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Congress of the United States
JOINT COMMITTEE ON ATOMIC ENERGY
WASHINGTON, D.C. 20510

July 25, 1975

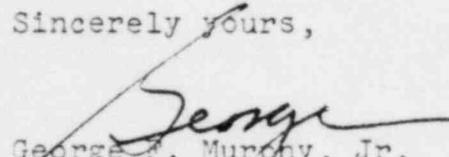
Honorable William A. Anders
Chairman
Nuclear Regulatory Commission
Washington, D. C. 20555

Dear Chairman Anders:

In the July 15, 1975 Congressional Record on page E3832, Congressman Ronald Mottl of Ohio refers to the discovered safeguard system's defects at the Davis-Besse nuclear powerplant located near Port Clinton, Ohio. In May, inspectors of the Nuclear Regulatory Commission found problems with nearly half of the safety-related electrical wiring examined at the plant.

Would you please supply the Committee with a full report on the matters discussed by Congressman Mottl.

Sincerely yours,


George F. Murphy, Jr.
Executive Director

Enclosure:
7/15/75 Congressional
Record (E3832-E3834)

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were reinstated. We regard this as a small price to pay for such encouragement.

6. Modern printing techniques, such as select use of boldface type to identify speakers and subjects, should be utilized within the limits of printing time to make the format of the Record more readable.

7. A study should be made of modern techniques, including possible use of automatic data processing facilities, which would permit the preparation of a subject index more frequently than the present biweekly index.

The Congressional Record has been appropriately described as a mechanical miracle. It is miraculous to receive a complete record of proceedings each morning—often less than 12 hours after adjournment. These limitations of printing time make the use of sophisticated printing techniques such as boldface type more difficult. However, they should be employed to the maximum extent possible to make the format of the Record more readable.

Indexing of the Record is presently accomplished on a biweekly basis. More frequent indexing is extremely desirable for reference purposes. We recommend a study by the Joint Committee on Printing of possible utilization of such techniques as automatic data processing facilities to permit the preparation of a subject index as frequently as technically possible. We believe those techniques will eventually permit the preparation of a daily subject index.

8. House floor debates should be recorded electronically.

In order to produce an accurate transcript in the Congressional Record of the House debates all such debates shall be recorded electronically.

A number of recommendations were made by our present and former colleagues concerning the Record. The second interim report of the Joint Committee—Senate Report No. 948, 89th Congress, 2d Session—issued January 19, 1966, listed in the Appendix a topical summary of these recommendations by our colleagues. These included:

1. The format of the Congressional Record should be improved to make it more concise, readable, and interesting (Rosenthal, Matthews, Rumsfeld, Quie, O'Hara, Congressional Quarterly).

2. The Record should be a verbatim record to preserve congressional intent on legislation (O'Hara). Remarks should not be inserted in the body of the Record unless actually given (P. C. Jones, Matthews). Extensions and revision should be limited to grammatical and typographical errors (Cunningham, Gibbons, Rumsfeld). Insertions should be abstracted and printed separately (Todd, Rumsfeld, O'Hara, Stafford). Inserts should appear in appendix only (Bayh).

3. More index and digest information should be included. This should include a subject index published each day (Rosenthal, Yarborough), a revised digest summarizing arguments and debate in sequence (O'Hara, Dunne, Congressional Quarterly), and summaries in a standardized form indicating the meaning of record votes (Rumsfeld).

4. The Record should periodically present an analysis and review of legislation in the form presently prepared by the Congressional Quarterly (Stratton).

5. Pages of the Record should be perforated to facilitate tearing them out (Rumsfeld).

6. Nongermane debate should be printed separately so that germane debate can be read in sequence (Saitonstall).

The second category of the above recommendations falls within the ambit of House Resolutions 568, 569, 570 and 581. The testimony of our colleague Repre-

sentative JAMES G. O'HARA, raised to my mind the most serious question arising from statements inserted in the Record and not differentiated from those actually made during floor debate. This question concerns the reliance upon the Record as an accurate source of congressional intent. Mr. O'HARA's frank statement that he has done this himself makes more forceful his recommendation that the practice should be stopped. The following was JIM O'HARA's testimony on the subject:

Finally, Mr. Chairman and members of the committee, I would like to speak of the method by which we report our debates. I think it is fair to say that the Congressional Record is a shambles. It is full of statements never made.

The only place in the world where you can go back and say anything, even though you didn't, is in the Congressional Record. It is a satisfying thing, but I don't think it contributes very much to the public understanding of what we are actually doing in the U.S. Congress. It not only makes it difficult for interested observers to assess the actions of Congress, but I have occasionally heard complaints from Members of the Congress with respect to the manner in which the press was reporting congressional business.

The state of the Congressional Record forces reliance upon press reports that may themselves be based upon incomplete information, be erroneous, or be partly the product of the personal political preferences of the writer.

If the Congressional Record could be read and understood, I think we would have less difficulty with that problem.

Those who are lawyers in this room understand that when the courts interpret a Federal statute they rely on three sources. First, the statute itself. Second, the committee reports. Third, the debate in the House and Senate on the particular parts of the statute in question. It is the responsibility of the courts to find the congressional intent, and they determine it from those three sources.

Many statements bearing upon the question of congressional intent, which were never heard by the House or Senate when it agreed to a bill, are found in the Record. They cannot be distinguished from what the House or the Senate actually heard before voting on a piece of legislation. There is no way that the courts can determine which of the statements were actually made and which of them were not made, which of these statements were brought to the attention of the House or Senate before it voted and which were not. It makes possible a corruption of the legislative process and a misrepresentation of the legislative intent. I say this with all seriousness because I have done it myself. I don't think I misconstrued congressional intent but I have inserted in the Record, when I couldn't find sufficient time to make statements, remarks bearing upon the question of intent with respect to bills coming out of my committee. They appeared in the Record with no way to distinguish them from any statement made on the floor. I think this is a bad practice and ought to be ended.

I would also like to bring to the attention of our colleagues testimony from other witnesses, Representative GIBBONS, Representative Cunningham, Senator BAYH, and Senator STAFFORD.

By MR. GIBBONS:

"My next area of suggestion would be in the matter of the Congressional Record. I think that particularly in the House we have abused the use of the Congressional Record. There is far too much extraneous material that goes into it. The privilege of revising and extending is overdone. The Congres-

sional Record, which is supposed to reflect the action of Congress, I think all of us must admit, is a very inaccurate representation of what actually took place because of the provision to revise and extend.

If the Record were abbreviated by electronic recording and the speeches of the Members placed in the Record as they were actually delivered, I believe that some of the remarks that take place on the floor would be more deliberately considered, more accurately prepared, and would be of greater historical significance to people in their attempt to interpret the law and to see which way Congress is going."

Representative Cunningham's recommendations were to:

"Confine extension and revision of remarks in the Record to grammatical and typographical corrections.

Limit each Member on inclusion of articles for extension in the Record to material pertaining to legislative matters."

Senator BAYH testified:

I am concerned about the expanding quantity of material which is printed in the main body of the Congressional Record and which frequently has little or no relation to the legislative business at hand. Although much of this material is significant and may deserve to be called to the attention of Congress—I do so myself—it tends to clutter up the Record and make it less valuable for its primary purpose. Since the Appendix is no longer being published in permanent form, I would suggest that such items as reprints of editorials and articles from newspapers or journals, communications from constituents, nonpertinent speeches by outsiders, statements of congratulation to organizations, individuals, or communities, and other matters which do not have to be preserved for posterity, and all the other material that we feel is important to bring to the attention of our colleagues, that this appear automatically in the Appendix only. This would not only cut down on printing, indexing, and binding costs but also would make the permanent Record a more manageable and useful documentary source.

The then Representative STAFFORD testified:

Mr. Chairman, it has always seemed to me that the Congressional Record should be a record—on the House side, at least—of what transpires in the Congress and not a resting place for the press releases we send back home. I believe only those remarks which are actually made on the floor should appear in the body of the Record, with provisions in the Appendix for informative material relating directly to legislation under consideration.

NUCLEAR PLANT'S SAFETY SYSTEM FOUND 50-PERCENT FAULTY

HON. RONALD M. MOTT

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1975

Mr. MOTT. Mr. Speaker, I was shocked to learn that nearly half of the vital safeguard systems at the Davis-Besse nuclear powerplant were recently found to be defective. The Davis-Besse plant is located just west of Cleveland. The American public has been led to believe that we can rely on nuclear power as a safe, clean, and inexpensive source of energy. We have also been told re-

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There is such danger of leakage of radiation, or injury to people, one would think that the people building the station would be more meticulous.

Public protest arises over every accident at any nuclear installation. Cracked pipes, falling safety warnings and leakages that turn up downstream from power plants have caused shutdowns and repeated inspections. And recently the pace of nuclear power in its growth has proved to be disappointingly slow, partly due to these jam-ups.

Of course there are often debatable findings. It could be that some of the cables marked as wrongly installed by the inspectors from the U.S. Nuclear Regulatory Commission can be said to be safe, or even properly placed.

But there certainly should not be any damaged cables along a circuit which guarantees the safety of the Davis-Besse plant. What excuse can there be for that?

Responsible primarily is the Toledo Edison Co., which is building the plant for itself and the Cleveland Electric Illuminating Co. Next come the principal contractor, Bechtel Corp., and then the Fishbach & Moore Electrical Contract, Inc.

And then come electrician foremen, electricians, engineers who fully understand the meaning of the blueprints that say exactly how the whole system has to be built.

Toledo Edison has been asked to set up its own reinspection team, to go back over every bit of the work. Surely that company has enough of its own capital, its own reputation and its own corporate philosophy at stake to compel it to do an airtight job of scrutinizing the Davis-Besse plant.

Energy sources have become uncertain. An energy-centered civilization such as America's needs nuclear and other power urgently. And it needs them to be dependable—and totally, 100% safe.

THE PURSUIT OF JUSTICE IN THE REGULATION OF BUSINESS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 15, 1975

Mr. McDONALD of Georgia. Mr. Speaker, as we enter the 200th year since the founding of our country, it is indeed appropriate to recall the reasons for our Declaration of Independence. Our ancestors were harassed by agents of the British Crown and burdened by insidious taxation. Fed up with the encroaching totalitarianism, they threw off the shackles of tyranny. Hopefully, in America, the people would never again be subject to the whims of despotism.

Perhaps the tales of our Revolution are familiar to most Americans, but the modern day applications are not. Our forefathers would be appalled at the accumulated power of our present Federal Government. Individualism and progress are being stifled by the paternalistic attempts of the state at economic control. Our colleague Representative PHILIP M. CRANE of Illinois, has recently written about the injustice of our existing regulations in the field of business. His article, "The Pursuit of Justice in the Regulation of Business," appeared in the July 1975 issue of *Nation's Business*, and I hope it will be read with a real understanding of the principles for which our forebears

lived and died. The text of the article follows:

THE PURSUIT OF JUSTICE IN THE REGULATION OF BUSINESS

(By Representative PHILIP M. CRANE)

The success of the American free enterprise system has traditionally depended on a maximum of individual initiative and a minimum of governmental interference.

But the expansion of the federal regulatory agencies, both in terms of numbers and enforcement powers, flies in the face of that tradition.

It is not surprising that businessmen view a number of these agencies as all-in-one combinations of prosecutor, judge, and jury. The Occupational Safety and Health Administration, for example, is empowered to issue cease and desist orders that have all the force of law.

Other agencies haul businessmen into court if the businesses do not comply with directives issued in agency proceedings. For example, 1972 legislation gave the Equal Employment Opportunity Commission the right to take court action against private employers without going through the federal government's legal arm, the Justice Department.

INNOCENCE IS NOT ENOUGH

The inherent danger in such a system is the extent to which coercion and intimidation, rather than justice and due process, are employed in bringing about compliance with directives.

In too many cases, businessmen cited by a federal agency for some alleged violation are sure they are innocent, but prefer to give in rather than shoulder the heavier cost of contesting the agency in court.

Still others head off the possibility of citations and heavy legal costs by taking action which even the agency would find unnecessary.

Because of the present inequities, I have introduced legislation to put the businessman on a more equal footing and to ensure that a regulatory agency's findings are based on the merits of a given case, not on governmental coercion.

Basically, the bill would provide compensation for defendants where the U.S. government has filed a civil suit and lost the case. A businessman found innocent of charges brought by a regulatory agency would be reimbursed by the government for reasonable legal fees he incurred in fighting the case.

Enactment of the bill would have these results:

Businessmen confident of vindication would be able to challenge regulatory agency findings without fear of incurring substantial legal expenses just to prove that they are right.

Regulatory agencies would be discouraged from forcing conformity with their directives by harassing businessmen who don't have the financial resources to fight back.

The amount of compensation paid successful defendants would serve as a guide to the public on whether the agencies were doing an effective job or being overzealous.

The injustice of a businessman having to pay for his defense while his tax dollars are being used to help prosecute the case against him would be eliminated.

A THREAT TO ALL

The existing situation is a potential problem for businesses of all sizes.

Many smaller businesses simply cannot afford to hire a high-priced attorney to represent them in court. And they fear that even if they did win a court test, they would not only be out the legal fees but would be the target of repeated retaliatory investigations in the future. Their ability to pay legal fees would eventually run out.

So they don't make waves. They prefer

instead to comply as best they can with demands. Demands, for example, that they buy new equipment without regard to whether it is justified on a cost-benefit basis.

Unfortunately, some businessmen have found that the compliance route does not work. They have been forced to go out of business after a lifetime of work that has provided employment not only for themselves, but for many others.

Many larger companies have resorted to hiring high-priced consultants—at \$100 to \$100,000 each—to advise them of the potential liability under regulatory standards. Some have invested thousands or even millions of dollars in what could be termed industrial preventive medicine in hopes of heading off trouble. Still others have adopted policies, such as reverse discrimination, meeting guidelines for minority hiring, that might avoid problems in one area but erode the morale of their other employees or the enthusiasm of their customers.

THE CONSUMER PAYS

None of these actions helps achieve the increased productivity needed if the economy is to rebound and open up more employment opportunities for all. On the contrary, increased costs that business incurs in meeting regulatory directives are passed on to the very consumers that so many of the regulatory agencies are supposed to protect.

At stake here, ultimately, is the future of the free enterprise system. If the regulatory agencies, with all their resources, are allowed to abuse their power, the system is in danger. Thus, it is up to Congress, which created these agencies in the first place, to see that they do not get out of hand.

I am encouraged by President Ford's call for regulatory agency reform and by the fact that a number of members of Congress have introduced bills dealing with these agencies and some of their weaknesses.

Also, I am heartened by the fact that more and more Americans are beginning to realize that regulatory agencies are, in part, responsible for the delays in construction of nuclear power plants, the increased cost of automobiles, the shortages of natural gas, the delays in developing new sources of energy, and the plight of our nation's railroads—mention just a few examples.

As a consequence, Americans are beginning to question whether government regulation is costing more than it is worth.

QUOTAS, NOT MERIT

Let us look at what might result from our form of regulation—by the Equal Employment Opportunity Commission.

As noted above, EEOC can bring suit against a company that it claims engages in discrimination in hiring and promotion. To avoid a civil suit, the company must take what is known as affirmative action to eliminate such discrimination.

EEOC talks of guidelines and goals and denies it is mandating quotas for the hiring or promotion of minority group members.

In practice, it is making quotas—the merit—the basis for hiring and promotion until certain ratios are reached.

What would happen if a top professional basketball team were ordered to take affirmative action to make sure its racial composition reflected that of all basketball players in the surrounding area?

The quality of the team's performance would decline, some outstanding players would never get a chance to make the squad and fans would stay away in droves.

Fortunately, affirmative action has not yet reached pro basketball. We can still appreciate the skills of Chet Walker, Bob Love, Walt Frazier, Earl Monroe, Kareem Abdul Jabbar, and many others who have earned the right to play through their own ability and not through some artificial mechanism.

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peatedly that the probability of an accident is extremely remote. Obviously, this statement depends upon a 100-percent efficient operation of the nuclear powerplant's safety-related equipment.

Only a few weeks ago, workers at the nuclear powerplant at Lusby, Md., were exposed to dangerous radiation after a reactor coolant pump malfunctioned. The short history of our operation of nuclear power stations has been replete with malfunctions of the safety-related systems. Luckily, the public has not yet been subjected to a catastrophic accident. It must be stressed that a large nuclear reactor accumulates an enormous amount of dangerous and highly toxic materials during normal operation, roughly 1½ tons of such material, nearly one-fifth of which is gaseous or volatile. The detonation of the nuclear weapon over Hiroshima produced only about 2 pounds of these materials.

Mr. Speaker, an article by Mr. Thomas Quinn appearing in the Cleveland Plain Dealer on July 13, 1975, elaborated upon the findings of the surprise inspection of the nearly completed Davis-Besse nuclear powerplant. The text of this article follows:

DAVIS-BESSE NUCLEAR POWERPLANT
(By Thomas J. Quinn)

Inspectors of the U.S. Nuclear Regulatory Commission, concerned whether the Davis-Besse nuclear power station is being built correctly, have found problems with nearly half the safety-related electrical wiring examined.

At the commission's request, Toledo Edison Co. has organized a 15-man engineering team to reinspect all safety-related wiring in the plant, under construction outside Port Clinton 70 miles west of Cleveland.

Toledo Edison has estimated the reinspection will cost more than \$400,000.

Commission officials said they are concerned that Toledo Edison may also have failed to uncover other significant safety problems in the plant. The commission now plans to step up its own inspections.

To help find out what else may be wrong, Toledo Edison mailed letters July 3 to each of the plant's 1,200 construction workers urging them to report any possible problems and assuring them their identities would be kept confidential.

The commission, an offshoot of the now-defunct Atomic Energy Commission, is especially concerned with a nuclear plant's safety systems because of the dangers if there is a breakdown in any of them.

According to federal government studies, the worst possible case would be a plant accident coupled with a safety system breakdown that could release large amounts of deadly radioactive substances.

Donald Terrell, Toledo Edison's public information manager, said chances of such an accident at Davis-Besse were astronomically remote because of built-in safeguards, including the duplication of the many safety systems.

Terrell and one Novak, the company's project engineer at Davis-Besse, were asked if the extreme low probability of such an accident was based on the assumption that safety-related wiring and other safety systems were working correctly.

They said it was.

The electrical problems were uncovered by a team of commission inspectors during a four-day unannounced inspection in May. The four-man team found one or more problems with 24 of 51 electric cables they checked.

There are about 2,750 safety-related cables in the plant, according to the commission, and if the same proportion of problems is found in the other cables, then about 1,300 would have some deficiencies.

James G. Keepler, the commission's regional director, said he expects other electrical problems will be found, but he will not have a final report until reinspection is completed by September.

The plant, owned jointly by Toledo Edison and the Cleveland Electric Illuminating Co., is being built by—and is to be operated by—Toledo Edison. Commercial operation is scheduled to begin in September 1976. The plant is about 90% completed.

Those aiding the reinspection include 10 engineers from the Gaithersburg, Md., office of Bechtel Corp., the plant's main contractor, and workers from Flahbach & Moore Electrical Contract Inc. of Chicago, the subcontractor for electrical installation.

Commission inspectors have been monitoring the reinspection.

Keepler said the commission considers the electrical problems significant and called the commission's reinspection request "a drastic action."

Keepler said these problems had not been uncovered by Toledo Edison or its contractors. This has cast doubt, he said, on the quality of work being done in other parts of the plant.

Because of the breakdown in what is called Toledo Edison's quality assurance program, Keepler said he has ordered his inspectors to increase the frequency and scope of their inspections into the safety-related piping and other key systems in the plant.

"We are sharpening our eyes in other areas," Keepler said.

He added that the discovery of the electrical problems have "bothered us . . . and shattered our confidence a little bit" in Toledo Edison.

Keepler said the company has not been "riding herd" on its contractors and has overly relied on them.

He said Toledo Edison, like other small utility firms building a nuclear power plant, tended to delegate much of the inspection responsibility to their contractors.

"By doing this, some utilities get burned. Contractors, themselves stretched thin, cut corners here and there," Keepler said.

He said that while the contractors also were at fault, the commission still holds Toledo Edison responsible.

He said the electricians installing the cables had not been given detailed enough instructions and their work had not been properly inspected.

He said commission inspectors found that some cables were damaged, placed too closely together or otherwise incorrectly installed.

Placing cables too close could jeopardize a plant's safety, for instance, in case of a fire, Keepler said.

The problems were found in safety-related cables in the control room, in those feeding into the control room and in other parts of the plant. About 20% of the electrical wiring in the plant is considered safety-related.

Keepler, whose office is in Chicago, said similar electrical problems have been found in other plants under construction in the eight Midwest states under his jurisdiction. However, he said, the number and the nature of the electrical problems found at Davis-Besse were more extensive.

In addition, he said, the similar problems found in other plants were isolated and did not indicate a breakdown in a utility company's inspection procedures.

Novak, Terrell and other Toledo Edison officials said the company has been taking steps to become more aware of the quality of work being done in the plant.

Besides writing to the construction work-

ers, the company on June 27 also sent letters to nine of the plant's contractors asking them to report any possible problems.

In the letters to workers, Toledo Edison listed the office and home telephone numbers of four company officials.

Terrell said the company had assumed it had been getting the necessary feedback from workers and contractors through the chain of command, but will not assume that any more.

Terrell also said the company in the last five months has raised from 7 to 12 the number of men on the quality assurance staff, which monitors the work in the plant.

The commission's findings indicate, Novak said, that Toledo Edison, on its own initiative, also had decided that a total reinspection was needed.

Some problems the commission uncovered were based on a difference in interpreting design requirements, Novak said, so that what may now appear to be a problem may turn out not to be one at all.

He noted that while the commission was concerned that some separation barriers for electric cables had not been installed, there had been plans for installing them later.

Novak also said that while the installation of some cables did not meet design requirements, this does not necessarily mean the installation was unsafe.

Keepler said that the electrical problem is more significant than another construction problem at Davis-Besse brought to the commission's attention last July.

In that case, a former employe of one of the plant's contractors alleged protective paint had been applied without assurance that it could meet the standards for safety-related work.

Keepler said that this allegation had been "right and meaningful."

But, he said, this does not mean that the paint job was faulty. The paint will be tested to insure it has good adhesiveness and other required features before commercial operation begins.

Toledo Edison officials have questioned whether the quality of the paint was a problem at all, but have agreed that the proper procedures were not followed.

Keepler said the paint and electrical problems are alike in that "namely, the contractor failed to do his job and Toledo Edison failed to do their job."

It is unrealistic to expect that isolated problems like the paint job would not crop up during construction of such a complex technological facility as a nuclear power plant, Keepler said.

"The important thing is that there is a system for preventing recurrence and assuring corrective action," he said.

Mr. Speaker, I wish to applaud Mr. Keepler and his staff for their vigilance, and to urge more stringent inspections of this plant, the projected Perry nuclear complex and all nuclear powerplants under construction. I also wish to express my complete agreement with the editorial comments of the Cleveland Plain Dealer on July 15, 1975, that our nuclear powerplants must be no less than 100 percent safe. The text of this editorial follows.

FOR 100 PERCENT SAFE NUCLEAR PLANT

A team of federal nuclear inspectors pulled a surprise inspection at the Davis-Besse nuclear power station near Port Clinton. That team found just about half the safety cables it examined to be damaged or incorrectly installed.

We find that profoundly disturbing. It is nearly unbelievable that any part of a nuclear power plant should be put together any way except perfectly.

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