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THOMAS C. FITZHUGH, III

December 6, 1982

Hon. James Cicconi
Special Assistant to the President
The White House
1600 Pennsylvania, N. W.
Washington, D. C. 20500

Dear Jim:

It was a pleasant surprise to see Ricardo's name in the paper so shortly after we discussed the possibility of his appointment to the federal bench. It will be a real pleasure to have him in Brownsville.

Untermeyer tells me you are expecting another visit from the stork next April. If that is true, obviously you have not been working hard enough. Anyone who took you job seriously would not have time to make babies on the side. Remind me to bring this up with you boss the next time I see him.

Meanwhile, continue to keep things under control. It looks like I will be back up in town sometime in the first quarter of next year, and I hope to see you then. If there is anything I can do about the rest of the matters we discussed, please let me know.

Cordially yours,



Thomas C. Fitzhugh, III

TCF/tas

1 GC
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THOMAS C. FITZHUGH, III

November 17, 1982

Hon. Jim Cicconi
Special Assistant to the President
The White House
1600 Pennsylvania, N.W.
Washington, D. C. 20050

Dear Jim:

Thank you very much for your hospitality during my recent visit to Washington. It was my first lunch at the White House, and it really was a treat.

More especially, I enjoyed the amount of time you were able to give me and our broad ranging discussions. Please remember to keep in touch about the matters we discussed.

You can imagine my delight and surprise to see Richard Willard appear to argue on behalf of the government Tuesday morning. Richard really had not paid much attention to the amicus briefs that had been filed, and he was not expecting me to show up for the case. We drew a most interesting panel - Judges J. Skelly Wright, Edward Tamm, and Pat Wald. Although it is difficult to predict matters, I expect a two to one or possibly unanimous decision affirming the district court, although quite possibly on different grounds from the ones Judge Green used in granting the injunction. For your further information a copy of the district court's order is attached.

It was a pretty good day in court, as I was successful in my bankruptcy argument in New York. I know you have more than enough to read, so I will stop the letter here but simply add that if and whenever you find yourself in Houston, give me a call, and I will be at your service.

- nice letter

Hon. Jim Cicconi
November 17, 1982
Page Two

Thanks again for all your hospitality and for your
time. Hope to see you again soon.

Cordially yours,

A handwritten signature in black ink, appearing to read "Tom", is written below a horizontal line that extends from the left towards the center of the page.

Thomas C. Fitzhugh, III

TCF/tas

FILED

JUN 2 - 1982

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

In Re Benefits Review Board)
Litigation, Judges Kalaris) Civil Action Nos: 82-1278
and Miller) 82-1406

MEMORANDUM OPINION

This consolidated action is before the Court on plaintiffs' motion for summary judgment and defendants' motion to dismiss or, in the alternative, for summary judgment. The facts are not in dispute. The Secretary of Labor (the Secretary) seeks to dismiss plaintiffs Ismene M. Kalaris and Julius Miller from their positions as administrative appeals judges of the three-member Benefits Review Board (the Board). The Secretary thus seeks to replace two-thirds of the members of the Board at one time. The question presented is whether Congress intended the Secretary to be able to terminate Board members at will. The Court answers this question in the negative. Accordingly, plaintiffs' motion is granted and defendants' motion is denied.

Congress established the Board in 1972 by amendment to the Longshoremen's and Harbor Workers' Compensation Act (the Longshoremen's Act), 33 U.S.C. § 921(b)(1). The Board reviews decisions of administrative law judges concerning worker compensation claims under the Longshoremen's Act; Title IV of the Federal Mine Safety and Health Act ("black lung" disability), 30 U.S.C. § 922; the Defense Base Act, 42 U.S.C. § 1651 et seq.; the District of Columbia Workmen's Compensation Act, 36 D. C. Code § 301 et seq.; the Outer Continental Shelf Lands Act, 43 U.S.C. § 1331 et seq.; and the Nonappropriated Fund Instrumentalities Act, 5 U.S.C. § 8171 et

seg. Appeals from the Board's decisions are taken directly to the Court of Appeals for the circuit in which the injury occurred. 33 U.S.C. § 921(c).

The Secretary has the right to appeal every decision of the Board. Shahady v. Atlas Tile & Marble Co., No. 81-1818, slip op. at 8 (D. C. Cir. Feb. 26, 1982). Through the Director of the Office of Workmen's Compensation Programs, the Secretary is a party in interest in a substantial number of cases heard by the Board.

In the statute establishing the Board, Congress directed the Secretary to appoint its three members but failed to provide grounds for removal or definite terms of office. 33 U.S.C. § 921(b)(1).

The legislative history indicates that Congress was concerned with separating the functions of administering the compensation program and sitting in judgment on the claims. S. Rep. No. 92-1125, 92d Cong., 2d Sess. 13, 14 (1972). Congress created the Board to replace review of claims decisions by the United States District Courts. Id. 14.

The Supreme Court looks to the functions of an administrative body in determining whether Congress intended the Executive branch of government to be able to remove its officers at will. Wiener v. United States, 357 U. S. 349, 353 (1958); Humphrey's Executor v. United States, 295 U. S. 602, 628 (1935). The Court "must not be misled by a name, but look to the substance and intent of the proceeding" Federal Radio Commission v. Nelson Bros. Bond & Mortgage Co., 289 U. S. 266, 277 (1933).

The Board possesses four quasi-judicial functions. It reviews facts under a substantial evidence standard; reviews the law, including the constitutional validity of regulations issued by the Secretary; adjudicates rights deriving originally from private causes of action; and lacks rulemaking or policymaking authority. The nature of these functions is further clarified by the Board's assumption of jurisdiction formerly belonging to the District Courts, and the Board's absence as a party on appeal of its decisions.

The Secretary recognizes the Board's independent and quasi-judicial status in regulations governing the establishment and operation of the Board. 20 C.F.R. §§ 801.103, 801.104. The same regulations, however, provide that Board members serve "indefinite terms to be determined in the discretion of the Secretary." Id. § 801.201(d). To adopt the Secretary's interpretation in 20 C.F.R. § 801.201(d) would make 29 U.S.C. § 921 unconstitutional. The Secretary's interpretation would permit him to influence claims decisions outside the adjudicatory process through replacement of the entire Board. As the Supreme Court noted in Humphrey's Executor v. United States, supra at 629-30:

The fundamental necessity of maintaining each of the three general departments of government entirely free from the control of coercive influence, direct or indirect, of either of the others, has often been stressed and is hardly open to serious question. So much is implied in the very fact of the separation of powers of these departments by the Constitution; and in the rule which recognizes their essential co-equality.

The Supreme Court held in Humphrey's Executor that the quasi-judicial and quasi-legislative authority of the Federal Trade Commission protected its members from removal at will under fundamental notions of separation of powers.

The same principle applies to the Benefits Review Board. Congress certainly did not intend to permit the Secretary to pack this independent and quasi-judicial tribunal, "for it is quite evident that one who holds his office only during the pleasure of another, cannot be depended upon to maintain an attitude of independence against the latter's will." Id. at 629. The Court holds that the Longshoreman's Act does not permit removal of Board members by the Secretary at will. The Secretary's purported dismissal of plaintiffs from their positions without cause asserted therefore violates 33 U.S.C. § 921(b)(1). Admittedly, Section 921(b)(1) is not well-drafted. Members of other quasi-judicial or quasi-legislative bodies have definite terms, staggered to avoid a mass exodus. Through staggered, definite terms, Congress limits control of the Executive branch over quasi-judicial and quasi-legislative decisions.

Defendants rely primarily upon cases in which officials removed at will had purely executive authority or ministerial positions: In re Hennan, 38 U. S. 230 (1839) (court clerk); Shurtleff v. United States, 189 U. S. 311 (1903) (general appraiser of merchandise); Myers v. United States, 272 U. S. 52 (1926) (station postmaster); National Treasury Employees Union v. Reagan, 663 F.2d 239 (D. C. Cir. 1981) (20,000 appointees to various federal jobs). Only in Reagan v. United States, 182 U. S. 419 (1901), did the Supreme Court ever uphold removal at will for an official exercising quasi-judicial authority. In Reagan, the Commissioner for the Indian Territory, Southern District, exercised powers of state justices of the peace. The Commissioner's dismissal was upheld pursuant to the general rule that "the power of removal

is incident to the power of appointment," id. at 424, citing In re Hennen. In re Hennen, however, recognized three exceptions to this general rule: where "a different tenure is expressed in the appointment, or is implied by the nature of the office, or results from ancient usage." In re Hennen, supra at 259.

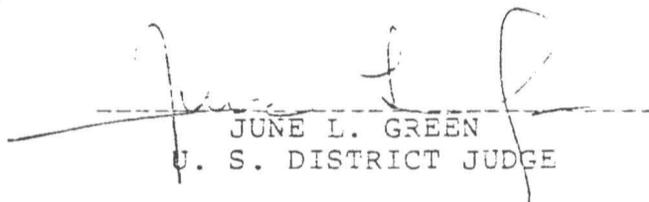
At oral argument, defendants asserted that the Board has no "independent significance" because the Courts of Appeals and the Supreme Court review Board decisions using the same legal standards as the Board. Further, they argue that Congress could have assigned the functions performed by the Board to the Secretary. The Court finds these arguments unpersuasive. Regardless of the "significance" of the Board, Congress has established it. The nature of the Board's duties requires independence from the Secretary. The Board is analogous to the positions of Federal Trade Commissioner in Humphrey's Executor v. United States, supra, and War Claims Commissioner in Wiener v. United States, supra. The nature of the Board's duties requires independence from the Secretary. Congress did not assign the functions of the Board to the Secretary, and the Court need not decide whether Congress could constitutionally do so.

Article III of the Constitution permits Congress to establish courts inferior to the Supreme Court. Judges of Article III courts enjoy tenure during "good behavior." The Court rejects plaintiffs' argument that the Board is an Article III court. Congress expresses clearly which courts enjoy Article III status. See, e.g., 28 U.S.C. § 171 (establishing the Court of Claims as an Article III court); 28 U.S.C. § 211 (accord, Court of Customs and Patent Appeals); 28

U.S.C. § 251 (accord, Customs Court). Congress has not done so here.

The due process clause of the Fifth Amendment to the Constitution provides that no person shall be deprived of life, liberty or property without due process of law. Since the Court holds plaintiffs' removal by the Secretary at will is impermissible, plaintiffs enjoy a property interest in their positions within the meaning of the due process clause. See Board of Regents v. Roth, 408 U. S. 564, 577 (1972); Perry v. Sindermann, 408 U. S. 593, 601 (1972). Consequently, the Secretary's attempted dismissal without notice or opportunity for hearing violates plaintiffs' rights to due process of law under the Fifth Amendment.

An appropriate order accompanies this memorandum opinion.


JUNE L. GREEN
U. S. DISTRICT JUDGE

June 2, 1982

FILED

JUN 2 - 1982

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CLERK, U.S. DISTRICT COURT
DISTRICT OF COLUMBIA

In Re Benefits Review Board)
Litigation, Judges Kalaris) Civil Action Nos. 82-1278
and Miller) 82-1406

ORDER AND JUDGMENT

Upon consideration of plaintiffs' motion for summary judgment; defendants' opposition and motion to dismiss, or in the alternative, for summary judgment; plaintiffs' opposition; the entire record; and after oral argument on June 1, 1982, for the reasons expressed in the accompanying memorandum opinion, it is by the Court this 2nd day of June 1982,

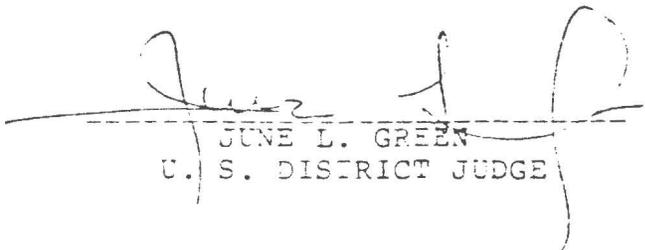
ORDERED that plaintiffs' motion for summary judgment is granted; it is further

ORDERED that defendants' motion to dismiss, or in the alternative, for summary judgment, is denied; it is further

ORDERED that defendants' action purporting to remove plaintiffs from the Benefits Review Board without cause is null and void and without legal effect; it is further

ORDERED that defendants, their officers, agents, employees and attorneys are permanently enjoined from removing or attempting to remove plaintiffs from the Benefits Review Board without showing cause and providing plaintiffs an opportunity to respond thereto and to be heard; and it is further

ORDERED that judgment is entered for plaintiffs and this action is dismissed.



JUNE L. GREEN
U. S. DISTRICT JUDGE

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THOMAS C. FITZHUGH, III

November 3, 1982

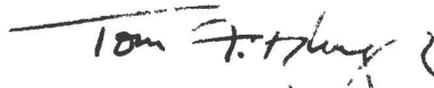
Hon. Jim Cicconi
Special Assistant to the President
The White House
1600 Pennsylvania Avenue N.W.
Washington, D. C. 20500

Dear Jim:

Thanks for working me into your schedule. Its really difficult to get to Washington by lunch time, but I am supposed to arrive on an American Airlines flight out of Dallas at 12:36 at National Airport. Thereafter I will take a cab straight to the White House, so we should make the 1:15 seating. I will only have one small bag and a briefcase with me, and I hope I can stash them in your office while we eat.

Untermeyer called me last night as he and the VP were in town to vote. Rumor has it you were caught up in the press of international affairs and did not get your absentee ballot returned in time. Of course, I never believe these kinds of rumors about public officials, and I am sure it is not true in your case. In the unlikely event you failed to vote, however, you may be held accountable for any losses sustained by the party in the entire state of Texas. Please prepare to defend yourself on the 15th.

Cordially yours,


Thomas C. Fitzhugh, III

TCF/tas

DYCHE & WRIGHT

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THOMAS C. FITZHUGH

October 18, 1982

Hon. James Cicconi
Special Assistant to the President
White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

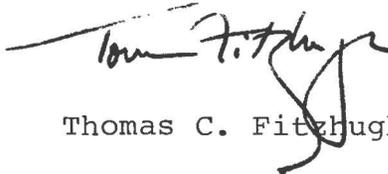
Dear Jim:

As far as I know the statute of limitations for watermelon theft has expired, so you are free to return to your native state whenever you want.

If you would like to discuss the possibility of your repatriation, I will be in Washington on November 15, and I would love a chance to discuss your legal situation in Texas over a drink or, possibly over dinner that night. Rumors down here indicate you are now the proud papa of a little one, and I know how necessary it is for you to spend as much time at home as possible. If you can think of a way for us to get together even for a short while on the afternoon or evening of the 15th, please let me know.

Keep up the good work, and keep an eye on Untermeyer.

Cordially yours,



Thomas C. Fitzhugh, III

TCF/tas

THE WHITE HOUSE

WASHINGTON

November 13, 1981

Dear Tom:

I appreciate your kind letter on my appointment. Yesterday was my one week anniversary on the job, and it remains a wonderful and exciting challenge (despite the internal flaps that seemed to wait for my arrival before blowing up).

As for a "branch office" of Camp Wannameetagop in this area, I love the idea: tell Doug the ball is now in his court.

Hope you are still plugging on our now old, but still meritorious, idea on judicial selection, especially since I can no longer involve myself. I would wager it might become a campaign issue before next year is over.

Please call me if you get into town: I'd love to have dinner and I know Chase would, too.

Regards,



James W. Cicconi
Special Assistant to the President

Mr. Thomas C. Fitzhugh, III
Dyche & Wright
815 Walker Avenue
1600 Mellie Esperson Building
Houston, Texas 77002

DYCHE & WRIGHT

ATTORNEYS AT LAW
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THOMAS C. FITZHUGH, III

November 9, 1981

Hon. James Cicconi
Special Assistant to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Dear Jim:

Congratulations on your new appointment. Tex Lezar told me about it some time ago, and I meant to call you in Austin and offer my congratulations then. It looks like I will be in Washington for about a week in mid-April of next year, and I hope to get together with you and Chase for dinner at that time.

Since so many of you have moved to Washington, don't you think Harlan should find some suburban Virginia location for the next Wannameetagop session?

Again, congratulations on your job. It sounds like an intriguing assignment, and I know you will enjoy it.

Cordially yours,



Thomas C. Fitzhugh, III

TCF/bs

THE WHITE HOUSE
WASHINGTON

September 7, 1982

Dear Jim:

I thought you might be interested in the enclosed article from the Washington Post. Amazing how such things make it into the newspapers so quickly--and so accurately.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Jim', enclosed within a hand-drawn circle.

James W. Cicconi

Mr. Jim Francis
Clements Committee
807 Brazos
Suite 1002
Austin, Texas 78701

String Ties In for 1982 Campaigning

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Senate nominees in Texas and California. He is likely to campaign for Lewis Lehrman in New York if Lehrman wins the gubernatorial nomination and the polls show he has a realistic chance of also winning on Nov. 2.

As in New York, it will be the late public opinion surveys that will determine where

Lou Cannon

REAGAN & CO.

Reagan campaigns. His strategists have set aside two or three days in each of the final three weeks of the campaign so the president can speak where his presence will be useful and avoid those states in which Republican candidates are either home free or have no chance to win.

The latest survey by White House pollster Richard Wirthlin's Decision Making Information firm shows Pete Wilson leading Democratic Gov. Edmund G. (Jerry) Brown Jr. by seven points in the California

Senate race, and Republican gubernatorial nominee George Deukmejian trailing Los Angeles Mayor Tom Bradley in the battle to succeed Brown . . . Arthur Finklestein, third pollster for the White House after Wirthlin and Robert Teeter, has proved a comet in the summer skies. Finklestein lost favor with his in-house sponsor, deputy chief of staff Michael Deaver, for letting it be too widely known that he, Finklestein, was the brain behind Reagan's "spontaneous" visits to schools and black families. Spontaneous visits are supposed to be spontaneous. The final straw, apparently, came after Texas Gov. Bill Clements complained that Finklestein had released polls showing him trailing Democratic nominee Mark White. Now the White House is back to two pollsters.

The president is scheduled to send an omnibus crime message to Capitol Hill soon after he returns to Washington from Santa Barbara. It will put in one document Reagan's various advocacies for tougher law-enforcement measures, including modification of the controversial exclusionary rule and, possibly, a recommendation that the verdict of "not guilty by reason of in-

sanity" be changed to a verdict of "guilty but insane" . . . On Sept. 9, Reagan is scheduled to be an Alfred M. Landon speaker at Kansas State University in an event that will honor the 1936 Republican presidential nominee. Past speakers include presidents Nixon and Ford, Alexander M. Haig Jr. and—in 1967—Ronald Reagan, who then gave a controversial speech about higher education at a time when he was one of the principal voices in the land calling for a crackdown on student demonstrators.

Describing the joys and burdens of the presidency at a political fund-raiser in Los Angeles, Reagan said last week: "You go to work in an elevator and you go home in an elevator and sometimes you get a little claustrophobia. The quarters are beautiful and it's very fine living and all that. But every once in a while you do look out the window and see people walking by and you say, 'You know something they can do and I can't—I can't just walk down to the corner drugstore and pick out a birthday card or a magazine or something.' And then you go to Camp David and get it out of your system."

thal Diphtheria Toxin Touches Off Debate

safety panel

Francis, Jim

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**H. R. BRIGHT
JOHN A. MYERS
HARVEY R. MITCHELL**

**ROBERT B. PAYNE
JAMES N. WELSH**

January 15, 1982

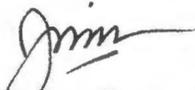
Mr. Jim Cicconi:
White House
1600 Pennsylvania Avenue
Washington, D. C. 20006

Dear Jim:

I very much enjoyed visiting with you last week and appreciate your hospitality. It was great seeing old friends while I was there.

Let's keep in touch and, if there is anything I can do for you, please don't hesitate to call.

Yours very truly,


James B. Francis, Jr.

JBf:wn

ALLIED STORES CORPORATION
1114 AVENUE OF THE AMERICAS
NEW YORK, N. Y. 10036

EXECUTIVE OFFICES

October 19, 1982

Mr. James Cicconi
Special Assistant to the Chief of Staff
First Floor - West Wing
The White House
Washington, D.C. 20500

Dear Jim:

In furtherance of our discussion of the other day, I am enclosing a copy of the letter and "Resume" which I sent along to Lynn Ross Wood. You might get a kick out of the "Political Background" section of the resume.

Finally, any help you might give me with respect to the Advisory Committee for Trade Negotiations would be deeply appreciated.

Sincerely,



Benjamin Frank
Vice President
Legal & Governmental Affairs

BF:glo
Enclosures

ALLIED STORES CORPORATION
1114 AVENUE OF THE AMERICAS
NEW YORK, N. Y. 10036

EXECUTIVE OFFICES

October 19, 1982

Ms. Lynn Ross Wood
Associate Director
Presidential Personnel Office
The White House
Washington, D.C. 20500

Subject: President's Advisory Committee for
Trade Negotiations

Dear Ms. Wood:

In accordance with Jim Cicconi's suggestion, I have prepared a more formal "Resume" including my political background for your review and consideration.

In view of my interest in the Trade Negotiation Committee, your attention is called to my overall practical experience in foreign trade, as well as my previous service as an industry advisor to our Special Trade Representative. It is also noteworthy that I worked with Ambassador Brock (see attached resume and letter) on political matters when he headed the RNC.

On a personal note, inasmuch as I spend a good deal of time in Washington, both in connection with our Garfinckel's operation, as well as on industry matters, I would be most grateful for the opportunity to meet with you to discuss this or any other Presidential appointment you might deem appropriate.

Sincerely,


Benjamin Frank
Vice President
Legal & Governmental Affairs

BF:glo
Enclosures

BENJAMIN FRANK
301 East 47th Street
Apt. 6-M
New York, New York 10017
Office #: (212) 764-2581
Home # : (212) 980-1441

DATE OF BIRTH: February 10, 1934

EDUCATION: J.D. - New York University School of Law -
1961
B.Sc. - Business Administration; Boston
University - 1958

PROFESSIONAL & BUSINESS BACKGROUND:

- 1961 - 1963 - Associate in the law offices of Stroock & Stroock and Lavan, 61 Broadway, New York, New York.
- 1963 - 1967 - Private practice of law in the firm name of Dubow, Frank & Dubow, with offices in New York City and Long Island, New York.
- 1967 - 1969 - A member of Governor Nelson A. Rockefeller's administration as Deputy Commissioner of the Office of General Services of the State of New York, headquartered in Albany, New York. Included in my duties were the responsibility for the State's design and construction of public office buildings, hospitals, prisons, etc.; all the purchasing for the State; facilities planning and operations, including all of the State's real estate leasing and insurance, (see attached Organization Chart). In this capacity, commendation was earned for certain exceptional contributions, for example:
- (a) The mediation, including a 25 hour marathon bargaining session, leading to the settlement of a strike involving the Teamsters and the Concrete suppliers which had paralyzed the upstate New York construction industry for weeks;
- (b) The intricate negotiations leading to one of the longest -- and certainly one of the

largest -- leases in New York State history -- a 99 year lease for 2,000,000 sq. ft. of office space in the World Trade center;

(c) The conduct of the highly complicated negotiations, as well as the drafting of the contracts and the legislation, leading to the construction of the first tri-government complex on a single site in New York's history (and probably in the Nation) -- the Binghamton Civic center.

(d) The launching of the State's controversial office building program in Harlem.

1969 - 1971 - The Hamant Corporation. Position: Executive Vice President and General Counsel (a New York City based commercial film processing and reproduction company - went out of business in 1975).

1971 to Present - Allied Stores Corporation - Vice President, Legal & Governmental Affairs. Reports to the President of this Company which employs 70,000 people; has department and specialty stores throughout the United States, and merchandising offices in every major buying area in the world. I have the overall responsibility for, and direction of, the following functions:

(a) Legal and policy aspects pertaining to Allied's trade practices, both foreign and domestic;

(b) With respect to foreign trade, all matters relating to agency agreements, quotas and governmental policies as they effect the importation of merchandise to the United States;

(c) All legal aspects relating to credit matters;

(d) All consumer affairs matters;

- (e) All dealings and relations with the various regulatory agencies, including the Justice Department, Federal Trade Commission, Consumer Product Safety Commission, etc.
- (f) Public affairs; community relations and all urban development projects;
- (g) Trade association affairs and relations;
- (h) All litigation matters as they pertain to the above areas of responsibility.

POLITICAL BACKGROUND:

- 1982 - Special Counsel to New York County Republican Chairman, Senator Roy Goodman.
- 1982 - New York Gubernatorial Campaign - Special Counsel to Republican candidate for Governor, Lew Lehrman. Assisted and advised the candidate with respect to pre-nomination, primary and general election matters, with particular responsibility as "Debate Coordinator".
- 1981 - President Reagan's Transition Group: served as Chairman of a Special Transition Advisory Group of the Small Business Administration relating to "Urban Revitalization". (Attached transmittal letter).
- 1980 - Republican Party Convention, Detroit, Michigan: served as Parliamentarian and Counsel to the New York State Delegation to the Convention.
- 1980 - President Ronald Reagan's Campaign: served as the Retail Industry's Coordinator for the election of Ronald Reagan. (Attached letter from Ronald Reagan).
- 1978-1980 - Republican National Committee: member of the Advisory Committee on Campaign Services. (See the attached letter from William Brock).

Continued

- 1977-1980 - New York State Republican Committee: Special Counsel to New York State Republican Chairman Bernard Kilbourn; advised and coordinated numerous matters, including the Republican Party Platform Hearings in New York on June 6, 1980.
- 1970 - New York State Gubernatorial Election (Governor Rockefeller): organized and managed the New York City Election Day operation for the Republican Party (poll security, communications, Attorney General enforcement, etc.).
- 1968 *** - Presidential Campaign: managed the Republican Presidential Campaign in New York State.
- 1966 - New York Gubernatorial Campaign: managed the successful Rockefeller campaign in Queens County; assisted in the management of the New York City campaign. Managed William J. Casey's Primary Campaign in the Third (3rd) Congressional District (Nassau County).
- 1965 - Managed the successful campaign for Republican Sol Wachtler's election as Supervisor of the Town of North Hempstead, Long Island, New York. (Mr. Wachtler is currently a Judge of New York's highest court, the Court of Appeals).

GOVERNMENTAL EXPERIENCE:

In addition to the legal, governmental and business background noted above, I have also served in the following governmental capacities:

- 1971-1976 - Chairman, Nassau County Planning Commission. This is an appointed position; the Board, which consists of five (5) Commissioners, oversees the planning, zoning and environmental impacts stemming from development on the two (2) cities; three (3) towns and sixty-four (64) villages that make up the 1,500,000 population of Nassau County;
- 1973-1974 - Member of the Retail Advisory Task Force to the Wage-Price Commission during the Economic

Continued

Stabilization Program. This was the economic and administrative body that counselled the Commission in order to ensure the least possible disruption to the economy, and the orderly functioning of the marketplace during a period of extensive governmental regulations.

- 1976-1979 - Foreign Trade. Member of the Retail Sectoral Advisory Committee (ISAC), by appointment of the Secretary of Commerce, which provided counsel to the President's Special Trade Representative, having as an objective the formulation of trade policies best designed to promote the economic interests of the United States.

TRADE ASSOCIATIONS AND AFFILIATIONS:

American Retail Federation:-

- (a) Member, Board of Directors;
- (b) Member, Executive Committee;
- (c) Chairman, Urban Affairs Committee

National Retail Merchants Association:-

- (a) Member, Board of Directors;
- (b) Chairman, Long Range Policy Committee;
- (c) Chairman, Government & Legal Affairs Committee;
- (d) Member, Economic Policy Committee;
- (e) Past Chairman, Lawyers Committee

With respect to the above affiliations, I have represented the retail industry in hearings before numerous regulatory agencies, and I have also represented the industry at Republican Platform Hearings in every Presidential Convention since 1972.

LEGAL:

American Bar Association
New York State Bar Association

COMMUNITY:

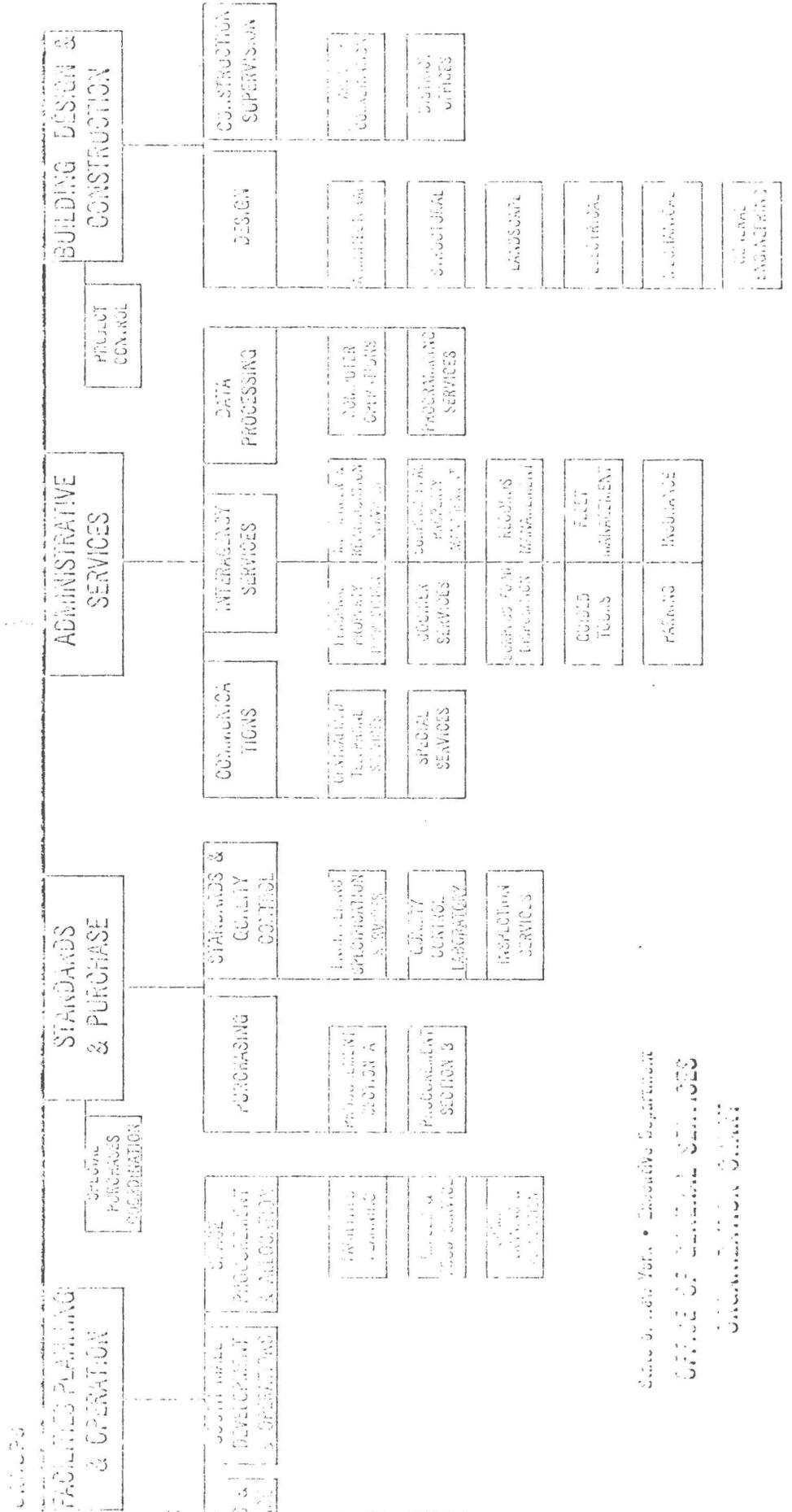
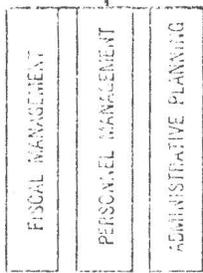
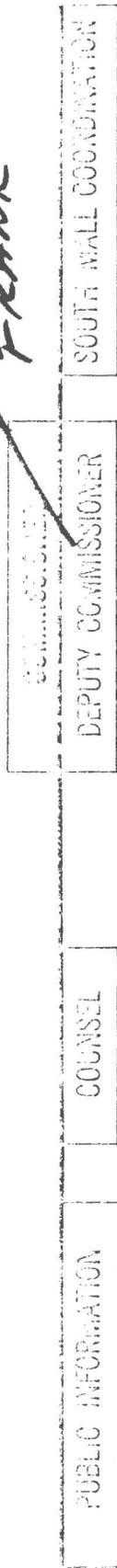
Trustee and Vice President, North Shore University Hospital (affiliated with Cornell Medical School), Manhasset, Long Island, New York, serving on the following committees:

- (a) Member, Executive Committee;
- (b) Chairman, Legal & Governmental Affairs
Committee
- (c) Chairman, Appeals and Review Committee

MISCELLANEOUS:

I have given numerous lectures in universities, and before business groups, relative to governmental, legal and political matters.

Bentham Frank



State Building Dept. • Executive Department
OFFICE OF GENERAL SERVICES
 Administration Building

OFFICE OF THE PRESIDENT-ELECT

WASHINGTON, DC 20270

January 6, 1981

Hon. Ronald Reagan, President-Elect
Office of the President-Elect
Washington, D.C.

Attention: Mr. Darrell Trent

Dear President-Elect Reagan:

Transmitted herewith for your consideration is an outline of a plan to rationalize the Federal approach to urban revitalization. Obviously, it would be naive in the extreme to believe that in the brief period involved, this Committee could complete a totally comprehensive study of every aspect of our Nation's urban problems.

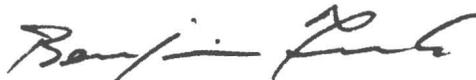
Nevertheless, we believe that the enclosed Report does provide a framework or springboard from which your incoming Administration can begin to fashion a coherent National Urban Policy.

In this connection, we concur with the conclusion contained in the Report of the House Subcommittee on The City which, following hearings in 1977, stated:

"From these hearings emerges the hope that the future of the American city is not as bleak and dreary as many have prophesied. It is within our power -- if we have the wit and the will -- to see to it that the American city survives and flourishes as a viable economic entity, as a livable residential community, and as the cultural center of our civilization."

Finally, we wish you to know that we deem it a great honor to have been given the opportunity to participate in this historic Transition.

Very truly yours,



Benjamin Frank
Chairman

BF:glo
Enc.



Republican
National
Committee

May 9, 1978

Bill Brock
Chairman

Mr. Benjamin Frank
Vice President
Legal & Governmental Affairs
Allied Stores Corporation
1114 Avenue of the Americas
New York, N. Y. 10036

Dear Ben:

I am delighted that you have agreed to serve as a Member of the Advisory Committee on Campaign Services. The overall response has been outstanding and I am anxious for us to begin the important work ahead.

Due to limited time and resources, the Committee will not be able to address every pressing problem. A Subcommittee structure may be necessary to focus the energies and time of the members efficiently on specific tasks identified.

Due to the importance of these meetings and sensitive nature of the discussions, proxies, alternates, or guests will not be permitted in the meetings. From time to time, however, the Committee may elect to invite outside participants.

Your involvement in this effort is very important and I hope that your schedule will permit active participation. Thank you for joining with us and I look forward to seeing you at future Committee meetings.

Best regards.

Very truly yours,


BILL BROCK

BB:kr

RONALD REAGAN

October 3, 1980

Mr. Benjamin Frank
Vice President
Legal and Governmental Affairs
Allied Stores Corporation
1114 Avenue of the Americas
New York, New York 10036

Dear Ben:

In my travels around the country, I have been asked where I stand on economic growth in general, and the problems of retailing in particular. Therefore, what follows may be of interest to you and other leaders within the retailing community.

My goals call for more jobs, lower inflation, more domestic energy, a better standard of living, and peace in the world. To accomplish this, our government must reduce the rate of growth in government spending, eliminate waste, cut excessively high tax rates, curtail unnecessary regulation, and provide for a strong defense.

Let me put these in specific terms:

- 1) Balanced Budget: We must work to balance the federal budget as soon as possible by halting the growth in government spending and reducing inflation.
- 2) Government Spending: Government growth must be controlled by first eliminating the many billions of dollars in fraud, waste, and abuse at all levels of the federal government.
- 3) Inflation: Inflation can be curbed through real economic growth, restrained by less federal spending, and by responsible control of our money supply. The lowering of inflation will provide a more suitable and certain business climate, encourage investments, expand production, and put more people back to work in the private sector.

Mr. Benjamin Frank
Allied Stores Corporation

October 3, 1980
Page two

- 4) Small Business: Small business, producing about 50 per cent of America's goods and services, and over 40 per cent of new jobs, needs across-the-board tax cuts to restore incentives as well as the elimination of unnecessary and expansive federal regulations inhibiting growth and production.
- 5) Tax Policy: Restore through our tax policy the American incentive to produce -- which will result in more jobs, lower inflation, higher productivity and in increased standard of living. This would be accomplished through the enactment of cuts in tax rates, followed by indexing of the personal income tax.
- 6) Energy: America's energy future lies in increased energy production of domestic coal, oil, gas and nuclear power, with appropriate safeguards and the elimination of price controls, allocation formulas, and other restrictions. Conservation methods and new energy sources, such as synthetic fuels and solar, should be developed and implemented where economically viable.
- 7) Federal Regulation: Eliminate federal regulations in those areas where they are not warranted, retaining and improving those that are needed.

With respect to the specific concerns of retailing -- an industry, I might add, that is the most labor intensive in our nation, and one which must closely interface with the people at the grass roots level -- let me point out the following.

a) President Carter's so-called economic improvements (to correct the inflationary problems for which he was chiefly responsible) included credit controls which proved to be near disastrous to retailing. This kind of meat-axe approach to economic concerns will not be the approach taken by my administration; and

b) I disagree with the Carter administration's repeated objections to the effort on the part of the retail industry to secure fair and equitable

Mr. Benjamin Frank
Allied Stores Corporation

October 3, 1980
Page three

tax treatment for your industry's principal capital investment, namely the buildings which house your stores and distribution centers. I support such proposals as those put forth on a bi-partisan basis by senior members of the Senate Finance Committee which would ensure that the depreciation accorded retail buildings in our tax code is equivalent to that depreciation which would be permitted to industrial buildings.

There are, of course, many other issues that are of great importance. But what I have spelled out here are some of the issues of direct concern that impact on American business executives everywhere, including retailers.

Best wishes to you and to my many friends in retailing.

Sincerely,


RONALD REAGAN

THE WHITE HOUSE
WASHINGTON

12-22-81

Per Jim, this is to be filed
in G.C. as is.

MEMORANDUM OF CALL

TO:

YOU WERE CALLED BY— YOU WERE VISITED BY—

OF (Organization)

PLEASE CALL → PHONE NO. CODE/EXT. 316 261 5398 FTS

WILL CALL AGAIN IS WAITING TO SEE YOU

RETURNED YOUR CALL WISHES AN APPOINTMENT

MESSAGE

Jim
Debbie Kleiber (Sunday)
Willard Garvey
Garvey Industries 261-5411
Wichita, Kansas
Will be in D.C. this afternoon & tomorrow -
had wanted to meet w/ Baker, but 3PM³
schedule filled, so passed to you.

RECEIVED BY _____ DATE 12:10 TIME _____

63-109

U.S. G.P.O. 1980-311-156/13

STANDARD FORM 63 (Rev. 8-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.6

MEMORANDUM OF CALL

TO:

YOU WERE CALLED BY— YOU WERE VISITED BY—

OF (Organization)

PLEASE CALL → PHONE NO. CODE/EXT. _____ FTS

WILL CALL AGAIN IS WAITING TO SEE YOU

RETURNED YOUR CALL WISHES AN APPOINTMENT

MESSAGE

Jim
Let's Discuss
Salbro w/ Debbie of Garvey's office -
Please call Mr. Garvey Monday
after 2 p.m. or anytime Wednesday -
Debbie is sending letter re topic of
conversation.

RECEIVED BY _____ DATE 12-10 TIME 3:20

63-109

U.S. G.P.O. 1980-311-156/22

STANDARD FORM 63 (Rev. 8-76)
Prescribed by GSA
FPMR (41 CFR) 101-11.6

NOV 30 1981

Garvey, Willard W.

WILLARD W. GARVEY
300 WEST DOUGLAS
WICHITA, KANSAS 67202

20 November 1981

President Ronald Reagan
Executive Office of the President
The White House Office
1600 Pennsylvania Avenue
Washington, D.C. 20500

Re: "Every Man a Home Owner, Every Man a Republican"

President Reagan, thank you for your letter of 16 November 1981 (attached).

Here is a way we can achieve our common goal — "to cut government spending and improve services".

Why don't you simply appeal directly to Home Owners in their own self-interest to support you in cutting spending and taxes! Although declining in number, home owners are still over 75% of the population and probably represent over 90% of the voters.

Attached is our current example. This week our volunteer Home Owner Trust — HOT — won 5 to 1 — 82% of the voters — 34,000 to 6,500 — to join us in rescoring a local tax lid. The voter turnout was 50% higher than these "officials" forecast. The margin of defeat was more than twice their forecast.

In this one-vote special election our volunteer group was opposed by virtually 100% of the so-called "business, "government", and "media" bureaucracy — which spent several thousand dollars. "HOT" — Home Owner Trust is entirely volunteer individual Home Owners who get together weekly to exchange ideas and then act individually.

The homeowner as the constituency for the Republican party has been studiously ignored although we have had good luck with it for over 20 years. I first visited on this to then Vice-President Nixon just before his famous "kitchen debate" — on U.S. Home Ownership — with Krushchev in Moscow.

This was a high point in his foreign forays then. He failed to apply this appeal to the Home Owner here in the U.S. because "local issues are different than national." I disagree with his conclusion.

May I urge you to consider ways to directly appeal and lead this solid responsible overwhelming majority — the all American Home Owner: e.g. ["Fire those who increase spending" "To cure inflation, cut government". "Double your real income by cutting government in half" — which requires some economic understanding"].

The attached local newspaper reports on this week's single issue election. This is the fifth straight election in which our Home Owners Trust — HOT — single dissenting voice won against two sales tax increases; an intangibles tax; and a coal gasification \$900,000,000 local government bond.

Would you care for more detail, ideas, suggestions and facts to reinforce this "Every Man a Home Owner" dream and its Home Owners Tax or Home Owners Trust — HOT — objectives?

With best wishes,
WILLARD W. GARVEY

WWG/ks

● The Wichita ●
Eagle-Beacon

NOV 30 1981

WICHITA, KANSAS 67201, THURSDAY, NOVEMBER 19, 1981

HOT Hit Paydirt With Campaign To Keep Tax Lid

Related stories, Page 1D

By LON TETER
Staff Writer

Even its critics agree that Home Owners Trust tapped taxpayer frustration in leading the successful campaign to lower Sedgwick County taxes.

Some area politicians think the Wichita tax protest group had Tuesday's election won from the start, given the prospect of lower property taxes if HOT's position won.

But HOT mounted a skilled, well-organized campaign. In contrast, the county did very little, leaving other interest groups to promote its side.

Such a strategy didn't work too well. Tuesday, Sedgwick County voters, by a 5-1 margin, ordered county commissioners to restore property tax limits on spending for public works and flood control.

"HOT found an issue, and made the most of it," said one elected official, who declined to be identified.

HOT spokesmen made it clear they will continue efforts to achieve the organization's goals and the reason for its formation — cutting government spending and taxes.

"Anyone who raises taxes gets defeated," said Willard Garvey, the wealthy businessman who helped form an earlier version of HOT more than 20 years ago and then helped revitalize it in the mid-1970s. "It's the single issue, the mood of the people and the country."

And Garvey, talking to a reporter Tuesday night, said the "mood" hasn't reached "the bureaucracies in Wichita yet."

City commissioners, who raised the city property tax rate this month when a taxing agreement with the county fell apart, didn't seem alarmed at the idea of HOT turning on the city.

"Let 'em come after us. We're ready," said Commissioner Tony Casado.

But Commissioner Albert Kirk took a different approach, saying government spending was "my next target, too. If they mean they are looking for ways to cut spending, I'd say they were welcome."

Regardless of what happens in the future, Home Owners Trust clearly will get some of the credit — perhaps grudgingly from critics — for what happened Tuesday. The latest unofficial figures showed 34,130 "no" votes against the county, and 6,538 "yes" votes. The margin was one of the most lopsided in any economic ballot issue in years.

NOT A BAD performance for a loosely organized group often derided as little old ladies in tennis shoes, a group one county official referred to early in the campaign as "those monkeys" and a group that, County Commission Chairman Don Gragg charged, had been "irresponsible" by distorting facts and playing on people's fears of government.

In at least five elections since HOT was reincarnated in 1976 — votes on proposed city and county sales taxes, construction of a coal gasification plant, the intangibles tax and now the tax lid — HOT found ways to successfully gauge the wishes of the voters.

"I've always thought homeowners had more common sense than chambers of commerce, or the media, or politicians combined," Garvey said election night.

"ALL OF THE above are out of step with the population."

Of course, Garvey wasn't the only ally HOT had. A bitter backlash against growing government spending also helped.

But HOT leader Jerry Caywood, a former legislator, likes to think hard work by HOT and its supporters also had a lot to do with the victory.

HOT defies simple descriptions. To be sure, most of those who show up at its meetings and rallies are white, middle class, owners of small homes.

Beyond that, HOT's identity is elusive. Spokesmen maintain that its members aren't really members — there are no dues or membership lists — and Caywood said no one really is sure how many people "belong."

HOT ADOPTED a plan of action it has used successfully in past campaigns, most notably the successful 1980 effort to repeal the intangibles tax on savings and stock dividends. Caywood, who also worked in that campaign, led the charge.

"I came up with the idea," said Caywood, a former Democratic state representative who sometimes looks out of place among the more obviously Republican members of HOT. "I felt like here (HOT) was a nucleus of people . . . from all parts of town."

"They had contacts with other organizations," said Caywood, who added he couldn't be specific about which organizations he meant.

HOT's followers fanned out, and came up with 300 people willing to carry petitions calling for an election challenging the county's decision to remove the state tax lid on public works and flood control spending.

THE BEST WEAPON HOT had throughout the campaign, Caywood said, was the "telephone committee" — and the news media. HOT, stingy with advertising money, called several news conferences to get its position out.

HOT also was helped, Caywood says, by the "failure of county commissioners to appear and defend themselves on the action they took."

HOT Campaign Struck a Nerve With Voters

Once the election was set, county officials warned of possible losses of services from budget cuts. But generally, they kept low profiles. Gragg even refused to appear with Caywood to debate, on the grounds that Caywood had made irresponsible statements.

County officials, understandably, don't see the election in the same way as HOT. They say they lost it because of the complexity of the issue itself,"

as Gragg said, or because "people didn't understand the issue," as Scott said.

BUT COMMISSIONER Jack Spratt acknowledged the sentiment HOT tapped when he gave this assessment of why HOT succeeded: "Their (the voters') electric bills were going up,



"Anyone who raises taxes gets defeated."
— Willard Garvey



"Let 'em come after us. We're ready."
— Tony Casado

fuel bills were going up. They voted against anything that indicated a higher cost."

HOT's position appears to have been adopted by voters — black, white, wealthy, poor, urban, rural.

Theoretically, homeowners outside Wichita would have had more to gain

from a county victory Tuesday. Most of the increased tax money for county roads would have come from inside the city, as it does now.

But rural and small-town leaders and voters said they didn't trust the county to spend wisely. The ratio of "no" votes to "yes" votes outside Wichita was even greater than in the city — 7.3 to 1 in the townships and third-class cities, 6 to 1 in second-class cities and 4.8 to 1 in Wichita.

Not a single precinct or township carried the county proposal. Salem Township south of Wichita, Scott's township, clobbered it 11 to 1.

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THIS MAILGRAM IS A CONFIRMATION COPY OF THE FOLLOWING MESSAGE:

3162615396 MGM IDBN WICHITA KS 77 11-19 0508P EST
ZIP
ROBERT T STEPHAN, ATTORNEY GENERAL STATE OF
KANSAS
KANSAS JUDICIAL CENTER
TOPEKA KS 66612

PJR,
WE APPRECIATE YOUR LEGAL OPINIONS REGARDING THE TAX LID WHICH THE
VOTERS RESTORED 5 TO 1--34,000 TO 6,500--TUESDAY NOVEMBER 17.

IN THE WORD IS THAT ALL OUR PROPERTY TAX RECORDS SINCE 1969 HAVE
BEEN PULLED FOR SCRUTINY--WHICH IS FINE IF FOR A LEGITIMATE
GOVERNMENTAL PURPOSE.

HOWEVER, IF THIS IS A VENDETTA, WHAT IS OUR LEGAL RECOURSE? WITH BEST
WISHES
WILLARD W GARVEY

1/13 EST

MGMCOMP MGM