

Service and convince Americans that, while the Government is still spending too much money and is not spending it as wisely as it should, that the tax system is fairer and that the collection process is fairer as a result of the reform efforts that we are about to undertake.

I don't think people expect to love their Internal Revenue agent, unless they married one or unless one is their child or their parent. But they expect to be treated fairly. And obviously they know when they are contacted by the IRS that they are potentially in deep trouble, and it is that threat that drives many people to go ahead and declare income that they might have hidden and to pay taxes that they didn't want to pay.

So, finding this balance, I submit, is going to be a difficult task. I am very grateful that I am on the Finance Committee and I am going to have an opportunity to play a small role in it. I think it is important. I am glad that we are waiting to gather more facts, not just on the problem but the solution. I thank my colleagues for their tolerance and I yield the floor.

THE PRESIDING OFFICER (Mr. AL-LARD). WHO YIELDS TIME? THE SENATOR FROM MICHIGAN?

Mr. ABRAHAM. Mr. President, I seek unanimous consent to speak for up to 5 minutes, the time to be deducted from the leader's time.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I don't believe I will necessarily need the full 5 minutes, even, but let me speak today about an issue of great concern to the citizens of my State.

THE PRESIDING OFFICER. The Senator from Michigan is recognized.

BERRY ALERT CAME WEEK AFTER SALE

Mr. ABRAHAM. Mr. President, in March of this year, over 200 schoolchildren in my State contracted the hepatitis A virus from food served by the school lunch program. As news of the outbreak began to pour in, the Michigan Department of Community Health and the Centers for Disease Control went into action to determine the cause. They soon found the culprit: frozen strawberries sold to the school lunch program by a San Diego company named Andrew & Williamson. Investigators also discovered that some of the strawberries sold to the school lunch program had been illegally certified as domestically grown when, in fact, they had been grown in Mexico.

Mr. President, these strawberries should never have been served in the school lunch program in the first place. By law, products sold to the school lunch program must be certified as being domestically grown.

Companies have typically been trusted to do the right thing, but Andrew & Williamson chose to do something else. They chose to misrepresent their prod-

uct's country of origin and over 200 people were poisoned as a result.

But now, Mr. President, disturbing new information has come to light from the criminal case against Andrew & Williamson which indicates USDA officials may have had advance warning of the illegal strawberries. An article in Saturday's edition of the San Diego Union Tribune disclosed that USDA was alerted 1 week after the school lunch purchase from Andrew & Williamson that the fruit was from Mexico. In addition, the newspaper also reports that the Federal official at USDA who was alerted thought it serious enough to file an administrative report and wanted to investigate the charge, but was rebuffed by her supervisor.

Mr. President, I ask unanimous consent that the text of the San Diego Union Tribune article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the San Diego Union-Tribune, Nov. 1, 1997]

BERRY ALERT CAME WEEK AFTER SALE
WITNESS SAID HE WARNED USDA THAT FRUIT
WAS GROWN IN MEXICO
(By Rex Dalton)

A federal official received an early complaint in October 1996 that a San Diego company was illegally selling Mexican strawberries to the federal government for school lunches, according to newly released documents.

That means the U.S. Department of Agriculture knew about the sale four months before the strawberries were served in February. The USDA did not investigate until after the berries caused about 270 cases of hepatitis A in Michigan schools in March.

In fact, the 1.7 million pounds of frozen strawberries had not been delivered to government warehouses when the warning came in, shortly after the USDA's strawberry purchase was announced Oct. 17, 1996.

The disclosure of the early warning is in witness statements recently released under unusual circumstances to defense attorneys for Andrew & Williamson Sales Co. Inc. of Otay Mesa.

The strawberry-processing company and two executives were indicted on charges of fraud and making false statements in connection with the sale of Baja-grown fruit to the USDA for the National School Lunch Program. The charges are not related to contamination of the berries. Produce sold to the program must be grown in the United States, according to federal law.

The witness statements were made in April to the USDA's Office of the Inspector General, but were not disclosed to defense attorneys until Oct. 14. The defense attorneys had received many other witness statements and documents after the June indictments.

Joseph Milchen, the attorney for company founder Frederick L. Williamson, said he received the key witness statements from the U.S. Attorney's Office in San Diego. The U.S. Attorney's Office informed Milchen it sent the statements right after getting them from the USDA.

Williamson, 60, of Oceanside has pleaded innocent. The other executive, Richard H. Kershaw, has pleaded guilty.

The San Diego Union-Tribune reported in September that at least three leaders in the California strawberry industry told USDA

officials in January that Mexican strawberries were being sold illegally to the lunch program. The berries were served around Valentine's Day and the hepatitis A cases developed within a few weeks.

At congressional hearings in the spring on the hepatitis A epidemic, USDA officials testified they only had vague allegations about a possible illegal sale shortly before the outbreak.

When Sen. Spencer Abraham, R-Mich., learned *The Union-Tribune* had reported the USDA had evidence in January of an illegal strawberry sale, he expressed outrage and called for a Senate hearing on the USDA's handling of the strawberry sale.

Sen. Paul D. Coverdell, R-Ga., chairman of the Senate Agriculture Subcommittee on Marketing, Inspection and Product Promotion, then began working to set up the hearing into the USDA's accountability.

Against this backdrop of heightened concern about food safety and imported produce, the new witness statements were released in San Diego.

Phillip L.B. Halpern, an assistant U.S. attorney whose office is handling the Andrew & Williamson prosecution, could not be reached for an interview.

USDA officials in Washington declined to comment.

The agency is continuing to investigate the Mexican strawberry sale, which also has been linked to nearly 50 cases of hepatitis A in Maine, Louisiana and Wisconsin. Federal authorities believe a field worker in Mexico accidentally contaminated the fruit while it was being picked in April and May 1996.

Hepatitis A is spread through contact with human fecal matter. Investigators who later visited farm fields where the berries were grown found outhouses adjacent to rows of strawberries, and no ready method for harvesters to wash their hands. The virus can cause nausea, vomiting, fever and jaundice. In rare cases, it can be fatal.

The key witness statement that recently was released was made by Frederick J. Haas, who operates a Watsonville produce sales operation called U.S. Food Service.

As the USDA's Office of the Inspector General began its probe, Haas made separate statements on different dates in April.

In an April 8 statement, Haas told the inspector general's office he called the USDA's Sandra K. Gardei in January and told her about the Mexican strawberry issue. Gardei oversaw the October 1996 strawberry purchase.

That statement and those of other witnesses were provided to Andrew & Williamson defense attorneys last summer.

But not until Oct. 14 did the defense attorneys receive an "addendum" statement that Haas made April 15 and an April 11 statement by Haas' administrative assistant, Jeanette Baum.

Those statements detail how on Oct. 24, 1996—just a week after the announcement of the USDA's purchase of frozen strawberries—Gardei was called about the use of Mexican strawberries.

Haas' April 15 statement says he told Gardei the USDA should not purchase the strawberries from Andrew & Williamson's brokers "because that product was grown in Mexico."

After the strawberries first were linked to hepatitis A in Michigan on March 28, Gardei prepared an administrative report for the USDA describing how she was alerted in January and February about the Mexican fruit.

In that administrative report, Gardei said she sought to open an immediate investigation.

She said in the administrative report that her USDA superior, Darrell J. Breed, refused to open an investigation. Gardei also said

Breed ordered his secretary to remove copies of her administrative report from USDA files.

But Gardei's April 3 statement to USDA investigators makes no mention of any calls in October from Haas or any other California strawberry leader.

Neither Gardei nor Breed have been available for interview. Breed denies in his statement to the inspector general's office that he sought to cover up or mislead USDA investigators. His secretary denied in her statement that he ordered her to remove Gardei's administrative report from USDA files.

While Michigan's Abraham had hoped to have a subcommittee hearing soon to explore USDA handling of the strawberry purchase and probe, congressional aides say it appears as if no hearing will be held this year.

Congressional aides say USDA Inspector General Roger C. Viadero has asked to meet privately with interested legislators about the issue.

Mr. ABRAHAM. Mr. President, this information, if true, is very inconsistent with what was asserted by Federal officials at a June 5 hearing of the full Agriculture Committee. There, USDA officials testified at the hearing that they knew nothing more than nonspecific and vague complaints of potential violations at Andrew & Williamson, the San Diego company which sold the fruit to the Government for school lunches.

If the newspaper article and witness allegations are true, it would certainly raise serious questions as to whether the full committee and this Senator were misled. I believe we are owed an explanation and suggest the Government officials involved be called to testify under oath regarding their actions.

Senator COVERDELL has written USDA to ask for a response to these serious charges, but so far nothing has been heard. It is my intention to keep pressing the USDA for answers as well as seek the appropriate oversight of this matter. I want to be sure that the Government agencies responsible for protecting us are doing their job.

This dangerous incident, the poisoning of Michigan children by their own School Lunch Program, should concern us all, Mr. President. The company involved seems to have demonstrated a reckless disregard for public safety.

To that end, I have introduced legislation which makes such conduct a felony with a maximum penalty of 5 years imprisonment and/or a fine of \$250,000 per count. This change in law will ensure that individuals who intentionally misrepresent their goods will now suffer the appropriate consequences of their actions. The recent outbreaks of hepatitis A, cyclospora and *E. coli* demonstrate that a new commitment to food safety is sorely needed in this country. I will continue working to see that Congress takes the appropriate measures to assist the USDA, FDA, and Centers for Disease Control in their efforts to keep America's food supply the safest in the world.

Mr. President, I yield the floor.

EXECUTIVE SESSION

NOMINATION OF CHARLES ROSSOTTI, OF THE DISTRICT OF COLUMBIA, TO BE COMMISSIONER OF INTERNAL REVENUE

The Senate continued with the consideration of the nomination.

Mr. MOYNIHAN. Mr. President, I yield such time as he may require to my distinguished friend and colleague on the Finance Committee, the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I thank the ranking member, the Senator from New York, for recognizing me.

I take this time just to say a couple of words about the President's nominee to be the Internal Revenue Service Commissioner, Mr. Charles Rossotti, who I enthusiastically support. I think the President has made a good choice. It is interesting to note that this appointment will be the first nontax lawyer to head the Internal Revenue Service since World War II. That might not make a lot of waves in some areas, but I think considering the problems we are experiencing with the Internal Revenue Service that this is a very positive qualification at the current time.

I say that because I think that many of the problems that we heard in the days of hearings that we had in the Senate Finance Committee about the Internal Revenue Service were not so much tax problems but human problems; not so much a problem about how much money was being collected and where it was being collected from or where it was not being collected from, but really more evidence was given to us about mishandling of individuals, mistreatment of individuals, setting quotas for Internal Revenue Service agents that they had to meet in order to be considered for an appointment; review processes of Internal Revenue Service personnel that were conducted by Internal Revenue Service personnel themselves whose appointments many times were based on how they defended the Internal Revenue Service.

These are not problems that call for a tax attorney but rather cry out for a person who is experienced in the business world, who is experienced with handling large numbers of employees, who is experienced in the management of a company or in the management of a corporation. These are the type of qualifications that I think are needed at this particular time in the history of the Internal Revenue Service. It is a very large agency with over 100,000 employees, and, of course, there are going to be mistakes made. The question is not whether mistakes are going to be made, but rather how we correct those mistakes. I think Mr. Charles Rossotti brings a particular degree of expertise to this position at this particular time.

I was interested in some of the answers that he gave when we asked him questions about what he thought need-

ed to be done and how would he approach his job. I think the responses we received were right on target for what is needed at this time.

He said that he would not tolerate IRS workers who treat taxpayers abusively and would fire such workers as necessary.

I don't know about my colleagues, but as one Member of the Senate, I feel a sense of apprehension when I deal with the Internal Revenue Service, and I am a Member of the U.S. Senate and sit on the Senate Finance Committee which has jurisdiction over the Internal Revenue Service. Yet, I feel a little hesitant when I deal with the agency for fear of doing something wrong. It is like that knock on the door that comes and someone says, "It is the IRS," and they are here to see you and you go into an absolute panic. That should not be the feeling that Americans have toward an agency that really works for them. They work for the taxpayers of this country, as do we.

So I was very pleased to see Charles Rossotti say, "I will not tolerate IRS workers who treat taxpayers abusively and would fire such workers, if necessary."

He also said that the practice of evaluating an IRS employee performance based on quotas or based on how many cases they make will not be a determining factor in how well they do within the agency. I think that is important.

I think some of our colleagues have probably had experiences in respective States where State troopers were promoted and evaluated based on how many tickets they wrote. It was a quota system. They had to issue so many tickets in 1 day or they were going to be looked upon as not doing their job properly. That is something that I think is a mistake.

Mr. Charles Rossotti has indicated that that will not be the basis for evaluating and determining performances by IRS agents. I think that is a step in the right direction. They should not be judged just on how much money they bring in. They should be judged on a whole series of factors on how they perform on their jobs, not the least of which is how they treat the people they work for—the taxpayers of this country.

He outlined three principles. These are not tax principles. These are personnel principles, management principles, and that is why I think he is the right man for the job at this time.

In talking about management responsibility, he said he would expect managers to keep on top of activities under their authority and quickly halt abuses. These managers will be responsible for the abuses that may or may not occur within their jurisdiction.

He said that he was going to be strongly supportive of open communication. He wants to create an atmosphere in which workers are willing to bring problems to the attention of the managers without fear of reprisal. That is a personnel decision. We had people