

The Economic Club of New York

The Honorable Charles D. Breitel
Chief Judge, New York Court of Appeals

The Honorable William E. Simon
United States Secretary of the Treasury

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Questioners: Tom Goldstein
New York Times

William Wolman
Senior Editor, Business Week

Introduction

Chairman Charles C. Tillinghast, Jr.

...what I'm sure will prove to be a very interesting program. Before introducing our speakers, I would like to explain, for the benefit of those of you who are joining us for the first time, that as part of our program we conduct a question period following the conclusion of both speeches. The first member of our question panel is Mr. Tom Goldstein of the New York Times. Mr. Goldstein has covered metropolitan legal affairs for the Times for two years. He holds degrees from Yale, The Columbia School of Journalism, and Columbia Law School. He has studied criminology at Cambridge and was the first editor of *Juris Doctor Magazine*. His previous media assignments include work at Newsday, the Associated Press, and The Wall Street Journal. Mr. Goldstein will present questions to Judge Breitel.

Mr. William Wolman, Senior Editor of *Business Week Magazine*, is the second member of our question panel. Mr. Wolman, an economist and former Vice President of the First National City Bank, has co-authored a book entitled, *The Beat-Inflation Strategy*. That's a great idea and I hope you'll all buy the book. He will question Secretary Simon.

Please rest assured that none of the questions have been given to the speakers in advance nor has any effort been made to make the questions easy. The question period is spontaneous and altogether unrehearsed.

Now, for our first speaker. With the public's opinion of many of our leading institutions at an all-time low, the demand for change is being heard throughout the nation as never before. Business, government, and even our religious establishments are under increasing pressure from their constituencies to break away from traditional methods of operation and to develop new approaches. What many of these reform seekers fail to appreciate is that many of the pressures for really constructive change come from inside of these very institutions that they are attacking.

Our first speaker is a good example of what I refer to – the Chief Judge of New York's highest court has long advocated fundamental reform of this state's century-old system to obtain better, more independent judges as well as faster and less expensive justice. Although he has successfully stood for election to the bench numerous times, he is seeking the appointment of judges by independent panels to lessen the possibility of political influence on our judicial system.

It's a special pleasure to me to introduce Judge Breitel, since he has been a friend of many, many years. We met something over 35 years ago when we were both assistants on the staff of District Attorney Dewey. I was very young and naive, and Charlie Breitel was one of the older boys and seemed to me very wise and sophisticated, which he undoubtedly was. He was then almost 30. The high regard in which Judge Breitel was held in the district attorney's office was evidenced by the fact that when Governor Dewey went to Albany, he took his former assistant with him to

be his counsel. And for seven years, our speaker very capably discharged the responsibilities of this office following which Governor Dewey appointed him to the New York State Supreme Court. Sixteen years of distinguished service on this court, 14 of it on its Appellate Division, led to Judge Breitel's appointment to the state's highest court, the Court of Appeals. For six years he served as an Associate Judge, and since 1973 has been its Chief Judge. Few people have had so long and distinguished a career in public life as Judge Breitel and, therefore, we are particularly privileged to have him speak to us this evening. Judge Breitel.

The Honorable Charles D. Breitel

Chief Judge, New York Court of Appeals

Thank you very much Charlie. And I thank all of you for your kindness in giving me the privilege of addressing you on a subject that, of course, is all of my life. And it is so important that a judge discuss with businessmen, many of whom are lawyers, but with businessmen the problem of the courts.

My theme really is the preservation of the quality of the jurisprudence that you find in the courts. My own viewpoint, of course, is that of a state court judge with almost, as Charlie has told you, 25 years of experience. Before I was a judge, as he has also indicated, I spent some 15 years in the Executive branch, half of that period with an intimate relationship with the Legislative branch.

It is important too, I think, to note that my thinking inevitably has been shaped by having lived through some of the momentous periods of our recent history. In my early manhood, there was the Great Depression. And then there were the intermediate economic rises and declines that have influenced us. I've lived, as some of you have, through the two great wars – the Korean and Vietnam experiences – and the changes that they wrought in our society. These details are points of reference to me and they disclose, I would suggest, the vantage points, and perhaps undoubtedly the disadvantage points which condition my views.

Now to the courts. Unlike any other society in the western world, the law and therefore the courts have played a unique role in American history. It was Willard Hurst who most clearly developed the thesis that American development, from its colonial beginnings until today, was fashioned by a legalistic view of social and economic organization and therefore by lawyers. It is no accident that we are a litigious people – we are the most litigious people in the world – and that lawyers play a prominent role more than anywhere else in the western world.

The central role of law in our society also explains why all of our courts are so crowded with a mass of litigation unmatched anywhere else. But delay in litigation must not be confused – I'll repeat that – delay in litigation must not be confused with mass of litigation. Charles Dickens and writers in non-English speaking countries have for centuries decried the delays of litigation. That's a special disease of lawyers and their institutions. That seems to be a universal plague.

But our condition is not so much delay in litigation, but overwhelming masses of litigation. See, with efficiency you might get rid of delays. With masses of litigation, you have a different kind of problem. Indeed, as we remove the delays in litigation, we often open up space and time for the growth of still more litigation. And our mass of litigation has always had as a major ingredient a kind of litigation which is peculiarly, peculiarly American. It is the kind of litigation which is an instrument of social, political, and economic change and control. In no other country is there anything like it. Thus, the rate of judicial intervention in man's affairs in this country is great.

Think for a moment of the great cases in our past which changed the course of our history and our development. From the cases in the time of Chief Justice Marshall through the time of Chief Justice Taney to the revolutionary changes wrought by The New Deal Supreme Court and then by the Warren court of more recent years. But the influence of courts, state and federal, in effecting changes in our society is not the whole story.

The one thing that stands out is the special role the courts, both state and federal, have played as a counterbalance in our form of government. The courts have always been the most significant among the checks and balances in our form of government largely because they are the one to which the people most often look for the protection of their rights and liberties in personal as well as in economic affairs.

There is nothing like it in other parts of the world. And for what little we know of the eastern world, it would be inconceivable there. Even in England, the mother country of our legal system, the courts do not play a role similar to that which they play in this country. When we think of Peron's removal of the then Argentine Supreme Court on his first rise to power many years ago, or more recently of Mrs. Gandhi's derailing of the judicial process when it placed legal obstacles in her path, we can see dramatic examples of the difference to which I have referred.

It is notable too that both the Executive and Legislative branches, despite frequent and persisting efforts to dominate and sometimes to deride the Judicial branch, often look to the courts for governmental and political redress. This paradox has been more evident in recent decades than before. This was true of the most significant episodes in the Watergate affair, and has been exemplified even today by some pending state litigation. There's nothing like that anywhere else in the world. But these two, these two are only points of reference for the principle subject to which I propose to address myself and to seek your attention.

First, the courts are overwhelmed by a volume of litigation too great for them to carry without changing radically their structure and their mode and philosophy of operation. This is true of the federal courts as well as the courts of the most popular states.

Two, the courts are often accused of being causes for things which they cannot solve. Prevalent crime is the outstanding example of that. And you find people in very high places who would

attribute the cause of current crime to conditions in the courts. But moreover, they are overburdened by an almost universal public expectation that theirs is the obligation and the capacity to solve all of the difficult problems which have defied solution or stubbornly resist solution such as crime, poverty, racial injustice, and in the business field, if you like, in the antitrust field, the contradictions between monopoly and competition in an economy that does not seem to function well with either and cannot accommodate to both.

Three, designed for handling fewer and less complicated problems, the courts are understaffed and labor under the burden of disgraceful facilities. The criminal courts in New York City are but one dramatic and shocking example. The wholesaling, the wholesaling of litigation issues is an inevitable result. Thus, instead of the prestige of the courts having risen, it is at a low ebb, making more difficult the handling of the problems which are their task. In short, overwhelmed with litigation, inadequately supported as institutions, and disappointing in the impossible expectations assigned to them, the state courts are in a prestige crisis.

A notable by-product of this crisis is an ever-increasing strain on the federal court system. The federal court system beneath the United States Supreme Court was originally designed to assure that the citizens and residents of the different states could obtain justice, that is equal treatment, in any of the states in which they should be litigants and to make sure that there was a system beyond the Supreme Court to carry the one-time burden of obtaining enforcement of federal law among the sometimes and often reluctant states.

But as the federal system succeeded, rather magnificently, in accomplishing its purposes, another aspect developed. In so many of the states, the local court systems were politically written and were regarded as inferior. As a consequence, litigants made every effort, and still do, to obtain federal jurisdiction to determine their controversies in criminal and in civil matters of the largest and smallest size. The further consequence was, and is, the overwhelming of the federal courts with litigation to a point where the character of those courts has been changing. The multiplication of federal judges, the multiplication of Appellate Panels in the Circuit Courts of Appeals, and the wholesaling of issues by procedural devices, and central non-judicial staffs has, of course, been the fruit of this development. This means, of course, that much of the fine quality of the federal courts, possible in part because of a limited litigation load in the past, is threatened if indeed it has not already been impaired.

A sort of Gresham's law is involved. The quality of the judicial system as a whole, federal and state, tends to be level. Hence, the importance of the state court systems, not only for their own sake, but for the sake of the federal court system. If the state courts are, or become inadequate, the burden on the federal courts will be the greater. And the greater the burden, the greater their loss in quality. I do not want to oversimplify the causes of the strain on the federal court system. Perhaps the greatest burden on the federal courts is due to the 20th century federalization of American law. By that I refer, for better or worse, to the growth of central government and regulation of the economy, the political and social life, and the expansion of social programs administered or executed at the federal level. That cause, as important as it is, is not the subject

of this talk. But I recognize as well as all must that it alone would account for a massive growth in federal litigation without help from other causes such as the one to which I address myself.

Now, looking back again to the state courts. A continuance of the conditions which diminish the prestige of the state courts can only aggravate the problem. An improvement in them, that is, in these conditions, is the only solution. Some false issues, but also some genuine ones, are those raised about the quality of judges and non-judicial personnel, conceding that there is always room for improvement – great improvement. That improvement will not come without a markedly new approach to controlling the quantity of litigation, improvement in the support of the courts, a realistic assessment of the proper role of the courts, and an assignment of social and economic problems to the social and economic causes external to the courts.

The price of failure is not only the continued loss of prestige in the state courts, but a derivative undermining of the federal court system. Otherwise, the leveling influence to which I've already referred will continue apace. The price of failure may be expressed succinctly. Institutions which do not perform their functions decay in power and influence. Some disappear entirely in the form in which they have been known. If the courts perform in our society the unique counterbalancing which is the genius of the American system, then their degradation will be the degradation of that American system.

Of course, the courts are not the linchpin in that system, but they are a fundamental support.

Without them, as we know them, the system would be drastically different. To use an analogy, and it's only an analogy, the republic does not depend on the two-party system which we have had through most of our history, but it would surely be quite different under a multi-party parliamentary system as practiced on the European continent. And a degraded court system could never perform the independent role that ours has been in the past. And here one could make a revealing comparison with the court systems of other American republics and the democracies on the European continent.

An independent court system then is the key to the American system of judicial power. The development of an independent judiciary in our nation was in part intentional and in part accidental. The political struggles of the early 19th century demonstrate both the intentional and accidental influence in the development of independent courts. This development was possible because regardless of the comparative quality and efficiency of courts, they perform the unique functions which they did perform, preventing either legislative or executive tyranny or abuse, at least for any extended period of time. Recent history confirms that that still is an important function. The continuance of judicial independence is unlikely, if not demonstrably impossible if the prestige of the courts ebb, if their support is lacking, and if unreasonable expectations continue to be assigned to them.

The discussion has already indicated what are some of the needs of the courts such as greater support, adjunct services, additional personnel. About these needs I will not here and now

elaborate, but there are salient needs common to all the courts, some common only to state courts, and some applicable to the courts of New York State. I speak particularly about New York State because that's the court system with which I am most familiar. I also do so for another reason – because of the significance of New York's courts to the social and economic fabric of the nation.

If it used to be said in the political arena that as Maine goes, so goes the nation, it can also be said today in governmental, economic, and social terms that as New York goes, so goes the nation. It is certainly true of our jurisprudence. (Applause) I appreciate having so alert an audience. (Laughter) I said it is certainly true of our jurisprudence. And to the commercial and industrial world, it should be even more apparent without further expedition. New York is not only the commercial and financial center of the western hemisphere, it is also the center of the commercial jurisprudence of the western hemisphere.

No national or multinational corporation, for example – and the men here know this as well as I do if not better – is untouched by the New York courts. And if some think that there is always the federal court system, consider my earlier remarks that the federal court system as we know it cannot survive a gross deterioration and displacement of the state court system. Moreover, it should be noted, this is very important, it should be noted that when it is the local corporate law which determines the issues in a federal litigation, that local law, even in a federal case, as developed in the state courts must be followed by the federal courts.

Perhaps first and foremost for the courts is the need to raise the quality and qualifications of the men and women who will serve as judges. The relevance and significance of that human factor hardly needs discussion with managers and students of enterprise. But the particular complicating ingredient present in governmental affairs is the infusion of political and partisan influence in the selection of judges. And when that selection is by the elective process, as is largely the case in this state, the choice of judges becomes an unhealthy, undignified, and often counterproductive procedure with fanfare.

The State Legislature has adopted proposed amendments to the New York State Constitution to improve the administration of the courts and to facilitate the discipline and removal of judges who fall short of acceptable standards. Both of these proposals, as I shall point out, are defective. But even if they were not, they do not meet the prime problem – the improvement of the quality of the judiciary. The reasons are simple.

Whatever the system, it takes good judges to administer the courts and it takes good judges to function well under a good system of administration. The proposed constitutional amendment governing the discipline and removal of judges will not provide the cure. There's no time to give details now, I've done it elsewhere. But in conclusory terms, it is a bad amendment which will, if adopted, again disappoint us in our expectations. It removes the disciplinary machinery in the first instance to outside the court system. This is bad because it tends to undermine judicial independence and the importance of that I've addressed earlier. But then for no good reason, it

preserves in a slightly different form the old core knowledge judiciary which has proved itself to be clumsy, grossly expensive, and as a consequence rarely used.

As for disciplining and removing judges who fall below standard, that applies a limited cure. It only reaches the worst, and then only the egregiously worst judges. It does not touch the mediocre. It does not even touch the worst in mediocre so long as their conduct in office is tolerable. If indeed civil service employee performance is not measurably raised by disciplinary and removal procedures, I'm sure all of you know that well, it is not to be expected that judges who surely may not be treated like clerks and low level administrators can be measurably improved in performance by after-the-damage-is-done procedures. But for all the obvious political reasons, the hard choice of improving the selection of judges has been bypassed year after year and sidestepped again this year through the new proposed constitutional amendments being submitted in New York State at this coming election.

The second great need of the courts is effective and unified administration, but not at the expense of judicial independence. Court administration must be ultimately controlled by the judges in the court system, if only because the Judicial branch should never be subjugated either to the Legislative or the Executive branches. Hence, my comments earlier to you. Yet the proposed constitutional amendment provides unified administration at the expense of judicial independence. It strips judges of administrative powers, lodges them in a state administrator who serves for a brief four-year term subject to confirmation by the State Senate and reconfirmation

at the end of his term.

True, his appointment, his reappointment, and his service is at the pleasure of the Chief Judge – me. This will not affect me, but future chief judges may have to trade with legislative leaders periodically, and the state administrator will always know that while his appointment requires the chief judge's impetus, his continuance in office, or even his career, will depend on how well he maintains his relationships with the legislature. Neither the federal court system nor any of the states which have adopted modern schemes of administration have followed a similar course. Moreover, it goes against the recommendations of the American Bar Association Commission on Standards of Judicial Administration, a commission which has been in the forefront of efforts to improve the courts.

The reason this came to pass does not stem from any great malevolence. The worse things that happen in this world really don't stem from malevolence. They stem from other inadequacies, usually intellectual. (Laughter) It occurred, in my opinion, from a misreading of the reasons why court administration in this state has not done as well as expected after the adoption of other so-called reform measures. The real reason New York State has not achieved better administration in recent years has been not the lack of will and power in the top judicial administrators, but the other shortfalls in the resources of the judicial system to which I have referred.

This brings me to the third great need of the court system. And that is the merger and unification

of courts. The inefficiency and obstacles to unified administration of the many-layered and divided court system we still have in New York is pivotal. The mergers and unifications of 13 years ago, we now see, were trivial. Nevertheless, the current proposals contain nothing to remedy that condition. The reasons are plainly and simply political. The continued separate life of the Surrogates Courts and the Court of Claims is crassly political. The failure to unify the Family Court and the County Courts into the Supreme Court is also political with the saving grace that they involve some demographic political problems that are not easily solved.

If my premises are correct, and my analysis sound, then the concern of American business with the courts in general, and with the courts in New York State in particular, is, or should be profound and intense. Of course, they are, or should be the concern of all Americans, the stake of American business is greater than money. If the courts are such a basic concern of American business, is the responsibility of American businessmen and women to take an active role in the improvement of the courts and in defense of the courts from that (INAUDIBLE) it's always been recognized, since the very beginning of things, that the Bar has such a concern and responsibility.

But I suggest that the Bar's concern and responsibility is no greater than that of American business. The structure and philosophy of the peculiarly American form of a democratic republic is at stake. Only a self-confident, competent, independent judiciary can play the role expected of it in a government based on a balancing of powers. Moreover, it is only such a judiciary that can

serve as neutral a buffer as human nature and human experience permits between the individual and the government which should be his servant and not his master. Thank you very much.

(Applause)

Chairman Charles C. Tillinghast, Jr.: Thank you, Judge Breitel, for that talk which I'm sure was of great interest not only to old war horses like myself but to the hundreds in the audience this evening who support our brethren at the Bar far more richly than they would like. (Laughter)

Our second speaker this evening has been in the public arena only a few years but already has earned a reputation as one of the government's most decisive policymakers and able administrators. And since being named the 63rd Secretary of the Treasury just a little more than a year ago, has also been one of the administration's most outspoken champions of private enterprise. At a time when many popular politicians and economic theorists are calling for more and more government control of almost everything, and therefore, more bureaucracy, it is particularly important to have a William Simon as this nation's Chief Financial Officer.

Having proven his financial skills in the world of Wall Street, he remains convinced that the best hope for restoring this nation's prosperity lies in rebuilding the strengths of our free enterprise system. To do that, he urges business must be permitted to make the decent return on investment, the fair profit needed to provide the required capital for its continued growth which in turn means more and better jobs for the nation's workforce. And he has warned repeatedly that government

spending policies are among the major causes of today's inflation fueled recession and must be changed drastically. The cross currents of domestic and international monetary and fiscal policies have never been more critical to the very survival of our nation because the implications of decisions made in these areas will strongly shape our future.

I know of no one who is better qualified to discuss the public and private sectors of our economy than our next speaker. And I regard it as a very high privilege to be able to introduce to you the Honorable William E. Simon, the Secretary of the Treasury of the United States. (Applause)

The Honorable William E. Simon

United States Secretary of the Treasury

Thank you very much. I'd like to thank you for your kind invitation to come here and speak with you this evening. I thought for a long time before putting my words down on the paper and changing it 27 times as we all do before we get up to speak because I have a lot on my mind and I know you do too. And I know the hour is late, and I had to attempt to put it as succinctly as I can. So I'm not going to talk to you about jurisprudence (Laughter) and its importance. But I am going to talk to you about a growing concern that I have, making the same mistake that I have made and will continue to make during the rest of my period in Washington. And that is taking a little longer look at this country and the growing concern that I have for the long-term prospects of the United States financial system.

As you know, there's an old adage on Wall Street. And that is that the markets are always telling you something. Our financial markets and institutions are a vital part of our economic system, and as such they generally reflect the basic health of our economy. If the economy is fundamentally sound and moving ahead well, the financial structure will signal that. If, however, there are underlying imbalances in the economy, the system will also reflect that. The signs given out by the markets on any single day or a week may be confusing or contradictory. But if there are pronounced trends over a long period of time, you can ignore them, only at your own peril.

Looking back upon the behavior of our financial system over the past several years, it's apparent that all is not well. The litany of troubles which have developed should give pause to even the most sanguine observer. With the economic recovery still in its early stages, interest rates are now at levels which ten years ago would have been considered, at the best extremely unlikely.

Access to the bond markets today for all practical purposes is limited to only top-rated companies. With few exceptions, a company with less than a prime rating can no longer tap the long-term public debt market as a source of funds. Marginal companies, new growth companies, or even solid companies with less than an A rating, and in this broad group may be the Xeroxes and IBMs of tomorrow, have almost been totally shut out of the long-term sector.

Lenders are increasingly reluctant to make long-term commitments and borrowers too are

reluctant to take on very long-term, high-cost debt. Many more new securities today are of intermediate duration, rather than 25 or 30 years duration which was the rule not very long ago. Too many companies are dependent now on short-term borrowing for what amounts to long-term expansion needs at a time when over half of the securities listed on the New York Stock Exchange are currently selling below book value. The stock market is far from being the source of new equity capital required for our long-term needs. The level of corporate debt has increased significantly over the past decade which together with a sharp rise in average yields has added significantly to interest costs. Debt relative to equity has nearly doubled.

As a consequence, some business firms now run a significantly greater risk. For the highly leveraged business, even a modest-sized contraction would make it difficult to meet fixed charges and in some instances might lead to bankruptcy because interest commitments are fixed and must be met no matter what the economic circumstances.

The consumer is also an increasingly larger debt burden which has, in some cases, reduced his ability to cope with periods of economic slowdown. Whole industries such as the airlines and utilities are faced with serious financial problems. Many state and local subdivisions are under increasing financial pressures. The loan deposit ratio, an equity base of some commercial banks, has deteriorated. And thrift institutions, which ten years ago were paying finder's fees just to have the chance to invest in 5.5% mortgages, are now worrying about maintaining their deposits although new mortgage rates are running close to 10%.

I don't want to cast a pall of gloom over our future economic hopes. The recovery that began earlier this year promises to be vigorous and health, and if we choose our policies wisely, the recovery will also be durable and lasting. Moreover, I think we should be strongly encouraged by how well the financial system has functioned during one of the most difficult periods in modern economic history. That performance reflects not only the basic strengths and resiliency of our financial system but it's also a tribute to the remarkable men and women who have become the leaders of our financial community.

Nonetheless, the markets are indeed telling us something today. They're telling us that the underlying foundations of our economy are not as strong as they should be, that our financial system is more vulnerable than it should be, and that we ought to waste no time in putting our economic house in order.

These are the concerns that are at the center of the discussions within the Economic Policy Board in Washington. We believe that with the process of recovery solidly underway, the time has come to mount a full scale attack on the underlying causes of our economic malaise. We're advancing a broad-gauged program to achieve that end, but we need your help, and the help of many other Americans if we're going to succeed. There can be no doubt that the political opposition is going to be stiff and powerful against many of the measures that must be taken.

A surprising number of people are not yet persuaded that the battle against inflation can be won by only having sound fiscal and monetary policies. They don't yet understand that capital formation means job formation, higher real earnings, lower cost per consumers, and better economic growth. And in some quarters, mention of corporate profits, capitalism, and even free enterprise can bring almost a visceral negative reaction.

What then must be done? All of us must obtain a better understanding of the causes of our problems and how they affect our economy. All of us must obtain a clearer understanding of the solution to these problems. And then we have to carry forth a message that's clear and unmistakable. It's my sincere hope that my appearance here tonight will contribute to that process.

The underlying cause of our economic troubles are many and complex and the complete analysis will await the time and insight of future historians. Nonetheless, it's not too early to identify some of the more obvious causes. It's now clear, for instance, that inflation is our most fundamental economic problem – because it was inflation that was the basic cause of the recession, and a prolonged resurgence of double digit inflation would choke off the recovery. Furthermore, inflation has played a major role in weakening our financial structure, raising interest rates and causing a pattern of under-investing within our economy.

Beyond recognizing the importance of inflation, we also have a fairly clear understanding, I'd

suggest, of the forces that lie behind it. Our inflation and its impact on financial markets did not just happen, but were the natural and largely predictable result of a series of occurrences which for the most part could have been avoided. First, our federal government has been living beyond its means for far too long. Government outlays for the past ten fiscal years grew 175% while total GNP increased about 120%. That means that the growth in government outlays was over 40% greater than the economy itself.

The growth in spending has also far exceeded the growth in revenues so that during these same years we've posted a string of deficits that are unprecedented in peace time. And the federal government, including the regular departments and agencies, as well as the off-budget agencies that were set up over the years partly to avoid the discipline of the budget, will have been forced to borrow over \$350 billion from our private money markets over the decade ending with the current fiscal year. Over a third of a trillion dollars that would otherwise have been used to build new plants and create new jobs in our private sector. It's no wonder that inflation has accelerated and interest rates have risen to historic levels. When the federal government runs a deficit year after year, especially during periods of high economic activity, it becomes a major source of economic and financial instability.

A second clear cause of the current problems has been the excessive expansion of the money supply. Ultimately this puts upward pressure on the rate of inflation and interest rates. A good deal of this monetary growth, I might add, is related to the chronic budget deficits. But another

part is attributable to anti-recessionary policies which have often proved to have been late in timing as well as overly stimulative. Needless to say, this process has contributed to the apparent stop-go nature of our government's economic policies.

I don't mean to suggest that a pattern of excessive fiscal and monetary policies is solely to blame for our inflation problem. Higher food and energy prices has obviously had an impact in recent years. The federal regulatory system has become a heavy burden forcing many unnecessary costs upon producers and consumers. Devaluations of the dollar and other actions have played a role. But I would argue that the underlying cause of the past decade of higher and higher inflation rates are the clearly excessive fiscal and monetary policies that began in the middle 60s. The results of these policies have been clear and disconcerting.

Soaring inflation has been the cause of a rapid growth of debt which is endangering the well-being of some consumers, municipalities, and financial institutions. In particular, that inflation has significantly raised the dollar cost of physical investment needs. Those higher costs coupled with accounting procedures that are unable to adjust to high rates of inflation have forced companies to seek much more external financing. Together with a tax structure that's biased against equity financing, this pressure has resulted in an enormous increase in corporate debt to the point where it's causing top-heavy corporate balance sheets and increasing illiquidity within the companies themselves.

The combination of the rise and the cost of funds, the hostility in some areas towards corporate profits, and increased uncertainty about future returns has caused corporate treasurers to focus primarily on projects with high returns and reasonably assured payouts accentuating the pattern of under-investing. Many projects which would have been undertaken in previous years are now passed over.

In recent years, in fact, inflation has led to a pattern of under-investing which in turn has resulted in much lower gains in worker productivity. By almost every reasonable comparison that can be made between past and recent levels of productivity, the net conclusion is the same. There's been a sharp falloff in the growth of output per man hour over the past ten years. This has intensified our inflation problem, has hurt corporate profits, has resulted in lower growth than was necessary, and has greatly retarded the increase in workers' living standards. It cannot be said often enough that our major source of productivity gains is from more capital. And it's only through productivity gains that real living standards can be improved.

To some degree, the financing problem that I've been discussing is even adversely affecting the current recovery in business activity. High interest rates are already slowing the flow of funds into thrift institutions, and hence, the new flow of funds into the home mortgage market. Thus, inflation has been a basic cause of a long series of unhappy economic events – the pattern of stop-go behavior, rising interest rates, slow real growth, disappointing worker productivity, higher risks of corporate bankruptcies, and a body politic calling for some quick cure-all that just doesn't

exist. It should come as no surprise that our financial structure, still a wonder in terms of the amount of credit it processes and the efficiency with which it allocates funds to different users, is feeling a serious strain.

A current concern in Washington and elsewhere is whether these patterns will continue and whether we would thus fail to meet our future needs for capital investment. I welcome the fact that the need for increased investment has finally captured public attention. Because by almost every available standard, our future requirements are large. The most immediate need for more capital is to create jobs for our rapidly growing labor force. Between now and 1985, our labor force will expand by roughly 15 million persons. In addition, there are at least 3 to 4 million unemployed persons in the labor force today who must be re-employed. By comparison to the 18 to 19 million jobs that will be needed in the coming decade, our economy created approximately 13 million jobs during the past decade. Even recognizing that while excess capacity now exists in the economy, the task ahead is still very formidable indeed.

In addition to the challenge of creating new jobs, a second broad set of capital needs ahead center around specific public policy objectives – the development of new energy resources to become more self-sufficient, an improvement in the quality of our environment, safer working conditions to protect the well-being of our workforce, the provision of more and better quality housing to satisfy the needs of a growing population, and the need to replace old production facilities in order to remain competitive internationally. The list could go on and on. Together, all of these

areas imply total private investment outlays of approximately \$4.5 trillion over the next decade.

By contrast, the cumulative total over the past decade was a trillion and a half.

Thus, you can see that our capital expenditures in the decade ahead will have to be roughly three times as large as those in the past decade. This sounds enormous, but it's manageable in view of the growth in the economy ahead. In essence, savings must be increased from a bit over 15% to about 16% of GNP. A feasible task? Yes, given the proper policy steps. Whether the financial mechanism can handle a huge flow of savings, investment, and credit associated with these capital needs is an open question. The rise in corporate debt over the past decade, carrying with it increasing fixed payment obligation, raises nagging questions about the ability to finance future capital outlays. It is just not clear whether the system can indefinitely accommodate a continued rise in debt relative to assets and equity. Indeed, further increases in leverage and repeated declines in coverage ratios will eventually cause credit ratings to deteriorate and interest costs to rise. The system could become quite illiquid with increasing risk, even in the face of just a modest recession.

In my view, as I've said, our ability to meet these capital requirements and the ability of the financial system to accommodate these needs will only be assured if there are pronounced shifts away from the past public policies. What we need are government economic policies that are going to allow the financial mechanism to perform its function and encourage sound, stable growth.

I'd like to offer four concrete suggestions for future policy directions – directions to which President Ford and this administration are committed. First, we must be sure that we have eliminated the stop-go behavior on the part of the government in setting and pursuing economic policies. Such policy changes have typically been a response to short-run developments in the economy. And because there's a lag between the development of a new policy and its impact on the economy, abrupt policy changes tend to come too late to accomplish their original goal. At times, rather than acting to stabilize the economy, such shifts have tended to accentuate the economy's basic cyclical swings and, thus, it became destabilizing. Actions that gain spectacular economic results for the near term cannot be the panaceas for our government if they risk moving the economy off the path of sustainable long-term growth. Good economics is good politics.

In pursuing greater stability in our policies, we should also shift away from past practices of relying upon government spending and general tax cuts to stimulate the economy while using tight money to slow it down. This practice has an effect meant that we have stimulated consumption for expansion and retarded investment in order to slow the economy. Over time, such a mix creates an inadvertent but still significant heavy investment bias to government policies which is inappropriate to our long-term capital needs and to the very functioning of our financial structure. At a minimum, the growth in government spending must be brought into closer line with the growth of the economy and we should aim for a surplus budget position at high employment levels in order to reduce the government's drain on the private savings stream.

Second, we must maintain a consistent effort to reduce the rate of inflation. Not just to the 6 to 8% range, but much lower. And with that effort, we must also loosen the grip of the inflationary psychology that is now so strong. Parts of our financial structure as it now exists will not remain viable with sustained high single-digit inflation, let alone double-digit inflation. The key to reducing inflation, as I have said over and over again, is to maintain sound responsible fiscal and monetary policies. If the government were to do only that during the coming years, it would do far more to help the people of this country than any number of assistance programs can ever dream of accomplishing. (Applause)

Third, we must achieve fundamental reforms in our tax system – reforms that will provide an essential insurance policy against future economic contractions, reforms that will help to redress the imbalances in corporate balance sheets and broaden equity ownership, and reforms that will encourage the levels of savings of capital and investment that are so vitally needed for our future. The increasing aversion to risk taking in the lending and investing process must be arrested.

Toward those ends, the administration, just over seven weeks ago, proposed to the Congress a tax program for increased national saving. This proposal would eliminate the double taxation of corporate earnings which results from first taxing corporate incomes and then taxing individuals who receive dividends. I strongly believe that this proposal, which has already been adopted in most of the other major industrial countries, would make a significant contribution toward

meeting our capital needs of the future. Moreover, it is the only major tax proposal of which I'm aware that comes to grips with the growing imbalances between corporate debt and equity.

Some critics have attacked this program for its alleged bias toward wealthy investors. They accuse us of favoring a trickle down approach which would concentrate benefits among corporations and rich individuals, whose increased wealth would slowly work its way down to the broader base of the workers and low income groups. Such criticism typically claims that this is socially unfair and that there is so much leakage along the way that those at the bottom receive too little too late. If this were in fact an accurate description of either the workings of our U.S. economy or my recommendations for encouraging capital investment, then I would join the critics.

In reality, however, the U.S. economy has created the highest standard of living and the greatest prosperity in the history of the world. The average family income approached \$13,000 in 1974. The level of poverty has been significantly reduced within our population. Jobs have been created for 86 million people. Personal expenditures continue to represent two-thirds of our gross national product. Federal income maintenance and security outlays have soared to almost \$120 billion a year. This isn't a small trickle. Indeed, it's clear that the American economic system has provided the most effective flow-through of benefits of any system that was ever devised. The critics can engage in as much as sloganeering as they want, but they'll never refute hard reality.

As for our tax recommendations, they're not biased for or against personal consumption. I certainly do not want to see any sharp reduction in consumption. The strength and durability of the current economic recovery is directly dependent on the pace of consumer spending over the next several quarters. My point is simply this: over the past decade we've had a most unsatisfactory experience in terms of unemployment, inflation, productivity, and international competitiveness. If we want to achieve better results over the coming decade, then we must first tilt upwards the share of national output committed to capital investment. Only by increasing the share of investment will we successfully create enough jobs and meet our future economic goals.

The fourth and final recommendation that I would set forth tonight is the responsibility not just of our government, but of all of us who are concerned with the future of our country. With your help and the help of many others, we can devise the best possible policies to deal with our economy – policies such as the ones that I have just outlined. But these policies will ultimately fail unless they have the broad-based support of the American people. The opinion polls that all of us see from time to time on public attitudes toward private business only confirm what we know from our daily experience, that our business institutions just like most other institutions within our modern society do not enjoy the full faith and trust of the American people. If anything, public misunderstandings about profits, capital investment, and the like are growing, not receding. Yet I also believe that this period of recession and high inflation provide us with an opportunity to reverse these trends because people are confused now and they're looking for answers.

Who is in a better position to provide those answers than those who are the leaders of our economic and financial communities? Who can explain the free enterprise system more honestly and completely than those who have been successful working within it? And who are these leaders? Many of them are here in this chamber tonight. It is now our responsibility, I would suggest, to go to the American people and to lay it all on the line. With the stakes as high as they are today, I don't believe that we have any other choice.

Now what does all this mean? It seems to me that the financial markets today are most assuredly telling us something about the behavior of our economic and our financial system. Something is unquestionably out of balance. Our trouble certainly does not mean that collapse or even crisis is near at hand, nor that the financial system cannot play its part in bringing about the huge savings and investment needs of the next decade. But it does mean that we have to change our ways.

Inflation must be sharply reduced. Government policies must be redirected toward a longer term time horizon and shifted toward a better mix of fiscal and monetary policies than existed over the past decade. And the tax bias against capital formation must be redressed. If these steps are taken, we can look forward to better growth, more jobs, higher income, a closer fulfillment of our broad policy goals, a lower rate of inflation, a more stable economic system, and a robust financial structure.

However, if we fail to act responsibly, through inertia, political differences, or just plain misjudgments, then we can look forward to continued trouble. There will be higher inflation,

lower growth, frustrated ambitions, and continued erosion of our financial base. Ultimately we could deliver a staggering, if not lethal, blow to our economic and political systems as we have known them. The latter scenario sounds pessimistic. But let us be clear, it is not inevitable. We know fairly well how we got into the current economic situation. It has not resulted simply from external problems such as OPEC pricing policies or disappointing Russian crops, but primarily from many years of shortsighted internal policies. We also know how to get out of the current situation and that is by pursuing sound, prudent policies.

In the coming months, as the recovery progresses, the improved economic environment may tend to camouflage some of the conditions that I have described, but we should not be lulled into complacency. These are serious, deep-seated problems that are going to require time to understand and even more time to untangle. Patience, understanding, and support will be demanded from the public. But I have the faith that if the American people are told the truth, if they can gain a clear understanding of these complex difficulties and are not fooled by the apologists for more and more government spending, then we'll meet our current and future needs.

This country has always been at its best when the challenge was the greatest. This must be our goal today. And when the time comes to turn this country over to our children, let it be said that this generation of Americans, like those of the past, did not flinch in the shadow of a great challenge, but instead rose up to meet it squarely. Thank you. (Applause)

QUESTION AND ANSWER PERIOD

CHAIRMAN CHARLES C. TILLINGHAST, JR.: Thank you very much Mr. Secretary. Our first questioner this evening will be Mr. Goldstein who will question Judge Breitel and then Mr. Wolman will question Secretary Simon.

TOM GOLDSTEIN: Chief Judge Breitel, you said that no large corporation is untouched by what happens in New York courts. You've also said that litigants make every effort to obtain federal rather than state jurisdiction. Chief Justice Warren Burger and others have advocated that federal diversity jurisdiction be abolished. In other words, they would deny access to federal courts to litigants who qualify now only because they are suing the resident of another state. Presumably, one effect of this would be to increase the number of important commercial cases tried in the state courts of New York. Do you favor this proposal?

THE HONORABLE CHARLES D. BREITEL: I do. May I point out that Chief Justice Burger's concerns match exactly with mine. It would not considerably, however, increase the burdens of the state courts – the reason being that our volume is now so very, very great that even if you added all of the diversity cases, it would be a small percentage increase. I recommended, however, and agree with Chief Justice Burger, for the sake of the federal courts, my concern is not parochial, I think our court systems, federal and state, and all the states is part of one continuum.

TOM GOLDSTEIN: A final question on this point. Are you satisfied that state court judges have the training and background to deal with the complex commercial questions that many of these cases present?

THE HONORABLE CHARLES D. BREITEL: We do. New York State's courts are the leading commercial courts in the western world. It used to be that the English courts were in the lead. Today it's New York State's courts. That's why my emphasis about New York law has developed, both in private international law and in corporate law fields. May I say too that federal judges aren't born federal judges; you know they come from elsewhere. (Laughter)

TOM GOLDSTEIN: Since you've become Chief Judge, you've stressed the efficient administration of the court system. For example, in January of 1974, you called your appointment of the New York City Administrative Judge absolutely revolutionary. But despite a relatively even rate of arrests by police, and efficiency measures that you and your aides have initiated, the backlog of untried felony cases, a key indicator of the health of the criminal justice system, has risen steadily. How do you account for this?

THE HONORABLE CHARLES D. BREITEL: Very simply. In the first place, let's look at the civil side where the projection now is that in the next two or three years, we will have excess civil parts for the trial of civil cases, leaving still more parts available for criminal cases. The criminal bulk was increased markedly apart from the increase in crime by the second offender laws that

were adopted in the last year of the Rockefeller administration and the drug laws that increased the number of trials beyond anybody's expectations with contrary views as to whether that was sound or not.

WILLIAM WOLMAN: Mr. Secretary, I'd like to start with a preamble to this questioning which is short enough to satisfy even Mr. Beckerman. And that preamble is this; there are some perspectives in which it is useful to look at New York City as the federal government without the power to print money. (Laughter) And there are some perspectives in which it is useful to look at the federal government as New York City with the power to print money.

THE HONORABLE WILLIAM E. SIMON: You would find no disagreement from me on that whatsoever. (Laughter)

WILLIAM WOLMAN: Good. In that case, our sister publication and competitor, The Wall Street Journal, a couple of weeks ago editorialized saying that it would be wise for New York City to petition for bankruptcy. Do you agree?

THE HONORABLE WILLIAM E. SIMON: You know this is a typical question that I get. (Laughter) And let me answer this in a little more length than I'll answer a lot more of your questions because I think it's important that I put my views before you on the New York City question. My views are necessarily somewhat ambivalent. They're personal as well as

professional because, as the judge said, you know, federal judges weren't born...well, I wasn't born Secretary of the Treasury either. I had a personal life before I went to Washington and that life was wrapped around some 22 years working in and loving this great city. But I also have a professional life, and that professional life is the Chief Financial Officer of the United States. And with that responsibility I have a responsibility to all the taxpayers. I have a responsibility to protect the integrity of the dollar which has been eroding in recent years. And I agree with everything that you've said that there is very little difference – to say that we have given a poor example in the federal government would be the understatement of the century as far as our fiscal and monetary policies – because the state, city, and most especially the federal government has continued to promise more than we could deliver for many years. The federal government has delivered something in a very insidious form, the cruelest tax of all called inflation. And this inflation has caused great damage and our continued deficits cause great damage, not only in an inflation sense, but as I pointed out in my prepared remarks, in a great financial sense. So what is the responsibility of the federal government dealing particularly with New York City and the financial problems that it finds itself in today? As for strictly guaranteeing or reinsuring or insuring a security, because these different programs that have been suggested are truly indistinguishable, we would be creating a new security that literally would be better than the federal government's security. It would be government guaranteed and it would be tax-exempt. We would be adding to the federal government's already staggering borrowing roll an additional \$20, \$25...whatever the amount of state and local government debt that chose to use it. Who becomes the disadvantaged? I know this crowding out and the specious argument we had nine

months ago in Washington with all of the academic economists coming down from their windowless rooms...(Laughter)...to present to the congressmen the facts that they wanted to hear on this subject. Doesn't Secretary Simon know that interest rates decline during a recession and that plenty of money is available because demands recede? Well, I don't have to go into that. But the disadvantaged because the small and medium-sized businesses as we begin to crowd out up the ladder what has already occurred. Housing, we have higher interests obviously because the Treasury borrowing rate is the benchmark of all borrowing rates. You know the amount of savings to finance our future is most certainly not finite. But there's a more important point here. Let's talk about direct federal involvement in fiscal affairs, fiscal and financial affairs of state and local government. We would, in my judgment, contravene the constitutional principles of federalism. Just imagine what I would have to do as Secretary of the Treasury as far as the municipalities who wish to borrow with my government guarantee. I would have to protect the taxpayers. And this goes for all cities in the United States, not just New York City because obviously to be equitable we would have to provide this ability for all cities. And believe me, there would be many who would be coming to knock on the door. They would come down to my department and they would knock on the door of this Angel of Mercy in the guise of a GS-16...(Laughter)...and he would say to them, develop the criteria for them to borrow. Do they need the funds? Do they need a courthouse or sewer system or a schoolhouse? When they could borrow the funds, what is their maturity and interest rate? And they could go get in line and do it. You know there would be many, thousands indeed, who would say I don't choose to do that. I have run my business properly. We have run the affairs of my government. I have made the tough

political decisions to have a prudent fiscal and financial policy in my city and my state. What would I be doing to those people? I would effectively be raising their interest costs because I'd be competing with their tax-exempt securities or the government-guaranteed tax-exempt. Is this the reward we give for prudence in the United States? (Applause) I'm afraid that we'd be removing a very serious discipline that exists, a discipline that our forefathers, as far as the states' constitutions and the cities' constitutions, many of them, if not most, say that the budgets must be balanced. Well, if they knew they could just come to the federal government at a preferential rate, this is the removal of a very important discipline, a discipline that I wish that we had in the federal government and I would consider this an absolutely intolerable precedent. (Applause) And forgive me for being so long-winded because one of my problems, and I know that obviously the Secretary of the Treasury is going to be put necessarily in the role of the heavy on this issue, Secretaries of the Treasury often are. We're not terribly popular people. You watch them tumble every day around the world. They've got the life expectancy of a second lieutenant in the infantry. And the point is sometimes, I cannot hide in Washington especially during our current economic troubles. I testify three days a week. There's press every time including in my closet it seems at times. And when asked a question I respond because that is my responsibility and sometimes my responses are interpreted by the press and this creates great problems such as my letter to Senator Humphrey last week which the reporter explained to me he interpreted incorrectly. I'm sorry for that interpretation. I hope I straightened it out tonight. (Applause)

WILLIAM WOLMAN: Mr. Secretary, I rise trepidatiously in the wake of your applause to say

that you have not answered my question. (Laughter)

THE HONORABLE WILLIAM E. SIMON: I believe just as I have believed from the beginning that New York City, with the aid of New York State, taking the proper steps and making the tough political decisions can avoid default. And so I don't believe that we need to face the question of whether they should declare bankruptcy because they can indeed avoid this tragedy. Yes, they can, and I'll be testifying before Hubert Humphrey tomorrow and I wish you'd all read my testimony before you read the papers. (Laughter and Applause)

WILLIAM WOLMAN: That is what I expected you to say.

THE HONORABLE WILLIAM E. SIMON: You're the first one who ever called me predictable.

WILLIAM WOLMAN: In light of that answer, Mr. Secretary, New York City has bought a grace period of indeterminate length apparently but at least till December, by taking certain steps. Yet at the same time, the financial markets are not willing to take New York paper. The interest rates are 11%. What, Mr. Secretary, will it take on the part of New York to restore confidence, sufficient confidence in the city's administration so that it can float paper?

THE HONORABLE WILLIAM E. SIMON: Sufficient confidence, in my judgment, is going to be restored when a credible fiscal package is put before the investors in the United States which

will demonstrate to them unmistakably that a balanced budget indeed is going to occur – not the gimmick accounting and gimmick financing that’s occurred in the past, the transferal of the operating expenses into the capital budget at such an alarming rate. And these are tough decisions, cutting a bloated bureaucracy and making all the decisions to take back from people what you’ve already given them. Yes, indeed, they’re tough, and I don’t envy the mayor and the people who have to make these decisions, but I’m afraid they have no other choice. (Applause)

WILLIAM WOLMAN: Mr. Secretary, some people in New York....

THE HONORABLE WILLIAM E. SIMON: You take it, judge. (Laughter)

WILLIAM WOLMAN: The judge has taken it. He says that as New York goes, so goes the country. Some people in New York have said that the Republicans are planning to run against New York City in the next election campaign. Would you please comment?

THE HONORABLE WILLIAM E. SIMON: I can say in all honesty that this Secretary of the Treasury, as far as his motives are concerned, I have never been and will never be politically motivated. I am not a politician by instinct or by actions which any fool can plainly see. If I were a politician, I wouldn’t be in the trouble I’m in most of the time. (Applause)

TOM GOLDSTEIN: Judge Breitel, in the past you have said that the courts play only a sliver of a role in controlling crime and you’ve repeated that...

THE HONORABLE CHARLES D. BREITEL: May I hear that again please, I'm sorry....

TOM GOLDSTEIN: In the past, you've said that the courts play only a sliver of a role in controlling crime and you've repeated that thought tonight. If not the courts, what agency or agencies in the criminal justice system should the public look to for stemming crime?

THE HONORABLE CHARLES D. BREITEL: In the first place, the phrase criminal justice system which has become inevitable and I don't propose to be able to change people from it, assumes there is a system. There isn't any. The people who have something to do with law enforcement once crimes are committed, are police, various kinds of police, prosecutors, and other agencies that may control delinquent conduct of one kind or another, whether it's probation, parole, or even private agencies that handle delinquent children. These are the ones that deal with crime once it has been committed. The other part of the problem is to try to control crime before it is committed. Partly this is a police problem. Part of it is a problem of regulating the society and the economy as best we know how, and that is not an anti-Simon speech, by the way, for excessive amount of regulation and control. Sometimes it means less. Because there are many laws we make that are doomed to be violated in great numbers by people as a result of which you have criminality attached. As a consequence you have a further outbreak of crime, a disrespect for law, a disregard for law enforcement, so that it becomes impossible. Take, for example, the simple illustration of speeding on a highway. You can make the speed so ridiculous that every

decent driver will actually violate the law. You can make it inevitable, by the way, by not enforcing the law on the highways at all so he knows he can do it with impunity. The same thing can occur with much more serious offenses that affect the fiber of society. None of this the courts have anything to do with.

TOM GOLDSTEIN: Many political leaders and scholars have...

THE HONORABLE CHARLES D. BREITEL: I have trouble hearing you, sir, I'm sorry.

TOM GOLDSTEIN: Many political leaders and scholars have recommended the imposition of mandatory prison sentences as a way to reduce crime. Do you favor such sentences?

THE HONORABLE CHARLES D. BREITEL: I'm violently opposed to it because it assumes that all crimes and all criminals fall into obvious categories. They do not. The identical crime in description may be committed under different circumstances that make it more or less serious, more or less relevant to whether or not there's a likelihood of repetition, and more or less relevant on the question of deterrents. On the other hand, the treatment of the individual criminal, as you distinguish him from his crime, can again be markedly different. You can have two persons – and I spent many, many years in criminal prosecution – you can have two persons who seem to classify the same way in committing the same offense, and yet are entirely different. One should receive more punishment and the other less. The consequence of mandatory sentences is to

introduce deviance, deliberate, controlled deviation by everybody affected in the criminal process.

TOM GOLDSTEIN: Given what is called the under-funding of the so-called criminal justice system and its fragmentization, would you recommend that a criminal justice czar for the state be appointed?

THE HONORABLE CHARLES D. BREITEL: I think you're referring to, do you mean outside the court system or...

TOM GOLDSTEIN: Outside the court system.

THE HONORABLE CHARLES D. BREITEL: No, there I would react a good deal because my philosophy, and Mr. Simon's is not nearly as different as superficially some might think, I think a lot of that should remain a local responsibility vis-a-vis the state and certainly should remain a state and local responsibility vis-a-vis the federal government. That's a separate and distinct problem. So far as the court system is concerned, we should move to state funding primarily because so many of these expenses are actually mandated by the state. Take, for example, New York City's situation. Their capacity to cut the court budgets are distinctly limited by state mandate and state law that requires it so they have less control over it. On the other, what the city spends on the maintenance of parks or in the cleaning of streets is almost exclusively within their control.

THE HONORABLE WILLIAM E. SIMON: Having been a czar, I agree with that answer.

(Laughter) I'm now a used czar.

WILLIAM WOLMAN: Mr. Secretary, there is some evidence that the rhetoric of this administration is conservative but that the content of what it does is something else again. Two pieces of evidence on that are that federal government spending so far this year has increased by 11% which means that by the end of the year if it continues, it will be up by a fifth(?). The tax structure, the tax cuts have been a quickie tax cut which are not conservative in character. And finally, unlike in the case of New York City, the Federal Reserve, if it follows precedent, will buy something like 23% of the federal debt that comes out this year. Would you care to comment on this contrast between conservative rhetoric on the one hand and the substantive content of policy on the other, assuming I'm right about this?

THE HONORABLE WILLIAM E. SIMON: Sure. And it's the difficulty we have in Washington of turning things around as quickly as one would like and the momentum that exists in the federal budget and the lack of fiscal flexibility that we have in our budget process as the spending side of the ledger just continues to grow through supplemental appropriations each year in the existing programs – the transfer of payments being an outstanding example. When we talk about the growth of spending, or let's talk about the growth of the deficit this year, a good portion of that came from, (a) the reduced revenues in the budget, in the Treasury as a result of the recession, and

two, the expenditures required to take care of those that are unemployed as a result of this deep recession. We'll be spending over \$20 billion. Our president has sent to the Congress deferrals and recisions totaling slightly in excess of \$17 billion to cut the federal budget. The amount that was enacted was infinitesimal. He's vetoed bills that amounted to slightly over \$6 billion so far this year which the Congress has sustained. Increased measures, as far as new programs are concerned, there are no new programs coming from this administration. There's only the seeping through of the additional congressional measures that continues day after day where the president draws the line. We present a budget to the Congress at the beginning of the year of \$52 billion deficit. The president draws the line two months ago at \$60 billion. The Congress draws the line at \$68.8 billion. It would take Mandrake, the Magician, to hold the budget deficit at \$68.8 because congressional actions by various committees have already violated that and they have to make a tough decision a few weeks from now. The budget process and fiscal responsibility requires a teamwork that I yet do not see evident. The budget committees that were created provide us with a great hope that this process is going to work in the future. We have to start somewhere. We have to get an awareness first among the American people of the dangers of this continued spending, of living beyond our means. When the American people become aware of the problem, they then become aroused, and when they become aroused, then they tell their legislators that they are aroused and they want it ended. And it's not until that process occurs that Congress gets the message that their jobs are on the line if they don't begin to exercise some fiscal integrity. Then we'll see inroads, and we're beginning to reach that (Applause) and I would hope. So thus far, I would agree with you, thus far it is rhetoric. And that's where it has to start. It has to start with an

education out there in this great country of ours to make them aware of what caused these terrible economic problems and what the cure is going to have to be. And please give the people the patience to live the time it's going to take to cure the problems. Because we're not, as I've said quite often, going to solve the sins of the past decade by a day of penance. (Applause)

CHAIRMAN CHARLES C. TILLINGHAST, JR.: Thank you Judge Breitel, thank you Secretary Simon, and questioners. It's one of the finest traditions of this Club that we have on time departures. And for all of you who have to go home in ground vehicles this evening, Godspeed and safe passage home.

END OF MEETING