

ments. The first is the novel finding that the National Environmental Policy Act (NEPA) covers psychological health. Apparently no high court has accepted this proposition before. Second, the majority gave a very broad definition of the kind of "federal action" that might trigger the need for an environmental impact statement. In essence the court said that any federal regulatory function may be construed as a federal action under NEPA. Once an initial impact statement has been filed, however, there is no need to file a supplemental one unless (i) there is a substantial change in policy affecting the environment, or (ii) significant new information or new circumstances bearing on the environment come to light.

The majority found that the NRC took an "unpersuasive" stance in arguing that psychological impacts, no matter how severe, are beyond the scope of environmental law. This "ignores the simple fact that effects on psychological health are effects on the health of human beings," the judges wrote. "We conclude that in the context of NEPA, health encompasses psychological health."

The court insisted, however, that there is a difference between true psychological stress of the kind found near Three Mile Island, and the commonplace

"socioeconomic anxieties" that are not to be included under NEPA. Common dissatisfactions arise, the court noted, when a federal housing project for the poor is located in a middle-income neighborhood. The court did not explain how to distinguish low-grade anxiety from real stress, except to say that true stress definitely includes "post-traumatic anxieties, accompanied by physical effects and caused by fears of recurring catastrophe." The latter were found at Three Mile Island.

In conclusion, the court asked the NRC to review data on the psychological impact of restarting TMI-1 and then to decide whether there is anything significant enough to warrant the writing of a new impact statement. If the NRC decides not to write a new statement, the court wants to know its reasons. Finally, if a new statement is written, the court wants the NRC to include a discussion of the socioeconomic impacts of restarting the TMI-1 reactor.

Judge Wilkey found all of this "extraordinary . . . unwarranted, unprecedented, and inconsistent with relevant decisions in this and other circuits." He argued with italic emphasis that the court's action will "institutionalize a fear of taking risks at all," leading to economic paralysis:

Instead of being required to assess *the risk* of a proposed activity in determining whether the activity should go forward, the agency is now required to assess *how people perceive and react to the risk*. . . . To the extent any consistent standard can be derived from the majority's analysis, what appears is a *standard which will depend largely on how much fear is worked up, from whatever source, rather than how serious the danger actually is*.

Wilkey also found the majority "calculus" in assuming that fears associated with nuclear power are more significant than fears associated with a public housing or prison construction project. "The assertion that mere 'anxieties' about nearby matters other than nuclear power are not effects on psychological health is entirely unsupported and, I submit, obviously unsupportable," he wrote.

Neither the NRC nor the utility will comment publicly on the strategy they intend to follow in responding to the court's judgment. Metropolitan Edison, owner of TMI-1, has indicated that it will file an appeal of some sort. Meanwhile, it has filed a motion with the NRC urging the agency to rush its study of psychological stress to completion by June. The litigants have 45 days from the judgment to file for a full appeals court review, and 90 days to file for certiorare before the Supreme Court.—ELIOT MARSHALL

The Mysterious Chinese Luggage Incident

Was it a random search and seizure or something else?

On 6 May, five Chinese scholars and students awaiting the takeoff of a flight from New York to Beijing were summoned from their seats and informed that U.S. customs agents had decided to confiscate suspicious-looking items in their luggage. The students had been studying engineering at the University of Michigan and Michigan State University, and the items included articles from scientific journals, classroom notebooks, thesis and lecture materials, slides, innocuous computer software, and tapes of rock music.

Although the material has now been returned, the incident has created a stir at the universities involved and among groups that foster academic cooperation between the United States and the People's Republic of China. The Chinese have made an official diplomatic protest,

primarily because the luggage of some visiting Chinese diplomats was inadvertently included with that of the students and subjected to the search. Although the U.S. State Department has made an apology and considers the matter closed, the events leading to the search remain obscured by a tangle of conflicting evidence and disingenuous bureaucratic statements.

No one, in fact, really wants to say much about it, other than the Chinese government and several faculty members that supervised the students. They agree that none of the Chinese was studying anything classified, directly related to military technology, or threatening to U.S. security—the major targets of restrictions on U.S. exports. One was studying soil dynamics; another was studying solid-state circuitry; a third,

electromagnetics; and a fourth, computer simulations. "As far as we know, everything was public information," says Li Jia Zhao, an educational official at the Chinese embassy in Washington, D.C. George Haddad, chairman of the electrical engineering department at the University of Michigan, where two of the students are just beginning their thesis work, says that he can see no reason for the search. Robert Howe, chairman of the university's department of aerospace engineering, where a Chinese scholar was at work, says that the government's action was "absolutely unbelievable. I can't imagine how they could be suspect. Anything discussed was available in the open literature." Howe says that although he himself had served on Defense Department panels, little work connected with the military is actu-

ally conducted at the university, and none of the Chinese scholars had any access to it.

The accuracy of this assessment seems to be demonstrated by the recent return of the seized material, after a thorough examination by the U.S. Commerce Department in Washington. But it remains unclear why the government became concerned about such an inoffensive group. The official State Department explanation is contradicted by information from faculty members and by officials from other agencies, leaving the possibility that it was simply an amazing blunder, or that there is more here than anyone is willing to say.

The importance of the affair lies in the implications it may have for academic exchange programs. William Carey, executive director of the American Association for the Advancement of Science, recently wrote to Attorney General William French Smith, noting that "the prospects for continued formal and informal scientific exchanges are very poor indeed" if Chinese academic visitors cannot be assured immunity from arbitrary search and surveillance. A committee of the National Academy of Sciences has also taken an interest in the affair.

The State Department's defense of the incident is that it was indeed arbitrary. Thomas Shoemith, the deputy assistant secretary of state for East Asian and Pacific Affairs, told *Science* that it was merely routine—"a random examination of the baggage of some of the people on the plane. Although most baggage is not examined before people leave the country, it happens from time to time, and this was one of those times." Shoemith was alerted to the incident when the Chinese government lodged official protests with the U.S. government. Some of the luggage searched by customs agents belonged to five Chinese diplomats attending meetings in New York related to Law of the Sea negotiations. Although the belongings of the visiting scholars are not immune from inspection, those of the diplomats are traditionally considered exempt. Shoemith says the inclusion of these bags in the review was a "bad accident, which we regretted." He offers no apologies to the students, however. "I would hope it would have no effect on the exchange programs," he adds.

The same official explanation is offered by the U.S. Commerce Department. Bohdan Denysyk, the deputy assistant secretary for trade administration, says that "to the best of my knowledge it was part of a routine, random search," a part of the government's new program entitled Operation Exodus. Ac-

cording to a spokesman for the Customs Service in New York, the program is intended to ferret out "high technology information leaving the country" through more aggressive search and seizure at points of embarkation.

This explanation has, by and large, been accepted at the University of Michigan. Michael Oksenberg, a scholar there who coordinates the Chinese exchange program, says that "I am convinced after a number of inquiries that the action

operation came out of Manhattan," an agent says. Herbert Richardson, a special agent supervisor in the FBI's Manhattan office, says that if anyone would know about it, he would, as he specializes in East Asian affairs. He is not talking, however. "There is no information concerning the search of luggage on May 6, if indeed such an operation did exist," he says. An FBI spokesman will say only that he cannot comment because "the case is still pending." Shoes-

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was not directed against Chinese, the carrier involved [China's national airline], or the University of Michigan." He says that he was told it had happened before, to other groups, and even volunteered that "every government has the right to ensure that its laws are obeyed by those leaving the country." University administrators are not as voluble. Harold T. Shapiro, the university president, issued a statement through his public relations office, stating that "the University of Michigan has no formal comment at this time" on the incident. Roderick Daane, the university's general counsel, told *Science* that "the less attention that is paid to this affair, the more likely we are to reach an accommodation with the various government agencies involved."

It is the involvement in the incident of the Federal Bureau of Investigation (FBI) that ultimately undercuts the official government explanation. A visiting scholar on the departing flight, Yiping Chen, wrote a letter to a colleague at the university in which she described the search and seizure. She said that one of the persons standing around in the airport terminal had identified himself as an agent of the FBI, Hector Berrios, who works out of the Manhattan office. Daane, the university counsel, acknowledges that the local Ann Arbor, Michigan, office of the FBI was the first to inform the school that the luggage had been examined. An employee of the school says that the FBI had previously visited the campus, asking about books that the visiting students had examined.

Other than this, no one wants to say much. Calls to the FBI office at John F. Kennedy International Airport in Queens are directed elsewhere. "That

mith at the State Department says that he does not know anything about FBI involvement, and Denysyk in the Commerce Department says that he "can't comment on why the FBI was involved in this case."

According to several government officials, the FBI is not usually a witness to random or routine luggage searches by customs agents at airports. Given the assurances of professors that nothing the students saw or learned had any national security implications, the affair would appear at least to be a case of overzealous police enforcement.

One danger of such blundering is the impact it can have on universities that host foreign students in the United States. According to several sources at the University of Michigan, the administration was reluctant to talk about the incident for fear that some heinous technology leak had indeed occurred, despite abundant information to the contrary. The administration may also have wanted to avoid antagonizing the agencies involved in enforcing the export laws, in order to prevent such incidents from arising at Michigan in the future.

Faculty members acquainted with the students object to the notion that they might be expected to police the activities of foreigners. James Duderstadt, dean of the college of engineering at the University of Michigan, says that "if the government doesn't want these people exposed to this information, then it shouldn't let them in." Robert Howe adds that "the whole idea of having the students here is to exchange information." The conflict between this goal and that of protecting American know-how is becoming more intense.

—R. JEFFREY SMITH