

OSHA has to obey Constitution too

The U.S. Supreme Court had under consideration two important, competing values in a case involving spot safety checks of employers' premises by agents of the Occupational Safety and Health Administration. One is the Fourth Amendment's protection against unreasonable search and seizures, and the other is the welfare of workers exposed to potentially hazardous working conditions.

Both requirements were met in a 5-3 decision that nevertheless provoked a sharp rebuttal from the minority. The majority held that warrantless investigations violate the Fourth Amendment but, on the other hand, the court said the government, in obtaining warrants, would not have to meet strict criminal law standards.

Writing for the majority, Justice Byron R. White said that "probable cause in the criminal

law sense" is not necessary for such a warrant, thus doing away with the need to produce "specific evidence of an existing violation." He also suggested that warrants could be issued without notice to property owners, but he argued that employers' constitutional rights would be protected if OSHA obtained warrants based on "a general administrative plan for enforcement of the act."

The dissenting justices maintained that the Fourth Amendment did not prohibit the kind of warrantless search conducted by OSHA, and they called the "new-fangled inspection warrant" proposed by the majority "essentially a formality" without much worth. Yet this procedure will offer some protection, we think, against the casual invasion of an employer's privacy.

As White noted, "the privacy interest suffers

whether the government's motivation is to investigate violations of criminal laws or breaches of other statutory or regulatory standards."

The case arose when the owner of a Pocatello, Ida., heating-and-plumbing shop refused to permit an inspector to enter the establishment. When the agent returned with a court order, the contractor, a John Birch Society member who keeps a copy of the Bill of Rights on a wall of his office, again refused, and sought an injunction against further attempts.

The inspection program will continue, as it must, in the interest of millions of workers, but even benevolent government, if it becomes omnipresent, can smother freedom. The impulse of the Pocatello man to resist and to carry his resistance to the Supreme Court is an impulse on the side of freedom.

The Los Angeles Times

Jimmy's phrase

By DAVID S. BRODER

WASHINGTON — The campaign Jimmy Carter conducted for President in 1976 was famous for two four-letter words and one three-letter phrase.

The four-letter words were "love," or "just" in the Playboy version. The three-letter phrase was ZBB, for zero-base budgeting.

FROM PLATFORMS all across America, Carter said that the budget technique he had introduced to Georgia would help "reduce large deficits and therefore contribute to controlling inflation" when he brought it to Washington.

The purpose of ZBB is to force program managers to examine all their outlays, from the ground up, each year; to set priorities for spending at any approved budget level, and to weigh all programs against each other. It would, Carter promised, "require every program that spends the taxpayers' money to rectify itself annually."

It was duly launched when Carter came to office and, despite some misgivings, applied across the entire government in preparing Carter's first budget, the one he submitted to Congress last January.

THE FIRST GRADES of that effort are beginning to come in, and this particular Carter reform is drawing a mixed report card.

In an unusually candid self-appraisal, issued by the White House last month, the administration said ZBB was "off to a good start" but was not without its own problems.

According to the administration, ZBB increased "management participation in the budget process," and achieved some economies (even though the administration was honest enough not to concoct a dollar-savings figure). It also brought about some small, but worthwhile shifts of resources and personnel.

On the other hand, the White House conceded, there was a big increase in budgetary paperwork and serious problems in applying ZBB to some major areas of government.

NOW, TWO INDEPENDENT appraisals have come in by budget experts outside the Carter administration. And they tend to take a considerably more skeptical view of what ZBB has accomplished and can achieve.

Allen Schick of the Urban Institute and Robert W. Hartman of the Brookings Institution say, in separate articles, that ZBB never came to grips with the heart of the budget process and may have impeded the hard choices of basic direction which need to be made.

Schick, writing in the Public Adminis-

tration Review, says "the new system was speedily installed throughout the federal bureaucracy," but only because "it did not really change the rules by which budgetary decisions are made. It changed the terminology of budgeting, but little more."

IN A SIMILAR VEIN, Hartman, whose critique is in Brookings' new volume: "Setting National Priorities," says that the new budgeting technique "seems to have led to little restructuring of the budget base," which was supposed to be its greatest advantage over older methods.

"To the extent that zero-base budgeting had any effect at all," Hartman says, "it was on low-level improvements in the operation of programs. But such a focus comes at considerable cost."

The cost, both experts say, is that a managerial focus on budgetary detail tends to divert energy and attention from the big-picture decisions that must be made. As Schick puts it, "a preoccupation with the routines of operation drives out a consideration of program objectives and effectiveness."

The White House response is that greater economies and more significant shifts of focus will result when ZBB is used again, as a more familiar tool, in future budgets. But Schick says that official optimism is contradicted by experience at the state level. The significant economies of efficiency are "creamed off" early, he says, and the savings from administrative improvements tend to diminish "as the ZBB process itself becomes routinized."

HARTMAN NOTES that when Carter himself wanted to make a significant shift of direction — as with the energy, welfare, urban and education programs — he did so "entirely outside the new budget procedures." These initiatives, he says, "were not made to compete with other programs in the way that an integrated budget review process requires."

"These developments," he concludes, "raise the question of whether budgetary decisions — once the crucible for setting national priorities — will play a smaller role in such policy-setting in the future."

The criticism by these two experts does not mean that ZBB is a failure. But it does suggest that it will take more than this particular technique for Carter to gain the control of federal spending. He needs that control to achieve his twin goals of reducing budget deficits and reshaping budget priorities to meet the real needs of the 1980s.

ZBB, like love, turns out to be less than the magic formula for reshaping government.

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Senate waiting game

By IRA R. ALLEN

United Press International

WASHINGTON — The fierce debate over whether to revise the nation's basic labor law may not be decided on its merits but on how long the Senate is willing to allow delaying tactics to go on.

The bill generally would expand the rights of organized labor, especially by increasing opportunities for employees in non-union shops to vote on whether they want union representation.

Analysis

The debate has been fueled by millions of dollars worth of publicity and lobbying by the AFL-CIO, on one side, and the Chamber of Commerce and its allies, on the other.

It is clear a majority of the Senate would now vote for the bill, although amendments might be necessary.

Less clear is whether or when proponents will be able to get the three-fifths vote, or 60 members, necessary to limit debate and choke off a filibuster that had run nine days when the Senate broke for its long Memorial Day holiday.

First attempt to invoke cloture will come Wednesday and it seems likely to fail.

Republican Leader Howard Baker has said his filibuster side has enough votes to keep the talking going "for a long time."

Last year, Democratic Leader Robert Byrd made three tries to break a filibuster blocking legislation providing federal financing of Senate election campaigns, and gave up.

This time, Byrd says he will try to break the filibuster no matter how long it takes.

Accurate head counts at this point are elusive, particularly because a vote against cloture does not necessarily mean a vote against the bill, nor is a vote to limit debate before a vote on the bill.

Take the case of Lawton Chiles, D-Fla., who opposes the bill as written. He might vote for cloture anyway, a Chiles aide says, "when the situation on the Senate floor gets to where it's repetitive and obstructive."

Conversely, some senators who favor the bill might still vote against cloture because they support the principle of unlimited debate. Howard Cannon, D-Nev., is considered in that category.

There are others, like Edward Zorinsky, D-Neb., whose cloture vote will depend on what concessions they can get to make the bill itself more acceptable.

"That's why I've remained uncommitted as to when I would vote for cloture," Zorinsky said. "I want to use my vote as a trade-off."

Finally, there are believed to be some senators who favor the bill but will have to vote against it because of homestate politics. Some of them might vote for cloture to help bring the bill to a vote, where they might pass with the support of others.

Hanoi trying to get on U.S. good side

Vietnamese sending Nationalist Chinese home

By ALAN DAWSON

United Press International

BANGKOK, Thailand — Abandoned by their government officials and denied exit for three years, Nationalist Chinese are unexpectedly being allowed to leave communist-ruled Vietnam for Taiwan.

Diplomatic sources said there is no apparent reason for the sudden Vietnamese decision to allow some of the 1,000 or more Nationalist Chinese to leave Saigon.

But some believe it is part of a developing new campaign by Hanoi to gain international respect and establish full diplomatic relations with the United States.

A slow trickle of Nationalist Chinese who were trapped in Saigon was abruptly ended about 18 months ago. Then last month, Hanoi suddenly signalled it was ready to again grant them permission to leave.

The first planeload of 190 Nationalist Chinese passport holders was flown to Bangkok last week by charter airliner, then transferred under tight security to a China Air Lines plane for a secret flight to Taipei.

Although officials said those allowed to

leave were Vietnamese-Chinese, in fact virtually all were citizens of the Taiwan government.

Most officials in Vietnam believed the Nationalist Chinese had the most extensive intelligence network in the Indochina war zone of any foreign nation, including the United States.

Commentary

Many of the Nationalist Chinese were in sensitive positions in Saigon and the countryside. Typical jobs included newspaper editors, teachers in Cholon schools and agricultural advisers.

Some were known to work actively with pro-Taiwan militia groups, the most famous of which was the so-called "Sea Swallows" battalion deep in the Mekong Delta. The Sea Swallows were formed by one Nationalist Chinese who later returned to Taipei and now serves in the island government's legislature.

As the Vietnam war ended in 1975, the

Nationalist Chinese embassy was besieged by its citizens and Vietnamese seeking help. But few citizens other than the embassy staff and a few key personnel were helped.

Ambassador Hsu Shao-chang left Vietnam on a special unannounced China Air Lines flight April 26, four days before the communist victory. That also was the same day former President Nguyen Van Thieu left Saigon for refuge in Taiwan.

Communist intelligence operatives who entered Saigon quickly targeted the Nationalist Chinese community — then estimated at about 3,000 — for special attention. Several, including at least three journalists, were arrested and are believed still in prison on charges of being intelligence agents.

Some Nationalist Chinese told friends in Saigon they were bitter at their government for leaving them behind in Vietnam and it is apparently for this reason Taipei officials have refused to let any of the returnees see relatives or journalists.

Foreign diplomats in Bangkok think the release of the Nationalist Chinese may

signal a fresh exit for foreigners still trapped in Saigon. These include citizens of the Philippines, South Korea, Thailand and other countries of the region.

Vietnam may be sending a signal it intends to improve relations with nations of the area on a pragmatic basis, some sources said.

The ultimate goal of such campaign they believe is to establish full relations with the United States.

Writing the editor

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- ✓ Not exceed 300 words or 1800 characters in length.
- ✓ Be neatly typed whenever possible. Hand-written letters are acceptable.
- ✓ Include the author's name, address and telephone number for verification. Names will be withheld on request.

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Address letters to the editor to:
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TOP OF THE NEWS

CAMPUS

Degree applications now taken

Texas A&M University students expecting to graduate this summer must make a formal application for a degree by June 16. A degree application station will be in G. Rollie White Coliseum Wednesday through Friday. The \$8 graduation fee can be paid with other summer school fees.

STATE

Hill files antitrust charge

Attorney General John Hill filed an antitrust charge Monday in Austin in a Travis County district court against a major distributor of Smith & Wesson handguns and ammunition. Hill said Dave's House of Guns Inc., of Dallas, a wholesale distributor, has restricted trade and lessened competition since at least Jan. 1, 1975.

Texas City explosion victim dies

Joyce Taylor, a victim of last week's Texas City refinery explosion, died Monday from burns received in the accident, raising the death toll to seven. Officials at the University of Texas Medical Branch in Galveston said Mrs. Taylor of Texas City died at 3 a.m. She was admitted to the hospital with third-degree burns over 80 percent of her body following the explosion last Tuesday.

Vaccine field trials underway

Field trials are under way for a vaccine to protect Americans next fall and winter from an expected outbreak of Russian influenza, federal health officials say. Don Berberth, public information director for the national Center for Disease Control, said the vaccine being tested is a type that will offer protection against the Russian flu strain as well as the A-Texas and B-Hong Kong varieties.

Earthquake shakes San Diego

An earthquake registering 4.4 on the Richter Scale rattled most of San Diego County Monday, but there have been no reports of damage or injury. The quake was centered 10 miles northeast of Mt. Palomar, near the northern edge of the county, according to the seismology department at California Institute of Technology in Pasadena. The San Diego Police Department and the county Sheriff's Department reported numerous calls, but no damage.

Bess Truman undergoes tests

Former first lady Bess Truman underwent additional diagnostic tests in Kansas City Monday, but officials at Research Medical Center said it would be later this week before results of the tests were available. Mrs. Truman, 93, has been listed in satisfactory condition since she entered the hospital for the second time in six weeks last Friday. A hospital spokesman said Monday's testing included a blood sugar test to determine if Mrs. Truman, the widow of president Harry S. Truman, has kidney problems.

Kodak official blasts suit

A \$75 million federal suit brought last week by Fotomat Inc. against Eastman Kodak Co. has no merit, a Kodak official said Monday. The suit, filed in San Diego, Calif., accused Kodak of violating the Sherman Antitrust Act and making overcharges of at least \$25 million on Kodak products bought by Fotomat. The suit also alleged Kodak used "unfair competitive advantages" and "predatory actions" to keep Fotomat from manufacturing film.

Court okays televising of hearing

The State Supreme Court in Oklahoma voted Monday to permit the closed circuit televising of a preliminary hearing for Gene Leroy Hart, charged with the sex slaying of three Girl Scouts. Supreme Court Chief Justice Ralph Hodges confirmed it would be the first time in state history a hearing was televised.

Engineers conducting experiments

The U.S. Army Corps of Engineers announced Monday it plans to conduct experiments in an effort to stop the worst fish kill on record in Missouri. Paul Barber, chief of the corps' engineering division in Kansas City, said officials at the Waterways Experiment Station in Vicksburg, Miss., began constructing models this weekend of the Truman Dam and expect to begin testing by midweek. The fish kill is occurring on the Osage River below the Truman Dam near Warsaw.

ERA ratification time doubled

A House subcommittee today narrowly approved a proposal to double the length of time backers have to win ratification of the Equal Rights Amendment. The House civil and constitutional rights subcommittee voted 4-3 to approve the seven-year extension of the 1979 ratification deadline. The proposal now goes to the full Judiciary Committee. It would extend the ratification period for the ERA until July 1, 1986. Backers of ERA now have until July 1, 1979, to win ratification by 38 states.

WORLD

Candidates clash over outcome

Liberal presidential candidate for Bogota, Colombia, Julio Cesar Turbay today appeared to have won a narrow victory over Conservative Belisario Betancur in Colombia's presidential election, but both men declared themselves the winners. Colombian soldiers put on alert during the balloting Sunday continued to patrol the streets of Bogota today, but few pedestrians or cars were out, perhaps because of the uncertainty surrounding the outcome of the election.

WEATHER

Overcast skies this morning. Mostly cloudy today and tonight with continued warm temperatures and high humidity. High today mid-80s, low tonight low 70s. High tomorrow upper 80's. Winds from the Southeast at 6-15 mph. 50% chance of rain today, 60% tonight and 30% on Wednesday.

THE BATTALION

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Address correspondence to Letters to the Editor, *The Battalion*, Room 216, Reed McDonald Building, College Station, Texas 77843.

Represented nationally by National Educational Advertising Services, Inc., New York City, Chicago and Los Angeles.

The Battalion is published Monday through Friday from September through May except during exam and holiday periods and the summer, when it is published on Mondays, Wednesdays and Fridays.

Mail subscriptions are \$16.75 per semester, \$23.25 per school year, \$35.00 per full year. Advertising rates are listed on request. Address: *The Battalion*, Room 216, Reed McDonald Building, College Station, Texas 77843. Copyright © 1978 by United Press International. All rights reserved. No part may be reproduced for other than personal or classroom use without the express written permission of United Press International. Second-Class postage paid at College Station, TX 77843.

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