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Northern Ireland: Fair Employment and the MacBride Principles

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NORTHERN IRELAND: FAIR EMPLOYMENT AND THE MACBRIDE PRINCIPLES

SUMMARY

The conflict in Northern Ireland reflects a struggle between different national, cultural and religious identities. Many observers have identified economic development as key to fostering a lasting peace there. All major social and economic indicators show that Roman Catholics in Northern Ireland, representing roughly 42% of the population, are more disadvantaged than Protestants, comprising 56% of the population. The most persistent area of inequality has been unemployment. The differential in unemployment rates has marginally declined since 1971, but Catholics still experience rates of unemployment roughly twice as high as Protestants.

The British government has taken measures to try to rid Northern Ireland of discrimination in the employment area. Through the Fair Employment Act of 1989 (NI), it considerably strengthened legislation originally passed in 1976, giving Northern Ireland the toughest anti-discrimination legislation in Europe. The Standing Advisory Commission on Human Rights is engaged currently in a comprehensive review of that legislation and all relevant government policies. The British government sees inward investment and the creation of employment opportunities, linked to its fair employment legislation, as the best antidotes to the disproportionately high levels of Catholic unemployment.

Some observers reproach Britain for what they see as only limited measures to tackle the problem of fair employment practices. These critics call for the implementation of the MacBride Principles, a set of nine equal opportunity/affirmative action principles intended to promote employment options for members of underrepresented religious groups in Northern Ireland. Legislation has been introduced in Congress relating to the MacBride Principles. The American Overseas Interests Act (H.R. 1561 -- which authorizes appropriations for foreign assistance programs, including the International Fund for Ireland) conditioned receipt of U.S. contributions to the Fund on compliance with modified MacBride Principles. The legislation was approved by the House on March 12, 1996, and by the Senate on March 28, but President Clinton vetoed the bill on grounds not related to Ireland on April 12; an override vote is expected in late April but appears unlikely to succeed, according to various sources.

TABLE OF CONTENTS

INTRODUCTION	1
FAIR EMPLOYMENT	1
LEGISLATION	3
EMPLOYMENT EQUALITY REVIEW	4
THE MACBRIDE PRINCIPLES	4
THE MACBRIDE CAMPAIGN	6
REACTION TO THE MACBRIDE PRINCIPLES AND CAMPAIGN	6
THE MACBRIDE PRINCIPLES AND THE INTERNATIONAL FUND FOR IRELAND	8
FAIR EMPLOYMENT: PERSPECTIVE OF THE CHURCHES	10
LEGISLATION	10
CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS	10

NORTHERN IRELAND: FAIR EMPLOYMENT AND THE MACBRIDE PRINCIPLES

INTRODUCTION

Successive U.S. Administrations and the U.S. Congress have seen economic development as key to fostering peace in Northern Ireland. Support for the paramilitaries (Catholic and Protestant terrorist groups) is strongest in the communities suffering the highest level of unemployment and economic deprivation; thus, many see the creation of jobs and economic opportunity as on par with working out a political solution to the conflict in Northern Ireland. All major social and economic indicators show that Roman Catholics in Northern Ireland, representing roughly 42% of the population, are more disadvantaged than Protestants, comprising 56% of the population. The most persistent area of inequality has been unemployment. The British government sees inward investment and the creation of employment opportunities, linked to its fair employment legislation, as the best antidotes to Catholic unemployment. Others believe implementation of the MacBride Principles, relating to equal opportunity and affirmative action, would provide an important remedy.¹

FAIR EMPLOYMENT

The issue of fair employment has many facets, including the incidence of unemployment, and the composition of the work force in both the public and private sectors. High unemployment has been a long-standing grievance of the Catholic community in Northern Ireland. The differential in unemployment rates has marginally declined since 1971, but Catholics still experience rates of unemployment roughly twice as high as Protestants.² Among women, Catholics in 1991 were 1.8 times as likely as Protestants to be unemployed. Among men, Catholics in 1991 were 2.2 times as likely as Protestants to be unemployed. The unemployment rate of Northern Irish Catholic males (28.4%) in 1991 was over twice that of Protestant males (12.7%) and Catholics are more likely than Protestants to experience long-term unemployment.

¹ For background on issues related to Northern Ireland, see U.S. Library of Congress, CRS, *Northern Ireland: The Peace Process*, by Karen Donfried, CRS Issue Brief 94025, updated regularly.

² The figures used in this section date from 1991, because the most up-to-date, comprehensive, and reliable data base is the 1991 Census of Population for Northern Ireland.

Turning to the composition of the work force, the issue of fair participation continues to be sensitive one for Catholics. On the one hand, gains have been made in achieving greater balance in the work force. On the other hand, Catholics continue to be underrepresented in specific, important areas. In comparison with Catholic men, the 1991 Census of Population for Northern Ireland showed that Protestant men were overrepresented in security, managerial, administrative, and skilled engineering occupations. Catholic men were overrepresented in skilled construction trades and manual categories.

In late March 1996, the Fair Employment Commission (FEC), which monitors the composition of the work force in Northern Ireland, released its annual report for 1995. The report shows that the Catholic share of the work force increased by 2.7% to 37.6%.³ The Catholic proportion of the economically active population is around 40%, and has been increasing for at least the past 15 years, which means that the target for fair participation of Catholics in the work force is not fixed, but is rather growing over time.⁴ In commenting on the monitoring report for 1995, the FEC's chairman, Bob Cooper, expressed particular satisfaction with the increase in Catholic representation in professional, administrative and managerial posts, with Catholics representing 39.6% of people in professional occupations.

In Northern Ireland, the public sector employs nearly 40% of the work force. The significant contraction in Northern Ireland's industrial base over the past 25 years has contributed to the public sector's domination of the local economy. At the end of 1995, Catholics comprised 42.6% of public sector employees, excluding security-related occupations.

In the security-related occupations, which include the army, police force, fire service, prison guards and security guards, Protestant men made up 64.3% of the work force in 1991 and Catholic men, 35.7%. In the case of the police force, the Royal Ulster Constabulary (RUC), the imbalance is particularly dramatic: Protestant men comprised 94.7% of the force in 1991; Catholic men, 5.4%.⁵ Catholics have not joined the force for many deep-seated reasons. For one, Catholic nationalists (who favor a united Ireland) harbor reservations about

³ Martina Purdy, "More Catholics getting jobs," *Belfast Telegraph*, March 28, 1996.

⁴ R.J. Cormack, A.M. Gallagher, and R.D. Osborne, "Fair Enough?," Belfast: Fair Employment Commission for Northern Ireland, June 1993; A.M. Gallagher, R.D. Osborne, and R.J. Cormack, "Fair Shares? Employment, Unemployment and Economic Status," Fair Employment Commission for Northern Ireland, reprinted March 1995. The Department of Employment has stated that the employment differential results from a complex mix of factors, not just discrimination; other factors include "the mismatch between areas where a Catholic population is concentrated and available job opportunities; differences in skills and qualifications between the two communities..." (Rachel Noeman, "N. Ireland Catholics still suffer jobs inequality," Reuters, Oct. 18, 1995).

⁵ Gallagher, Osborne, and Cormack, "Fair Shares?," table 3.4, p. 30.

joining a police force with a unionist ethos -- the very name of the force is anathema to them. For another, the IRA is reportedly known to target Catholic members of the force and their families. However, in a recruitment campaign for the RUC following the August 1994 IRA cease-fire, the number of applications from Catholics jumped to 21.5%.⁶

Finally, concerning balance in the public sector's work force, there is a serious underrepresentation of Catholics in the senior ranks of the public service, and in the technical and scientific sections of government employment.

In the private sector, the primary area of Catholic underrepresentation is in large companies, but 40% of their recruits are now Catholic, according to the Fair Employment Commission. In U.S.-owned firms operating in Northern Ireland, Catholics account for nearly 44% of employment.⁷

For Catholics in Northern Ireland, while progress is evident, fair participation has not been achieved. One study concluded that

the two most striking differentials between Protestant and Catholic profiles are the substantially higher experience of Catholic unemployment and the domination of Protestants in security occupations. As government seeks to assess the impact of its fair employment policies, there is some evidence that significant change in the labor market is starting to occur. On the other hand, the stubborn nature and scale of the unemployment differential will be an important factor shaping the consideration of fair employment and other policy options.⁸

LEGISLATION

The British government, through the Fair Employment Act of 1989 (Northern Ireland), considerably strengthened legislation originally passed in 1976, giving Northern Ireland the toughest anti-discrimination legislation in Europe. The 1989 Act established a Fair Employment Commission to work toward achieving equality of opportunity in employment in Northern Ireland between persons of different religious beliefs and to eliminate unlawful religious and political discrimination in employment. It also established the Fair Employment Tribunal which hears individual cases of alleged religious and political discrimination. Among its provisions, the 1989 Act stipulated that

⁶ Noeman, "N. Ireland Catholics,"; William Montalbano, "Police Walk a Fine Line in Belfast," *Los Angeles Times*, March 22, 1996, pp. A1, A3; Adrian Guelke, "Policing in Northern Ireland," in Brigid Hadfield, ed., *Northern Ireland: Politics and the Constitution*, Buckingham: Open University Press, 1992, pp. 94-109.

⁷ Northern Ireland Information Service, Belfast, November 1995.

⁸ "Fair Shares," pp. 10, 84.

employers must take affirmative action by adopting practices to encourage the fair participation of both religious communities and by modifying or abandoning practices that restrict or discourage fair participation. Further, while direct discrimination had been outlawed in 1976, the 1989 act also outlaws indirect discrimination; specifically, job selection requirements or conditions which have a disparate or adverse impact on one group, even if applied equally, were made illegal. Under the Act, all private sector employers with over ten employees must register with the Commission; all public authority employers, regardless of size, are registered. Employers must then submit annual returns on the religious composition of their work force. They must review their recruitment, training and promotion practices once every three years, at the least, and take corrective action if these are shown to be either directly or indirectly discriminatory. Failure to comply with these obligations constitutes a criminal offense. The Commission publishes detailed monitoring information on all registered firms with over 25 employees.

EMPLOYMENT EQUALITY REVIEW

In November 1994, the Secretary of State for Northern Ireland, Sir Patrick Mayhew, invited the Standing Advisory Commission on Human Rights (SACHR) to undertake a comprehensive review of fair employment legislation and relevant government policies. SACHR is a statutory body which provides the British government with independent advice on matters affecting human rights and discrimination in Northern Ireland. In reviewing employment equality, SACHR will judge the effectiveness of the legislation and other government initiatives, and will present detailed recommendations to Secretary of State Mayhew in a report scheduled to be completed in the fall of 1996. SACHR has tried to conduct the review in "as open, accessible and objective a manner as possible"; public participation has been encouraged, and the Commission has received submissions from a wide range of sources.

THE MACBRIDE PRINCIPLES

The MacBride Principles are a set of nine equal opportunity/affirmative action principles, intended to promote employment options for members of underrepresented religious groups in Northern Ireland. The Principles were announced simultaneously in the United States and Northern Ireland in November 1984. Since early 1985, U.S. companies with plants in Northern Ireland have been under pressure to adopt them.

Fashioned loosely after the Sullivan Principles, aimed against the system of apartheid in South Africa, the MacBride Principles were named after Sean MacBride, who died in 1988 after a distinguished career as Irish politician, jurist, diplomat, co-founder of Amnesty International, and Nobel Prize winner. Among other provisions, the Principles call for provocative religious or political emblems to be banned from the workplace; for all job openings to be publicly advertised with special recruitment efforts to attract applicants from

underrepresented groups; and for adequate security at the workplace. The Principles were essentially drafted by the Office of the Comptroller of New York City; the Washington-based Irish National Caucus also played a large role in their creation.⁹

The MacBride Principles for Northern Ireland

[signed by Sean MacBride, Dr. John Robb, Inez McCormack, and Father Brian Brady]

In light of decreasing employment opportunities in Northern Ireland and on a global scale, and in order to guarantee equal access to regional employment the undersigned propose the following equal opportunity/affirmative action principles:

1. Increasing the representation of individuals from under-represented religious groups in the workforce including managerial, supervisory, administrative, clerical and technical jobs.
2. Adequate security for the protection of minority employees both at the workplace and while travelling to and from work.
3. The banning of provocative religious or political emblems from the workplace.
4. All job openings should be publicly advertised and special recruitment efforts should be made to attract applicants from under-represented religious groups.
5. Layoff, recall, and termination procedures should not in practice favour particular religious groupings.
6. The abolition of job reservations, apprenticeship restrictions, and differential employment criteria, which discriminate on the basis of religion or ethnic origin.
7. The development of training programs that will prepare substantial numbers of current minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.
8. The establishment of procedures to assess, identify, and actively recruit minority employees with potential for further advancement.
9. The appointment of a senior management staff member to oversee the company's affirmative action efforts and the setting up of timetables to carry out affirmative action principles.

⁹ See U.S. Congress, House of Representatives, Committee on International Relations, Hearing, U.S. Economic Role in the Peace Process in Northern Ireland, March 15, 1995, Washington: Government Printing Office, 1995.

THE MACBRIDE CAMPAIGN

Supporters of the MacBride Principles have launched a two-pronged campaign. First, they would like to have legislation providing for adherence with the MacBride Principles enacted in the United States at the Federal, State and city level. Sixteen States (Connecticut, Florida, Illinois, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Texas, and Vermont)¹⁰ and over 30 cities have adopted legislation on the MacBride Principles. Originally, the focus of State legislation was on requiring that State funds (in general, pension funds) not be invested in U.S. firms operating in Northern Ireland unless those firms had adopted the MacBride Principles. More recently, the emphasis has turned to laws making a firm's implementation of the MacBride Principles a condition of State or local contract eligibility. The State of New York and several cities, including New York, Chicago, and Cleveland, have passed such contract compliance legislation.

Up to this point, no U.S. company operating in Northern Ireland has adopted the MacBride Principles. Instead, about 25 U.S. companies have come to an agreement with the New York City Comptroller's office, whereby they will "make lawful efforts to implement the fair employment standards embodied in the MacBride Principles."¹¹ Roughly 50 U.S. companies employ over 9,000 people (roughly 9% of the total manufacturing work force) in Northern Ireland. Supporters of the MacBride Campaign believe that their efforts were instrumental in bringing about British passage of the Fair Employment (Northern Ireland) Act of 1989.

REACTION TO THE MACBRIDE PRINCIPLES AND CAMPAIGN

The U.K. government believes that the Principles in themselves are "largely unobjectionable." However, it argues they do not make good law because they are too vague and that the much more detailed fair employment legislation has driven through important change in the workplace. British officials maintain that the MacBride campaign represents a "hassle" factor which has in certain instances harmed employment opportunities by driving away foreign investment critical to creating new jobs. They claim two examples: (1) a major U.S. engineering company, TRW Inc., sold its Northern Irish subsidiary in 1988 due

¹⁰ The British government does not consider Texas to have adopted MacBride legislation; others, such as the Investor Responsibility Research Center in Washington, DC and the Office of the Comptroller of the State of New York, do.

¹¹ For more details, see Heidi Welsh, "A Guide to U.S. Laws and Legislation In Support of the MacBride Principles," Washington: Investor Responsibility Research Center (IRRC), Jan. 1992; Alan Hevesi, "The MacBride Principles and fair employment practices in Northern Ireland," New York: Office of the Comptroller, Dec. 1994, in House Committee on International Relations, Hearing, U.S. Economic Role in the Peace Process in Northern Ireland, Mar. 15, 1995, pp. 159-81.

to pressure from the MacBride campaign, and (2) another, unidentified company decided against an equity investment in Northern Ireland based on the MacBride issue.¹² Others dispute these claims, arguing that evidence of decreased U.S. investment is lacking and emphasizing that in the 10 years of the campaign, net U.S. investment in Northern Ireland has increased significantly.¹³

The unionist parties in Northern Ireland, which are determined to have Northern Ireland remain part of the United Kingdom, strongly oppose both the MacBride Principles and the campaign. The Social Democratic and Labour Party, which represents the majority of the Catholic population and supports a united Ireland, has a more nuanced position, in that it does not oppose the MacBride Principles *per se*, but is anxious that the campaign for their implementation in no way discourage investment in Northern Ireland. Sinn Fein, the political wing of the Provisional Irish Republican Army, is the only Northern Ireland party that unequivocally supports both the principles and the campaign.

The Irish government sees nothing objectionable in the MacBride Principles and shares the main objectives of the Principles, namely the elimination of discrimination in employment. However, the Irish government believes that the primary focus of anti-discrimination measures must be on strong and enforceable legislation within Northern Ireland. Under the Anglo-Irish Agreement (which gives the Irish government the right to put forward views and proposals on matters relating to Northern Ireland), the Irish government has maintained an ongoing dialogue with the British government on matters relating to fair employment in Northern Ireland.

As a presidential candidate, Bill Clinton endorsed the MacBride Principles and reportedly even denied that their implementation would deter investment. As President, however, his Administration has taken a more nuanced stance. In testifying on behalf of the Clinton Administration before the House International Relations Committee on March 15, 1995, former Assistant Secretary of State for European Affairs Richard Holbrooke described the Administration's position on the MacBride Principles:

The principles themselves are highly commendable and we support them fully. To put them into specific legislation could have an inhibiting effect on the goal we seek. And, therefore, while supporting the principles, we have reserved a strong and formal

¹² Northern Ireland: The MacBride Principles Campaign, Northern Ireland Brief, U.K. Government, Jan. 1993; Northern Ireland: Key Facts, Figures, Themes, June 1993, pp. 49-50.

¹³ Statement of the Honorable Alan G. Hevesi, Comptroller, City of New York, in House of Representatives, Committee on International Relations, Hearing, U.S. Economic Role in the Peace Process in Northern Ireland, March 15, 1995, p. 44; see also Kenneth A. Bertsch, *The MacBride Principles and U.S. Companies in Northern Ireland 1991*, Washington, DC: IRRIC, 1991, pp. 71, 74.

position because we do not want to create problems for the very investment that could lead to an improvement of the standard of living of the Catholic portion of Northern Ireland.¹⁴

The Administration offered no evidence of disinvestment that had resulted from the MacBride Campaign, but, in a written response to questions from the House International Relations Committee, the State Department maintained that the "question that should be asked is how many U.S. companies who might otherwise have invested in Northern Ireland as a base for European operations may have been influenced by MacBride legislation to choose another European location. We have no figures on this possible loss of investment."¹⁵

THE MACBRIDE PRINCIPLES AND THE INTERNATIONAL FUND FOR IRELAND

The International Fund for Ireland (IFI) is the conduit through which the United States provides assistance to Northern Ireland and the Republic of Ireland. It was created in September 1986 by the British and Irish governments, based on objectives stated in the Anglo-Irish Agreement of 1985; other donors include the European Union, Canada, New Zealand, and Australia. The Fund supports economic and social development projects in the areas most affected by the civil unrest in the North, with roughly 75% of the Fund's resources spent in Northern Ireland and the remainder in border areas of the Republic. Of the money allocated for Northern Ireland, roughly 70% is spent in the most disadvantaged areas. Many of the Fund's projects are focussed on areas suffering from high unemployment, outward migration of young people, lack of facilities, and little private sector investment. The IFI provides seed funding to stimulate private and public sector investment in those areas. The Fund also seeks to "encourage contact, dialogue and reconciliation between nationalists and unionists throughout Ireland." The IFI has assisted roughly 3,100 projects in the areas of tourism, urban development, agriculture and rural development, technology, business and community development. As of September 1994, IFI investment was responsible for the creation of 16,645 direct jobs, together with an additional 7,142 indirect and construction jobs.

The Anglo-Irish Agreement Support Act of September 19, 1986 (P.L. 99-415) authorized U.S. contributions to the Fund. The United States is a major donor, and has requested that its contribution be used primarily to stimulate private sector investment and job creation. On July 11, 1995, the House of Representatives passed the foreign aid appropriations bill (H.R. 1868), which designated \$19.6 million for the IFI for FY 1996 and thus rejected the Administration's request for an increase to \$29.6 million. The Senate bill, passed on September 21, included no IFI funding. House and Senate conferees decided in late October to appropriate up to \$19.6 million for the IFI as

¹⁴ HIRC Hearing, U.S. Economic Role, p. 28.

¹⁵ HIRC Hearing, U.S. Economic Role, p. 96, see also pp. 94-5.

proposed by the House. The conferees "strongly" encouraged the IFI "to take every step possible to ensure that all recipients of Fund support are promoting equality of opportunity and non-discrimination in employment." The foreign aid appropriations bill for FY1996 was enacted into law on February 12, 1996 (P.L. 104-107).

House and Senate conferees considering the American Overseas Interests Act (H.R. 1561 -- which authorizes appropriations for foreign assistance programs, including the IFI) decided on March 7, 1996 to authorize \$19.6 million for the IFI for FY 1996 and 1997. According to the conference report (104-478), filed on March 8, recipients of U.S. contributions to the Fund, for the first time, need to "employ practices consistent with the principles of economic justice." This condition had been included in the foreign aid authorization bill which the House had passed on June 8, 1995. The principles of economic justice relate to fair employment and are based on the MacBride Principles. They read as follows:

1. Increasing the representation of individuals from underrepresented religious groups in the workforce, including managerial, supervisory administrative, clerical, and technical jobs,
2. Providing adequate security for the protection of minority employees at the workplace,
3. Banning provocative sectarian or political emblems from the workplace,
4. Providing that all job openings be advertised publicly and providing that special recruitment efforts be made to attract applicants from underrepresented religious groups,
5. Providing that layoff, recall, and termination procedures do not favor a particular religious group.
6. Abolishing job reservations, apprenticeship restrictions, and differential employment criteria which discriminate on the basis of religion,
7. Providing for the development of training programs that will prepare substantial numbers of minority employees for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees,
8. Establishing procedures to assess, identify, and actively recruit minority employees with the potential for further advancement, and
9. Providing for the appointment of a senior management staff member to be responsible for the employment efforts of the entity and, within a reasonable period of time, the implementation of the principles described above.

The bill also states that U.S. IFI funds should be directed to areas with higher than average unemployment rates. The House agreed to the conference report on March 12, 1996; the Senate on March 28. President Clinton vetoed the bill on April 12 because of unrelated controversial provisions; an override vote is

expected during the week of April 22, but, according to various reports, Congress is unlikely to succeed in overriding the presidential veto.

FAIR EMPLOYMENT: PERSPECTIVE OF THE CHURCHES

In January 1994, officials of Ireland's four largest churches issued "A Call for Fair Employment and Investment in Northern Ireland." It has been described as a significant step forward in developing common ground across religious lines. The statement calls for new economic investment and enforcement of workplace anti-discrimination legislation in Northern Ireland. A particular appeal is made for increased investment by U.S. companies, because "new jobs, fairly distributed,...are a source of cooperation between communities." One element of the call concerns the importance of constructive American involvement and notes that the MacBride Principles "should not be used to discourage investment or encourage disinvestment." The British, Irish, and U.S. governments endorsed the call; in the United States, groups including the AFL-CIO and the Ancient Order of Hibernians in America welcomed it.

LEGISLATION

H.R. 244 (Engel)

Requires certain entities receiving United States funds from the International Fund for Ireland to comply with the MacBride Principles. Introduced January 4, 1995.

H.R. 470 (Gilman)

Provides for adherence with the MacBride Principles by U.S. persons doing business in Northern Ireland. Introduced January 11, 1995.

H.R. 1561 (Gilman)/Conference Report 104-478

Authorizes appropriations for foreign assistance programs, including \$19,600,000 for FY1996 and FY1997 for the IFI. Conditions receipt of U.S. funds from IFI on compliance with "principles of economic justice." Conference Report filed March 8, 1996; agreed to by House on March 12, by Senate on March 28; vetoed by President Clinton on April 12.

S. 424 (D'Amato)

Provides for adherence with MacBride Principles by U.S. persons doing business in Northern Ireland. Introduced February 15, 1995.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress. House of Representatives. Committee on International Relations. Hearing, U.S. Economic Role in the Peace Process in Northern Ireland. March 15, 1995. Washington: Government Printing Office, 1995.

U.S. Congress. House of Representatives. Committee on International Relations. Report 104-128, American Overseas Interests Act of 1995. May 19, 1995. Washington: Government Printing Office, 1995.

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