None; Beach House Condo Ass'n, Treasurer.

Political affiliations and activities: None.

Honors and Awards: Beta Alpha Psi. Alpha Kappa Psi. Beta Gamma Sigma. Northern Virginia Chapter, Association of Government Accountants—Distinguished Leadership Award, 1977. Association of Government Accountants—Distinguished Leadership Award, 1978. Outstanding Performance Awards: Department of Air Force, 1957, 1959, 1961, 1963, 1968; Office of the Secretary of Defense—1969, 1977, 1978.

Published writings: None.

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question 1. How many positions are assigned to the Office of Inspector General? Of these positions, how many are within the investigations unit? How many of these positions are within the audit unit?

Answer.

Total positions authorized for Office of IG	491
Positions in investigative unit	32
Positions in audit unit	459

Personnel transferred to the new office of the Inspector General on February 25, 1979, were as follows:

Auditors.....	368
Investigators.....	26
Clerical & administrative	41
Vacancies	56
Total	391

The 491 total includes 10 other than full-time employees.

Question 2. Of those persons in the investigations unit—How many are lawyers? How many are former FBI agents or former agents of other federal or state law enforcement investigative agencies?

Answer. Number of lawyers 6, number of former FBI agents 3, and number of former agents of other federal or state law enforcement investigative agencies 22.

NOTE.—Above does not total to 26 in Question 1 because personnel fall into more than one of the three categories.

Question 3. How many persons assigned to the audit unit are CPA's?

Answer. There are 40 CPA's on the staff. In addition, 88 staff members are Certified Internal Auditors (awarded by the Institute of Internal Auditors), 338 members have Bachelor degrees and 45 have Masters degrees.

Question 4. What is the total number of budget accounts (as defined by OMB or by the agency) within the agency? What is the total budget of the agency?

Answer. There are 67 budget accounts; total budget requested for fiscal year 1980 proposes a program level of \$19.1 billion.

Question 5. How many programs within the agency are scheduled for financial audit in fiscal year 1979? What is the level of funding of these programs?

Answer. Financial audits are planned for fiscal year 1979 as (1) "internal audits" which involve reviewing DOT activities of a financial nature such as cash management, and (2) "external audits" which are of DOT grants and financial assistance programs. The major grant programs planned for audits and their estimated funding levels are:

a. FAA—Airport Development Aid, funded at about \$510 million; 700 audits.

b. FHWA—Highway Program, funded at \$7 billion; 550 audits (these audits are larger in scope than the other audits).

c. UMTA—Capital Assistance Grants, funded at \$1.4 billion; 60 audits—Operating Assistance—funded at \$1.1 billion; 140+ audits.

Audits are also planned in other assistance programs, such as Highway Safety and Northeast Corridor Project.

Regarding audits of internal DOT operations, about 26 financial-related audits are planned. These are generally not directed to specific programs as such, but to activities in support of programs; e.g., an accounting operation, cash management or a payroll audit. The level of funding of these activities being audited were not readily available.

Question 6. Under the Inspector General Action Plan of your agency, how often are audits scheduled for programs within the agency? (three-year cycle, five-year cycle, etc.) Are the auditor positions assigned to the Inspector General staff adequate to meet this goal?

Answer. The audits identified in the internal audit plan are those considered having the highest priority. In the past, the planning process provided for a review of the more sensitive areas at least on a 3-year cycle, and others on a cycle not longer than every 5 years. Audits of grants (external) were to be conducted at least on a 2-year cycle or upon completion of the grants. I understand the current situation is that neither the internal nor the external audits are being completed within these cycles. While some economies of operation no doubt can be achieved through the consolidation of all DOT audit resources, it does not appear that the positions assigned to the IG will be adequate.

For example, there is a backlog of audit work in the UMTA and FAA grant programs which has been estimated to be about 80 and 48 man-years, respectively. The internal audit work has been estimated to be on about a 10-year average cycle.

Question 7. Please indicate the number of investigations conducted, number of investigations referred to the Department of Justice, and the number of indictments or criminal informations returned during 1978. Please break down these figures for each major activity within the Department (FRA, FAA, Federal Highway Administration, etc.).

Answer:

FISCAL YEAR 1978

	FAA	OST	FHWA	Total
Investigations conducted.....	¹ 1,819			
Investigations conducted.....	² 115	25	48	188
Referred to U.S. Dept. of Justice.....	20	7	5	32
Indictments.....	8	1	1	10
Convictions.....	7	0	1	8

¹ Majority of these 1,819 cases relate to Airman/Aircraft investigations which will not be under the investigative responsibility of the IG.

² General fraud cases; i.e., ADP programs, procurement, travel vouchers, time/attendance, false statements—which will be investigated by IG.

Question 8. The Audit Plan gives examples of audits due for cycle coverage but not included in the fiscal year 1979 plan. Among the programs due for audit but not included in the plan are FRA grants to AMTRAK for the purchase of the Northeast Corridor. In light of the recent GAO study regarding FRA's management of the Northeast Corridor Project, how do you justify excluding this Project from the Audit Plan?

Answer. I understand plans for auditing the FRA grants to AMTRAK were mitigated by GAO activity. Although it was scheduled for cycle coverage, its priority ranking was lowered because of the GAO audit that was scheduled for that period to minimize duplication of effort. However, some AMTRAK contracts were being audited by other DOT auditors assigned to audit the Northeast Corridor project. As the new IG organization is established, this area will be considered for priority audit attention.

Question 9. What is your overall assessment of the Audit Plan? Does it represent a well thought out application of audit resources directed to those programs which deserve attention because of the dollar expenditures involved or the vulnerability of a program to fraud? (Please indicate how you would alter or strengthen the Audit Plan.)

Answer. The overall audit plan is something I have not fully examined. However, because of the fragmentation of the audit organizations before the IG Act, and the fact that external or grant audits were performed by one group vs internal audit operations by another, some modification in audit concepts would appear in order. Fundamentally, the audit plan should consider funds programed and budgeted by appropriation and major project or activity to emphasize major dollar areas. It should also consider the relative risks or vulnerability of a program to fraud, irregularities or inefficiencies. A third factor should consider sensitivity.

I would reassess the audit plan in line with the above factors, and consider strengthening the plan, as appropriate. For example, considering the magnitude and importance of the FRA and UMTA programs, it would appear that more audit resources should be made available for these programs.

Question 10. Page 14 of the Audit and Investigation Plan indicates that investigations conducted by the Office of the Secretary of Transportation in fiscal year 1978 consisted of 25 investigations involving an estimated 2.6 staff years of time. Do you think this level of staff effort is sufficient in light of the fact that these investigations included procurement fraud in such major programs as the Northeast Corridor Project?

Answer. As noted in question 7, there were a total of 188 investigations by OST. FHWA and FAA investigators for fiscal year 1978, including the 25 by OST investigators. While the plan submitted to OMB projected a lower number of investigations anticipated (125), I understand the volume of investigations to date would suggest an overall increase in investigations. As the recently installed "hot line" and the GAO "hot line" become fully operational, increased investigative activity is anticipated. As audits designed to ferret out fraud are instituted, further investigation work-load will undoubtedly occur. Over-all then, programs such as the Northeast Corridor Project case will require a larger level of staff effort.

Question 11. The FAA investigative plan indicates that a number of fraud investigations involved fraudulent claims in connection with employee travel time and workers' compensation claims. The investigative plan also indicates that few of these investigations have resulted in prosecutions due to the insignificant dollar amounts of fraud and the opportunity for other administrative remedies. Have you discussed with the Department of Justice their policy with regard to prosecuting fraud, even in cases where only small amounts of money are involved? Have you discussed with the Office of Personnel Management the use of administrative sanc-

tions such as dismissal for dealing with fraud which is not serious enough to warrant criminal prosecution?

Answer. During a recently held orientation session jointly sponsored by DOJ, OPM, and OMB, alternatives for pursuing criminal, civil, or administrative remedies were specifically discussed. The need to consider parallel procedures vs pursuing criminal or civil cases before administrative actions were also reviewed. These discussions also included the need for close coordination to build good cases and to seek the appropriate remedies.

Question 12. Have you discussed with managers of FAA and Labor Department officials measures which can be taken to detect and prevent fraud in the workers' compensation program of FAA?

Answer. No. However, this is one of many areas I plan to pursue at an early date.

Question 13. The National Transportation Safety Board in a recent report, "Safety Effectiveness Evaluation of the Federal Railroad Administration's Hazardous Materials and Track Safety Programs" (Report No. SEE-79-2, March 8, 1979), found that the Federal Railroad Administration (FRA) can more effectively prevent the occurrence and reduce the severity of derailments of hazardous substances. The Safety Board found that the FRA data base is inadequate to define and rate the problems related to hazardous materials transportation. The Safety Board report indicates that the FRA program should be based on risk assessment. Does the Audit Plan include a management review of FRA hazardous materials safety programs that will determine whether FRA has implemented the recommendations of the National Transportation Safety Board?

Answer. I understand a review of the implementation actions of NTSB recommendations in FRA was included in the fiscal year 1978 Annual Plan, but deferred because of a similar audit scheduled by GAO. GAO's report was issued December 29, 1978. At an appropriate time, DOT will consider an audit in this area.

BIOGRAPHICAL SKETCH OF ELDON TAYLOR

Name: Eldon Donovan Taylor.

Address: 4633 Denpat Court, Annandale, Virginia 22003 (residence); 1800 G Street, N.W., Washington, D.C. 20550 (office).

Date and place birth: July 29, 1929, Holdenville, Oklahoma.

Marital status: Married, Hypatia E. Roberts Taylor.

Names and ages of children: Teresa Lynn Taylor, 24.

Education:

Institution and dates:	Degree received and date granted:
Hugo, Oklahoma Elementary & High Schools 1935-47.	High School Diploma, June 1947.

Murray State A&M, Tishomingo, Okla. 1948-49.	None.
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George Washington University, Washington, D.C. 1949-50.	None.
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American University, Washington, D.C. 1955-59.	Bachelor of Sciences, 1959.
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American University, Washington, D.C. 1960-66.	Master of Arts, 1966.
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Employment record:

Accounting and Clerical, Office of Naval Research, Washington, D.C., 1949-50.

Personnel Management, Active Duty in United States Air Force, 1951-54.

Budgeting, Bureau of Ordnance and Bureau of Naval Weapons, Department of Navy, Washington, D.C., 1955-59.

Planning, Programming and Budgeting, National Aeronautics and Space Administration (NASA), Washington, D.C., 1960-62.

Director, Program Review and Resources Management, NASA, Washington, D.C., 1962-70.

Deputy Assistant Administrator, Environmental Protection Agency (EPA), Washington, D.C., 1970-73.

Deputy Assistant Director for Administration, National Science Foundation (NSF), Washington, D.C., 1973-74.

Assistant Director for Administration, NSF, Washington, D.C., 1974-79.

Government experience: My government experience is identical to my employment record since I have been employed by the U.S. Government continuously since 1949.

Memberships: Member, American Society for Public Administration.

Political affiliations and activities: None.

Honors and awards: Superior Accomplishment Award, Department of Navy, 1958; William A. Jump Meritorious Award, 1964; NASA Exceptional Service Award, 1969; EPA Special Achievement Award, 1972; and NSF Distinguished Service Award, 1977.

Published writings: None.

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Question. How many positions are assigned to the Office of the Inspector General?
Answer. There are 85 positions assigned to the Office of the Inspector General (OIG).

Question. What are the criteria used for appointment to each position?
Answer. Office of the I.G.—These two positions consist of the Inspector General and a secretary. The criteria used for appointment of the I.G. is determined by the President and the Congress.

Office of Audit—All auditors (except for one) are classified in the GS-510 series. As such, they must meet the qualifications as promulgated by the Office of Personnel Management. In general, the candidates must, at a minimum, have a Bachelor's degree with an accounting major or some variation of accounting education and/or experience. The accounting experience can include a certificate as a Certified Public Accountant or Certified Internal Auditor. Except for GS-5, GS-7, and GS-9 entry level positions, higher graded positions require at least one year of required experience at a level of difficulty comparable to that of the next lower grade in the Federal Service.

Office of Inspections and Security—The GS-13, GS-14, and GS-15 investigative positions, designated as Inspection and Investigation Officer, are classified in the GS-301 series. The qualifications require three years general experience and three years specialized experience, including a good general knowledge of the principles of organization, management and administration. Also, operating administrative or managerial experience in work directly related to the position and broad investigative experience and knowledge of the laws and regulations applicable to the prosecution of persons charged with Federal criminal violations.

The GS-12 investigative positions, designated as Investigator, are classified in the GS-1810 series. The qualifications require three years general and three years specialized experience. Qualifications include (1) Ability to work or deal effectively with individuals or groups of persons, (2) Skill in collecting and assembling pertinent facts, (3) Ability and willingness to accept responsibility. Also, investigation experience which demonstrates resourcefulness in assembling pertinent data, ability to analyze and evaluate facts, skill in written and oral reports and skill in obtaining cooperation and confidence of others.

Criteria for the appointment to professional positions in the Security Division are contained in the Office of Personnel Management's position classification standards, GS-080, Security Administration Series. Appointees satisfy the specified criteria by virtue of their education and/or experience acquired in security, investigative, and law enforcement activities in the military services, FBI, Secret Service, Civil Service Commission, and other Government agencies.

Question. Who determines the suitability of an applicant for a position?

Answer. Office of the I.G.—The suitability of the I.G. is determined by the President and the Congress. The suitability of applicants for any other positions in this office is determined by the I.G.

Office of Audits—The suitability of applicants for the position of Assistant I.G. for Auditing is determined by the I.G. The suitability of applicants for positions on the staff located in Washington or for the positions of Regional Director or Branch Manager is determined by the Assistant I.G. for Auditing. The suitability of applicants for other positions in the field offices is generally determined by the Regional Directors and/or Branch Managers.

Office of Inspections and Security—The suitability of applicants for the position of Assistant I.G. for Investigations is determined by the I.G. The suitability of applicants for lower level positions is determined by a hiring official, as designated.

Question. Of these positions, how many are within the investigations unit?

Answer. There are 16 positions within the investigations unit (10 professional and 6 administrative). In addition, there are 9 positions in the security unit (8 professional and 1 administrative).

Question. How many of these positions are within the audit unit?

Answer. There are 58 positions within the Office of Audit (49 professional and 9 administrative).

Question. Of those persons in the investigations unit, how many are lawyers?
 Answer. There is one lawyer in the investigations unit.

Question. Of those persons in the investigations unit, how many are former FBI agents or former agents of other federal law enforcement investigative agencies?
 Answer. There are two persons in the investigations unit who have this type of experience.

Question. How many persons assigned to the audit unit are CPA's?

Answer. There are 8 CPA's assigned to the Office of Audit.

Question. What is the total number of budget accounts (as defined by OMB or by the agency) within the agency? What is the total budget of the agency?

Answer. NASA has three budget accounts: Research and Development appropriation, Research and Program Management Appropriation, and Construction of facilities appropriation. The fiscal year 1979 budget approved by Congress is \$4.35 billion.

Question. How many programs within the agency are scheduled for financial audit in fiscal year 1979? What is the level of funding for these programs?

Answer. NASA's audit schedule does not specifically cover financial audit by individual program. Selective tests are made of financial transactions and operations of audited organizations, programs, functions or activities. Some aspect of financial audit is done through the audit of contractors and grantees and by internal audits.

About 80 percent of NASA's program funds are spent for contractors and grantees. Virtually all NASA contracts and grants are subjected to periodic financial audits by the Defense Contract Audit Agency and HEW Audit Agency. In addition, there are internal audits of NASA financial management activities. In fiscal year 1979, at least nineteen scheduled audits were specifically identified to aspects of financial management. These audits include: payroll procedures, accounting for reimbursable work, travel procedures and practices, contract payment controls, and validity and reliability of financial reports.

Financial aspects are also included in other scheduled audits of NASA projects and programs, such as the following: Shuttle external tank project, Spacelab program, Large space systems technology projects, Highly maneuvering aircraft technology program, and Shuttle payload program.

Question. Under the Inspector General Action Plan for your agency, how often are audits scheduled for programs within the agency? (3-year cycle, 5-year cycle, etc.) Are the Auditor positions assigned to the Inspector General adequate to meet this goal?

Answer. The audit of agency programs involves contractor, grantee, and internal audits. Audits of NASA's major contractors are planned annually and are performed on a continuing basis. In general, the audit of other than major contractors and grantees is the same as that provided by the cognizant audit agency for all contracts held by such contractors and grantees.

As to internal audits, the NASA Inspector General audit universe assumes an audit cycle by which all agency programs would be audited at least once every five years. The 5 year cycle cannot be attained with the 49 auditor positions presently assigned to the Inspector General. An increase of about 100 auditor positions would be needed to reach this goal.

Approximately 186 staff years of audit services are obtained annually on a reimbursable basis from other Government agencies to audit NASA contractors and grantees. Defense Contract Audit Agency and Health, Education and Welfare Audit Agency have not been authorized resources to perform the overall audit effort deemed necessary. However, DCAA's shortage does not significantly impact the audit of NASA contractors since staffing priority is given to major DOD/NASA contractors locations where 75 percent to 80 percent of NASA contract work is performed.

Question. The vulnerability assessment—indicating the vulnerability of programs within the agency to fraud and waste—indicates that according to a GAO report on fraud, grant programs are particularly susceptible to false claims, false statements, bribery, and corruption. What is the estimate of the number of grants to be awarded by your agency during 1979? What is the value of these grants?

Answer. During fiscal year 1979, about 1,500 grants valued at \$81M will be awarded by NASA. These grants are made to the academic community to assist NASA in carrying out its research responsibilities under the Space Act.

Question. How many of these grants will the auditors actually review? What will be the estimated value of the grants reviewed?

Answer. The OMB has designated the HEW Audit Agency, HEW Office of Inspector General, as the cognizant Audit Agency for providing Federal audit services at

about 94 percent of the 2,500 colleges and universities located in the United States. Therefore, with limited exception, grantee audits at these institutions are performed for NASA by HEW Audit Agency and Defense Contract Audit Agency.

The audit of grants involves a review and evaluation of the grantee's systems and operations, including selective detailed audits of individual grants. The sampling plans generally provide for a representative coverage of each Federal agency's funds, also, under special circumstances, (allegations of waste, abuse, serious problems, etc.) the cognizant audit agency will honor request for audits on a priority basis, commensurate with available staff resources.

Based upon the audit approach described above, virtually all grants will be reviewed.

Question. In light of the statement contained in the vulnerability assessment (above), do you believe the Audit Plan is adequate?

Answer. A short fall between available HEW audit resources and audit workload was reported in the DHEW Office of Inspector General's December 1978 Annual Report. (page 46). More specifically, DHEW Inspector General reported that HEW audit was authorized resources to perform about 72 percent of the audit effort deemed necessary. This shortage in staffing also impacts the audit of NASA grantees and contractors.

Senator EXON. I have several questions that I might wish to pursue. I do not know the schedule of my colleague this morning.

Do you have any opening questions that you would like to ask, or things you might be interested in?

Senator WARNER. Thank you, Mr. Chairman.

I would like to indicate my vote on behalf of each of the three nominees for the nominations. If you will forgive me, I have another hearing on communications.

Senator EXON. OK, fine.

Mr. LIPSMAN. I have some remarks against the nominees.

Senator WARNER. I will remain, Mr. Chairman. I was unaware of that.

Senator EXON. We will then proceed.

Let me ask you some questions that I think apply to all three of your very important duties and assignments, if confirmed.

I am very much impressed with the background of each and every one of you.

The first question I have is: Have you discussed the position that you have been nominated for with the head of the agency to which you are assigned by the Presidential nomination? That would be first.

And how do you see the role that you will have with the head of that agency?

You know, we can define things quite easily in law. That's one of the great problems I think we have. We pass a law and say "this will take care of that problem." I suspect that even though we have passed a law, unless there is a general understanding of confidence between yourself and the head of the agency, we are not going to get done what we think the law itself implies.

And then as a part of that question, it seems to me, will be some kind of a report card on how well you do. Do you think you are going to have the staff, or will be able to accumulate the staff, to assist you in carrying out the very wide range of responsibilities that each of you will have in the individual departments?

So you can respond to those two questions in any way—maybe we will start with you, Mr. Taylor.

Mr. TAYLOR. Yes, sir. Thank you, Mr. Chairman.

I have discussed the position of Inspector General with Dr. Frosh, the Administrator of NASA. I have also talked with Dr. Loveless and several others there.

I believe I have an understanding of the Inspector General capability at NASA to the extent that one who is an outsider can. I personally believe that Dr. Frosh is committed to the intent of the legislation. In fact, I believe that the relationship between the Inspector General and the head of the agency would be one of mutual support.

I personally believe the intent of the legislation to encourage economy and efficiency in Government, to prevent fraud, is a commitment the agency head has now. So I do not view the relationship to be one of an adverse nature.

Finally, on the question of staff or resources, I know that NASA has been reduced in resources for the last 10 years. Each year they have been reduced in positions and dollars. I would expect to find that capability limited at this time. I hope to spend the next few months making up my mind about that. I can not give you a firm judgment now, but I am confident that if I need additional resources I will receive support in getting it.

Senator EXON. What is your understanding of the people that you will have working with you in numbers, and what do you have as a preliminary at least table of organizations? What would you like to have? I'm talking about accountants, attorneys, investigators, and so forth and so on.

Do you have any—without being too specific, now, we don't want to hold you to anything—I was just kind of curious as to what your attitude is to what you think your needs might be in this area.

Mr. TAYLOR. First let me address my understanding of what exists there now. As I understand it, there are about 85 positions allocated to the Inspector General function at this time. In rough order, I guess about 60—58 to 60 in the auditing field, and the remainder in inspections or security activities.

I hesitate to give a specific answer with respect to the organization. I hesitate because I think there are some requirements in the act which have not been pursued vigorously in any of the agencies.

For example, the requirement to review all pending legislation from the Inspector General's viewpoint. I am quite sure that activity has not been performed.

I really would like the opportunity to take a look at what is there and arrive at some judgment as to how best to organize it, recognizing the statute itself requires that you establish an Assistant Inspector General for Inspections, and an Assistant Inspector General for Auditing.

How the other needs and responsibilities would be pursued, I would really like to ask the committee's permission to go there, work a little bit, and make up my mind.

Senator EXON. Thank you.

Ms. Bass?

Ms. BASS. Senator EXON, I have had conversations with Secretary Kreps, with Assistant Secretary of Administration, Mrs. Porter, and the General Counsel, Mr. Haslain, with respect to my duties and their support. I would expect I will have from the Department, and I have received assurances, that that will be forthcoming.

I think that the cooperation between the Inspector Generals and the Department is absolutely essential. I cannot see myself as an adversary to the Department. I don't believe that that is the way of accomplishing one of the two most important things that are provided for in the act—which is the prevention of fraud and abuse.

Only by working with the system and by having the kind of relationship where our recommendations for systems as well as our comments on fraud, once it is detected, are accepted, can a wide-scale kind of correction be made that I think we are all hoping for.

They have to be built into the programs and we have to be able to work within the Department. There has to be a feeling of mutual trust and cooperation, a feeling in each case that the other side is acting in good faith, and I have every reason to believe that would be the case.

I will be working with the heads of the various departments, the agencies within the Department, and I think, as I said earlier, within the statute that will be easier in such an atmosphere and will be done.

With respect to resources, the present audit and investigative resources of the Department are nowhere near what they have to be in order to do a reasonable job. Our audit cycle is 16 years. There just is no way in that period; most program managers come and go within that period of time, let alone the program itself. It is just an unreasonable period of time. We would like to bring that down to 5 years.

That would take as many as 100 additional auditors. We only have an authorized ceiling now of 112. Our investigative capability is centralized in the Washington area. They are all here. And it's difficult, again, if not impossible, to do the kinds of inspections and investigation in the field by sending people back and forth.

We only have 16 investigators. I hope to be able to increase that number to regionalize that capability and to provide for the new teamwork within audit and investigation that is also essential to the meeting of the goals.

I have had indications from our budget people that the necessary spots, the positions we will be asking for those resources will be requested.

Senator EXON. Thank you.

Mr. Sato?

Mr. SATO. Thank you, Mr. Chairman.

I have had discussions with Secretary Brock Adams, and Deputy Secretary Alan Butchman on a number of occasions. In my initial interviews at the Department, one of the key questions that they asked me was how I viewed my relationships would be with the Department. And I think generally, as I mentioned in my opening statement, that the Inspector General function should be supportive of top management and not be in an adversary type of a role.

And yet at the same time, I think that when it is necessary to do so, the Inspector General must of course exercise the independence embodied in the act to call the shots as he has seen them.

If there are any serious problems of fraud or irregularities that should be reported, of course that would have to be reported on an independent basis. But I see the Inspector General operating within the framework of the Department to the maximum extent. I

think that is the only way that you can get the job done quickly and in an economical way.

If confirmed, I do intend to meet with the heads of the various administrations within the Department of Transportation, and also with the assistant secretary-level people within the Department itself.

Insofar as staff resources are concerned, I had a recent discussion, just last week, with Deputy Secretary Butchman. I expressed to him my concern that the resources allocated to the inspector general organization appear inadequate to me. There is a backlog in the Department of Transportation. The cycles for audits currently are over 10 years. There is somewhat of a backlog in the grant program, particularly in the UMTA program and the FAA program, of some 80 and 48 man-years of work.

I have not had a chance to review all of these things in detail; however, that is one of the priorities I hope to look at.

While there would be some economies of scale in consolidating the various activities into the IG organization, I think some of the added demands that have been levied by the act and some of the other activities that we must get on with—that is, in looking for fraud and error and trying to get at some of the problems that plague us—the hotlines that have been instituted both in the General Accounting Office as well as within the Department, all of these things are going to add to the workload of the inspector general.

So, while I am not at a point where I could say I know exactly how much resources we need, it is an area that I would like to look at early on if confirmed.

Senator EXON. Thank you.

Senator WARNER.

Senator WARNER. Mr. Chairman, I do have to join Chairman—Senator Cannon. I will, however, follow my usual procedure in examining the record in its entirety before casting my vote.

Senator EXON. Thank you.

I would just say to all of you here the various duties that we have, I should be going to the same place that Senator Warner is going. We have varying duties and assignments, and the idea of a hearing is that not everyone can be here, but the transcript of the hearing will be made available to all members of the committee in order to be fully informed, because we do review those.

So, with that understanding, you are excused. Thank you.

Question two, to probe into this matter a little bit further, Mr. Sato, possibly, with your background, maybe you would be in a position to answer this, although many of the—maybe the other two nominees might have some ideas on this also. I was interested in your response—the response of all of you—my correction—of the thrust of the fact that you do not see necessarily an adversary relationship with the head of the department. I would just say to you, from the experience for 8 years as a Governor and having been an individual who has some general knowledge of administration within all Government circles, oftentimes we find a head of an agency who may be an excellent individual but is always somewhat hesitant to delve in as deeply sometimes as should be done, because

no one likes to find embarrassment or mistakes or, certainly, fraud or corruption, within an agency that they head.

So, since you have all had some experience in these areas, I would just say that you must share some of the concerns that I do, and I am saying you might well indeed find yourselves not in sharp position of disagreement with the heads of the department which you will be investigating, but I would—maybe I can follow this up a little bit better.

Let's assume, for example, that it came to my attention as a U.S. Senator that there may have been a hint of something wrong in one of the departments. My first inclination would be to call this matter to the attention of the head of that department, rather than each and every one of you where you serve. I am just interested in your response.

If I should find something or hear something that I thought was wrong, my first obligation, it would seem to me, would be to call that to the attention of the Secretary involved. Then, I suspect that if I do not receive a satisfactory answer, it would not only be proper, but probably incumbent upon me to call this to the attention of each and every one of you, if you are confirmed and serving in the capacity for which you have been nominated.

Do you concur with my feeling?

Mr. SATO. Yes, sir, Mr. Chairman. In fact, I think it would be preferable that you do talk to or refer the matter to the head of the department first. Now, it may very well be that if we have cultivated the right type of relationship, the Secretary may, in turn, ask the Inspector General to look at the matter, or he may turn to his program manager responsible for that particular area, depending upon the circumstance.

But I think that the particular issue that you are dealing with would have a substantial bearing on how a specific case should be handled.

Now, if it were referred to me, either by yourself or by the head of the department, of course, we would look at the situation and report out whatever we thought was necessary. And at that stage, if there were any differences within the department, I would find it necessary to clearly not only state what the findings or the conclusions of the Inspector General organization were, but also to clearly indicate what the department's views are, so that you would have a very balanced type of a report showing all aspects of the issue.

Senator EXON. Let me followup on that right there a little bit, if I can. With your background as a certified public accountant, I guess a concern to me that I can best express by giving you something that happened:

About 10 years ago, 10 or 12 years ago—maybe it was 10 years ago—there was a situation where we had a welfare director in the State of Nebraska who had a very good friend that he had developed through his association with HEW right here in Washington, D.C. I don't know the level of that individual. But that individual here in the Department had the say-so as to the granting of special grants and awards. Between the two of them, they dummied up a grant for some kind of a study—I think, within an area of \$88,000. And what this was was a fake grant. The application for the grant came from the welfare director of the State of Nebraska. He, in

turn, had this approved by the person here in Washington, D.C. A grant was issued for a study of some kind, which was done, but it was a fake study. And what it really amounted to was: That \$88,000, it finally came out, was split between the welfare—the former welfare director in the State of Nebraska—under a previous administration, not under mine—and the bureaucrat here in Washington, D.C.

I suspect that as a CPA you may have some ideas on this. I suspect when we have two dishonest people on separate ends of the scale dealing with a vast amount of Federal money, especially in the grant areas, we potentially have a situation that invites fraud if you have the wrong people doing it.

And second, I suspect that that type of fraud is very difficult to discover. This particular case, I think, finally was resolved and brought to light by inside tips and information.

What's your feeling as a CPA involved in this area? Am I correct that when you have people on the different ends of a situation like I have described, it makes it very difficult to find, in many cases?

Mr. SATO. Yes, sir, Mr. Chairman. Of course, if you have collusion in a case, it poses a different type of a problem in an audit or investigation.

However, the first thing that we would generally look for from an audit side would be the internal controls within the system, and we do have procedures to test those controls.

And the part that makes it very difficult where there is collusion is that many times the records would provide no indication about the problem.

However, I think that with the current problems we have within the Government in the area of fraud and abuse, all of our programs are being somewhat modified, and, certainly, if confirmed, I do plan to institute some extra measures to try to ferret out cases like that. But it is an extremely difficult area and requires the combination of some innovative techniques and also some working together of auditors and investigators as necessary, depending upon the type of case involved.

Senator EXON. I guess what I am saying is: If you have got a situation where you have kickbacks that we hear a great deal about on contracts and awarding of contracts, of course, those are sometimes most difficult to check out and bring to light. We have—I guess the one I am talking about is specifically the area of grants. Now, we spend an awful lot of money at all levels of Government for grants and studies; therefore, who is to say—it's a judgment call as to whether this particular grant was worth the \$88,000 or \$180,000 or \$10,000 or nothing.

I just worry a great deal about not only the outright fraud, which I don't suspect there is as much of as some people would like to believe, but second, the case of where, oftentimes, I think far too much money is expended for studies that in and of themselves generally find themselves in a bound book three or four times the size of this one here and placed on a shelf.

So, I just want to say that I think that's part and parcel of the intent of Congress in the act to improve your judgment calls on what is and what is not necessary and what is and is not proper in the judgment call on whether the report that should have been

audited in the first place, and in the second place whether or not the work was carried out in the study as was the initial intention of the grant.

Mr. SATO. I might add, Senator, that in a case like you mention there, we have a technique, I guess you might say, as prescribed within the GAO standards which calls for a program result, type of review. In other words, we look at a program to determine what funds have been provided for and then look at the results. And in a case like this, if it were calling for, a research study, for example, you might look at what the results were.

Of course, if you did have a case of collusion and fraud, you might find it that way. If a person throws in a fictitious type of study or reproduces one from some other prior study that you were unaware of, it might get by.

But these are some of the techniques that we have for detecting these types of cases. The program-results type of audit or review would be designed to address the issue that you just mentioned.

Senator EXON. I guess what I am saying is: I wonder if we don't waste a great deal of taxpayers' money, not through outright abuse and fraud, but just through mismanagement and poor planning, poor followthrough, and maybe the internal procedures for checks and balances and evaluations of studies before they are granted, in the first instance, and the review of those afterwards, is something that I think we need a great deal of tightening up on. Do you have some comments?

Ms. BASS. Yes, I would like to address myself to the first question you raise: What do you do in a situation where a particularly bad situation has been brought to the attention of the Secretary? And you commented that the Secretary sometimes is put into a difficult position because these programs are under the Secretary. That is precisely the object of the Inspector General Act: To give the Inspector General the kind of independence, not only independence, but the kind of statutory duties which will not only require the inspector general to look into these very kinds of things, even if they may be unpleasant, within the organization, but, make the organization understand that these are the very duties of the Inspector General, that nobody can get around them. And that the best way to handle these problems is not to have them, to give the kind of attention so that they will not arise. It has been built in now in the statute, and I am hopeful that will have the effect that is desired.

Senator EXON. Thank you.

Mr. Taylor.

Mr. TAYLOR. Well, I agree generally with the responses that have been made. I guess I would like to offer a comment along the following lines. The act places a fairly difficult series of choices on the Inspector General, I believe. He is going to receive inputs from Congress, from a variety of members or staff; he is going to receive direction from various parts of the executive branch. And I think he has a reporting relationship that is very important with the Congress.

The balancing of those forces, I think, is going to be a tough job, and perhaps that's the area we are going to be able to judge

whether or not the Inspector General is successful. I see the question as one of a difficult task to accomplish.

Senator EXON. Let me follow up, then, to another question on what I think we are attempting to resolve here, and I think the other members of the committee might be interested in your answer to these questions.

Let me set the stage a little bit. I suspect that you are badly understaffed. Of course, when we look at the Government in general, everyone is always understaffed. This is a part of Government; that's part of the bureaucracy.

I have always been a strong backer and strong supporter of the regional offices that happen to be in Nebraska under the Kansas City Region. The idea of that is to decentralize all of the decision-making in Washington, D.C., and allow people to go to the regional offices rather than, in fact, to the Nation's capital, with every problem they have. While that may be good, I suppose those regional offices also complicate the duties and tasks that you are required to perform and probably would necessitate additional staffing as they proceed.

Let me ask this question in this manner: We certainly hope that there would be the relationship that each one of you outlined between the Secretaries or the Assistant Secretaries that you will be working with. What do you see as your role if you should find something where you do not believe that the Secretary could be objective? And if it were serious enough, would any of you have any difficulties with bringing anything to the attention of our committee if you thought that were necessary? Would any of you have any reservations in that area?

Mr. TAYLOR. Let me say I would have no reservations. But at the same time, I would not expect to find those conditions. I would also say that is a situation the law provides for very clearly. This is where, if in your judgment, there is a serious or flagrant abuse, you report to the Congress. And I would fully expect to follow the law.

Ms. BASS. One of the provisions written into the act is precisely as was stated. We must report serious and flagrant abuses; we have no option. And I would not intend to make that into an option. I think that's not what is being asked of the Inspector Generals.

I would feel no compunction about bringing those things to the attention of Congress.

Senator EXON. Mr. Sato.

Mr. SATO. I agree with my colleagues. I think there are no options there. I think the intent of the law is very clear, and I would be prepared to carry it out. I see no question at all involved here.

Senator EXON. Thank you.

Does staff have any questions?

Senator Hollings had a question of Mary Bass. We will see that you are provided with that. I suspect that you could not answer it in detail here, so we will see that you are presented with this, Mary Bass, and if you would return your reply for the record to the committee.

Ms. BASS. It will be my pleasure.

[The following information was subsequently received for the record:]

QUESTIONS OF SENATOR HOLLINGS AND ANSWERS THERETO

As you may know, I chair the State, Justice, Commerce Appropriations Subcommittee and have a strong interest in the management of the Department of Commerce. Recently the Department's Office of Audits completed an audit of the regional action planning commissions, an area of particular concern to me. I secured a copy of this report hoping to obtain an analysis of the commissions. Instead the report is an out-dated summary of generalizations of no help to me and I do not believe to the Secretary or anyone else in evaluating the commissions.

For instance, this report was requested in November 1977 and not completed until February 1979. In view of the limited scope of this audit, it is unbelievable that it required 15 months to complete.

This report doesn't tell you anything. No individual commission is identified. Instead we find statements such as the following: "Some Commissions have taken inordinate amounts of time to prepare the required comprehensive long-range economic plans", or "Controls have not been established at most Commissions, etc." It is impossible to ascertain from this report if, for instance, the Coastal Plains Commission, which covers my area, is guilty of all, any, or none of the problems enumerated in the report.

On April 20th the Federal Cochairmen wrote Assistant Secretary Porter that this report "is an accumulation of unsubstantiated criticisms by the Office of Audits of the ways in which certain unspecified Commissions are alleged to have operated in the past." That is a fair summary of my own conclusions after reading the report.

This audit covered the first half of calendar year 1978. Again, I question the timeliness of a report issued eight months after the period which it pertains.

Question 1. Are you familiar enough with this audit of the regional commissions to respond to my comments?

Question 2. What assurance can you give the Committee that future reports will be substantially more informative and timely?

Answer. I have your comments on the recent "Report on Audit of Selected Activities Applicable To The Regional Action Planning Commissions." Your concerns for the timeliness and particularity of audits are appropriate. Although I have not had the opportunity to review the report in detail, I may be able to resolve some of your questions.

The audit in question is the seventh in a series requested in November, 1977. The first draft report issued in June 1978. The first six reports addressed the operation of six of the Regional Commissions, and, I am advised, treated each of the Commissions with the particularity necessary for corrective action to be taken.

The process occurred during mid-1978. The auditors discussed their findings and proposed recommendations with cognizant Departmental and Commission officials and, after this, issued the individual reports in draft form. Written comments were obtained from the Special Assistant to the Secretary for Regional Development before finalizing the overall report, and from the applicable Federal Cochairmen before finalizing the individual reports. The extensive scope of coverage, consisting of six Commissions and the audit at the Departmental Office of Regional Development, necessitated extending the audit over a 15-month period. I enclose a copy of the Coastal Plains Commission report for your perusal. I have not as yet had the opportunity to review it, but please send me any comments you may have.

The overall report focuses on recommended Department of Commerce actions. The six preceding reports were, of course, available to the Department and a repetition of specific findings was accordingly not necessary.

I am advised that Assistant Secretary Porter will shortly respond to the Cochairmen's letter to her of April 20. I will send you a copy of that response.

Please feel free to discuss your concerns with me further if you wish. If confirmed, I hope to familiarize myself as rapidly as possible with the Regional Commissions so that problem areas may be addressed.

Senator EXON. Senator Pressler, of South Dakota, likewise has some questions for the nominees. Since he is not here to ask them, I think we should not take time on these this morning. We will supply the questions that Senator Pressler has to each of you nominees and ask you to respond also for the record.

[The following information was subsequently received for the record:]

ANSWERS OF MARY BASS TO QUESTIONS FROM SENATOR PRESSLER

This is in response to the questions you have posed to the Inspector General nominees who appeared before the Senate Committee on Commerce, Science, and Transportation.

Question. Recently in the Department of Agriculture, there has been a critical problem involving some agricultural producers in my state who had participated in the Drought Assistance Hay Transportation Program. Because of the mistake made by program administrators, the contract with a small group of program participants was broken with little notice and these individuals were required to repay the funds they had received. The abrupt reversal of the contractual agreement has caused great harm to the businesses of these individuals and the matter is currently in litigation with one of the parties.

In such an event, do you believe it is the responsibility of the agency or the private participant to correct the damage done by mistakes of government program administrators? Is it possible that such a matter might fall into the jurisdiction of the Inspector General?

Answer. As you note, the program participants have filed claims against the government in this case, and one of the persons has commenced litigation. It is not possible, in the absence of complete knowledge of the facts and the applicable law, to determine whether the claim you mention should be settled.

The jurisdiction of the Inspector General is broad. It encompasses questions relating to waste, mismanagement, fraud and abuse. You mention that a mistake was made, in the instance described, by a program administrator. In such a case, the Inspector General could investigate any allegation of fraud or other irregularities related to the incident, and whether procurement or contracting procedures could be strengthened to avoid the type of mistake made.

Question. Have any of the nominees had previous experience in an auditing or investigative areas of a government agency?

Answer. I have been Inspector General of City University of New York, the third largest public system of higher education in the country. This function did not include audits; it did encompass investigations of employee wrongdoing, and included the pressing of charges against employees.

Question. Can the nominees cite any ways in which fraud or abuse can be more readily detected and eliminated?

Answer. The addition of resources to carry on the audits, investigations and inspections traditionally involved in the prevention and detection of fraud, waste and abuse, would be of major benefit. The knowledge that audits and inspections are frequently made is the best deterrent to wrongdoing.

Even if reasonable resources are available, priorities must be established. A thorough department-wide program vulnerability assessment, kept up to date, is essential to identify those programs and operations most susceptible to fraud, waste, and abuse so as to concentrate resources there.

More emphasis on educational programs designed to alert employees to their responsibilities to report wrongdoing and to advise them of whistleblower protection is required. The public must also be made aware of the Inspector General's existence and functions so that their complaints of fraud, waste, and abuse can be acted upon.

Focus on controls for fraud and consideration relating to efficiency in the design stage of systems and programs is another important method of preventing problems in these areas.

Question. With the establishment of the new Inspector General post, this function is accorded greater influence within each department or agency, the Inspector General reporting directly to the Secretary and the Congress. In your view, is this a necessary arrangement? What impact might we expect from this change?

Answer. The inclusion in the Inspector General Act of 1978 of the reporting relationships to Congress and to the Secretary was important in terms of the ultimate success of the Inspector General program. The impact of the Congressional reporting is two-fold: it will permit Congress to strengthen its oversight of agency activities, and it will elevate the importance of audit and investigative findings within the Department, contributing to follow through on corrective recommendations. The direct relationship with the Secretary will serve to maintain the influence of the Inspector General at the level which will assure that the prevention and

detection of fraud, abuse and waste are given significant attention within the Department.

Question. In each of your departments, there are countless programs which are reviewed only periodically to monitor the effectiveness. Where will you begin, upon beginning your duties, to monitor ongoing programs? Are there any areas where you believe these procedures are not functioning properly?

Answer. Lack of resources permit only periodic monitoring of many Department programs. Ongoing programs evidencing a significant need for close monitoring while in the design and beginning implementation stages are so monitored. The 1980 Census, the National Oceanic and Atmospheric Administration Fishery Management Councils, automatic data processing systems, and the 1980 Winter Olympics are examples of programs within the jurisdiction of the Department which are receiving significant input from the Inspection General's office while in the planning stage. An inventory of programs, grants and contracts must be maintained so that a complete vulnerability assessment may be made and audit schedules determined accordingly. At present, we do not have a data system containing a complete inventory of all department grants, loans and cooperative agreements. This must be accomplished. Also, more attention must be given to vulnerability assessments.

ANSWERS OF FRANK SATO TO QUESTIONS FROM SENATOR PRESSLER

Question. Have any of the nominees had previous experience in an auditing or investigative area of a government agency?

Answer. For the past 25½ years I have been employed in the Department of Defense in an audit capacity both at the field and Washington Headquarters level, my latest position being as the Deputy Assistant Secretary of Defense (Audit) and Director, Defense Audit Service. A copy of my biographical data sheet submitted to the Congress is attached for your information.

Question. Can the nominees cite any ways in which fraud or abuse can be more readily detected and eliminated?

A major issue within the accounting profession over the past few years has been the matter of the auditor's responsibilities for detecting fraud. Historically, the accounting profession has maintained that an auditor does not audit for fraud, but rather reviews to see whether there are sufficient controls to prevent fraud. However, pressures from the Congress, the general public, and the Securities & Exchange Commission, have forced the profession to take a new look at its responsibilities in this regard. The Cohen Commission report prepared for the American Institute of Certified Public Accountants now explicitly recognizes the auditors' innovative techniques that could be used to detect and eliminate fraud. Fundamentally, procedures and controls must be established to minimize the occurrence of fraud. Secondly, auditors and investigators must take extra care in their sample selection and review of records, and must physically verify specific events indicated in the records. In my view, there is no easy way to detect and eliminate fraud or abuse, but I believe that auditors and investigators must use extraordinary care and sound professional judgment in carrying out their responsibilities, and institute special reviews where vulnerability assessments would so dictate.

Question. With the establishment of the new Inspector General post, this function is accorded greater influence within each department or agency, the Inspector General reporting directly to the Secretary and the Congress. In your view, is this a necessary arrangement? What impact might we expect from this change?

Answer. In my view the arrangements to report directly to the Secretary and the Congress were considered necessary because of demonstrated difficulties in getting proper action on some of the reports. The heart of the issue concerns the independence of the Inspector General and the ability of the Inspector General to objectively report on matters without undue pressure or influence from any source. At the same time I feel it would be incumbent upon the Inspector General to be supportive of the head of the agency and top managers and to work together towards a common goal of good management while still being able to disagree when there are honest differences. When such differences do exist, the Inspector General should report his views and management's views objectively and in a responsible way so that subsequent decisions can be based on all the facts and pertinent opinions. The impact of this change may not be fully discernible at this time; however, I would expect that the major impact overall would be to encourage managers to take prompt corrective actions on the Inspector General's reports.

Question. In each of your departments, there are countless programs which are reviewed only periodically to monitor the effectiveness. Where will you begin, upon

beginning your duties, to monitor ongoing programs? Are there any areas where you believe these procedures are not functioning properly?

Answer. At the outset, I would review ongoing programs to learn what had been planned and accomplished in the past as a means of adjusting future plans as necessary. At this time, I am not aware of any specific procedures that are not functioning properly; however, I do hope to look at this area at an early stage.

Question. Recently in the Department of Agriculture, there has been a critical problem involving some agricultural producers in my state who had participated in the Drought Assistance Hay Transportation Program. Because of a mistake made by program administrators, the contract with a small group of program participants was broken with little notice and these individuals were required to repay the funds they had received. The abrupt reversal of the contractual agreement has caused great harm to the businesses of these individuals and the matter is currently in litigation with one of the parties.

In such an event, do you believe it is the responsibility of the agency or the private participant to correct the damage done by mistakes of government program administrators? Is it possible that such a matter might fall into the jurisdiction of the Inspector General?

Answer. I think one would have to review the entire facts of the case to arrive at a conclusion. If there were mistakes made on the part of the government, it would seem only fair that the program participants not suffer unduly as innocent participants. Matters such as this could easily fall under the jurisdiction of the Inspector General through several procedures such as (1) referral from a member of Congress, (2) referral by a program administrator, and (3) a complaint by the program participant directly to the Inspector General. Normally, the auditor or investigator should be able to review the facts and circumstances of the case to determine exactly what has transpired, what mistakes might have been made, and what remedies are possible in a given situation.

ANSWERS OF ELDON TAYLOR TO QUESTIONS FROM SENATOR PRESSLER

Question. Have any of the nominees had previous experience in an auditing or investigative area of a government agency?

Answer. I have not worked directly in either auditing or investigative assignments. However, I have had a number of assignments in the accounting field including the management responsibility for the accounting function in both the Environmental Protection Agency and the National Science Foundation.

Question. Can the nominees cite any ways in which fraud or abuse can be more readily detected and eliminated?

Answer. Although I do not have any new or innovative suggestions for detecting fraud at this time, I do believe that the appointment of Inspector Generals throughout the executive branch will have a positive impact both with respect to detection and elimination of fraud and abuse.

Question. With the establishment of the new Inspector General post, this function is accorded greater influence within each department or agency, the Inspector General reporting directly to the Secretary and the Congress. In your view, is this a necessary arrangement? What impact might we expect from this change?

Answer. I agree that the Inspector General function will probably have greater influence in an agency by virtue of the new reporting relationships. I am not sure about the necessity of a formal reporting requirement to both the Agency Head and to Congress. I believe that this dual reporting requirement may occasionally place an Inspector General in a very difficult position. However, this requirement will probably insure that Inspectors General have the necessary independence of action required to implement other aspects of the Inspector General Act.

Question. In each of your departments, there are countless programs which are reviewed only periodically to monitor the effectiveness. Where will you begin, upon beginning your duties, to monitor ongoing programs? Are there any areas where you believe these procedures are not functioning properly?

Answer. I am not now aware of any areas of NASA that are functioning improperly. One of the first areas I will examine is the current audit plan and the frequency of audits scheduled for on-going programs.

Question. Recently in the Department of Agriculture, there has been a critical problem involving some agricultural producers in my state who had participated in the Drought Assistance Hay Transportation Program. Because of a mistake made by program administrators, the contract with a small group of program participants was broken with little notice and these individuals were required to repay the funds they had received. The abrupt reversal of the contractual agreement has caused

great harm to the businesses of these individuals and the matter is currently in litigation with one of the parties.

In such an event, do you believe it is the responsibility of the agency or the private participant to correct the damage done by mistakes of government program administrators? Is it possible that such a matter might fall into the jurisdiction of the Inspector General?

Answer. I believe that a case such as you describe could be appropriate for audit or possibly investigation. It is also possible that such an audit or investigation would provide factual information which could provide a basis for determining liability. I would not wish to express an opinion on this specific case without such information.

Senator EXON. Is there anything else, then, that any of you would care to say in winding up your testimony, your formal testimony in front of the committee, with the understanding that you will be responding to the questions that you will be given? Is there anything else that any of you would like to add?

[No response.]

Senator EXON. If not, then, we thank you very much, and you are dismissed.

If there are any witnesses in opposition to these nominees or any witnesses that wish to be in support of any of these nominees, we would be glad to hear from you at this time.

I think first we will ask if there are any individuals here who wish to speak in support of any of the nominees? And if so, we would entertain you at this time with a time rule of 10 minutes on each one of the nominees.

[No response.]

Senator EXON. If there is anyone here who wishes to testify in support of these nominees, please stand and be recognized at this time.

[No response.]

Senator EXON. Seeing none, then we will move into the last part of the hearing this morning. Are there any witnesses that wish to appear in opposition to any of the nominees?

STATEMENT OF DANIEL LIPSMAN

Mr. LIPSMAN. Yes, sir.

Senator EXON. Would you come forth, please? You may be seated and state your name.

Mr. LIPSMAN. My name is Daniel G. Lipsman.

I am here this morning to speak in opposition of Mary P. Bass to become Inspector General of the U.S. Department of Commerce on the grounds hereinafter set forth.

I am not going to make any gratuitous or ingratiating remarks, Mr. Chairman. I believe that it is a fait accompli that Mary Bass already has the nomination sewn up. I think it is unfortunate that there is only 1 member of the 17-member committee here.

I think it's unfortunate that certain members of the committee—specifically, Senator Warner—met with Mary Bass and did not give myself an opportunity, a real opportunity, to be heard.

I requested an opportunity to respond to this nomination weeks ago, and I only found out on Saturday, the day before yesterday, that the hearing was going to occur today.

I think that asking Mary Bass to be the Inspector General of the Commerce Department is asking the cat to watch the milk.

Ms. Bass referred to the question of whistle-blower status. I would like to ask Ms. Bass whether the name Edgar Draper means anything to her.

Edgar Draper, Mr. Chairman, was the President of the Community College and the City University of New York where Mary Bass holds her current post.

Edgar Draper was removed in secret session from his position as president of that college in a situation where I was barred from coming to hear the proceedings of a meeting in which he was removed, and in which I was denied documents in connection with this removal under the Freedom-of-Information Act in New York State.

There is a question as to whether or not a quid pro quo went down. That is to say, whether or not an offer of a job was not made by Mr. Draper to the head of the Middle States Accrediting Team to change an unfavorable report which probably would have sunk Dr. Draper.

It turns out there were two reports. What the contents were, nobody knows. We only know that one was a favorable report, and one was an unfavorable report.

I don't know about Nebraska, Mr. Exon, but I do know that in New York official misconduct, bribery, and criminal conspiracy are all crimes punishable under the penal code.

Mary Bass is an attorney. If Mary Bass was involved in covering up those crimes, then she may be guilty of unprofessional conduct. There is no law on the State statute books in New York called misprision of a felony, unfortunately.

As to the question of waste, I have brought the record with me today. This is an article from The New York Times dated April 19: Koch, the mayor of New York, raps pay hike plan for city; used 253 biggies on top of their already exorbitant salaries. The mayor was screaming because the board of higher education and the City University of New York is trying to railroad through this board exceeding increases to the salaries, increments that way exceed the president's guidelines for persons who are making exorbitant salaries already.

Mr. Exon, you and many members of the committee helped pass legislation not so long ago to bail out New York City when it was in alleged financial crisis—

Senator EXON. Let me correct you. I was not a Member of the Congress when that happened. Just to straighten out the record, I wasn't here—so that you are accurate.

I'm a brandnew member. I just joined this team in January.

Mr. LIPSMAN. Thank you. I stand corrected.

But it is a fact that a majority of the Congress supported bailout legislation for New York City. I am quoting from a report, Office of the Comptroller, City of New York, Bureau of Audit and Control, November 10, 1977: Report on Direct and Indirect Compensation for College Presidents, B78-105.

This was during Mary Bass' tenure. What I am reading to you is the inventory of the president of Queens College's house, which is paid for, Mr. Exon, out of public money. This is an inventory: First floor, antique gold console with mirror, bench, black, gold, and red fabric, one red Persian rug. Bedroom, family room, chair of black

and white, ottoman black and white, stick table lamp, wooden cabinet, bar with refrigerator, chair, beige vinyl, sofa, beige fabric, chair beige basketweave, low round table with lamp, chair black vinyl, table, black and white living room drapes on four windows, gold on gold, chair wooden highback, console table, one round tabletop marble top, cocktail table with glass top, gold-beige, round table with gold top, table lamp, chair highback, fabric, Steinway piano and bench, four chairs with white vinyl seats, square wooden table, 2 wooden bookcases filled with books, one floor lamp, one table lamp, fireplace, log holder.

Formal dining room: Wooden dining table with pads and extensions, 12 wooden chairs, 2 wooden armchairs, buffet, 1 china closet, drapes on 2 windows red and white, light fixture on dining room.

Page 2, Senator Exon.

Formal dining room, continued: Glassware in closet, 9 poní glasses, 10 wine glasses, 9 Queens College glasses, 18 highball glasses, a dozen on-the-rocks glasses.

Study: Reclining chair, desk lamp, wooden chair, air-conditioner, sofa, one two-pedestal wooden desk, wall lamp.

Kitchen: Stove, dishwasher Kitchen-Aid, clothes dryer and washer, refrigerator and freezer—GE Americana model.

Kitchen entry: 116 glasses.

Carpeting on first floor: Entrance hall and stairwell—well, it goes on for carpeting on several floors.

Air-conditioning master bedroom, air-conditioner in bedroom three, one desk laying in bedroom, one vacuum cleaner, carpeting on second floor.

Wait. We are getting to the second floor, now. This is good.

Basement, entry hall: One sofa hide-a-bed, one Mexican hat basket with cover, one foot-operated potter's wheel.

Servant's room: One desk, one wooden chair, one bed with headboard, mattress and box springs, one Persian rug, red.

Pantry room: One dehumidifier, one drainboard and dish rack.

Boiler, one electric sump pump.

Meeting room: One complete bar unit, 3 bar stools, 4 wooden round tables, 16 wooden chairs with canes, 4 wall benches, 9 yellow seat pads for benches, two dehumidifiers.

West room: Three air-conditioners.

Garage and outside yard: One 36-foot aluminum ladder, one flag-pole with flag.

And to top it all off, Senator, one grandfather clock.

At the same time this was occurring—this is one college president, Mr. Exon; one college president among seven.

I would like to read you an article from The New York—by the way, that report was not prepared by me; that report was prepared by the Office of the Comptroller of the City of New York, Bureau of Audit and Control.

I would like to read into the record an article—a newspaper article from The New York Times dated September 3, 1976. And by the way, this inventory was April 20, 1977.

"Eight dismissed teachers filed a Federal suit yesterday challenging the constitutionality of the dismissal of more than 1,000 full-time teachers at the City University of New York. The suit, which contends the teachers were selected arbitrarily for dismissal, seeks

to compel the University's Board of Higher Education to eliminate," and I quote, "wasteful practices instead of dismissing teachers.

"Mary Bass, a City University Vice Chancellor and General Counsel of the Board, said that discontinuing faculty positions was an 'unfortunate necessity,' adding that 'we adopted retrenchment guidelines which we have used in abolishing positions and they are completely legal.'

"The suit contended that officials singled out individuals for dismissal on the basis of personal quarrels, political differences, and racial or sexual bias. The facts clearly show," it said, "that the reduced budget was to be met by attrition and firing members of the instructional staff, rather than by first effectuating economies through the reduction and elimination of wasteful practices and unnecessary managerial positions and benefits without any regard to procedural safeguards."

That's for openers, Mr. Exon.

March 10, 1977, New York Times: "City University is accused of overspending by \$400,000 on officials' housing. Some of the money went for such items as interior painting, drapery, shades, dishwashers, television sets, and other improvements, particularly in presidential residences of Brookland and York Colleges. Expenditures were 'financed by questionable use of educational resources such as college operating budgets and a chancellor's fund,' the draft report was said to have stated."

April 8, 1976, New York Times article: Steven Berger, who was the Staff Director of the Emergency Financial Control Board. He accused the Board of Education yesterday of creating a desperate situation by failing to produce a realistic budget cutting plan and by provoking City University faculty members and students to resist austerity controls. I quote, "'Somebody is going to have to create a plan for them,' Mr. Berger said in an interview. 'The Board of Higher Education's idea of a plan is to get to it the next day. From the University Board's action the other night, you would never know they face an immediate cash crisis,' Mr. Berger said, referring to a potential expenditure overrun this year that City budget officials said could be as high as"—are you ready—" \$70 million."

In May of 1976, Mr. Exon, the well ran dry. Before the end of the semester, the City University system had to be shut down completely. Oh, they had a budget, originally. They had moneys given to them. But they spent it. They overspent it. And they spent it on things like Oriental rugs, dishwashers.

"Kibbee puts off paying suppliers," New York Times, April 16, "defies Golden order against delay so City payroll for April can be made. The Chancellor of the City University said yesterday he would not submit vouchers to the City for payments to university suppliers this month because the money was needed to pay his teachers and other employees."

"Your suggestion simply amounts to delaying the inevitable through the device of borrowing, in effect, from your vendors," Mr. Golden said in rejecting the request for delay. "It irresponsibly runs the risk of jeopardizing the education of thousands of students. I will not be a party to it," he declared.

Dr. Kibbee said, faced with the choice of inconveniencing his vendors or the university staff, he chose to meet the payroll.

Audit: CUNY wasted \$3.9 million in student aid.

I'm just going to give you the citations, now. This is New York Post, November 4, 1977.

"One of three at city who needs remedial aid, cost of students noncredit work is put at \$30 million annually." New York Times, February 27, 1978.

"Controller is critical of agencies' activities." New York Times, January 21, 1979.

"Auditors: 13 percent of students don't exist. Levitt blasts CUNY aid. Demands \$13.4 million refund."

"Applicants dropping at City University," March 22, 1976.

Yet, what do we find here? We find, at the same time that there has been a tremendous attrition rate at City University, we find, "Kibbee backs building plan at York College for a \$95 million construction program."

What kind of a boondoggle is this? Whose money is going to pay for this?

Senator Exon, I live in New York City. I maybe have to pay to support this. I don't think the good citizens of the rest of the United States should have to.

December 10, 1978: "Enrollments down; college staffs cut; layoff of 125 non-tenured workers in City University System tied to 3,000 fewer students." That's very interesting. How come I read 7 months earlier that the chancellor, Robert Kibbee, who Mary Bass as the vice chancellor for legal affairs and general counsel for the university, is extremely close to, how come \$95 million is requested for a university where there are going to be 3,000 fewer students? I'm sorry, that logic escapes me, Senator Exon.

"Councilmen urge city new economies, proposes waste to cut costs and keep free tuition," January 26, 1976.

"Brooklyn College officials deny budgetary influence on grading," January 26, 1977, New York Times.

"City views freshman class shrinking 40 percent next fall," New York Times, April 20, 1976.

"New City University Board will meet today with public's confidence seen at issue," New York Times, August 2, 1976.

I want to quote one line from that: "It's clear, on major policy issues, the University leadership has not lived up to its responsibilities," said Hendrick N. Doyler, special assistant for higher education to Governor Cary in an interview.

"Board acts to cut colleges, City University; students in protest."

"Eight on faculty sue City University over pay," May 15, 1976.

"City University cuts"—it's just the beginning—New York Post, March 12, 1976.

"City University plan fails in Albany, Democrats unable to agree on an aid program to meet need." "City begins recruiting students." "State Panel urges increase in aid." "Colleges are lagging in enrollments."

I want you to know, Senator Exon, that moneys from student tuition were used to help pay for the kind of goodies that these bigshots in CUNY have.

"City borrows cash advances to City University for its payroll," March 25, 1976, New York Times.

"City College Scandal. Failure to graduate. Part 2 of Post investigation," New York Post, March 1, 1978.

August 29, "Meeting set on head of college. Higher education to weigh future of Dr. Draper and dispute of Manhattan Community," New York Times, 1977.

I am currently—I have a lawsuit which is on appeal with the appellate division, first department, to seek to force the release of these documents which I believe will show that there was in fact a quid pro quo; that in fact somebody tried to buy off with a position at CUNY. Not only that, but that this was covered up by no less than your nominee.

"CUNY's illiterate thousands. Post investigation starts on page 5," February 28, 1978.

Am I making this up?

"Board ousts Draper as president of Manhattan Community College," New York Times, August 30, 1977.

"Kibbee perks up at hints of aid for City University. When Kibbee and Jacobs were asked at yesterday's briefing as part of the \$50,000 advertising campaign aimed at getting the city to provide maximum funding for the University, neither answered the question directly."

Senator EXON. Mr. Lipsman, I wanted to advise you that you have more than used up the 10 minutes. You have a lot of information there, and I'm going to extend the time by 5 minutes to allow you to continue.

I would just advise you that all of the information that you have, if you care to submit it, will be incorporated and is now incorporated in the official record.

Mr. LIPSMAN. I hope, Senator, that you have a Xerox machine that doesn't break down?

Senator EXON. There is nothing in Washington, D.C., that doesn't break down, Mr. Lipsman. I think maybe we can find enough machines around here that we can get—you do not have copies of those newspaper articles?

Mr. LIPSMAN. That is correct.

Senator EXON. If you will leave them with our staff, we will assure you that they will be copied and made part of the official record, and the originals can be returned to you.

Mr. LIPSMAN. These contain newspaper articles, sir, and they're only a part of the material I had to cull before I came to Washington.

Senator EXON. But the essential parts of the article should be made a part of the record.

So I would just say that, let me allow—in the interests of being fair to you, let me allow you another 5 minutes, and then I'll have a question or two.

So if you will guide yourself accordingly, all that you have to do, if you will refer to something, you say "I'd like to have this incorporated in the record," and we will see that it automatically is.

Mr. LIPSMAN. All right, let me quote to you from the State of New York Commission of Investigation. The report is dated June

24, 1977, page 30. This is after 10 years of educational opportunity programs in New York State. The average cost per graduate of the search for education known as the SEEK program, is more than \$103,000, Senator Exon.

In other words, for every graduate of the SEEK program, it costs more than \$103,000 of taxpayer money.

But let's get on a little bit to State aid overpayment to City University of New York for the 1974-75 SEEK program for August, audit report 3-77.

The question is: Were the moneys even spent legally? No, they were not. Much of that money was spent illegally. We found, and I quote, "that stipends were awarded (1) to ineligible students; (2) in excess of need; (3) to students who improperly reported their resources and expenses; (4) to part-time students who did not qualify for the program; and (5) notwithstanding a lack of adequate documentation to support the need. Noncompliance with the law, SEEK curriculums at the various colleges included subject matter not part of the general plan, many advanced courses, regular courses offered by the colleges, et cetera, et cetera.

We estimate these courses involved over \$1.6 million in personal service costs, evidencing a need for stronger curriculum control by CUNY and State education department.

They eventually recommended that this program be removed from the control of CUNY and administered by the State education department.

CUNY's central office, which is where Mary Bass works, provides overall supervision of SEEK, including program coordination, evaluation, legislation, accounting, auditing, student admission, and standards.

Page No. 4 of this report: Auditors allowances. We determined that over \$5.6 million of the following claimed costs are unacceptable financial aid. These are: audit disallowances, nearly \$3.9 million; books and consolidated fees, a quarter of a million dollars; tuition and other fees, \$25,000; budget overexpenditures, \$1,463,000. Grand total: \$5,605,000-and-change.

Retention and graduation of disadvantaged students in the senior colleges of CUNY, March 1977. This comes from the office of program policy research of the City University of New York itself. And I quote, page—table 12: "Graduation of fall 1971 and 1972 freshmen"—now remember, Mary Bass came in in 1973, but these lists—those cohort groups, and they say how many were graduated after 8 semesters, or 10 or 12 semesters.

Well, after eight semesters, those who came in in 1970, only 4.7 percent of those who came in through the SEEK program were graduated. Of those who came in in 1971 after eight semesters, only 4.9 percent were graduated.

In the fall of 1972 after eight semesters, only 4.4 percent were graduated.

Conclusion: Over 95 percent failed to graduate 4 years after they were admitted. What was the cost to the taxpayers? \$103,000 per graduate. But don't let that bother anybody, because it only concerned the taxpayers of the City of New York. We haven't yet—God forbid that she should get this post—what do we have here?

We have the figures on—in table 15 of this report, are really sick. Yet the budget requests have gone onward and upward, gloriously onward and upward.

Let me quote you my objection to a budget request for October 1978. I will stop with this one. I'll stop after I read just this one, then I will submit to any cross-examination.

Senator EXON. You have 1 minute left, Mr. Lipsman.

MR. LIPSMAN. OK. This is my objection to the 1979-80 budget request.

The University wants more than a half billion dollars this year, most of which will go down a rathole. Page 4 of the budget request talks about "the intense amount of remediation CUNY students need." Perhaps they shouldn't be in college if they need so much remediation. Certainly remedial work is not the proper job of the university. Such allotments therefore in the budget are trash.

Page 4 also says: "A substantial amount of budget request increases for fringe benefits and collective bargaining costs." It's time we put a halt to the greed of the teacher unions. Also, all salaries should be tied to productivity. GM runs on productivity; why shouldn't CUNY?

Kibbee wants \$19 million more for salary increases. Fringe have to go up nearly 16 percent and the budget itself has nearly 13 percent above last year's. The only things going down in the whole budget are the number of students being taught, the numbers seeking admission, and the standards.

This request is for a year which will be the fourth in a row with declining enrollment, but not a declining budget. There will be over 5000 less students in the university in the fall in every category: Community colleges, senior colleges, total headcount, FTEs, graduate students, all the numbers are in the negative column. Yet, on page 9, the budget calls for "addition of new space." What for?

The budget calls for 200 grants for student aid, but millions for teachers plus increases, but millions more in fringes.

Sorry for my righteous indignation, but what is all this money going for? Let us put an end to the expense of public works projects for college teachers.

The budget calls for \$8½ million for stipends for SEEK students. Why not simply end the program and let the students get this money from the department of welfare budget, especially for all the good it has produced?

Yet Robert Kibbee generously says: Let's have a nearly 16 percent increase for college discovery with less than 4½ percent increase in such students. There's nearly a \$6 million increase for such things as faculty research award program and Puerto Rican institute.

What would we ever do without these? Despite the ability of most CUNY students to get governmental financial aid subvention, CUNY will take in \$4.6 million less next year in tuition revenue. This wouldn't happen if the university could attract students.

The last major point I wish to make is this: Excluding tuition, the State of New York puts up three out of every four government dollars. The city puts up the fourth. I'm speaking about for the operation of senior colleges. Since the State pays 75 percent of all

government dollars put up to run the senior colleges in CUNY, it's time the State took control over the system, eliminate a layer of expensive bureaucracy, and in effect take control and make it a part of the State university system. If CUNY were a corporation, it would be in receivership today. It's leadership in so many ways is totally bankrupt.

I have a pile more of materials, Senator Exon, but you don't have the time, and I can understand that, because this is the real record.

This is disgusting. This is not me. This is the record.

"State says City U Biggies Live High on Student Dollars for Membership in the Lotus Club." Is that what we pay a chancellor, Robert Kibbee, in gratuities and fringes of over \$100,000 a year?

The documentation is here.

Senator Exon. Thank you, Mr. Lipsman, for your testimony. I emphasize again that the exhibits that you have, which you have not referred to and those which you have, will be received for the record. We will be glad to receive these materials.

[Excerpts from the materials referred to follow:¹]

¹ The additional materials referred to above are too voluminous to print in the record. All of these materials are on file with the committee and are available for public inspection.

1979

2430
Williamsbridge Rd.
BXDNX
654-1300

64-05
Northern Blvd.
Woodside
QUEENS
728-5220

MON, THURS, FRI
10-6 PM
TUES, WED, SAT
10-6 PM
10-6 PM

Koch raps pay-hike plan for City U's 253 biggies

By MARK LIFF

Nearly \$1 million in special pay hikes have been quietly proposed for 253 top City University officials, many of which apparently violate federal wage guidelines, the Daily News learned yesterday.

These hefty payments, called remuneration increases, have been blasted as "unjustified" by Mayor Koch, Concil President Carol Bellamy and Controller Harrison J. Goldin. Members of the Board of Higher Education originally planned to approve these increases at their meeting next Monday.

"To propose such increases in light of the President's guidelines for wage increases, the city's fiscal condition, the very real problems now facing the university and the generous salary adjustments approval under the Coalition Economic Agreement is to our mind completely 'irresponsible,'" Koch, Bellamy and Goldin wrote University Chancellor Robert Kibbee in a letter dated April 11.

May evaluate salaries

A City University spokesman said yesterday that there has been "some talk" of the proposed pay hikes, adding: "It is likely there will be some discussion to review and evaluate executive salaries in comparison with other universities and other relevant benchmarks."

The spokesman denied that there

was any specific list and said he did not know when the Board of Higher Education would meet to discuss the hikes. However, one source in the city's budget office confirmed that "senior university and administrative staff" are slated to get increases ranking from 3% to 14%.

These increases "are in addition to increases already granted the same people" under the city's coalition agreement with its employees that provides 8% hikes over two years, one official said.

Koch, Bellamy

Could cut service

Koch, Bellamy and Goldin said in their letter to Kibbee that it was "not clear whether you are assuming the cost of the increase," which is estimated at \$190,000 for fiscal 1979 and \$630,000 for fiscal 1980.

Any salary increase for the university's administrative staff "would almost certainly be a reduction in service to students," they wrote.

Should the Board of Higher Education approve those increases and divert university funds to pay them, an equal amount will be "withdrawn" from the operating budget, they wrote.

A spokesman for Goldin said the city "believes many of these increases go beyond President Carter's guidelines." The White House set up a 7% cap on wage hikes.

Kibbee and his top aides were unavailable for comment.

A Suit Challenges Ouster Of 1,050 City U Teachers

Times N.Y. Fri. Sept. 29/76

By ARNOLD H. LUBASCH

Eight dismissed teachers filed a Federal suit yesterday challenging the constitutionality of the dismissal of more than 1,000 full-time teachers at the City University of New York.

The suit, which contends that the teachers were selected arbitrarily for dismissal, seeks to compel the university and the Board of Higher Education to eliminate "wasteful practices" instead of dismissing teachers.

According to the suit, which was filed in Federal District Court in Manhattan, teachers who held tenure or contracts for the 1976-77 academic year were dismissed and deprived of their jobs "without due process of law."

About 1,050 teachers on the City University staff received letters beginning in late July, the suit said, terminating their appointments for the new academic year "allegedly because of the financial exigency of the Board of Higher Education."

Mary Bass, a City University vice chancellor and general

counsel of the board, said that discontinuing faculty positions was an "unfortunate necessity," adding that "we adopted re-trenchment guidelines which we have used in abolishing positions and they are completely legal."

The suit contended that officials singled out individuals for dismissal on the basis of personal quarrels, political differences and racial or sexual bias.

"The facts clearly show," it said, "that the reduced budget was to be met by the attrition and firing of members of the instructional staff rather than by first effectuating economies through the reduction and elimination of wasteful practices and unnecessary managerial positions and benefits, without any regard to procedural safeguards."

The eight teachers who filed the suit are Judith Klein, Myron Gordon, Brenda Reid, Jerome Gold, Gabriela Mora, Linda Kuehl, Brian Barnett and Jesse McCarroll.

City U. Accused by Levitt Of Overbilling New York To Finance Illegal Frills

The office of State Comptroller Arthur Levitt has charged City University officials with maintaining an illegal slush fund, amounting to thousands of dollars, that has been used to finance such activities as out-of-town travel and entertainment.

In a letter sent Tuesday to the university, Levitt charged Joseph A. Mahan, Deputy Comptroller, with having accused the university of raising the fund

by overbilling New York City for the cost of processing student financial-aid checks.

According to a spokesman for Mr. Levitt's office, processing such a check costs about 3 cents, and the City University has been charging the city 30 cents.

Neither Dr. Kibbee nor a spokesman for the university could be reached for comment yesterday.

The spokesman for Mr. Levitt's office said that the department had been based on several audit reports and that the university had been informed about the apparently improper overbilling as long ago as 1973. At that time, he said, the university charged 20 cents for each financial-aid check.

Then we received a copy of a memo from the staff at CUNY that they were

raising the charge to 30 cents," said the spokesman. "It was a slap in the face. The letter was sent to try to put a stop to it."

City U. Is Accused of Overspending by \$400,000 on Officials' Housing

By ELEANOR BLAU
The City University of New York spent about \$400,000 more than the \$1.2 million it was authorized to spend to house its chancellor and college presidents, according to a draft audit by the office of State Comptroller Arthur Levitt.

The draft statement—not yet released publicly—also is said to find that some of the money was spent on furnishing or renovating private family quarters of the residences, although only single rooms of the residences were supposed to be paid for from the money.

The \$1.2 million was authorized in 1973 by the State University Authority for buying, renovating and furnishing the residences.

Rebutting the draft statement, a City U. spokesman said the university actually had underspent for the residences—a total of less than \$118 million. He said that the draft audit found that Brooklyn

Colleges had spent more than its \$50,000 allowance for renovation and furnishing. The spokesman, Jack Sullivan, said the excess actually had been for service, maintenance and operating costs chargeable to the college's operating budget.

Mr. Sullivan also cited what he called an "error" in the audit, which said that 18 presidents' residences would be included, only seven of which were to be housed.

"You can see how far off they are," Mr. Sullivan said of the audit count. He said he did not know about the charges of furnishing private quarters. But he said that he had already found that some of the money was used for interior painting, draperies, shelves, dishwashers, a television set and other improvements, particularly at the presidential residences of Brooklyn and New College.

Questionable use of education resources,

such as college operating budgets and a chancellor's fund, the draft report was said to have stated. Continuing is expected to be in a Federal suit filed last fall opposing the layoffs of 1,000 members of the university's instructional staff, the Professional Staff Congress, a union representing staff members, charged, among other

things, that the entire \$1.2 million for official housing was intended for faculty members. The union asserted, the university should stop housing presidents and cut other expenditures. Told of the draft audit, Aaron Alexander, associate executive director of the union, said it went beyond the \$1.2 million, "this is outrageous."

\$1.20 plus Arg. Month 3/6/77 plus

Fiscal Board Chief Scores 'Unrealistic' City U. Plan

By FRANCIS X. CLINES

The staff director of the Emergency Financial Control Board accused the Board of Higher Education yesterday of creating "a desperate situation" by failing to produce a realistic budget-cutting plan and by "provoking" City University faculty members and students to resist austerity controls.

"They are nowhere near having met the city financial plan," said Stephen Berger, the Control Board's executive, in denouncing the board's newly adopted dollar-cutting plan, which is \$76 million out of balance in the coming year, by the university's estimate.

"They have got their heads in the sand and by not facing reality they continue to cut options for all of us," said Mr. Berger.

Zuccotti Meeting Slated

As executive of the Control Board, which is the state panel charged with seeing that the city restores budget balance, Mr. Berger said he intended to meet today with First Deputy Mayor John E. Zuccotti on what to do next about the City University problem.

"Somebody is going to have to create a plan for them," Mr. Berger said in an interview.

The Board of Higher Education's idea of a plan is to get to the next day."

However, a spokesman for Alfred A. Giardino, the chairman of the Board of Higher Education, replied by denying Mr. Berger's contention and

stressing Mr. Giardino's previous complaint that the university was being ordered to make drastic reforms without being told how much future state and city aid would be extended. He likened this to rebuilding a house in darkness with no indication of the available building materials.

When the board approved its austerity plan, which includes the closing or merger of several colleges, Mr. Giardino argued that it was only

proper for the state and city to supply extra aid to maintain the university. He accused state and city officials of treating the university as a political "Ping-Pong ball," and he contended that if such unpopular economies as extensive tuition were approaching, "then let the politicians make the decision."

But Mr. Berger and city officials have sought for weeks to have the university board set the full austerity plan, and two weeks ago the Control Board endorsed Mayor Beame's order that put monthly limits on the city's subsidy to the university.

"From the [university] board's action the other night, you'd never know that they face an immediate cash crisis," Mr. Berger said, referring to a potential expenditure overrun this year that city budget officials said could be as high as \$70 million.

The university issue is something of a three-cornered political problem, with the city and the university demanding more money from the state, which has its own austerity drive under way.

At the same time, state and city officials want the university trustees to prescribe the full range of unpopular economies needed to cover a budget cut mandated on the semi-independent university by City Hall officials, who are cutting university subsidies to help reduce the city budget's huge deficit.

Mr. Berger contends that the college cuts and mergers approved earlier this week are at best "one very small first step." The university board's basic reaction, he charged, has been to "scream, yell, jump up and down."

"They have provoked students and faculty to a fever pitch over secondary issues," he asserted. "Survival is the first issue."

University officials and other critics maintain, however, that there is a real limit to the



Stephen Berger

level of cuts that can be imposed, and some contend that the city's minority groups will bear an unfairly large burden.

Mayor Beame's office said he would have no immediate comment on the university issue until he had studied the board's latest plan fully.

In a separate fiscal gathering, the Economic Development Council, a group of 200 business leaders, heard its chairman, George Champion, caution that the city government needed drastic management reform if it was to survive the fiscal crisis.

"Until the city gets more efficient management, from top to bottom, there is no way in which the downward economic spiral can be reversed," Mr. Champion told the council over a lamb-chop luncheon at the University Club.

The gathering in the handsome quiet of the club on Fifth Avenue provided "evidence" of the business community's fresh concern for the city budget, both in the council's continuing task force studies of urban problems, and in the casual chatter of members.

One executive eyeing his ice cream soon moved from personal observations ("You can still get a square meal at the Ritz in Paris") to discussions of the city's welfare problem and new transit contract.

"I figure the transit thing was swept under the rug until July," he said to a companion.

State Says City U Biggies Lived High on Student \$

By BOB HERBERT

High-ranking officials at financially troubled City University have been tossing lavish parties, decorating private residences and paying membership in exclusive clubs with funds derived from student fees, other unauthorized sources, a state audit disclosed yesterday.

More than \$70,000 was spent for cheques, dinners and catered receptions, "generally with no documentation persons attending or the purpose of gathering," the audit charged. Nearly \$3,000 was spent on the chancellor's and deputy chancellor's membership fees at the posh Lotos and university clubs and the Century Association. State Controller Arthur Levitt's auditors reported.

The auditors reported also that a consultant was hired — at a cost of \$51 — "to determine the public's opinion of CUNY."

At City University headquarters, the levy was drawn from the University

Fund, which was set up "in April 1970 from \$636,000 in interest earned on previously collected" student fees, according to the audit.

Similar funds, known as the President's Funds, were established at Queens, Brooklyn and John Jay colleges, and at the Graduate Center.

Although the auditors say that the schools have no legal basis for establishing such funds, university Chancellor Robert Kibbee was quoted in the audit as saying that all of the expenditures were for "college-related" activities and "the report fails to recognize the various and sundry social obligations required of the college presidents in the performance of their duties."

Audit: CUNY wasted 3.9M in student aid

By GEORGE ARZT

The City University wasted nearly \$3.9-million in grants to "disadvantaged" students under the controversial SEEK program, State Controller Levitt reported today.

Levitt said that nearly half of the stipends awarded in 1974-75 went to "ineligible" students, to students who failed to report welfare or unemployment benefits, to part-time students not qualified for the program and to students who failed to document their need for aid. "The pattern of missing and inadequate documents, payments of stipends in excess of mandated limits, and disregard of cost guidelines has resulted in millions of dollars of inappropriate expenditures to ineligible students and overpayments to eligibles," he said.

10-YEAR PROGRAM

SEEK, which stands for Search for Education, Elevation and Knowledge, was set up 10 years ago to provide financial aid, counseling and tutoring to the "economically and educationally disadvantaged." In recent years it has been widely criticized for administrative sloppiness.

Levitt also had the following year, 10,400 students at CUNY were in the program, which had a budget of \$27.8 million in state, city and federal funds.

Levitt also had the following criticisms of the program: "Significant numbers of

students left the program or were dropped without graduating.

The majority of students accumulated less than 24 credits per year and did not complete the course of study in five years, the standard set by the State University for students in a comparable program.

Although the program was established, to teach basic skills, much of the curriculum offers regular college courses.

21% INELIGIBLE

The audit found that 2273 students — 21 per cent of the 10,920 students in the program — in 1975 were economically academically or in some other way ineligible to receive aid.

In many cases, students falsified parental income and had school averages ranging from 80 to 92. To qualify for the program, the average should have been below 80.

A random sample of 283 awards indicated that about 46 per cent of the stipends were "improper." The ineligibility rates of the 10 senior colleges ranged up to 67 per cent with Lehman, Brooklyn, Queens, York, and Hunter at the top of the list.

Levitt called for "prompt, independent in-depth evaluation of the accomplishments of the SEEK program."

He recommended that the state deduct \$2.4 million from next year's state aid payment to SEEK because of expenditures not authorized by law.

Auditors: 13% of students don't exist

**Levitt blasts CUNY aid,
demands \$13.4M refund**

97, 98, 99, 100, 101, 102, 103, 104

By BARBARA BOSS
State Controller Arthur Levitt gave the city a \$13.4 million bill yesterday, saying the state is owed that money because the City University got too much aid for its community colleges in 1974.

CUNY overstated the number of fulltime equivalent students by 13 percent, made errors in computing teaching loads and student-faculty ratios; and overstated the number of disadvantaged students who proportionally get more state aid, according to Levitt.

In a searing letter rebutting the findings of Levitt's latest audit, CUNY Chancellor Robert Kibbee accused Levitt's auditors of being "inflexible, arbitrary and, in some instances, illogical" in the way they interpreted CUNY's fiscal data. For example, he notes, the auditors applied 1976 regulations to 1974 data in determining teaching loads. At another point, Kibbee says in essence that the auditors are quibbling over words by disallowing

Applicants Dropping at City University

By JUDITH CUMMINGS

Data gathered by the City University indicate that if the

not taken into account in the covered by the university data, analysis.

"Their data up until now. Also," he said, the setting has been inaccurate," said Ger- of a March 1 applications dead-

City U. Is Reopening With Tuition, Problems and a Drop in Enrollment

Still, Some University Officials See Improved Stability—Students Report Fiscal Hardships

By LESLEY OELSNER

ment in the Bronx, with each sharing

KIBBEE ACCUSED OF DEFYING LAW

Goldin Also Says Chancellor Runs a Risk of Losing Job Over City U. Spending

By JUDITH CUMMINGS

The City Comptroller yesterday accused the chancellor of the City University, Dr. Robert J. Kibbee, of defying a state law, and possibly risking his job, by not adequately curbing the university's present spending.

The Comptroller, Harrison J. Goldin, was reacting to Dr. Kibbee's disclosure Thursday that, because he did not have enough money to pay all the university's April bills, he would delay payment for supplies in order to pay faculty and staff salaries.

Mr. Goldin said he would present the legal issue for consideration by the Emergency Financial Control Board at its meeting Monday. He was joined in his denunciation of the chancellor's move by Stephen Berger, director of the Control Board, who declared:

"If his answer is 'I'll pay them next month when I get some more money,' this is not a program—this is a prayer."

In the growing dispute over how much the university will be required to reduce its spending—both immediate, and future—the Comptroller's office

THE NEW YORK TIMES, THURSDAY, APRIL 8

KIBBEE IS WARNED ABOUT FISCAL PLAN

2 on Board Say They'll Call for Him to Quit if He Offers No Proposal to Close Gap

By JUDITH CUMMINGS

Two members of the Board of Higher Education said yesterday they that they would call for the resignation of Dr. Robert J. Kibbee, chancellor of City University, unless he produced specific recommendations to resolve the university's fiscal crisis.

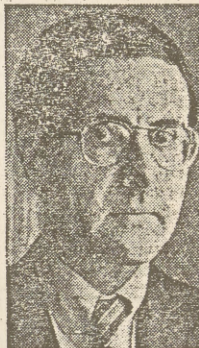
The board adopted a controversial plan last Monday for trimming the university's scale along lines proposed by Dr. Kibbee, although it was acknowledged that the plan called for spending \$76 million more than the university expected to receive next year.

The announcement by the two board members, Gurston D. Goldin and Harold M. Jacobs, was the first public sign of what is reported within the university to be a growing private rift between the chancellor and some members of the board over the handling of the fiscal crisis.

"Failure on the part of the university administration to submit specific recommendations for closing the acknowledged fiscal gap would be a dereliction of duty, and the board would have no choice



Harold M. Jacobs



Dr. Gurston D. Goldin

Kibbee Backs Building Plan At York College

By EDWARD B. FISKE

Bowing to what he called "public policy considerations," the chancellor of the City University modified his position and endorsed yesterday a compromise \$90 million to \$100 million construction program for York College in Jamaica, Queens, and a curriculum built around business and health-care programs.

The chancellor, Dr. Robert J. Kibbee, previously had opposed further development of the campus on the ground that a proposed \$140 million expansion was not educationally justifiable.

Yesterday, in an interview in his office, he said that if "public policy" dictated a new campus, "there are ways of making it justifiable on educational grounds."

However, no decision on any construction anywhere in the City University system is expected until a formal master plan is approved by the Board of Higher Education. Ultimately, the decision rests with the Mayor, the Governor and the Board of Regents.

Borough President Donald R. Manes of Queens, who has been fighting for a new York campus as the keystone to an economic-redéveloppement plan for Jamaica, said that he was glad the chancellor is now "graciously advocating a program that I have been advocating for years." He added that he and other Queens political leaders would press the chancellor and the Mayor for "a firm commitment to the building of York College."

The future of the college has become the most controversial aspect of the master plan. The chancellor sent a draft document to the Board of Higher Education yesterday, and a public hearing is scheduled for Monday night at the board's headquarters.

The document has been eagerly awaited by officials, who, in the light of current fiscal difficulties, have refused to approve any further construction for the university without an assessment of overall needs. Approval by the State Board of Regents and the Governor is needed because the State Dormitory Authority must be authorized to issue bonds for construction.

The master plan estimates that by 1990 enrollment at the 18 undergraduate and graduate units of the City University will fall from the current level of 153,104 to 139,050 "full-time equivalent" students. The projected 1990 figure is a 26 percent drop from the university's peak enrollment in 1975.

Considerably more students are involved since the term "full-time equivalent student" is used for planning purposes. Two half-time students would, for example, count as one full-time equivalent.

According to the chancellor's estimates, enrollment at York College will fall from

ENROLLMENTS DOWN, COLLEGE STAFFS CUT

Layoff of 125 Nontenured Workers
in City University System Tied
to 3,000 Fewer Students

By EDWARD B. FISKE

In the face of unexpected enrollment declines, the nine community colleges of the City University of New York have sent layoff notices, effective in September, to 125 to 150 nontenured professional staff members.

Three of the colleges — Bronx, Kingsborough and Manhattan — have sent "letters of nonreappointment" to a substantial number of instructors, librarians, laboratory assistants, counselors and other nontenured "instructional" personnel. Other colleges have sent them on a more selective basis.

Dr. Joshua L. Smith, the president of Bronx Community College, said he had sent notices of dismissal to 44 staff members in order to meet the Dec. 1 deadline required by the contract with the faculty union for notification of nonappointment for the following academic year. He added, however, that "the chances are very good that a substantial number will be rehired once we get a picture of the budget and enrollment situation for next year."

The dismissals result from the fact that community college enrollment this fall was 3,000 "full-time equivalent students" below the 63,000 projected last spring. A student taking 12 credits is counted as one full-time equivalent student, or "F.T.E." Two students taking six hours each would also represent one F.T.E. for budgetary purposes.

State aid for community colleges is largely dependent on enrollment. Senior colleges receive aid on a different system and are not as directly affected.

Jerald Posman, the City University's

City U. Board to Ease Off on Tighter Entrance Rules

By JUDITH CUMMINGS

board members, Vmia R. Qui-

The plan calls for the John

Queens, which was to be re-

Brooklyn College Officials Deny Budgetary Influence on Grading

Times NY Wed Jan 17/77 11:48 p. 85

By LEE DEMBARK

The president of Brooklyn College, Dr. John W. Kneller, "vehemently" denied yesterday that budgetary considerations had influenced the grading of a controversial English writing examination given to 1,600 sophomores in the last several weeks.

However, the chairman of the English department, Jules Gelemt, disclosed that the four faculty members who graded the tests "had found half of the students' papers 'marginal,' but had decided to pass them because 'the test was not designed to test anything beyond minimum proficiency in writing.'"

But, along with Dr. Kneller, Professor Gelemt, as well as the college provost, Donald R. Reich, emphatically disputed a report in The New York Times on Sunday that failing students had been passed because the college did not have enough money to provide remedial writing courses for them.

"The grading was not in any way changed," Professor Gelemt said.

One of the readers, Prof. Louis Asekoff of the English department, denied having told The Times that "we had to lower our standards for budgetary reasons" and gave an account of the grading of the papers similar to Professor Gelemt's.

Test Object of Protests

Quite apart from the current questions about the proficiency exam, the test, which was planned for the first time last year, was a one-year transitional center proposed to be operated by the Board of Education for remedial help.

The decision to relax entrance criteria is seen as a compromise gesture to the board's three minority-group members, who have adamantly opposed any retreat from the university's policy of guaranteed admission to any recent graduate of a city high school.

The requirement that applicants demonstrate competency to read at an eighth-grade level raised a public outcry, after it was adopted by the board last December, when studies by the university indicated that such a measure would cut minority enrollment in next fall's freshman class by more than two-thirds.

A lawsuit to overturn the resolution on procedural grounds — instituted by two

large numbers of papers that had no errors of language or grammar, but whose content was thin and whose treatment of ideas was extremely superficial."

The four readers along with the head of the program, Prof. Lilla Melani, met twice, he said, to decide on criteria and decided to pass the marginal papers.

Asked whether the decision on whether to pass or fail half of the sophomore class had not been made at a low level, Professor Gelemt said, "If I'm not going to trust them to set the standards, then I'm not going to trust them to read the papers in the first place."

He insisted that only academic considerations had been used in deciding whether the marginal papers would pass.

But the college refused to release samples of the marginal papers, even an anonymous paragraph, so that others could decide whether the papers demonstrated acceptable college-level writing.

Dr. Reich, the provost, said: "Are you asking Brooklyn College to give you a copy of an examination of a student who took it knowing that it was a proficiency examination and make it a public document? I don't think you ought to ask that question. It smacks a bit of some kind of violation of academic freedom."

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Jamaica, effective in June 1978.

Mayor Beame reacted to press reports that the City University was planning a public relations campaign to fight planned cuts in city aid by sending a letter to the Robert Kibbee, chancellor of the City University. "Your avowed intention to fight the city is disappointing, to say the least," the Mayor said in his letter.

New City U. Board Will Meet Today With Public's Confidence Seen at Issue

Times N. Y. Mon. August 8, 1966 p. 27

By EDWARD B. FISKE

Educators and others concerned with the City University agree that restoration of public confidence in the university's ability to manage its affairs looms as the major task confronting the new Board of Higher Education when it begins formal operations today.

This confidence has been badly shaken by university actions during the budget crises of the last year. Critics have accused both the chancellor's office and the board itself of failing to provide leadership in retrenchment, of miscalculating the realities surrounding free tuition and of confusion over the nature of the City University.

"It is clear that on the major policy issues the university leadership has not lived up to its responsibilities," said Henrik N. Dullea, special assistant for higher education to Governor Carey, in an interview.

Several Other Problems

Although the establishment of stable leadership is seen as the major task in a broad sense, the new board will also face several other important decisions. These include:

¶The selection of a new chairman, either from its own ranks or from outside.

¶The healing of personality problems that have undermined relations between the board and the central administration.

¶Development of a plan for future financing of the senior colleges.

¶Rebuilding the academic reputation of institutions that have gone through major cuts in the size of their faculties and student bodies and are plagued by such problems as low faculty morale and the loss of vital, young teachers.

In the broadest sense, the success of the new board will ultimately be determined by how it decides to approach the two basic — and sometimes seemingly conflicting — objectives of providing high-quality and mass education for an urban clientele.

One possible approach, the one favored by presidents of

the senior colleges, is to emphasize the creation of traditional academic institutions and leave it to them to define their responsibilities to the city. The other, favored by those most sensitive to the goals of community colleges, is to begin with social concerns, such as maximum access, and try to build academic quality within that framework.

Long-Range Impact

Whatever the new board's approach will be, it will certainly affect the nature and health of the City University for years to come.

"What we need is nothing less than a new definition of the role, scope, size and program of the university," said Anthony D. Knerr, vice chancellor for budget and planning. "It is something on which we have to come out early, forcibly and with great clarity."

The old board, led by Alfred A. Giardino, was dismantled and replaced July 1 as part of a legislative package that puts a floor under the level of state contributions to the City University and requires the imposition of tuition charges for the first time. The 14 members of the new board, half named by Governor Carey and the other half by Mayor Beame, will hold their first business session today.

Financing Plan Needed

The most conspicuous item on the agenda will be the selection of a 15th member and of a chairman, who may be the same. One report is that Harold M. Jacobs, the Brooklyn businessman who is one of six holdovers from the last board, will become chairman for at least the immediate future.

Various appointees of the Governor, however, report that they have heard nothing of any such plan. They expect that the 15th member will be a person of such stature that he or she will inevitably become the chairman.

Another immediate decision is the development of a proposal for the long-term financing of the nine senior colleges.

Mayor Beame has announced that the city will terminate its support of the four-year colleges at the end of the current academic year.

While Governor Carey has signaled his willingness to move toward state financing over a three-year period, many believe that the particular higher educational needs of New York City — notably the obligation to provide a large number of students with remedial work and then help them make the transition to college-level academic work — requires some sort of city involvement in the senior colleges.

"If the community colleges are not integrated into the same system as the senior colleges, they then will become little more than grades 13 and 14 of high school," said Mr. Knerr.

Dr. Robert J. Kibbee, the City University chancellor, has recently begun to argue for a



Harold M. Jacobs, who is expected to become board chairman for at least the immediate future.

plan whereby the city would support freshmen and sophomores in the senior colleges at the same level as it finances students in the community colleges. Support of upperclassmen would then be left to the state.

Underlying all such major new policy decisions facing the board, however, is the question of credibility and public confidence in the university's professional and lay leadership.

It was obvious to all observers that, in confronting the budget crises of the last year, the City University lacked anything resembling a normal governing system in which a lay board, acting on the recom-

City University Cuts: It's Just the Beginning

By JOSEPH BERGER

City University Chancellor Robert Kibbee has privately conceded that his proposal to close three colleges and reduce enrollment by 32,000 students still leaves the university with a \$50 million deficit in each of the next two years.

In a letter Monday to the members of the Board of Higher Education, Kibbee indicated that unless the state provided additional funds to bridge the gaps, the closing of other colleges and further enrollment cut of 35,000 students may be necessary.

One clear implication of the Kibbee letter was that protests against his plan are futile, since those cutbacks may be the best position the university can hope for.

Original Plan

"The Kibbee plan is just the tip of the iceberg as far as the kind of trauma the university will have to go through," said one CUNY official familiar with the painful arithmetic of the crisis.

Three weeks ago, with the university facing steep cuts in future city funding, Kibbee unveiled a plan for reducing the scope of the university's operations. He proposed the closing of John Jay and Richmond Colleges and Hostos Community College and the conversion of Medgar Evers and York Colleges into two-year colleges.

He called for new admission standards requiring an 80 high school average for entrance to the senior colleges and a 70 average for entrance to the community colleges, and he proposed tightened standards for remaining in school.

The plan touched off an uproar among faculty, students and city officials who have repeatedly protested the cutbacks that have taken

More defiance on school racial data. Page 49.

place so far this year. At a BHE hearing Monday on the Kibbee plan, some 300 speakers denounced the plan while hundreds of students and teachers demonstrated outside the meeting.

But university officials who are aware of the grave dimensions of the university's fiscal mess feel the protests may be pointless. Arithmetic rather than academic considerations is what is dictating future policies, they say.

To these officials, the real question is not what can be done to save the three colleges, but what can be done to forestall even more drastic cuts.

The Kibbee plan requires the university to spend \$517 million in the fiscal year beginning July 1. But city funding will decline to \$190.3 million next year, and when losses in matching state funds are figured in, the university will be left with \$464.8 million to spend, \$52.4 million less than provided for in the Kibbee plan.

In the 1977-78 fiscal year, city funding will drop to \$178.9 million, leaving the university with an even more restrictive budget of \$443.2 million. That is some \$50.5 million less than the Kibbee plan for that year.

Kibbee reportedly hopes that the deficits can be covered by changes in the city-state funding formula that would increase the state's share of senior college costs to 55 per cent. Right now, the state contributes 50 per cent of the senior college budgets in excess of tuition and fees.

CUNY officials concede that chances of changing the

formula to the extent Kibbee would like are slim. They also acknowledge that whatever changes the state agrees to will probably require the BHE to take the historic step of imposing tuition on its undergraduates.

Apparently dissatisfied with the financial assumptions of the Kibbee plan, board member Dr. Gurston Goldin last Friday wrote a memo to Kibbee demanding: "How do we reduce spending to the level of available funds? What further modifications of your plan in terms of additional contractions are necessary to achieve this balance?"

Kibbee's response to Goldin was the letter he sent Monday to each of the 10 board members.

85% Requirement?

The letter began by noting that every student eliminated from the university through a combination of college mergers and closings saves CUNY \$1500. If the university wanted to wipe out a \$10 million deficit, Kibbee said, it would have to eliminate 6600 students, and 330 faculty members.

But the university's deficit next year of \$50 million, Kibbee said, "would necessitate an enrollment decline of 30,000 to 35,000 full time students and a reduction of 1500 to 1600 full time faculty members."

While Kibbee did not say so, another university official pointed out that enrollment cuts of this magnitude would require further tightening of the university's admission standards. The official said that requiring an 85 high school average for the senior colleges—the admission standard for the best city colleges before the university inaugurated an Open Admis-

Continued on Page 11

City College: Scandal of the 'failures' who graduate

N.Y. Post Wed. March 1/1978 P.7

Part 2 of a Post investigation by William Heffernan

Each year more than \$16 million in federal and state tuition aid pours into the hands of City College students—money that is intended to bring hope and opportunity, but which far too often leads only to disillusionment.

Much of that money, an investigation by The Post has found, is being handed out to functionally illiterate students—many from minority neighborhoods—who have been lured to the college by the thousands under the institution's open admissions policy.

These same students, many faculty members now admit, have become the victims of that policy. Some are simply

crushed under the weight of material they cannot understand.

Others, who are quietly pushed through the university and receive degrees, soon discover that a degree in the hands of an illiterate is of little value.

For five years Margaret Cullinan taught history at City College and saw first-hand "the total emotional

destruction of many students."

I remember one boy in particular," she told The Post. "He was a lovely young man from a nice middle class family in Queens."

"But when I received his first test paper I was shocked. He simply could not write above a 4th grade level."

Miss Cullinan explained that the young man somehow continued on through four years at the college and was granted a degree.

"He came back to see me shortly after that," she said. "And I'll never forget the look of horror in his eyes."

Continued on Page 19

Waldman, an associate professor of economics, insists that many of the students who come from minority neighborhoods have the potential to become good students.

"What we fail to do here," he explained, "is to differentiate between the students who have a capacity for learning and those who don't."

"There are many fine students here, but we simply put them in with poor students and everyone suffers," he added. "The classes are slowed down for the poorer students and the good ones are left behind with them."

The professor, who also works in the private sector, said many corporations now avoid open admissions stu-

"What we have here is an education system with very little educating going on. These poorly educated students are simply being pushed through. And in doing this we are shortchanging them. We are cheating our own students," he said.

Borgatta insisted the reasoning was to keep enrollment figures up. "The standards in the classroom have been lowered to the point that we bend over backwards to keep them in school. Then we give them credit for remedial courses and fool them into believing they are getting a college education."

Reaction among students on the City College campus was widely mixed. Many insisted a degree alone would

STUDENTS SU

AUG. 29 MEETING SET ON HEAD OF COLLEGE

*P. 24 N.Y. Times
August 18, 1977*
Higher Education Unit to Weigh
Future of Dr. Draper in Dispute
on Manhattan Community

By EDWARD B. FISKE

The Board of Higher Education has called a special meeting for Aug. 29 to decide whether Dr. Edgar D. Draper will be retained as president of the Borough of Manhattan Community College.

At issue is whether the board continues to have confidence in Dr. Draper after allegations that an evaluation team's report critical of the college was improperly replaced by a more favorable one.

Ronald T. Gault, the chairman of a three-member subcommittee looking into the matter, said a decision on Dr. Draper's future as president of the 9,000-student college would be made promptly in order to protect the interests of students.

"The school is in chaos," he said in an interview. "The administration has been drawn into preparing the defense of Ed Draper instead of performing their normal functions. We want to resolve the administrative question of Borough of Manhattan Community College by the time school opens in the fall."

Dr. Draper denied that his staff had been diverted from preparations for the opening of the semester. He also disclosed that on July 26 he formally appealed the decision of the Middle States Association of Colleges and Schools, which oversees the accreditation process in this area of the country, to disregard both of the earlier evaluation reports and to send in a new team in the fall.

"No Sound Basis" Seen

In his letter, Dr. Draper said that the association had "improperly" rejected the more favorable document, which he termed the "official evaluation report," and that there was "no sound basis for establishing a second evaluation team."

Robert Kirkwood, executive director of the commission on higher education of the association, said the appeal would be considered as soon as commission members could be assembled, probably in early September.

The controversy erupted last spring when it became known that there were two versions of a report on the March visit to the college by a nine-member team headed by J. Harry Smith, the president of Essex County College in Newark.

The official version, submitted by Mr. Smith to the accrediting body, had high praise for the administration of the college. It called the leadership "stable" and praised the "close cooperation and consultation among senior officials."

They were being handled promptly on an individual basis.

Board Ousts Draper as President Of Manhattan Community College

By EDWARD B. FISKE

The Board of Higher Education ousted Edgar D. Draper last night as president of Borough of Manhattan Community College for what it called "the good of the college."

Since last June the board has been investigating allegations that Dr. Draper used "improper" means to persuade the head of a college association evaluation team to alter his report in order to portray the college administration in a more favorable light.

The decision came at the end of a two-and-a-half hour closed meeting convened to consider Dr. Draper's tenure as head of the 9,000-student institution, whose main offices are in a midtown office building. Following the meeting, the board announced its dismissal and declared that Dr. Draper would retain his status as a tenured professor within the City University.

By way of explanation, a short statement by the 14-member governing body said simply, "The board believes that new leadership at Borough of Manhattan will be in the best interests of the students and the College."

Draper Says He Is Shocked

Dr. Draper, who spoke for half an hour before the board, said afterward that he was shocked by both the decision and the way it was carried out.

"I am deeply disappointed," he said, "I have not been handed any charges or reasons for this action of the board. I had no idea that they would do this without giving me any understanding of the reasons. I just think that in a democratic society a Board of Higher Education should act in a more responsible manner."

Dr. Draper, who has held the \$42,475-a-year post since 1970, blamed Robert J. Kibbee, the Chancellor of the City University for his ouster. Two years ago, Dr. Kibbee attempted to remove Dr. Draper allegedly for incompetence. At that time the board refused on the ground that there was "insufficient basis" for such an action.

The Chancellor has wanted me out of the university for a number of years, said Dr. Draper.

Jeffrey Dubin, an attorney who accompanied the 55-year-old president during his appearance before the board, said that he was considering a challenge to the decision in the State Supreme Court. "Right now we're undecided," he said.

Under City University procedures, presidents of the 13 colleges and universities serve at the pleasure of the board and can be dismissed by board vote. The removal of someone as a faculty member, however, requires formal charges and hearings.

Prior to the meeting, Ronald T. Gault, chairman of the three-member committee investigating the matter, said that the issue facing the board was not the specifics of the accreditation dispute but rather whether the board continued to have "confidence" in Dr. Draper.

The board's concern over Dr. Draper's administration developed last June when Dr. Kibbee wrote to the Middle States Association of Colleges and Secondary Schools asking for an explanation of why there were two widely different versions of the accreditation team's report.

The official version of the report submitted by J. Harry Smith, the president of Essex County College in Newark and head of the team, had high praise for the administration of the college. It called the leadership "stable" and praised the "close cooperation and consultation among senior officials."

Second Version at Variance

A second and presumably earlier version, spoke of "instability" and "lack of coordination" among top administrators and said that the leadership had "devised a modus operandus" that encouraged a lack of respect for administrative authority and responsibility.

When the existence of the two versions of the report became known the Middle States Association announced that it would disregard the team's work and send in a new team in the fall. The board appointed an informal committee of three members to investigate allegations that Dr. Draper had used "improper" means to persuade Mr. Smith to submit a more favorable document.

Both Mr. Smith and Dr. Draper

Kibbee Perks Up at Hints of Aid for City U

By KEITH MOORE

City University Chancellor Robert Kibbee warned yesterday of a "draconian" cuts at the financially hobbled institution if Mayor Beame makes good his threat to pull out over \$100 million in financing from the university's nine senior colleges.

His warning came, however, amid rumors from the city that it would reverse its position taken last March and provide some funds, although probably not in the amounts hoped for by the university.

The chancellor said he had heard "rumors that there would be some funds from the city, but he said he had not been told by anyone in a position to speak for the mayor.

Harold Jacobs, chairman of the 15-member Board of Higher Education, which runs the university system, said he had been told by some confidantes in city government that the city's level of support would be between \$40 million and \$50 million.

Not Available for Comment

But neither First Deputy Mayor John Zuccotti nor City Budget Director Donald Kummerfeld was available for comment on a specific dollar amount. Zuccotti was with Mayor Beame in Georgia, seeing President-elect Carter, and Kummerfeld was said by a spokesman to be involved with meetings.

However, in a recent interview, Kummerfeld said that the city was not irrevocably committed to ending its

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Wed. Dec. 12/29/78 P.15

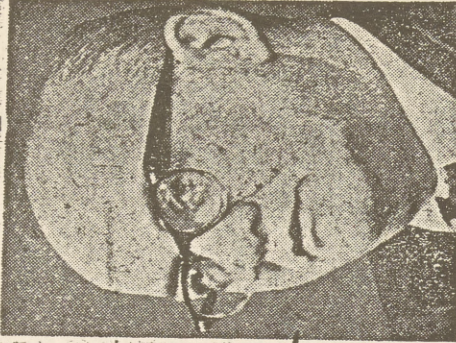
higher education's headquarters, 535 E. 80th St., Jacobs, who said, "We really have our hats in our hands," appealed to reporters to "use your prestige and offices in the media to help us." Later, however, Jacobs said he was not actually enlisting the support of reporters in trying to get more funds. But he said he hoped the reporters would better understand the university's plight if they realized the kinds of cuts the university has had to make over the last year and a half.

When Kibbee and Jacobs were asked if yesterday's briefing was part of the \$50,000 television and newspaper advertising campaign aimed at getting the city to provide maximum financing for the university, neither answered the question directly.

But Kibbee said later that the so-called mobilization of support for the university was not specifically aimed at the mayor. "While we are willing to make sacrifices in light of the city's financial position, we don't want to be sacrificed," Kibbee said.

In a related development, Kibbee said the university was "virtually on target" in its \$135.5 million projection of revenues gained from the imposition of tuition.

The chancellor said all the figures



Robert Kibbee
(Has heard some rumors)

had not been collected as yet, but that the university may fall only \$1 million below what it had originally forecast. If the university falls beneath the \$135.5 million figure, it would probably mean further layoffs.

City U. Begins Recruiting Students State Panel Urges Increase in A-1 Colleges Are Lagging In F. H. W. A. 1

Former CCNY aide faces 90G theft rap

Critic of Policies at City College Asked to Resign From Deanship

By JUDITH CUMMINGS

A City College dean

held a top rank among the country's publicly

Kibbee's Future Is Uncertain at Best

With both Governor Carey and Mayor Koch guiding him toward the door, it looks as if Robert Joseph Kibbee may need to draw fully on the family acting talents to arrange a graceful exit from the chancellorship of the City University of New York. The Chancellor, son of the late actor Guy Kibbee, has presided since 1971 over the shrinking but still huge CUNY system, with 174,000 students. But his tenure, seemed about finished last week when, following reports that Mr. Carey was "seeking a change at the top" of CUNY, Mayor Koch said that if the Governor wanted to give Mr. Kibbee the "heave ho, I'm not going to stop him."

The Chancellor, who is answerable to the Board of Higher Education, has had enough independence to criticize the Governor's tuition aid policies. Dr. Kibbee also jarred austerity-minded City Hall with a \$680 million capital spending plan. But the present board's mandate expires June 30, and Governor Carey appears assured of control of its successor. The Chancellor protests that increasing state control would impair CUNY's usefulness to its local constituency. But in view of the city's hope that the state will pay for 100 percent of CUNY's capital construction costs, the university system's independent powers will be curbed by the more formidable power of the purse.

of his original essay "Open Admissions, a Confessional M... that he "

CITY U. AID PLAN FAILS IN ALBANY

Assembly Democrats Unable
to Agree on a Program
The City U. Aid Plan
Fails in Albany

By IVER PETERSON

Special to The New York Times

ALBANY, May 27—Efforts by the State Assembly's Democratic majority to put together a package to rescue the City University collapsed in a party caucus this afternoon, as New York City legislators charged that the leaders' proposals were too stingy and an upstate bloc argued that they were too generous.

With the two houses prepared to adjourn for the holiday weekend, no further attempts by the Legislature to enact the legislation were considered possible this week.

Dr. Robert J. Kibbee, chancellor of the City University, said here after meeting with legislative leaders today that there was a "very good chance" of a faculty furlough lasting at least three or four days next week unless funds to meet the payroll were somehow found. The chancellor said

Carroll became CCNY's vice president in 1973. In several sessions the Lindsay on's welfare de-

u's office has comment on the ng funds came a fulltime di- lobbying group or Carroll last tried to locate

Financial... Many reasons are... director of the office... "in addition to tu... With the financial... able, Mr. Proto said, n... need can still have all o

ag... of its successor. The Chancellor pro... tests that increasing state control... would impair CUNY's usefulness to its... local constituency. But in view of the... city's hope that the state will pay for... 100 percent of CUNY's capital con... struction costs, the university sys... tem's independent powers will be... curbed by the more formidable power... of the purse.

Senator EXON. I have a question or two for you.

First I would like to say that many of the concerns you have expressed in your testimony this morning are ones that I fought, and fought very hard during my 8 years as Governor of the State of Nebraska, where we have several major higher education functions.

I agree that higher education in general, as far as that goes all education, is important, as that is, to our people from the time that they first start teaching our youngsters. Of course it's a very expensive part of government, and most of the figures that you have cited on declining enrollment in students I suspect is not just for the City University of New York, but that same thing is true for most universities throughout the country, and certainly going down into our elementary and secondary schools.

Would you agree that there is a generally declining enrollment?

Mr. LIPSMAN. In planning for enrollments there is often retrenchment in the budget, except for allowing for inflation. And I would further state for the record that I believe that when there is a question of where shall we allocate our dollars when resources are scarce, let us see to it that we maximize our resources, that we use it for education and not for color television sets and Persian rugs.

Robert Kibbee, the chancellor, didn't lose one of his television sets during this alleged—alleged—fiscal crisis.

Senator EXON. I would just say to you—you just said that you thought that there would be a cutback in expenditures. I would suspect that the committee would be very much interested if you could provide where there has been a reduction in moneys expended for education. I guess that was one of my major concerns: Enrollments went down, and expenses went up.

So I am wondering, when you said you thought that there was—

Mr. LIPSMAN. Were they for antique coffee urns—were those expenses for education? Were those dollars spent for antique coffee urns or color television sets?

Senator EXON. I don't know. I suspect there could be a lot of tightening up in many of our institutions of higher learning.

I guess what you have said this morning—and I share many of your concerns for the frills that are part of the educational system, and as far as that goes, it can go on through many of the other segments of government.

Are you saying, though, that with your testimony here this morning that Mary Bass is primarily responsible for what you cite as abuses of the taxpayers' money in the city of New York?

Mr. LIPSMAN. I am saying that she is one of perhaps four or five top officials of that university, that she has not simply been a person who carried out orders, but has been responsible for setting policy.

I am saying that she has stonewalled many efforts to uncover this, whether I have tried to find this out through the Freedom of Information Act in New York, whether I have sought this under the Open Meetings law. I am saying, Senator Exon, that Mary Bass, if she is not largely responsible for these conditions, then you

can hardly lay the blame at the doorstep of almost anybody at New York University.

Senator EXON. I don't mean to be facetious, but the point crosses my mind that if it's true that Mary Bass has been part and parcel of what you say has been going on in New York City, wouldn't that give her a significant insight, if she wished to have a change of heart and get into some of these abuses that we are considering her for appointment with the agency to which she is assigned?

Mr. LIPSMAN. Senator Exon, let me answer your question this way: If you believe that employing ex-convicts to root out corruption in agencies, is the best way to handle a situation because they already know the tricks of the trade—and I make this as an analogy, as an analogy only—then I would say that perhaps it would be a very wise idea to confirm Mary Bass for this position.

Senator EXON. You don't think that your analogy there is a little strong?

Mr. LIPSMAN. No, sir, I do not, not in view of the record I have here, which is accumulated over several years.

Senator EXON. Mr. Lipsman, I wish to thank you on behalf of the committee for coming forth with your testimony. It will be available to all members of this committee.

Thank you very much. We appreciate your coming.

Mr. LIPSMAN. Thank you, Senator Exon.

Senator EXON. Is there anyone else who wishes to testify for or against? Any more material?

Mary Bass, you raised your hand. Do you wish to come forward?

Ms. BASS. Yes. I would like to say only one thing, Senator Exon.

Senator EXON. Would you please sit down so that we can make sure that we get this in the testimony.

Ms. BASS. Mr. Lipsman has exercised his right as an American citizen to come before you and to testify, and I appreciate your giving him the audience to do that.

The merits of what he has said is something completely different. With respect to any allegations which he has personally made against me, he has submitted these to various agencies, including the Bar Association of the City of New York. They have been found completely wanting.

Thank you.

Mr. LIPSMAN. May I respond to that, Senator Exon?

Senator EXON. Yes, you may respond.

Mr. LIPSMAN. What Ms. Bass has said is not totally accurate. I filed a complaint with the grievance committee of the Bar Association, City of New York. And since Mary Bass opened the door, I feel I should be permitted to go through it.

The complaint in this case was that Ms. Bass, in her capacity as vice chancellor for legal affairs and general counsel of the university, did, in fact, participate in a coverup of the activities of Dr. Edgar Draper, which, had those activities on the part of Dr. Draper been fully explored, would probably have resulted in the preferring of criminal charges.

I have undertaken in the courts of New York State, in which I am still engaged, in about 16 months I have been fighting this case as a pro se litigant—I am not an attorney; I have been fighting this on my own, doing the research and fighting it on my own—I have

tried to get these documents. I have so far not succeeded in getting these documents.

I would ask this, Senator Exon: I would ask this committee—I believe this committee has the power of subpoena duces tecum, and if it doesn't have the power of subpoena duces tecum, it can certainly request documents as part of its investigation.

I would say to you, Senator, and members of your committee, take a look at these reports which I have sought to get for 16, 17 months. Compare the two reports, see whether or not Dr. Draper was removed because he had, in fact, offered a position to the head of a middle states accreditation team in exchange for rewriting a negative evaluation. See if that was or was not the case, and then, Senator Exon, see whether or not Mary Bass permitted me to come to that meeting where the president of that college was removed in secret session or whether Mary Bass released those documents or said, "No, they are not releasable under the Freedom of Information Act," despite the fact that the executive director of the New York State Committee on Public Access to Records, Mr. Robert Friedman, said, "Yes, they are releasable."

I ask you, Senator, ask for those documents, look at them yourselves. Don't let me see them. Understand the background and then see whether or not Ms. Bass was involved in covering up fraud.

What I have detailed here is mostly waste, but now I am talking fraud—f-r-a-u-d.

Senator EXON. You have testified that she wasn't totally accurate or honest in her response. I believe her testimony was to the fact that you had brought similar allegations in front of—what—to the bar, New York Bar?

Mr. LIPSMAN. The grievance committee. The counsel of the grievance committee said the following: "If you can supply us with those reports, then we may have cause to proceed further." This is, in substance, what they said to me.

Now, if I get my hands on the documents, I can turn them over to the committee, as well as I intend to turn them over to the New York County district attorney's office and to turn them over to Channel 2 News, an investigative reporter, Steve Wilson.

I think you already have some material from Steve Wilson, investigating, already.

Senator EXON. Your position, then, as I understand it correctly is that although the Freedom of Information Act clearly cover the documents that you referred to, they have not yet been made public?

Mr. LIPSMAN. That is correct, sir.

Senator EXON. And that—is it your testimony that Mary Bass has been part and parcel of seeing that those things were not made public?

Mr. LIPSMAN. I have proof of it right here. I have a letter where she said to me that this is not public information. She was the—she is the final administrative arbiter of Freedom of Information Acts within the City University. She not only said to me I cannot have those things, they're not releasable under Freedom of Information Act, she said I could not come to the hearing. It was a so-

called executive session, in which Dr. Draper was removed from his position.

Now, I want to make one thing very clear, Senator Exon: I came here at my own expense, on my own time, and I am testifying, as far as I am concerned, under oath. And if I am not testifying under the penalties of perjury, I am certainly open to charges of libel and slander if in any way I have libeled or slandered Ms. Bass.

Now, you want to say I am "goading the nominee," I am goading the nominee. If I have libeled her, if I have slandered her, I want to face a lawsuit; and if I haven't, if this documentation is not false, then how in God's name can you possibly confirm this nominee? Because I want to say one thing, Senator Exon: If you do confirm this nominee—and I do believe ultimately she will be confirmed—it is the American public that is going to pay the price.

Senator Exon. Mr. Lipsman, thank you very much. I will ask the staff to check into the matters that you have referred to with regard to the documents that are supposedly public information, and to properly advise myself and the other members of the committee.

Thank you very much.

The committee session is adjourned.

[Whereupon, at 11:35 a.m., the hearing was adjourned.]



