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**AMENDING REORGANIZATION  
PLAN NO. 2 OF 1973**

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**HEARING**  
BEFORE A  
SUBCOMMITTEE OF THE  
COMMITTEE ON  
GOVERNMENT OPERATIONS  
HOUSE OF REPRESENTATIVES  
NINETY-THIRD CONGRESS  
FIRST SESSION  
ON  
**H.R. 8245**

TO AMEND REORGANIZATION PLAN NUMBERED 2 OF 1973

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JUNE 14, 1973

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Printed for the use of the Committee on Government Operations



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**AMENDING REORGANIZATION PLAN NO. 2  
OF 1973**

**THURSDAY, JUNE 14, 1973**

HOUSE OF REPRESENTATIVES,  
LEGISLATION AND MILITARY OPERATIONS SUBCOMMITTEE  
OF THE COMMITTEE ON GOVERNMENT OPERATIONS,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 2203, Rayburn House Office Building, Hon. Chet Holifield (chairman of the subcommittee) presiding.

Present: Representatives Chet Holifield, Fernand J. St Germain, Don Fuqua, Frank Horton, John W. Wydler, Clarence J. Brown, and Richard W. Mallery.

Also present: Herbert Roback, staff director; Paul Ridgely, investigator, and from the full committee staff, Elmer Henderson, general counsel; Douglas Dahlin, associate counsel; and Warren Buhler, minority staff member.

Chairman HOLIFIELD. The committee will be in order.

The hearing today is concerned with H.R. 8245, a bill to amend Reorganization Plan No. 2 of 1973. Specifically, the bill would repeal section 2 and subsection 6(b) of the plan, which pertains to transfers of certain functions to the Secretary of the Treasury from the Attorney General or the Department of Justice.

[The bill referred to above follows:]

(1)

93<sup>d</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 8245

IN THE HOUSE OF REPRESENTATIVES

MAY 30, 1973

Mr. HOLIFIELD (for himself, Mr. HORTON, and Mr. FUQUA) introduced the following bill; which was referred to the Committee on Government Operations

## A BILL

To amend Reorganization Plan Numbered 2 of 1973.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That Reorganization Plan Numbered 2 of 1973 is amended  
4 by—

5 (1) repealing section 2;  
6 (2) repealing section 6 (b) and redesignating sec-  
7 tion 6 (a) as section 6; and  
8 (3) striking “and to the Secretary of the Treasury”,  
9 and “and to the Department of the Treasury, respec-  
10 tively,” from section 8.

11 SEC. 2. The amendments made by this Act shall be ef-  
12 fective on the date of the enactment of this Act or as of  
13 July 1, 1973, whichever is earlier.

I

Chairman HOLIFIELD. These particular provisions would have involved, among other things, the transfer of approximately 900 persons from the Immigration and Naturalization Service in the Justice Department to the Customs Bureau in the Treasury Department in the interest of single-agency management of inspection activities at U.S. ports of entry.

In the course of our hearings on Reorganization Plan No. 2 and subsequently, it became evident that this part of the reorganization plan was very controversial. It was opposed by union representatives of the employees involved. Many of us in Congress, I believe, shared their concern that the transfer of so large a complement of persons from the Service at this time would have a detrimental effect on morale and ability to perform.

The Immigration and Naturalization Service is confronted with a serious problem of illegal entry of aliens into the United States. There are said to be more than a million illegal aliens in the country now. About a half-million a year—judging by 1972 figures—being apprehended and returned, but the Service obviously is undermanned for this difficult job.

As a result of discussions between administration and union representatives, certain understandings were reached and summarized in written form. The administration agreed to support the repeal of section 2 and subsection 6(b) of the plan, and to make a conscientious effort to expand the number of, and upgrade, positions in the Immigration and Naturalization Service. The union then expressed its willingness to withdraw opposition to the plan.

A week ago today—Thursday, June 7—a resolution to disapprove Reorganization Plan No. 2 of 1973 was defeated in the House by a vote of 130 yeas to 281 nays. A resolution to disapprove being voted down, the plan is allowed to become law. This vote came after it was explained in debate, and after assurances were given, that prompt action would be taken to repeal section 2 and subsection 6(b) of the plan. We propose, so far as responsibilities of the Chair and this committee are concerned, to honor the commitment. We hope to conclude our hearing today, to report the bill out of the subcommittee shortly thereafter, and to consider the bill at the full committee meeting next Thursday, June 21, 1973.

Mr. Roy L. Ash, Director of the Office of Management and Budget, is our chief witness. He will explain why the administration supports this bill and what he proposes to do, from a budgetary standpoint, in behalf of the Immigration and Naturalization Service. We will also receive, for the record, statements from the Attorney General and the Secretary of the Treasury, or their designees, endorsing the legislation.

Finally, we have invited representatives of the union organizations involved, the American Federation of Government Employees and its parent organization, the AFL-CIO, to appear or to submit a statement for the record.

At this time, we will hear from Director Ash.

Mr. Ash.

**STATEMENT OF ROY L. ASH, DIRECTOR, OFFICE OF MANAGEMENT  
AND BUDGET; ACCOMPANIED BY FRED MALEK, DEPUTY DI-  
RECTOR**

Mr. ASH. Thank you, Mr. Chairman, and members of the committee. I am pleased to be able to appear before you today in support of H.R. 8245 which would repeal section 2 of Reorganization Plan No. 2 of 1973.

I was gratified to see the strong support that reorganization plan received in the House on June 7. The consolidation of drug law enforcement activities within the new Drug Enforcement Administration should make possible a major new offensive in the President's global war against drug abuse.

Reorganization Plan No. 2 was proposed with the goal of improving all aspects of the Federal Government's drug enforcement effort. The plan, therefore, proposed not only consolidation of drug investigative and intelligence efforts within a new agency at the Department of Justice, but also addressed the issue of inspection at our ports of entry. Section 2 of the plan provided for reducing the present fragmentation of organizational responsibility for port-of-entry inspections by placing the task of inspecting both goods and people under a single manager, the Bureau of Customs. Approximately 900 immigration inspectors were to have been transferred from the Immigration and Naturalization Service to the Bureau of Customs under this section of the plan.

Because all heroin and cocaine consumed in the United States must be smuggled into the country from aboard, the careful inspection of all persons and goods entering the United States is vitally important to improved drug law enforcement.

However, it became clear during the course of your committee's consideration of the plan that the transfers envisioned by section 2 might have other consequences, unrelated to the control of drugs, which many Members feared might be undesirable. In particular, concern was voiced that implementation of this portion of the plan might adversely affect the Nation's illegal alien control capability.

This administration is fully committed to the objective of enhancing the Federal Government's ability to deal effectively with the very serious illegal alien problem. As I indicated May 17, 1973, by letter to Chairman Holifield, we understand the need to increase the effort and resources devoted to illicit alien control and, in particular, to consider adding manpower to the internal investigative elements of INS and the border patrol. We intend to work closely with Congress in exploring these alternatives, as well as other ways in which Federal enforcement agencies can deal more effectively with the illegal alien control problem which deprives American workers of jobs and adds an unwanted additional levy onto already overburdened Federal, State, and local taxpayers.

While we have yet to see convincing evidence that the establishment of a single manager at points of entry is undesirable either from the standpoint of drug enforcement or better alien control, we do acknowledge that the illegal alien control issue is complex and deserves

further detailed study by both Congress and the executive branch. We also sense that a majority of this committee would find it preferable to maintain the status quo with respect to any organizational transfers of immigration inspectors pending completion of this further detailed review.

We reached these conclusions as a result of lengthy consultations with Chairman Holifield and Representative Horton, with members of this committee's staff, and with representatives of outside groups interested in illegal alien control. At the time when these deliberations took place, the reorganization plan could not be amended or resubmitted. Because of our conviction that the consolidation of Federal drug enforcement agencies—the main purpose of the plan—should take place as scheduled on July 1, 1973, we very much wanted to insure that nothing stand in the way of implementing section I of the plan which established the much needed Drug Enforcement Administration.

We, therefore, recommended to the Congress that the reorganization plan be allowed to go into effect with the understanding that repeal of section 2 would be supported by the administration. This approach received the support in advance of affected committee leadership in both the Senate and the House and was extensively discussed on the House floor.

Given the chronology of events, the complexity of the alien issue, and the fact that the House voted its approval of reorganization plan only after being assured during debate that the transfers envisioned by section 2 of the plan would not take place pending further review of the illegal alien problem, I ask the committee's support for H.R. 8245 which would repeal section 2 of Reorganization Plan No. 2 of 1973.

Thank you, Mr. Chairman.

Chairman HOLIFIELD. Thank you, Mr. Ash.

Mr. Horton.

Mr. HORTON. Mr Chairman, I don't have any specific questions.

I do want to express appreciation to Mr. Ash and to Mr. Malek for their work on this problem during the course of our consideration of Reorganization Plan No. 2. I feel that had this action not been taken, Reorganization Plan No. 2 would not have been put into effect. I think that the problem of illegal aliens was one that the Members of the House were very much concerned about, and I think the action taken by Mr. Malek in reaching agreement with the representative of the employees groups was very helpful to us. I commend Mr. Ash and Mr. Malek for coming here today to support the repeal of section 2, which I think is important insofar as the effectiveness of Reorganization Plan No. 2 is concerned.

Chairman HOLIFIELD. At this point I would like to place in the record a letter from the Attorney General, that is Elliot Richardson, dated June 12, which is a letter in support of the passage of the bill that is before us.

[The letter referred to follows:]



OFFICE OF THE ATTORNEY GENERAL,  
Washington, D.C., June 12, 1973.

HON. CHET HOLIFIELD,  
Chairman, House Committee on Government Operations, House of Representatives,  
Washington, D.C.

DEAR MR. CHAIRMAN: During the course of the Congressional review of Reorganization Plan No. 2 of 1973, serious questions were raised as to the wisdom of Section 2 of that proposal. Further review of the provisions of this section will be necessary if we are to be assured the course proposed is the one of greatest wisdom.

The bill which you are considering, H.R. 8245, will repeal Section 2 of the Reorganization Plan, and provide the opportunity for re-examination of its provisions.

I am pleased to support its passage and trust that it will receive expeditious action by your Committee and the House of Representatives.

With kindest regards,  
Sincerely,

ELLIOT L. RICHARDSON,  
Attorney General.

Chairman HOLIFIELD. I also have a letter under date of June 13, from the Acting Assistant Secretary for Enforcement in Tariff and Trade Affairs and Operations of the Department of Treasury, Mr. James B. Clawson, which is also in support of the bill that lies before us. H.R. 8245.

[The letter referred to follows:]

THE DEPARTMENT OF THE TREASURY,  
Washington, D.C., June 13, 1973.

HON. CHET HOLIFIELD,  
Chairman, Committee on Government Operations, House of Representatives,  
Washington, D.C.

DEAR MR. CHAIRMAN: You have asked for our views on the repeal of Section 2 of the President's Reorganization Plan No. 2 of 1973. This portion of the Plan would have merged the inspectional functions and related personnel of INS and Customs under the single agency management of Treasury Department's Bureau of Customs. This concept has been endorsed in a number of studies over a period of years, the latest being a May 30, 1973, GAO Report and there are undoubtedly a number of advantages to be gained from these concepts.

However, inasmuch as the Administration has been particularly concerned with achieving the early implementation of the Drug Enforcement Agency, questions arising about certain aspects of Section 2 make it desirable to thoroughly review the provisions of this section.

The Department of the Treasury supports the passage of H.R. 8245 and urges quick action by your Committee and the House of Representatives.

With every good wish,  
Sincerely,

JAMES B. CLAWSON,  
Acting Assistant Secretary for Enforcement,  
Tariff and Trade Affairs, and Operations.

Chairman HOLIFIELD. Mr. Mallary.

Mr. MALLARY. I have no specific questions, Mr. Chairman.

Chairman HOLIFIELD. Mr. Ash, I want to call to your attention a table of figures which I will furnish you a copy of, which is Immigration and Naturalization Service Personnel Requests from 1964 to 1973. I will place this in the record at this point for further information.

[The chart referred to follows:]

IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL REQUESTS, 1964-73

Fiscal year	INS asked for	Justice Department approved	OMB approved	Final congressional action
1964	28 more positions	122 fewer positions	122 fewer positions	140 fewer positions.
1965	22 more positions	No new positions	No new positions	No new positions.
1966	12 fewer positions	12 fewer positions	12 fewer positions	12 fewer positions.
1967	27 more positions	4 more positions	4 more positions	4 more positions.
1968	151 more positions	151 more positions	151 more positions	148 more positions.
1969	107 more positions	107 more positions	67 more positions	37 more positions.
1970	580 more positions	293 more positions	197 more positions	197 more positions.
1971	969 more positions	423 more positions	310 more positions	310 more positions.
1972	960 more positions	763 more positions	452 more positions	452 more positions.
1973	1,065 more positions	456 more positions	No new positions	No new positions.
10 yr record (net)	3,897 requested			966 granted.

NOTES

Between 1964 and 1973 there was a net increase of 996 positions directly connected with detecting, apprehending and expelling illegal aliens.

Between 1964 and 1973, appropriations for the Immigration and Naturalization Service increased from \$69,011,000 to \$135,944,000. For determining the effective budgetary increase for enforcement purposes, allowances must be made for the effects of inflation during this period, including \$40,334,000 in classified and cost of living pay raises. It is estimated that, in light of the inflationary factor, the effective budget increase for INS since 1964 is about \$20,000,000.

In fiscal 1964, 86,597 illegal aliens were found in the United States. In fiscal 1972, 505,949 were found. In his testimony before the Legal and Monetary Affairs Subcommittee on Mar. 27, 1973, INS Commissioner Farrell (now retired) told the subcommittee that, "We feel that we can actually throw a rock up in the air in a large city such as Los Angeles and probably hit an alien who is in the United States illegally." (Galley p. 14).

1964—86,597 aliens apprehended; 1972—505,949 aliens apprehended.

Chairman HOLEFIELD. It has several columns of information. The first column consists of requests of the Immigration and Naturalization Service for more positions. The second one has Justice Department approval of positions, either more or less than requested. The next column has OMB action, and the fourth column has final congressional action on the request.

Roughly, the chart shows that in these 10 years, a total of 3,897 more positions were requested, and a net of 996 were granted. And for comparison, in fiscal 1964, 86,597 illegal aliens were found in the United States; in fiscal 1972, 505,949 were found.

In his testimony before the Legal and Monetary Affairs Subcommittee on March 27, 1973, Immigration and Naturalization Service Commissioner Farrell, now retired, told the subcommittee that, "We feel that we can actually throw a rock up in the air in a large city such as Los Angeles and probably hit an alien who is in the United States illegally."

We also have a corresponding table from the Customs Bureau on personnel requests, and the appropriations that were granted in 1964 and 1973. The Customs Bureau actually received many more positions than the Immigration and Naturalization Service.

[The chart referred to follows:]

## CUSTOMS BUREAU PERSONNEL REQUESTS, 1964-73

Fiscal year	Customs Bureau asked for	Treasury approved	OMB approved	Final congressional action
1964	543 more positions	380 more positions	417 more positions	142 more positions.
1965	739 more positions	739 more positions	497 more positions	274 more positions.
1966	535 more positions	480 more positions	268 more positions	182 more positions.
1967	325 more positions	249 more positions	168 more positions	168 more positions.
1967	37 fewer positions	37 fewer positions	37 fewer positions	37 fewer positions.
1968	400 more positions	283 more positions	217 more positions	267 more positions.
1969 <sup>1</sup>	918 more positions	425 more positions	392 more positions	330 more positions.
1969 <sup>1</sup>	302 fewer positions	302 fewer positions	302 fewer positions	302 fewer positions.
1970 <sup>2</sup>	665 more positions	665 more positions	483 more positions	423 more positions.
1970 <sup>2</sup>	1,332 more positions	1,332 more positions	915 more positions	915 more positions.
1971	2,034 more positions	949 more positions	462 more positions	453 more positions.
1971	60 more positions (supp.)	60 more positions	60 more positions	60 more positions.
1972 <sup>3</sup>	3,256 more positions	1,551 more positions	932 more positions	932 more positions.
1972 <sup>3</sup>	1,725 more positions	1,725 more positions	1,000 more positions	1,000 more positions.
1973 <sup>4</sup>	6,356 more positions	2,741 more positions	311 more positions	288 more positions.
1973 <sup>5</sup>	310 more positions	310 more positions	310 more positions	310 more positions.
10-year record (net figures).	18,859	11,550	6,093	5,405.

<sup>1</sup> Congress approved \$300,000 more than OMB requested.<sup>2</sup> Made necessary by Bow amendment requiring 10 percent personnel cost.<sup>3</sup> The 2d figure represents supplemental money for narcotics enforcement.<sup>4</sup> Subsequent Presidential Order to freeze employee limits resulted in 450 fewer employees.<sup>5</sup> Supplemental request for additional narcotics enforcement.

Note: Between 1964 and 1973 there was a net personnel increase of 5,405 in Customs Bureau. 1964 appropriations, \$72,485,000; 1973 appropriations, \$211,700,000.

Chairman HORTFIELD. This is particularly of interest to me as a Californian, because I have been informed that the costs of illegal aliens coming into the United States, is a matter of great concern to the local police and the local authorities, because when these people are apprehended by local authorities as being aliens, they are held in jail and, in some instances they become ill and they are put in the county hospitals. In all instances they have to be fed and they have to be transported back in big vans to the border and released on Mexican soil.

Now, it has been reliably reported it is costing Los Angeles County around \$100 million a year to take care of this influx of aliens in ascertainable costs. This does not, of course, indicate the jobs that are being taken away from resident American citizens, and it does not indicate the crime that is committed, the costs of the crime, both in human injury and death, as well as in the dollar costs that are involved. Many of these aliens enter at night between ports of entry, and many bring with them contraband material, including marijuana and hard drugs of different kinds, and this is one of the reasons why they come across the border.

So we are very much concerned with this migration of aliens illegally. We are heartily in favor of the concentration of these drug enforcement agencies under one head to avoid the chaos and confusion which has existed in the past but we are particularly aware of the fact that these are related problems, and we would hope that you would recognize these problems and their interrelationship and that there would be more attention given to the Immigration and Naturalization Service personnel requests in the future than have been in the past.

In the past, back in 1964 for instance, Justice Department, the INS, asked for 28 positions, and they received from OMB 122 fewer positions. Then Congress compounded the error, in my opinion, by giving them 140 fewer positions than they had originally.

The list is not a very happy list. It contains 2 years with fewer positions, and in 1 year no new positions, and in 1 year only four more positions were granted. Lately, more particularly in 1971 and 1972, there were additions of 210 and 452 positions, respectively, in those years. But in 1973, there was a request for 1,065 more positions, and no new positions were approved by the Office of Management and Budget, and, no new positions were given by Congress.

Now, I don't know whether these matters passed over your desk as routine matters or over the desk of your subordinate, but I would respectfully request that you take note of the seriousness of this problem and do something constructive about it in the way of granting more positions.

I believe it would be in the interest of the economy to do it. While it might affect a few thousand dollars of the Federal budget, I think that other parts of the Federal budget, the apprehension and exportation and that sort of thing, as well as the local budgets that have to take care of these people, would be decreased considerably, I think there would be a net gain to the United States monetarily as well as from a standpoint of the jobs that resident Americans would have and the income tax that they would pay and that sort of thing.

Mr. ASH. Mr. Chairman, you have certainly identified the perennial problem that we have of balancing the size of Government and its costs; moreover, the size of the job with the benefits and the savings that could come from doing that job.

I do agree with you that at this time, as I said in my statement, that together the Administration and the Congress should give very strong consideration to effective use of the present Immigration and Naturalization Service capabilities, and also consider the very serious possibility that there may be a very supportable need for additional personnel.

You can be assured that both Mr. Malek and myself will at this go-around in the budget give personal consideration to the matter that you have raised.

Chairman HOLIFIELD. Thank you.

On June 6 we received a letter from Mr. Malek, and are you aware of that letter?

[The letter referred to follows:]

EXECUTIVE OFFICE OF THE PRESIDENT,  
OFFICE OF MANAGEMENT AND BUDGET,  
Washington, D.C., June 6, 1973.

Hon. CHIEF HOLIFIELD,  
Chairman, House Government Operations Committee, House of Representatives,  
Washington, D.C.

DEAR CHAIRMAN HOLIFIELD: In response to your inquiry concerning future plans for the Immigration and Naturalization Service, I can assure you that the recent debates on Reorganization Plan No. 2 of 1973 have convinced me that we do face an illegal alien problem in the United States of considerable proportions.

While it is still very early in the planning cycle for the fiscal year 1975 budget, OMB has already discussed this problem in detail with the Department of Justice, including representatives of the Immigration and Naturalization Service,

and has sought their advice on how additional resources could best be utilized in improving the country's illegal alien control capability.

Our tentative view is that bolstering the criminal investigative arm of the INS by something in excess of 50 percent would be the most efficient and effective way to utilize additional resources for illegal alien control. Such a strengthening of the investigative staff would also be accompanied by an appropriate increase in deportation officers, travel funds to meet the cost of returning aliens to the country of nationality if the alien was unable to pay, and suitable arrangements with such country. Limited augmentation of other portions of INS would also appear desirable.

Pending further reviews by ourselves and by the Congress, our present thinking is that an expansion of INS manpower by something between 500 and 600 slots would be justified in the next budget to be submitted by the President to the Congress.

We very much look forward to working with you and your committee in reviewing ways to deal with this problem more effectively.

Sincerely,

FREDERIC V. MALEK,  
*Deputy Director.*

Mr. ASH. Yes, sir, I have it in front of me.

Chairman HOLIFIELD. Does that, in substance, represent your feeling on this matter?

Mr. ASH. This is the view that we have at this time, and I think we will want to work closely with you in developing further the point that is made in this letter. Because it certainly is representative of, I think, the thinking that we together would share.

Chairman HOLIFIELD. You are aware of the fact that Mr. Randall's subcommittee of this committee is making a very intensive study right now of this matter of illegal aliens?

Mr. ASH. Yes, sir.

Chairman HOLIFIELD. And at the conclusion of his studies there is no doubt that there will be a report on it which we will try to make a moderate and reasonably constructive type of report, and we will refer that to you for your consideration at that time.

Mr. ASH. We would appreciate it.

Chairman HOLIFIELD. Without objection, the two tables which are mentioned, and the letter of Mr. Malek, of June 6, will be included in the record and such other correspondence as may be pertinent to the matter that we have at hand.

Mr. St Germain, do you have any questions to ask of Mr. Ash?

Mr. ST GERMAIN. I would like to throw in one question because of being on the Randall subcommittee, and in connection with the previous hearing.

I spent some time with the border patrol down on the Mexican border, on my own. I am convinced of the need for additional personnel, but along with personnel, there is also a need for more technical, advanced equipment.

Now, they have the sensors at the present time. The only reason they have them is because they were developed for Vietnam and excess and turned over to the border patrol. But, in addition to that one thing, for example, they don't have helicopters.

Now, it is my understanding that these have been approved in the past, and yet, as time went by things just dropped out, and Immigration does not, in fact, have helicopters.

Now, to meet the budget that of necessity must be met, it is all right using the old Indian method where they drag a chain behind the jeep and they create these patterns and they can see if anyone has been across there; but, even with that, they need some good air transportation, particularly helicopters.

I am hoping that if, being in the administration, feeling generous toward Immigration and Naturalization, you will give serious thought to allowing the sophisticated equipment they should be using. That eventually might cut down on the personnel, if we had better equipment.

That is all.

Chairman HOLIFIELD. I think that is a good suggestion. I suppose we have a few helicopters left from Vietnam, that haven't been shot down, and, if they are bringing them home, why, maybe we could consider using some of them to patrol the border at night and day. Patrol could be done very quickly in that way with big flood lights at night, and with the sensors that are mentioned. It might be that we could apprehend a lot of these people that are slipping across the border at night. These helicopters could be assigned to patrol as training exercises for the servicemen pilots. They might as well be given something useful to do for the Nation rather than to be sightseeing during the daytime, looking at the girls on the beaches.

Mr. ST GERMAIN. I was very impressed with the time I spent with the border patrol that the fact that such a few people can cover such a large expanse of territory and do as good a job as they have done. This is why I say you should see your way clear to give them the equipment—their morale is high and they are very dedicated people and they certainly should be encouraged by giving them the equipment to better do the job.

Mr. ASH. I would certainly agree the problem with which they are confronted is one which can make very effective use of some of the new technologies that today exist, including helicopter patrol. It is time to give special attention to the many technologies that fit this problem.

Mr. ST GERMAIN. Thank you, Mr. Chairman.

Chairman HOLIFIELD. Mr. Fuqua.

Mr. FUQUA. Thank you, Mr. Chairman, I have just a few questions.

Will DEA agents have supervisory functions over the present customs agents?

Mr. ASH. No, sir, the DEA organization is independent of the customs operation. The customs operation will still continue, of course, at ports of entry inspecting the baggage. This is their job. To the extent, though, that they discover any leads in drug smuggling, at that point they will put into the hands of the DEA investigatory people the information they have. It then can be pursued as an investigation product of the DEA.

Mr. FUQUA. What about the supervisory personnel of the customs service? Will they merge in with DEA?

Mr. ASH. You are talking about those customs people that are presently dealing with drugs?

Mr. FUQUA. Those in supervisory capacities, they will continue in the customs organization?

Mr. ASH. Those working in drug matters will be sent to DEA, and the others will continue in the customs organization as it presently exists.

Mr. FUQUA. Well, will DEA be the parent organization, and Customs will be one—

Mr. ASH. No, sir, it won't be that. DEA will be alongside of and independent of Customs. The difference between—

Mr. FUQUA. There won't be overlapping jurisdiction?

Mr. ASH. There won't be overlapping jurisdiction or responsibility. There will be required a close cooperation between the two in the sense that the customs people in many cases will be the first to have knowledge of a possible drug smuggling activity because of their responsibilities at the border. They in turn will put into the hands of an investigative unit, DEA, the further pursuit of the investigatory function.

Mr. FUQUA. Well, now, someone entering this country, the first man will be the Immigration and then the customs people?

Mr. ASH. That is right.

Mr. FUQUA. Will DEA agents be going through baggage?

Mr. ASH. No, sir, the DEA agents will be available at those ports of entry. They are there so that any discovery of drugs at that time can be turned over to them for further investigatory work. But they will not be going through the baggage. The customs organization has the exclusive responsibility for doing that.

Mr. FUQUA. Then, if a Customs agent, as in the past, discovered narcotics in a bag or baggage, would he notify the DEA agent, or can he make the arrest there himself?

Mr. ASH. He would notify the DEA agent on the spot, who would then pick it up from there. If, on the other hand, it were not drugs, but some other contraband, it remains within the Customs organization to further pursue.

Mr. FUQUA. I think that is all I have.

Chairman HOLIFIELD. Thank you very much. Mr. Wydler?

Mr. WYDLER. I have no questions.

Chairman HOLIFIELD. If there are no further questions, we will excuse Mr. Ash at this time.

Mr. DAHLIN. May I ask a couple of questions?

Chairman HOLIFIELD. Two questions.

Mr. DAHLIN. In connection with Mr. St Germain's questions, Mr. Ash, can you give us any feel for the precise effect on the border patrol of all these changes?

Will there be any contemplated effect on the border patrol, as distinguished from the other agencies affected by the plan?

Mr. ASH. Maybe I should ask Mr. Malek to answer that to the best of his judgment at this time. It is a judgmental question.

Mr. MALEK. There will be no immediate impact on the border patrol by the reorganization plan or the legislation repealing section 2 of the reorganization plan, except that the responsibility for investigatory pursuit in the drug area, since it would rest with DEA, would hopefully lead to a stronger kind of coordination between the border patrol and the DEA agent.

Eventually, as we go through the study of the need to strengthen the INS, and along with it, the border patrol, we would hope that the

increase in personnel that would be contemplated would go into the investigative elements of the INS and the border patrol so that those units could be further strengthened.

Mr. DAHLIN. So that you do contemplate that if the projected increase is carried through in the Immigration activities that some of those additional positions would be allocated to the border patrol?

Mr. MALEK. Yes.

Mr. DAHLIN. But you don't know how many at this time?

Mr. MALEK. It would be hard to differentiate how many are going into INS or directly to the border patrol.

Mr. DAHLIN. Do you contemplate a particular type of job in the border patrol would be augmented? It won't be just across-the-board increase, but particular kinds of investigatory positions, or what do you have in mind?

Mr. MALEK. We think the positions that should be focused on and should get the benefit of the increase are those directly related to the illegal alien problems. Those that are either investigative in nature or others in the border patrol that are nonadministrative. Personnel actually on the line working on illegal alien problem.

Mr. WYDLER. Mr. Chairman, could I just say something for the record.

Mr. Ash, Mr. Malek, there was considerable discussion about the arrangement, meeting of the minds, that took place between the administration and the unions. It was criticized to some extent on the floor of the House as something that was in some people's point of view very bad.

Personally, I want to express the view for the record that I think it was very good. I want to commend the parties for coming to a compromise solution or arrangement. I think it was very much in the interest of the reorganization plan and the country that it be done that way. I would like the record to carry my strong approval for that kind of activity on the part of the administration.

Mr. ASH. Thank you.

Chairman HOLIFIELD. Mr. Ash, during the course of these hearings, information has been brought to us, not necessarily in public testimony, some of it is based on newspaper articles, that there have been cases of corruption in the service. We recognize that there is a tremendous price on these drugs, that can be smuggled across the border, and there is always the temptation to try bribery. Of course, you are aware of the smuggling of persons?

Mr. ASH. As you have recognized in your comments, Mr. Chairman,

Chairman HOLIFIELD. The Randall subcommittee has a whole series of photographs where they are bringing in as much as 30 or 40 people, bringing them in in one huge van, or hidden under agricultural commodities and things like that.

I wonder if it would be administratively possible for some type of an ad hoc, roving, small group of people to investigate these alleged corrupt situations, and act more or less as an inspector general's group, to and thereby make people a little bit more alert to their responsibilities and also a bit more fearful of violating the criminal statutes?

Mr. ASH. As you have recognized in your comments, Mr. Chairman, in a field where some money is involved, as in dealing with drugs or illegal aliens, the temptations are high. Therefore it does require a



close watch over those that are involved in these very kinds of activities that we are talking about here today.

I believe there was a major internal investigative effort made of the very kind that you mentioned just recently. It did come up with a number of instances where corrective action, where important corrective action was required, and it was taken.

But, I agree with you that the degree of temptation is such that there needs to be a continuing effort working with all of the people in this field. An inspector general type operation is certainly one of the very successful ways to do that.

Chairman HOLIFIELD. Mr. Dahlin.

Mr. DAHLIN. Mr. Ash, another point has been made in the statement to be introduced in the record in a moment by the AFGE, which has been very active in this whole affair. They make the point that they feel they have a commitment from OMB that it will withdraw its previous objections to the reclassification by the Civil Service Commission of customs inspectors' positions so as to establish them at the journeyman grade of GS-11 instead of the present GS-9. Could you tell us for the record what understandings there are about journeyman grades, as to customs, INS, and border patrol, and any other agencies that are affected by this?

Mr. MALEK. We have agreed to restudy the initial proposition. When advanced, it was turned down, I believe, by the Civil Service Commission. We have agreed to work with the Civil Service Commission to restudy this proposal and consider very seriously whether or not that earlier stand should be reversed.

Mr. DAHLIN. That is the extent of the commitment, to restudy? Does that apply to customs or all these agencies?

Mr. MALEK. I believe it applies to all the agencies.

Mr. HORTON. The point is, you don't have the authority to upgrade them?

Mr. MALEK. No. Only the Civil Service has the authority.

Mr. HORTON. What you will do is try to cooperate to get them upgraded and, to that extent, you will be of assistance; is that correct?

Mr. MALEK. Yes, sir.

Chairman HOLIFIELD. Was there any further comment?

If not, we will excuse you gentlemen.

Mr. ASH. Thank you.

Chairman HOLIFIELD. Is there a representative here of the American Federation of Government Employees?

Would you like to have your statement introduced in the record at this point, or do you wish to read it?

**STATEMENT OF JAMES H. LYNCH, LEGISLATIVE REPRESENTATIVE, AFGE; ACCOMPANIED BY GANZY LANSIN, STAFF COUNSEL**

Mr. LYNCH. Mr. Chairman, whatever your wishes would be.

Chairman HOLIFIELD. If you will highlight your statement, rather than read it, we will put it in the record.

Identify yourself, please.

Mr. LYNCH. I am James H. Lynch, legislative representative, American Federation of Government Employees, and I am accompanied

today by Ganzy Lansin, our staff counsel. I have a statement prepared for our president, Mr. Clyde M. Webber, who had to go out of town.

Mr. DAHLIN. Before you start, is this a statement of AFGE only, or do you have the endorsement of the AFL-CIO, as in the case of the previous appearance?

Mr. LYNCH. This is our own statement and, in the other hearings and meetings we have had with the AFL-CIO, they have endorsed us, and to my knowledge, I don't know whether they have seen this statement or not.

Chairman HOLIFIELD. Will you please get a letter from them to us so we will have it as a matter of record?

I have also talked with them, and I know they approve it, but we would like to have it in the record as well as yours.

Mr. LYNCH. We spoke to Mr. Meikeljohn last night. It is my understanding a letter will be sent to your committee.

Chairman HOLIFIELD. And either join in your statement or just be a general letter of approval.

Mr. LYNCH. On May 3, 1973, our organization had the privilege of appearing before the House Government Operations Committee to urge disapproval of Reorganization Plan No. 2 of 1973, designed by the administration to wage "all-out global war on the drug menace." At that time, we presented the particulars of our objection to that plan, stressing our opposition especially to section 2, which would have transferred large numbers of Immigration and Naturalization Service inspectors to the customs service.

Since our statement before your committee, the validity of our reservations was recognized by the administration itself. During a series of conferences with representatives of the AFL-CIO and our union, commencing on May 17 and concluding on May 29, 1973, the administration reached an agreement with us.

I will submit this for the record and go on with our statement from there.

[The material referred to follows:]

AGREEMENT RE REORGANIZATION PLAN NO. 2 OF 1973

May 29, 1973.

The Administration Agrees:

I. To make Section 2 of the plan inoperative.

A. We will have introduced and will work with the AFL-CIO to secure passage of a separate bill prospectively repealing Section 2.

B. If this approach does not yield results by July 1, 1973, we will postpone implementation of the transfers mandated by the plan by having Customs contract immigration primary inspection to INS until such time as Section 2 is repealed by statute.

II. To avoid public discussion of "featherbedding" or labor being "against better drug enforcement" in conjunction with organized labor's position on Reorganization Plan No. 2 of 1973.

III. To honor OMB Director Ash's commitment of May 17, 1973, to Chairman Holifield with respect to strengthening the country's illegal alien control capability.

IV. To give careful study to those other problems and suggestions for more effective Customs and illegal alien control and for better labor/management relations in INS and the Customs Service which have been advanced by the labor representatives in the course of discussions to date.

V. To review seriously and sympathetically any other proposals for more effective illegal alien control.

VI. To continue to support H.R. 982 (Rodino bill) restricting employment of illegal aliens within the United States.

The AFL-CIO and AFGE Agree:

I. To cease all lobbying and other activities designed to defeat Reorganization Plan No. 2 in the Congress.

II. Accompanied by an Administration representative to visit personally before Thursday with the Speaker of the House, and key supporters of the Waldie Resolution in the House informing them that the AFL-CIO and AFGE have withdrawn their opposition to the reorganization plan. Similar steps will be taken in the Senate.

III. To inform member unions and affected membership immediately of the withdrawal of labor opposition to the plan.

IV. To assist actively and publicly in securing passage of legislation prospectively repealing Section 2 of the plan.

FRED V. MALEK,

*Deputy Director—OMB.*

CLYDE M. WEBBER,

*President, American Federation of Government Employees.*

KENNETH A. MEIKELJOHN,

*Legislative Representative, AFL-CIO.*

Mr. LYNCH. We have honorably kept the terms of the agreement reached with the administration and signed on May 29, 1973. At this time, there remain several actions on the part of the United States Government regarding its undertakings to us. Among others, there is an undertaking to enact a law to repeal section 2. This would be accomplished by the passage of H.R. 8245.

We hold equally important the fulfillment by the Federal Government of sections II through VI of the administration's undertaking. Notably, we seek the speediest accomplishment of section III, which concerns the honoring of "OMB Director Ash's commitment of May 17, 1973 to Chairman Holifield with respect to strengthening the country's illegal alien control capability."

That undertaking includes, among others, the recognition by the Office of Management and Budget of the urgent need to improve the control over illegal aliens entering the United States. Director Ash wrote in this regard as follows:

Because of the seriousness of the illegal alien problem and the importance of protecting American jobs, the administration fully understands the need to increase the budgetary resources devoted to illicit alien control. We, in particular, believe it important to add manpower to the internal investigative elements of INS and to the Border Patrol. We would thus contemplate that, if the plan is approved by the Congress, a substantial portion of the approximately nine hundred positions which we now estimate will be transferred under the plan from INS to the Bureau of Customs will be restored to INS as a result of budget decisions to be made during the next budget cycle. These positions should be higher graded on the average than the ones lost, given the more complex nature of the alien control investigator's job.

Chairman HOLIFIELD. We understand that and we are proceeding in line with our commitment to the Members of Congress. We are legislating this now, and of course we don't have the power to enforce agreements by outside groups with the department involved; but we are proceeding in good faith to report this bill out today to the full committee. We hope next week to have a full committee report the bill out, and we will get it to the floor shortly thereafter. We believe that in view of the vote of 281 favorably to our proposal, which was clearly outlined on the floor as our commitment of the commitment of Mr. Horton, and I, to do everything in our power to bring this part of it.

into agreement, and I think Mr. Ash has verified the administration's position on it.

So I think we are moving along in a proper way. We appreciate your concern.

If you would like, the rest of this can be put into the record, sir.

Mr. LYNCH. Yes, Mr. Chairman. Thank you.

Chairman HOLIFIELD. Thank you very much.

[The material referred to follows:]

On May 22, 1973 OMB Deputy Director Frederic V. Malek addressed a communication to Chairman Holifield, in which he stated the following:

1. UPGRADING THE COUNTRY'S ALIEN CONTROL CAPABILITY

a. A substantial INS presence will be maintained at ports of entry (see attached fact sheet). INS immigration experts will continue to process the more complex cases of questionable admissibility. A *majority* of existing INS *secondary* inspection personnel will be retained at INS for this specific purpose.

b. Provided the plan is approved, OMB Director Ash has pledged by letter to Chairman Holifield to increase the INS alien interdiction capability. Approximately 900 positions will be transferred from INS to Customs under the plan. If the plan is approved, the Administration would be willing to support an FY-74 supplemental to restore 450 positions and to propose to Congress the restoration of the remaining 450 spaces in the FY-75 budget.

c. Under the Ash proposal, the additional personnel would go primarily to strengthen the Border Patrol and the investigative elements of INS—the two organizational units of the Federal Government best able to impact the illegal alien problem.

We have heard arguments since May 29 that some persons feel the OMB commitment of 900 additional positions over the next two fiscal years is not as fully binding on the Federal Government as it might have been if Section 2 of Reorganization Plan No. 2 of 1973 was being retained. For our part, we believe that we have a clear moral commitment from the Executive Branch to strengthen both the Immigration and Naturalization Service and the Customs Service during the next two fiscal years. We are convinced that this can be done best of all by the addition of 900 positions to INS, divided between the Border Patrol and INS Investigation/Inspection Staff. As to the Customs Service, we feel that we have a commitment from OMB that it will withdraw its previous objections to the reclassification by the Civil Service Commission of Customs inspectors' positions so as to establish them at the journeyman grade of GS-11, instead of the present GS-9.

Mr. Chairman, you will appreciate that the discussions between OMB, on the one hand, and our union and the AFL-CIO on the other hand, were conducted freely and with candor. Our considerations were received with respect and our arguments were heard with attention. In return, we wish to preserve as much of the confidentiality of those meetings as we can. For this reason, we would not wish to add more to our statement at this moment, reserving further comment until after you have the views of the Office of Management and Budget.

Chairman HOLIFIELD. Unless there are questions, we will proceed to the next witness.

Thank you both.

Mr. LYNCH. Thank you.

Chairman HOLIFIELD. Mr. John Murphy.

You have quite a long statement here. Most of us have read this statement, sir.

The members have had an opportunity to read your statement and our legislative task here this morning is to report H.R. 8245 to the full committee.

Mr. ST GERMAIN. Could I ask unanimous consent that the record show, that the executive session takes place subsequent to the testimony of Mr. Murphy?

Mr. HORTON. It is not executive.

Chairman HOLIFIELD. Mark-up of the bill under the new rules, unless action is taken to close the meeting, would not be in executive session.

Mr. St GERMAIN. That he suspend, but that the record show that his statement came prior to the vote.

Chairman HOLIFIELD. Without objection, your statement will appear at this point in the record, and we will hear from you, sir.

**STATEMENT OF JOHN J. MURPHY, PRESIDENT, NATIONAL CUSTOMS SERVICE ASSOCIATION; ACCOMPANIED BY RUSSELL CHAMBERS**

Mr. MURPHY. Thank you, Mr. Chairman.

My name is John J. Murphy. I am president of the National Customs Service. I am accompanied by Mr. Russell Chambers of our office.

I would ask, Mr. Chairman, that my full statement be made a part of the record.

Chairman HOLIFIELD. It has already been made a part of the record. [The prepared statement referred to follows:]

**STATEMENT OF THE NATIONAL CUSTOMS SERVICE ASSOCIATION ON H.R. 8245 AND RELATED LEGISLATION CONCERNING REORGANIZATION PLAN No. 2 OF 1973**

Mr. Chairman and members of the committee: For the record, my name is John J. Murphy. I am President of the National Customs Service Association. The National Customs Service Association (NCSA) is an independent employee organization representing employees of the Bureau of Customs, Department of the Treasury. We are celebrating our 50th anniversary this year and over those five decades have represented Customs employees in all occupations, at all grade levels and in all geographical locations. Our 53 local branches represent Customs employees stationed at ports and places throughout the mainland United States and in the States of Alaska and Hawaii. We have members also in Puerto Rico and the Virgin Islands as well as in foreign countries where there are United States Customs facilities.

Our Association has been accorded National Consultation Rights by the Bureau of Customs under the provisions of Executive Order 11491, as amended. We are the only organization that has these rights. Additionally, we have exclusive recognition as a result of elections in eight of the nine Customs Regions. We have negotiated contracts with Regional Management covering employees in the units in seven of the Regions. Contract talks are presently going forward in the eighth Region.

In giving our views on the legislation before you, Mr. Chairman, we do so from the point of view of the Customs' employee who performs duties at land-border ports, seaports large and small, the teaming airports and the one-man ports in the hinter-lands.

We represent the employees who work in every aspect of the Customs' mission. They include Customs Inspectors, Import Specialists and other technicians concerned with the proper classification and value of imported merchandise, Special Agents, Patrol Officers and others. The Customs Inspectors, who are the largest segment of NCSA membership, form the first line of defense against the importation of narcotic drugs and other illegal or prohibited items, and together with Import Specialists form the barrier against undervaluation and fraud which reduces the revenue and harms the legitimate commerce of the United States.

We have given long and serious thought to the ramifications of Reorganization Plan No. 2 of 1973. We were greatly handicapped in our consideration of its implications by the fact that although we have the National Consultation Rights, referred to above, no effort was ever made by the Office of Management and Budget to inform us of the plans concerning reorganization until we made a

specific request for information. This was long after the Plan had been sent to the Congress and when, to all intents and purposes, OMB had already made final decisions.

When OMB, belatedly and reluctantly, met with our representatives to discuss the matter, everything was cut-and-dried and the sessions were merely informational ones telling us what OMB planned to do. This was also after OMB and the representatives of AFL-CIO and AGE had signed a most improper agreement bargaining away the rights of Customs employees in consideration of an OMB commitment to make Section 2 of the Plan inoperative. We look upon this agreement as improper, probably illegal, and completely contrary to ethical practices. Statements made by AFGE spokesmen, claiming to represent Customs employees, do not represent the views of this organization which is, as I have stated, the representative of the majority of Customs employees.

Our concern goes greatly beyond the immediate effect on Customs Agents or their transfer to the Drug Enforcement Administration. While we foresee many complications inherent in this transfer, and because of poor morale, a consequent lessening of the effectiveness of drug enforcement, we are more concerned with the damage to the overall Customs' mission brought about by flaws that are inherent in the Reorganization Plan.

At the outset, Mr. Chairman, may I say that we fully realize that this Committee can do nothing at this point insofar as the Plan itself is concerned. Congress has seen fit not to disapprove Plan No. 2 so it will become a law of the land on July 1, 1973, with or without Section 2. However, it is still our considered position that the reorganization plan route is the wrong road to follow in attempting to achieve a unified command in the fight against narcotics. We restate our original position on this matter: that is, that we recognize that narcotics abuse is a national problem and that the strongest effort possible must continue to be made in combating it. Our solution is simple: *specific legislation* should be introduced in both the House and Senate calling for a unified, single command; extensive hearings should be held; every individual having information of value concerning the drug problem should be encouraged to give evidence before the Committees. Members of the Committees and Members of Congress generally, should have the opportunity to question witnesses, to require full and complete documentation, and to require administration witnesses to be exact and precise concerning proposed changes including such critical areas as jurisdictional authority. A thorough airing should be given to the overlapping jurisdictions and to assess the degree of duplication and alleged rivalry as of the moment of the hearings. In this connection, we should be dealing with current events, rather than incidents that occurred in prior weeks, months or even years. Input should be obtained from all Federal agencies that have any connection whatsoever with narcotics abuse enforcement.

Although the Reorganization Plan will be effective July 1, 1973, it is not too late for the Congress to consider rectifying what we sincerely believe to be a far-reaching error. We do not believe that Reorganization Plan No. 2 will fulfill the needs of a unified command. We do not believe it will do what its proponents claim it will accomplish. We foresee a proliferation of jurisdictional and overlapping problems. It is incredible that such a far-reaching plan will go into effect without some of the basic requirements of budgeting, authority, jurisdiction and transfer of personnel and equipment having been properly discussed, planned and projected.

It has been repeatedly mentioned in the hearings, and in supporting documentation, that Reorganization Plan No. 2 would eliminate dual and conflicting efforts in drug investigations.

It is our observation that competing and rival investigations are not caused to any significant extent by the activities of Customs Special Agents. The rivalries are a result of overlapping jurisdictions; and the inexperience of the new groups in the narcotics enforcement area established by previous reorganization plans. The Bureau of Narcotics and Dangerous Drugs (BNDD) was created in 1968, the Office of Drug Abuse Law Enforcement (ODALE) was formed on January 28, 1972, and the Office of National Narcotics Intelligence (ONNI) on July 27, 1972.

There is no dispute that a unified command is essential to effective operations. Because of the hasty and poor planning to regroup the current inefficient forces that are now operating outside the Department of the Treasury, we feel that Reorganization Plan No. 2 will have as dismal a record as its predecessors. There

is nothing in the past record that would indicate that the Drug Enforcement Administration (DEA), another brand-new entity, would be any more effective or successful. The essential ingredient of experience is obviously lacking.

In order to give meaning to the term "Unified Command", and be in a position to effectively utilize the experience gained over many, many years of fighting the drug menace, we recommend that all existing agencies with functions relating to the drug problem be placed under the Department of the Treasury instead of an unnecessary, untried, and inexperienced new agency such as DEA.

It might be helpful to the Committee to have the legal bases for Customs drug activities. We have therefore, searched the various statutes and related sources covering these areas. We include them in Appendix I.

The history of the Customs Service shows that these authorities have been used carefully and judiciously; and the incidents of actual violations of individual rights or over-zealousness have been few and far between.

With the unknown and untried agents of DEA, there is a distinct possibility of some very unwholesome situations occurring considering the record of the past among some of the related groups.

Another area of considerable concern to us is the matter of jurisdiction outside ports of entry. It is our understanding that the implementation of the Plan contemplates limiting Customs authority to certain narrowly-defined areas, primarily the port limits of ports of entry. We would like to have some clear-cut explanation of this. We feel that any such limitation would effectively cripple Customs efforts to carry out its mission. In view of the Customs record of accomplishment, such limitations would indeed be short-sighted and self-defeating.

As we understand it, Customs and Immigration will continue to perform their present border enforcement functions. In this respect, there will be no change brought about by the Plan, with or without Section 2. However, Section 1, which sets up DEA, raises a very interesting and important question: are we now creating a *third* agency concerned with drug interdiction and investigation and will this contribute to a fragmentation of functions, duties and responsibilities?

In spite of the claims of interagency rivalry and jealousy among the agencies involved in the drug abuse fight, it should be borne in mind that Customs has consistently had the highest productivity in connection with the war against narcotics.

At this time, Mr. Chairman, I respectfully request that a report dated February 1, 1973, showing the drug seizures and arrests for 1972 be made a part of the record of these hearings. (Appendix II). These figures clearly show the continuing effectiveness of the Bureau of Customs in combating the narcotics menace. It is because of this extraordinary record of accomplishment that our organization as representative of the employees who do the job, find it hard to understand why a winning team needs to be broken up and put under an untried agency.

If we were to be asked what is the single most critical point requiring clarification, we would say it is the matter of jurisdiction. We need to know exactly and precisely what jurisdictional authority is to be vested in DEA and its agents. The authority of Customs agents, inspectors and other officers is clearly defined but the DEA is clouded with speculation and uncertainty.

The question of border searches is a critical one. Such searches must be judiciously controlled to prevent violation of individual rights and to prevent unwholesome situations brought about by inexperience, over-zealousness or an attitude that is incompatible with responsible enforcement work. We are concerned about the role of DEA agents and wish to know specifically as to whether or not they will operate within the realm of due process.

So far his activities, duties and responsibilities have not been properly defined. We understand that he will be performing general investigative functions relating to the interdiction of drugs. We have no idea of the scope of his duties or responsibilities. We do not know where he begins and ends his investigations vis-a-vis a Customs Inspector or other Customs official. We do not know whether his authority encompasses the search of persons, vehicles or their baggage. We do not know whether he would be authorized to make seizures and arrests, and under what conditions. We also do not know his authority with respect to the supervision or direction of Customs employees generally, and Inspectors in particular.

As the representative of Customs career employees, we are quite naturally concerned that the rights and career opportunities of our people be preserved. We would specifically like to know if there is anything in the Plan or its implementing determination that would in any way downgrade Customs functions or prevent us from continuing to make high-level narcotics seizures.

We are well-aware that there have been numerous studies concerning the feasibility, desirability and practicability of so-called one-stop and single inspections. The most recent study is that of the Comptroller General who, on May 30, 1973 in a Report to the Congress, recommended (Page 21) a single-agency management of port-of-entry inspections.

However, as we have repeatedly said, we have great reservations concerning the wisdom, need and practicability of establishing a new agency to bring about single direction. If a unified command is desirable, we feel it should be within the framework of the existing agencies charged with responsibilities in the drug field. Because of its unique position in the forefront of the drug fight for as long as the problem has existed, the logical point for bringing about unified command would be in the Department of the Treasury, under the Bureau of Customs. There is no need to go into specifics as to why this is true. One need only look at the extraordinary record of Customs in every aspect of its mission.

In conclusion, it is the firm position of the National Customs Service Association that Reorganization Plan No. 2, with or without Section 2, cannot meet the demands for a unified command in the fight against narcotics. We recommend to this Honorable Committee and to the Congress that a study be undertaken immediately to consider the feasibility of a unified agency to effectively combat the drug menace. We believe that this calls for *specific legislation* so that every person concerned may contribute input to the Congress; and so arrive at a sound decision based on the democratic legislative process.

Our Association would strongly support such an effort. We will make all of our resources and the expertise of our members available to any Committee of Congress that undertakes this task.

Thank you, Mr. Chairman, and Members of the Committee for your patience and courtesy. If there are any questions, I would be very happy to try to answer them. Thank you very much.

#### APPENDIX I

##### LEGAL BASES FOR CUSTOMS DRUG ACTIVITIES

The legal bases for Customs drug activities may be found in the general Customs and Customs criminal statutes, specific legislation relating to controlled substances, and in the delegation orders and regulations issued pursuant to law.

##### GENERAL CUSTOMS LAWS

Congress has conferred broad authority upon Customs officers (either directly or by delegation) to search persons, conveyances and merchandise entering the United States from foreign countries for the purpose of protecting the revenue and preventing the importation of merchandise, including controlled substances, contrary to law. The more important statutes in this area are:

18 U.S.C. 545 (formerly 19 U.S.C. 1593) which makes it a criminal offense to smuggle or clandestinely introduce or bring in merchandise or to import merchandise contrary to law.

19 U.S.C. 482 authorizes searches of persons, conveyances and containers.

19 U.S.C. 1461 authorizes the inspection of baggage and merchandise and requires Customs supervision of unloading.

19 U.S.C. 1467 authorizes special re-examinations.

19 U.S.C. 1496 authorizes baggage examinations notwithstanding a declaration and entry have been made.

19 U.S.C. 1499 requires imported merchandise to be examined by Customs.

19 U.S.C. 1581 authorizes boarding and searching of vessels; arrests and seizures for breaches of the revenue laws.

19 U.S.C. 1582 provides that all persons coming from foreign countries shall be liable to detention and search in accordance with regulations promulgated by the Secretary of the Treasury.

19 U.S.C. 1584 provides penalties for unmanifested goods (with specific penalties for narcotics or marijuana) found on vessels or vehicles.



19 U.S.C. 1602-1614 provides the machinery for seizing, storing, forfeiting and disposing of articles seized by Customs officers.

19 U.S.C. 1595a authorizes forfeitures of conveyances used in smuggling, or used to aid or facilitate smuggling, etc.

19 U.S.C. 1701-1709 provides for the seizure and forfeiture of conveyances used in smuggling.

19 CFR part 6 requires aircraft arriving from outside the U.S. to make their first arrival at a Customs airport.

#### SPECIFIC NARCOTIC AUTHORITIES

26 U.S.C. 7607 authorizes Customs officers to carry arms, serve warrants; and in addition, authorizes them to make warrantless arrest for narcotic and marihuana law violations.

31 U.S.C. 1034 authorizes the Secretary of the Treasury to administer oaths, issue subpoenas and compel the attendance of witnesses for any investigation which in his opinion is necessary and proper for the enforcement of 18 U.S.C. 545 with respect to any controlled substances.

21 U.S.C. 881 applies the Customs seizure and forfeiture laws to controlled substances. This section also provides that persons designated by the Attorney General will perform the duties imposed upon Customs officers under the Customs seizure and forfeiture laws, *except* to the extent that such duties arise from seizures and forfeitures effected by Customs officers.

21 U.S.C. 966 provides that nothing in the Comprehensive Drug Abuse Prevention and Control Act of 1970 shall derogate from the authority of the Secretary of the Treasury under the Customs and related laws.

49 U.S.C. 781, *et seq.*, prohibits the transportation of contraband (including narcotics and marihuana) and empowers the Secretary of the Treasury to designate officers to enforce its provisions.

#### APPENDIX II

##### U.S. CUSTOMS DRUG SEIZURES AND ARRESTS AT RECORD LEVELS IN 1972

The Treasury Department's Bureau of Customs registered a record number of drug seizures and arrests in 1972 according to a report by U.S. Commissioner of Customs Vernon D. Acree, issued today.

Drug seizures climbed by 7,420 to a total of 18,107 for the year, a 69 percent increase. Arrests for drug and narcotic violations rose by 1,253 to 8,934, a climb of more than 16 percent.

Assistant Secretary of the Treasury Edward L. Morgan hailed the figures as reflecting the increased effectiveness of the Bureau's drug interdiction program, and the cooperative efforts of Customs and the Bureau of Narcotics and Dangerous Drugs, and other enforcement agencies. He said the seizures have removed significant amounts of hard drugs from the marketplace thereby keeping them out of the hands of the young people of America.

Commissioner Acree reported particularly sharp increases in seizures of cocaine, hashish, marihuana, and dangerous drugs. The estimated street sale value of all Customs confiscated drugs in 1972 was almost \$400 million, he said.

Mr. Acree credited Customs' continuing intensified anti-narcotic enforcement program with producing the record results. The combination of solidly trained and experienced personnel backed by the latest in sophisticated equipment have proved highly effective against smugglers, the Commissioner reported.

Major cases during the year have included two 22-pound heroin seizures, one at Miami on April 7, and another at Champlain, N.Y., on October 13; a cocaine seizure of 32.5 pounds at Niagara Falls, N.Y., on November 25; a 1,330-pound hashish seizure, the largest on record by Customs at Portland, Oregon, on January 7; and six marihuana seizures in the 2,000 to 4,000 pound range.

## U.S. BUREAU OF CUSTOMS—CALENDAR YEAR SEIZURES

	1967	1968	1969	1970	1971	1972
Number of seizures:						
Heroin.....	235	257	221	324	568	617
Cocaine.....	<sup>1</sup> 562	<sup>2</sup> 270	<sup>2</sup> 322	137	239	639
Opium.....	20	34	37	105	124	113
Other narcotics.....				266	246	275
Marijuana.....	<sup>3</sup> 2,026	2,246	2,504	6,031	6,312	11,254
Hashish.....		26	379	1,117	1,757	3,119
Dangerous drugs.....		604	829	1,409	1,441	2,090
Total.....	2,843	3,437	4,292	9,389	10,687	18,107
Quantity in pounds:						
Heroin.....	194.65	224.70	209.58	346	1,108.85	215.66
Cocaine.....	<sup>1</sup> 1,447.57	<sup>2</sup> 177.20	<sup>2</sup> 155.59	376.11	166.12	620.69
Opium.....	15.9	28.11	18.92	28.15	47.93	52.35
Other narcotics.....				25.86	106.37	188.84
Marijuana.....	<sup>3</sup> 48,410.12	64,412.38	59,839.50	149,772.33	201,557.68	365,420.51
Hashish.....		131.88	1,602.02	3,811.03	6,899.69	8,754.05
Dangerous drugs (5-grain units).....		4,696,347	8,193,173	10,715,920	8,842,273	12,759,079

<sup>1</sup> Includes dangerous drugs of over 1,000,000 5-grain units and other narcotics.

<sup>2</sup> Includes other narcotics.

<sup>3</sup> Includes hashish and marijuana.

Mr. MURPHY. Thank you, sir.

I would just like to very briefly raise a few points.

First of all, the National Customs Service Association is an independent employee organization representing employees of the Bureau of Customs and the Department of the Treasury. We represent the employees who work in every aspect of the customs' mission. They include customs inspectors, import specialists, and other technicians concerned with the proper classification and value of imported merchandise, special agents, patrol officers and others. The customs inspectors, who are the largest segment of NCSA membership, form the first line of defense against the importation of narcotic drugs and other illegal or prohibitive items, and together with import specialists, form the barrier against undervaluation and fraud which reduces the revenue and harms the legitimate commerce of the United States.

We have given long and serious thought to the ramifications of Reorganization Plan No. 2 of 1973.

I might say at this point, Mr. Chairman, that we appreciate that this committee can do nothing about the plan; nevertheless, we think it would be of benefit to the record to have certain aspects of it made a part of the record.

First of all, our organization was greatly handicapped in our consideration of its implications by the fact that although we have the national consultation rights and are the only organization in the customs service that has these rights, and although we have exclusive recognition and aid of the nine customs regions, no effort was ever made by the Office of Management and Budget to inform us of the plans

concerning these organizations until we made a specific request for this information. This was long after the plan had been sent to Congress and when, to all intents and purposes, OMB had already made final decisions.

When OMB belatedly and reluctantly met with our representatives, it was just simply to give us information concerning what they already had planned to do, and this was also after OMB and representatives of AFL-CIO and AFGE had signed what we considered to be a most proper agreement bargaining away the rights of customs employees in consideration of an OMB commitment to take section 2 out of the plan.

I must respectfully disagree with Mr. Wydler with regard to the propriety of this agreement.

We thought it improper and contrary to ethical practices, and statements made by the AFGE purporting to represent customs employees are incorrect since they do not represent the views of our members who represent the majority of customs employees.

I would like to have you know, Mr. Chairman, that our concern goes a great deal beyond the immediate effect of customs agents or their transfer to the Drug Administration. We foresee many complications inherent in this transfer, and because of poor morale, a consequent lessening of the effectiveness of drug enforcement; we are also concerned with the damaging of overall customs administration brought about by flaws that are inherent in the plan.

Our solution to this is simple. Specific legislation should be introduced in both the House and Senate, calling for unified single command, extensive hearings should be held. Every individual having information of value concerning the drug problem should be encouraged to give evidence. Members of the committees and Members of Congress generally should have the opportunity to question witnesses, which was not the case in this plan, and to require full and complete documentation and require Administration witnesses to be exact, precise—concerning the proposed changes rather than the generalized explanations that have been made.

I might say, also, Mr. Chairman, that I am quite disappointed that—

Chairman HOLIFIELD. I am going to ask you, Mr. Murphy.

I have read your message and it has been included in the record. I certainly intend no discourtesy to you, but time is pressing and your statement will be put in the record in its entirety. You know that the Chair recognizes some of these problems that we have, and I certainly agree with you that a more diligent consultation should have been made, not only with you—

Mr. MURPHY. I will be very happy to cooperate with you in the interest of time.

Chairman HOLIFIELD. But, also, with the AFGE group. The record shows that there was not a proper contact in advance with the people affected. We have made our thoughts known on that subject, and if there are plans presented in the future to this committee, or the sub-committee I chair, I am going to assure you that if they have not had contacts with the employees organizations affected, I am going

to ask them to make those contacts before they come before us to testify.

Mr. MURPHY. Thank you, Mr. Chairman.

Chairman HOLIFIELD. That is in approval of the position that you have taken on this matter of prior consultation.

Mr. MURPHY. Let me close out my statement, Mr. Chairman, by thanking you for the opportunity to appear here and to suggest that in order to give meaning to the term "unified command" and to be in a position to effectively utilize the experience gained over the years of fighting the drug menace, that existing agencies with functions relating to the drug problem be placed under the Department of the Treasury instead of the unnecessary, untried, and inexperienced new agency.

Chairman HOLIFIELD. I thank the gentleman for his testimony.

This general subject matter is not primarily a matter of statutory jurisdiction in this committee. Reorganization plans are. However, the economy and efficiency of the operation of Government is within the jurisdiction of this committee and Mr. Randall's subcommittee is going into some phases of that matter at the present time.

I am sure if you have some pertinent information to give to Mr. Randall's subcommittee that a request would be honored for you to come before his subcommittee. They are principally looking at the illegal immigration problem. We are also interested in the drug problem. The drug problem is before the Special Studies Subcommittee; Mr. Hicks is the chairman of that.

So, I will just alert you to those facts, and if you care to take advantage of them, you may.

Mr. MURPHY. Thank you.

Mr. HORTON. Mr. Chairman, I move that H.R. 8245 be reported to the full committee with the recommendation it do pass.

Chairman HOLIFIELD. Is there a second?

Mr. WYDLER. I second.

Chairman HOLIFIELD. It has been moved and seconded that H.R. 8245 be referred to the full committee with the recommendation that it be passed.

The Chair notes a quorum is present.

Those in favor signify by saying aye.

[A chorus of ayes.]

Chairman HOLIFIELD. Contrary, no.

[No response.]

Chairman HOLIFIELD. Let the record show that a quorum is present, and that the vote is unanimous.

Mr. HORTON. Mr. Chairman, I do have a proxy from Mr. Erlenborn and would like him to be recorded as in favor.

Mr. DAHLIN. And also the proxy of Mr. Moorhead and Mr. Jones.

Chairman HOLIFIELD. Call the roll.

The CLERK. Chairman Holifield.

Chairman HOLIFIELD. Aye.

The CLERK. Mr. Rosenthal.

[No response.]

The CLERK. Any proxy?

[No response.]

The CLERK. Mr. Wright.

[No response.]

The CLERK. Mr. St Germain.

Mr. ST GERMAIN. Aye.

The CLERK. Mr. Fuqua.

Mr. FUQUA. Aye.

The CLERK. Mr. Moorhead.

Chairman HOLIFIELD. I have a proxy. Aye.

The CLERK. Mr. Jones.

Chairman HOLIFIELD. I have a proxy. Aye.

The CLERK. Congressman Horton.

Mr. HORTON. Aye.

The CLERK. Mr. Erlenborn.

Mr. HORTON. Aye, by proxy.

The CLERK. Mr. Wydler.

Mr. WYDLER. Aye.

The CLERK. Mr. Brown.

Mr. BROWN. Aye.

The CLERK. Mr. Mallary.

Mr. MALLARY. Aye.

Chairman HOLIFIELD. Motion is passed. The bill is reported favorably to the full committee.

Mr. HORTON. I talked with Mr. Rosenthal, and I believe he said he would leave his proxy. Maybe we could leave the record open.

Chairman HOLIFIELD. If there is no objection, the record will be left open for the filing of Mr. Rosenthal's proxy.

The committee is adjourned.

[Whereupon, at 10:55 a.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.]

OTHER CORRESPONDENCE RELATIVE TO THE HEARING

THE GENERAL COUNSEL OF THE TREASURY,  
Washington, D.C., June 18, 1973.

HON. CHET HOLIFIELD,  
Chairman, Committee on Government Operations, House of Representatives,  
Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 8245, "To amend Reorganization Plan Numbered 2 of 1973."

The proposed legislation would amend Reorganization Plan No. 2 of 1973 to repeal provisions providing for the transfer to, and the performance by, the Secretary of the Treasury of functions of the Attorney General, the Department of Justice and any other officer or agency of the Department of Justice, with respect to the inspection at regular inspection locations at ports of entry of persons and documents of persons entering or leaving the United States.

The proposed legislation incorporates the provisions of a draft bill submitted to the Congress by the Office of Management and Budget on May 29, 1973.

The Department recommends the enactment of H.R. 8245.

The Department has been advised by the Office of Management and Budget that there is no objection to the submission of this report to your Committee and that enactment of H.R. 8245 would be consistent with the Administration's objectives.

Sincerely yours,

EDWARD C. SCHMIDT,  
General Counsel.

AMERICAN FEDERATION OF LABOR & CONGRESS OF  
INDUSTRIAL ORGANIZATIONS,  
Washington, D.C., June 19, 1973.

HON. CHET HOLIFIELD,  
Chairman, House Government Operations Committee, U.S. House of Representatives,  
Washington, D.C.

DEAR MR. CHAIRMAN: It is our understanding that the House Committee on Government Operations will on Thursday, June 21, 1973 take up for consideration H.R. 8245, the bill introduced by yourself and Representative Frank Horton.

H.R. 8245 would repeal section 2 of Reorganization Plan Number 2 of 1973 under which major elements of the inspection functions, involving some 900 employees of the Immigration and Naturalization Service would be transferred to the Bureau of Customs. As you know, the AFL-CIO Executive Council vigorously opposed this transfer.

Enactment of H.R. 8245 is called for in order to carry out the terms of the agreement that was reached early this month among representatives of the AFL-CIO, the American Federation of Government Employees and the Deputy Administrator of the Office of Management and Budget, that section 2 of Reorganization Plan Number 2 should not be allowed to go into effect and that legislation should be sought to accomplish this purpose. H.R. 8245 is designed to accomplish this objective. H.R. 8245 has the support of the AFL-CIO and we urge its prompt approval by the Committee on Government Operations and the House of Representatives.

Sincerely,

ANDREW J. BIEMILLER,  
Director, Department of Legislation.

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