

PROCEEDINGS OF THE COMMITTEE - TRANSCRIPTS
(processed) - Meetings at the Statler Hotel,
Washington, D. C. - Sept. 12-13, 1947

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Friday, September 12, 1947

8/5/59 JWF
Date Initial

The President's Committee on Civil Rights,
Washington, D.C.

The Committee met, pursuant to notice, at 9:45 o'clock a.m., in Private Dining Room 5, Mezzanine Floor, Statler Hotel, Mr. Charles E. Wilson, Chairman, presiding.

Present: Mr. Charles E. Wilson, Chairman; Mr. Charles Luckman; Mr. Francis P. Matthews; Dr. Frank P. Graham; Mrs. Sadie T. Alexander; Mrs. M. E. Tilly; Mr. Morris L. Ernst; Mr. Channing H. Tobias; Dr. John S. Dickey; Bishop Henry Knox Sherrill; Mr. James B. Carey; Mr. Boris Shishkin, and Mr. Franklin D. Roosevelt, Jr.

Also present: Dr. Robert K. Carr; Mrs. Rachel Sady; Mr. Milton Stewart; Mrs. Nancy Wechsler; Miss Frances Williams; Mrs. Ann Sudwarth; Mr. Jack Durham; Mr. Richard A. Whiting; Mr. Herbert Kaufman; Mrs. Merle Huntington, and Mrs. Ellen Ardinger.

MR. WILSON: Before we proceed with the agenda, I certainly feel it is in order that we compliment and pay our respects to Mr. Carr and the staff for the tremendous job they have done for us since the Hanover meeting. That we have the report in the shape it is in this morning is due to the truly magnificent job which they have done. I want to pay my respects and give the thanks of the Committee to them, and I hope you all subscribe to that.

MRS. ALEXANDER: We heartily subscribe, I am sure.

MR. WILSON: I think it is a magnificent job.

Now I think we ought to get down to the report itself. Let's proceed as fast as we intelligently can. We have a couple of special considerations on it that Mr. Carr will outline to you before we get under way with it.

DR. CARR: I don't know quite how you want to proceed. You may want to go through the thing galley by galley; and also, before you do that or after you do that, talk about certain over-all considerations. There are two memoranda here which indicate suggested changes.

These reflect suggested changes that have come in from a variety of sources. The members of the staff have been engaged in a more or less continuous process of going through the report with a fine-tooth

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comb. Every time we do it, we come up with things that we think ought to be changed.

We did receive several letters from members of the Committee and I have incorporated as many of these suggestions here as I could. One or two of the letters arrived only yesterday, so that the suggestions will have to be presented separately. I also have a long memorandum from Rabbi Gittelsohn, and I thought if you did want to go through the report galley by galley, as you reached each point where he has a suggestion I would try to bring it to your attention.

We have submitted these suggestions in two memoranda because I felt that you wouldn't want to spend too much time on minor, stylistic changes. This longer one includes a great many changes which I think probably can be regarded as non-controversial. However, you may, sometime during the two-day period, want to run through this list individually, check it against the galleys, and if there are any changes that you don't like or feel ought to be discussed, they can be raised.

The other list contains changes that are more important; at some points they are matters of policy which ought to be passed upon by the Committee.

MR. WILSON: Now, let's see how you want to handle this. Would you regard it as desirable to start in on a reading of the whole report and then stopping?

MR. ERNST: Mr. Chairman, I think you ought to find out if everybody has read it. I think there is a presumption in favor of it. If you just turn page after page, you can see if anybody has any comment to make. I see no advantage in reading it aloud, if everybody has really read it and made his own notes.

MR. WILSON: Of course, it all depends on that. If everybody has been over it and has his or her notes, that is one thing. Have you all read it?

(General assent.)

MR. WILSON: That being the case, we will go through it, and as you come to a page where there is a question in your mind, raise it and we will try to resolve it.

MR. ERNST: May I make one other suggestion, Mr. Chairman. I have sent various memoranda to the office and cleared a lot of points I had in mind, most of them minor, with Carr. It seems to

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me, if people raise points, it doesn't mean necessarily that we will have to argue each one of them. Some of them may make an observation, and unless there is a negative comment, we will assume that that will be done. Otherwise, we will waste days arguing over commas.

MR. WILSON: I agree with you. I don't think we want to do that. I think we will quickly find out whether we can overcome that.

DR. CARR: The transcript of the entire proceedings will be kept, of course. We have staff members here, both professional and clerical, and as suggestions are made and agreed upon, if it seems desirable to try to reformulate the text right away, we can put the process in motion.

MR. WILSON: That's it.

DR. CARR: I would hope that by the time the Committee adjourns, we will have something that is agreed upon. It is our hope that it won't be necessary to have another meeting to pass upon the language of the report, because that would upset the schedule rather badly.

MR. WILSON: Well, let's hope that will be the outcome.

All right; shall we take page 1.

DR. CARR: We have proposed here, on the memorandum, inserting a sort of direct salutation to the President. These first two or three galleys, down to the Roman I, "The American Heritage", can be turned into a letter of transmittal, and yet a letter of transmittal that would avoid the rather cold, somewhat forbidding character that many letters of transmittal have.

So we propose taking out the statement, "On December 5, 1946, President Truman made the following statement," and substituting "Mr. President: This is the report which we have prepared in accord", so on and so forth.

Then, an appropriate point at which the members of the Committee might sign their names would be at the bottom of this section on Galley 3.

BISHOP SHERRILL: You mean, leaving out the Executive Order, too?

DR. CARR: No, we immediately quote the President's own statement and his Executive Order; and then this, which is roughly one

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galley, of how the Committee went about interpreting its task, the questions that it finally decided needed to be answered; that sort of thing.

MRS. ALEXANDER: Mr. Carr, may I point out two minor matters. Your first statement, "This is the report which we have prepared in accord" -- it seems to me that that is "in accordance with". You are "in accord" with a certain thing.

May I also raise a point. On page 3, "or ancestry considerations". Isn't it "ancestral"?

MR. LUCKMAN: Mr. Chairman, may I ask if it was generally accepted by the majority of the Committee that we go through the report to determine the basic policy considerations during this first day, and then revert to this other? I am asking so that I may arrange my thinking and my personal notes. I have them two ways, both small and large.

In other words, as Mr. Ernst said, if we are going to go through word by word, I think there is some question whether the hours are long enough that have been assigned to us, because there is still -- at least in my mind -- many basic issues in this report that are not settled.

MR. ERNST: My intention, Mr. Chairman, was to admit among ourselves that you can't have 15 editors of a single document. You will never close it if everybody has his own blue-pencil prejudices for stylistic changes. The thing is to go through with it to see if anybody has any really important suggestions on this first reading. Just say, "Page 1; Page 2" until somebody says, "I think this is important."

MR. WILSON: All right.

MR. ERNST: I would disregard for the moment all the stylistic changes. You will just get off on a tangent; and will never get into the guts of what might be controversial.

MR. WILSON: All right. Let's, for today or until we have gone through and settled the policy questions, forget these minor changes. We ought to give some time to them before we finish, but we can take a few hours on that later.

So Let's stick today to the basic policy considerations and go through on that basis. Then we will get at the others. Don't let's pass them up.

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MRS. ALEXANDER: Then we accept Mr. Carr's suggestion that a letter of transmittal be sent?

MR. WILSON: Be incorporated. Is there any question about that? There being none, we will go on, then. That carries us over to page 2.

BISHOP SHERRILL: This falls rather between both these categories. I have read this. It seems to me that after the constitution of the Commission by Mr. Truman, that long paragraph is somewhat repetitious. At least, certain sentences in "The American Heritage" are repetitious of that long paragraph, and if you read those two sections, you will find this stating a great many things that are later stated.

I wonder if the report wouldn't come with greater authority if you simply had the formal statement in regard to the formation of the Committee; then begin your report without this rather long summary, which is repeated constantly through the report. It just seems to me that it loses interest in its beginning, whereas I think that first sentence in "The American Heritage" does catch people's interest.

MR. WILSON: Let me see if I understand you. You would leave in this paragraph, "The American Heritage"?

BISHOP SHERRILL: Oh, yes.

MR. WILSON: You would leave that but you would eliminate from the previous --

BISHOP SHERRILL: I would combine the two and eliminate the duplications. There are a great many duplications there.

DR. CARR: I think it would be rather unfortunate if you took out all of galley 2. There are some things that aren't duplicated. One of our proposed changes is the elimination of the duplication that does exist on this matter of the good things in the record. The Committee admits that there are many fine things about the record. Our change would get away from the duplication that now exists between the material on galley 2 and the material under "The American Heritage". But there are some other things on galley 2 that I feel quite sure are not in The American Heritage and which would be rather difficult to fit in under that heading.

BISHOP SHERRILL: I would be perfectly willing if we take out the duplication, but it seems to me that it loses in interest by having so many duplications.

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DR. CARR: It can also be said that the material on the first 2-1/2 galleys would, in a way, be set aside at the beginning of the report, and you wouldn't come to your Roman I until you reached "The American Heritage" section; so that it would appear to the reader that the report really begins with "The American Heritage". The other would serve as a sort of introduction or preface.

MR. ERNST: Bishop, your intention, as I take it, is to take out the balance of galley 2 at the top of 3 and put into "The American Heritage" those portions that are not there?

BISHOP SHERRILL: That is what I first suggested. Certainly, I think the duplications ought to come out.

DR. DICKEY: Mr. Chairman, I would like to express a contrary view to Bishop Sherrill's on at least one of the duplications. I think that the change which you suggested for combining the emphasis on the positive is a logical one. But I think that the most dangerous aspect of this report -- which is a very important one in substance -- is that that is going to be lost by readers who get on in the middle of the train or at the rear of the train or don't get on at all except as they look at the opening paragraphs.

As far as I am concerned I am prepared to see duplication confounded in this report on that particular point. I think it ought to be right up in front. It ought to come again when we state The American Heritage, and it had better come back again, through the report.

MR. LUCKMAN: I don't quite understand that, that in this statement we are focusing on the --

DR. DICKEY: On the bad; and this country does have a good record if you are going to look at the history of nations and the history of peoples in their efforts to achieve civil rights.

MR. LUCKMAN: Is it your thought that we should reiterate that there is good?

DR. DICKEY: That is right.

MR. LUCKMAN: I think, Mr. Chairman, that brings up a very basic issue on this first page which I think the Committee should explore, and I am going now beyond what Dr. Dickey said. If I understood him correctly, he is suggesting that we reiterate constantly that there is good. I get the feeling that we may be doing something that is highly dangerous here in that the report is all negative. I don't know that any good in America has ever been

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accomplished by a constant reiteration of the bad, and if carried to the ultimate degree, I think it has a depressing effect upon people. It makes them think that there is so much that is wrong that those problems will never be solved.

I am wondering if we do have a constructive viewpoint here. As I view it, this is somewhat of a departure, really, from what we talked about in our original meetings and which I see, as a result of reading the minutes -- and I did reread them before I came down to this meeting. Many of the members of the Committee expressed themselves to the effect that they thought it would be well to contrast the good with the bad, pointing out case-history examples of where we are succeeding, to show that it is possible to make civil rights work. Then show where there is still a tremendous area which requires constant study, improvement and betterment.

I feel quite concerned about this approach, and I really do not honestly think that the reiteration of the simple statement that there are good things will solve the problem. The first sentence in paragraph 2 on page 2 says: "It is unfortunate but probably true that our report will be misinterpreted as an accurate picture of the state of civil rights in America", and I think that is absolutely right. Therefore, I think that the view or the philosophy of the report is wrong, because I think this sentence is right. I don't think it requires any great imagination on the part of any of us to realize that the foes of civil rights and liberties -- in Russia or in America or any place else -- can simply pick up the President's report and quote from it verbatim, page after page, showing how terrible things are in America and how everybody is being kicked around and nobody is getting a fair deal.

MR. ERNST: May I ask, would you be satisfied if, instead, we would have a paragraph in a prominent place which would indicate various things factually?

MR. LUCKMAN: I would like specific instances. Just as specific on the good as on the bad, showing the people of America that it can and does work as well as that it is working.

DR. GRAHAM: Can't you combine your point with his?

MR. ERNST: I am just trying to find out what he has in mind. I would go for both.

DR. GRAHAM: You don't want the first emphatic replies to this to be materially weaker, taking account of ourselves; and the effect of that would be to weaken our report.

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MR. LUCKMAN: May I just say again -- I am just quoting from the report, on page 3. It would be the first sentence of paragraph 3 under "The American Heritage": "This necessary" -- and I put a question mark over the "necessary" -- "This necessary emphasis upon our failures is bound to obscure the real measure of our success."

I don't see how we can have statements like that in a report and not do something about it. Why do we want to obscure the real measure of our success? Do we not want to point out the fact that there has been progress made in America? Our whole contention is that there has not been sufficient progress, that we can go far beyond where we are today, that there needs to be much more progress.

MR. ERNST: You wouldn't mind adding also that this is one of the few countries left in the world where a committee like this is even free to comment?

MR. LUCKMAN: Certainly; any of that; but in no place in the report do we point out any measures of progress except through a few general statements and sentences.

DR. CARR: I disagree with you on that, Mr. Luckman. We have tried, along the way, to insert a good many of the good things that are happening. We have one whole section called "Signs of Progress", which is a sort of cataloging of good things happening and then, in the longer section that examines the record under various rights we indicate the item-by-item signs of progress.

You have, however, raised a very fundamental point.

MR. ERNST: Where is the section where you have listed them? Can you refer to that quickly?

DR. GRAHAM: It is toward the end.

MR. ERNST: What galley is that?

DR. CARR: Back somewhere at the end of the section on the examination of the record.

MRS. WECHSLER: Galley 33.

DR. DICKEY: "Signs of Progress".

MR. ERNST: Will it satisfy you, Charlie, if that material were put in at the start rather than submerged where it is? Isn't it somewhat a matter of editorial emphasis? There is a lot of material in there.

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DR. GRAHAM: If you put this summary that you spoke of at the front, it would have a very fine educational value.

MR. ERNST: In other words, do you take it that Luckman means a little more -- and I don't want to try to squeeze you on it, Charlie; taking that "Signs of Progress" and inserting that near the start, and adding if anybody has any factual material.

MR. LUCKMAN: I think that would be one thing, yes; but I think our approach all the way through, in each subject, should be the good and the bad.

DR. CARR: I can't help but feel that you are changing signals on us at the end of the undertaking.

MR. ERNST: My suggestion?

DR. CARR: No, Mr. Luckman's suggestion. The staff has certainly gained the impression from the very beginning, and everything you have done implied, that you did not regard your assignment as the preparation of a balance sheet, and I think a careful reading of the President's Executive Order makes it clear that he didn't want you to do that. He says in the Executive Order, finally, "The Committee shall make a report of its studies to the President in writing, and shall in particular make recommendations with respect to the adoption or establishment, by legislation or otherwise, or more adequate and effective means and procedures for the protection of the civil rights of the people of the United States."

So we have tried to make it clear in this introductory section that the Committee did not regard its task as the preparation of a balance sheet but rather as a careful examination of the places where change is needed or further progress is called for.

MRS. ALEXANDER: I want to comment on that. We were not told to go out and find out what good has been done. Our assignment was to find out what had to be done to correct any evils. That is our assignment; and if, incidentally, we can say, "There are good things", it is all right, but we can't have a lengthy report in which we go around the United States and say as to everything good that has been done, because that is not our assignment.

MR. ERNST: Mr. Chairman, this might be a solution of it. We might agree to put that Galley 33 near the front; and then, as we go through, subject by subject, if any member of the Committee feels that there is an example of something good that ought to be inserted, let him mention it. I agree that the human race progresses not only by the whip, but also by hope and by example. I think it is probably a better method of improvement to pat people on the back where

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you can. If anybody has a suggestion that will assert an affirmative good in any section, let's insert it.

MR. LUCKMAN: Mr. Chairman, I would like to say, just for the record, that I can't accept the statement that my suggestions are changing the signals. I think the signals have been changed but not by the statements I have made.

If you will go back and read the minutes of our early meetings -- as I did just before I came down here -- it was clearly stated that one of the worst things we could do would be to submit a negative report. All members of the Committee agreed to that, as was witnessed by the discussion that took place, because everyone participated in that discussion.

MR. TOBIAS: Mr. Chairman, I don't think it is negative; I think it is factual.

MR. LUCKMAN: Just a moment. The subcommittee reports when they were submitted stressed both the good and the bad. It is only now that we get into the final report that we take a position that our objective and assignment is only to study the negative, so I don't think that the signals really are being switched by this discussion.

MR. TOBIAS: What do you mean by negative?

MR. LUCKMAN: Well, I mean a sentence -- and I think the sentence is true -- "This necessary emphasis upon our failures is bound to obscure the real measure of our success." I happen to agree with that statement, Dr. Tobias. I think that this report as it is written will be misconstrued, misinterpreted, deliberately twisted by people who are opposed to civil rights, to show that everything in America is bad.

I think, further than that, that even to the people who are genuinely interested in civil rights, it will be most discouraging. Nowhere is there any encouragement in the report; nowhere is there any positive --

DR. CARR: Mr. Luckman, I certainly would challenge that statement.

MR. LUCKMAN: Perhaps I am carrying it too far. I frequently do when I get involved emotionally in a point; but I am sure there can be no quarrel with my statement that it is a negative report because in several places the report itself says so.

It can't be that I am misinterpreting because I can read you

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eight or ten sentences -- and I have read two -- in which whoever wrote the report said it was a negative report, and we haven't paid any attention to the good that has been done.

MR. TOBIAS: If you mean by that referring to the things that have not been done, in part, it is meant to be negative. We have to do that or there is no purpose for our existence in this Committee.

MR. LUCKMAN: I have no quarrel with you there. I think you are right.

MR. TOBIAS: I am in agreement with the suggestion that this number 33 be brought toward the front, because I think it makes a good point of departure for the thing that we want to say.

DR. GRAHAM: It gives more power to what we are going to say.

MR. TOBIAS: I think also it will avoid some things that are included in this section to which Bishop Sherrill objected. I wouldn't object to it in toto. I agree with Mr. Carr that somewhere you have to state just what you are driving toward in the whole business. There are some statements made which could be deferred until this 33 is brought to the front.

I don't see any particular need, even though we are doing it in the interest of having the document understood, of referring too specifically to the Southern States as the section of the country that presents most of the problem. That may be true but if it is brought out on that very first page in that way, then, in my judgment, it will needlessly bring the fire of people who if they went through with a chapter like this one, 33, would be less offended even though their offense might be indefensible. Still, it will be there and it will be a stumbling block unless this foundation is laid.

DR. GRAHAM: Right in that connection, Mr. Tobias, I suggest on page 2, third from the last paragraph, about the middle of the paragraph, where it says, "Much of it has to do with limitations on civil rights in our Southern States" -- I suggest the inclusion of a sentence just before that: "The report deals with serious violation of civil rights in all sections of the nation", and then say, "Much of it has to do with the South." We don't want to give people the impression that we just picked out the South here for violation of civil rights. We don't do that; therefore, let's don't --

MR. TOBIAS: Don't give the impression.

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DR. GRAHAM: Don't give the impression.

MR. ERNST: If you are going to make the change, I suggest that we go further. I am much more shocked at the bigotries in the North than I am in the South, because at least there is a quasi-rationale for it in the South.

MR. TOBIAS: I don't think we need to make a sectional matter of it; simply make it a factual thing. Refer to it where it actually exists.

MR. MATTHEWS: I would like to emphasize what Mr. Luckman says. The reaction he got from the report was the same reaction that I got in reading it. I think it would be very unfortunate for the report to go out in this form. It is true that we were given a commission to point out the faults that exist but it wasn't our commission to discredit our system of government; and I think we have just as sacred an obligation to point out that after all, in spite of its faults, this Government is the best Government in the world and the people who are the victims of the discriminations that exist are better off here than they would be anywhere else.

To permit the report to go out in this form I think would be most unfortunate.

Also, I would like to state that I agree with the suggestion made here that this seems to be directed pretty much, in one respect, against the South. Now I think that is an entirely unwarranted attitude to take. I have in mind, in my own city of Omaha, about as northern as anywhere in the country could be, one of the most horrible lynchings that ever occurred in this country took place. The mob almost lynched the Mayor at the same time; and murdered an innocent Negro. Nothing worse than that ever happened anywhere.

Another thing I don't like about the report is that here, on the third page, in the second paragraph, we say, in effect, that, well, we have this assignment; we haven't had time to do what we ought to do but we are going to make a report anyway.

Now, I think we have been given an assignment and if we haven't done enough study and haven't made sufficient research to make a report without apology, then I think we ought to back up and take time. I don't think we ought to give the country the impression that we have prepared a report here on as important a subject as this without taking the time to prepare the kind of a report that we ought to submit. I would like to see anything like an apology in that respect eliminated from the report. I think it would be

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very serious to do otherwise.

You can just see the editorial comment that will come from the country. "Well, if they didn't have time to make the report, why didn't they take the time or why didn't they let somebody else do it?"

MR. WILSON: That is a point. Let's settle that one. Would you be in favor of eliminating that statement?

MRS. ALEXANDER: To which statement do you refer?

MR. WILSON: Page 3, second paragraph.

DR. DICKEY: I had that also marked, Mr. Chairman. I think you can take care of it by cutting out that first sentence and putting a little more emphasis on the fact that we requested publicly the submission of views from all concerned and just touching up the next sentence a little bit.

MR. MATTHEWS: I would simply say we did these things and not say we are sorry we couldn't do more.

MR. WILSON: That is right.

DR. DICKEY: Yes.

MR. WILSON: I think we had better stand behind the information we have gathered and not apologize for it.

MR. MATTHEWS: I will say, too, that I think the staff has done marvelous work. I think Mr. Carr and the staff under his leadership have done as well as any staff has ever done in a committee assignment like this. It is excellent.

MR. ERNST: Assuming that we are in agreement with you on this matter of taking out our evidence of our incapacities, do you know of any way to proceed on Luckman's original point, other than to move now to put 33 at the front and as we go along if anybody sees a constructive bit of evidence that might be added on any point, we could insert it.

MR. WILSON: I don't think that meets Mr. Luckman's challenge nor that of Mr. Matthews, Morris.

MR. ERNST: How else can you meet it?

MR. WILSON: If I understood Mr. Luckman correctly -- and there

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seem to be some who also hold the same view -- the view that in the introductory portion of the report there must be a positive statement of accomplishment, and that is what you want to point up to?

MR. LUCKMAN: That is one thing. I would like to eliminate all these negative statements. I feel that we are concentrating on the bad. I would like to eliminate all those and have a positive statement at the front.

I think the suggestion to move 33 forward is excellent. Then, as Morris suggested, as we go through the various sections of the report, go back to some of those things that we did dig up and have available -- I know that the staff has them -- illustrating the successful ventures. Frances has sent me some from time to time; Bob has; different schools, different places where all of the bad things that we talk about are working well.

I, for one, would like to show the good and then the bad. I have no quarrel at all; I know we must show the negative points. I don't like to see us sign a completely negative report.

DR. CARR: I think that the Committee has got to settle this point right here and now and think it through very carefully. I can't help but suggest that I think Mr. Luckman's suggestion amounts to scrapping this report and writing another one, which I think is literally out of the question, for many practical reasons.

I think adjustments can be made. I am inclined to favor what Mr. Ernst suggests. If Mr. Wilson's interpretation is correct, if that won't satisfy some people, I think you have a real problem on your hands that you might as well settle now before you go any further. You need to decide whether there has been misinterpretation of what the Committee intended, and that you did intend that there be prepared a balance sheet rather than an analysis of the inadequacies in the American record. Then in a sense you have to start all over again so far as the writing of the report goes. You have to raise procedural questions right now as to where you get the money, the staff and the time to do it.

MR. CAREY: I don't think that is a particularly important question, frankly.

I want to apologize now for being late coming in.

I think the real question is whether or not we are going to issue a report that exposes our shortcomings. Now I don't know of any previous discussion that I participated in where we decided that we were not going to expose our shortcomings.

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MR. LUCKMAN: I don't think there ever was any, Jim.

MR. MATTHEWS: There never was any such proposal.

MR. CAREY: I am thinking in terms of whether or not we are going to decide that we have the best country in the world and then go ahead and present some facts to prove that.

I think we have the best country in the world. I think we have certain shortcomings. One of the things I like about our country is the right to correct those shortcomings; and the way to correct them is to recognize them.

I am a little concerned about reorganizing the report. I might say that I was very grateful for the work that was done. It is far beyond anything that I expected. I say that because my respect for the staff has gone up several notches and I haven't been particularly enthusiastic in the past, until I read the report.

The organization of that material is beautifully done. I thought perhaps the report would be much longer than it is. I didn't think it would carry the spark and that it wouldn't carry out the good American principle of presenting very factually the condition that exists. I think this is a beautiful answer.

And even those remarks that you say are negative -- I think we have to have some sentences to explain that we do emphasize the shortcomings -- because that seems to me to be the part that the Soviet propaganda will leave out, if that is one thing beyond one of the comments that you made.

DR. DICKEY: I agree very much, Mr. Chairman. It is just as Mr. Carey said.

I, in a sense, helped Bishop Sherrill start this whole thing off -- but it was obvious that it was going to come out anyway -- by saying that I thought we shouldn't be too logical and strike out paragraphs up in the introductory letter which explained why the report will look to be more on the bad side than on the proud side.

I still feel, with Mr. Carey, that it is going to have to be that way. I don't believe that it is practical or advisable, in the light of our assignment, to do anything more in the way of correcting this emphasis than Mr. Ernst has suggested.

MR. ERNST: Maybe I am confused on it. It seems to me that we have gone off into abstractions. It is a simple problem that we are faced with.

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As I take it, Luckman's proposal is merely to put more emphasis on those bits of evidence we have in the American scene where there is a collection of these evils, and then not to take out a word of the castigation where the evils still exist. You are not proposing to take out a word of the castigation?

MR. LUCKMAN: Not a thing.

MR. ERNST: It seems to me that by putting 33 at the start, you start off with that flavor; and, as Frank Graham said, it is going to help you strategically.

Then, where we get to housing, I take it what you would like is that if the staff has evidence on that particular subject, to call attention to government housing projects without segregation which have worked with great success. We can always put in some little evidence that we can do the job.

MR. LUCKMAN: That is right.

MR. ERNST: I think that is the way to get the reform in the areas where the job isn't being done. I think people are driven more by the example of successful good efforts than they are by castigation.

DR. GRAHAM: As I see it, Mr. Chairman, the suggestion is not to pull any punches whatever.

MR. ERNST: That is right.

DR. GRAHAM: It is an effort at the beginning to open the minds of the people so they will hear.

MR. ERNST: It is very simple, it seems to me.

MR. CAREY: If that is the interpretation placed upon it, I am certainly in agreement. Very frankly, I would like to see a list of organizations that are seeking the improvements; I would like to see some labor unions listed by name.

DR. GRAHAM: Surely.

MR. CAREY: I think they are deserving, and it would be helpful if we can get that list increased, showing the positive work that is being done to eliminate the conditions that exist. I think it would add to the support that we will receive for this effort.

DR. CARR: I do want to add that I think Mr. Ernst's suggestion

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is entirely practicable. I was just, frankly, scared to death of the thought that you wanted an entire rewriting of the report.

MR. MATTHEWS: What is the difference between what Mr. Ernst suggested and what Mr. Luckman suggested?

MR. LUCKMAN: I don't know what the difference is, Mr. Chairman.

DR. CARR: Let's get this point very clear, so there is no misunderstanding.

MR. WILSON: I think I am in your corner on it myself.

DR. CARR: I think Mr. Ernst's suggestion amounts to this, that the report is primarily what the President asked it to be, an examination of the inadequacies and recommendations for change there. But, along the way, be very careful indeed, to point out the greatness of America, its great civil rights tradition, the great measure of freedom that people enjoy here; and, also along the way, a great many specific illustrations of progress and achievement.

MR. ERNST: May I, just for the sake of getting it voted on -- and I have no pride in this at all -- move that the material of 33 be put at the front; and that, as we go through, from here in, if any member of the Committee thinks that the staff has, or if the staff thinks that it has, some evidence of affirmative decency in housing, et cetera, that we insert bits of that evidence in each one of the sections.

MR. TOBIAS: Mr. Chairman, I am in favor of the first part but I am not too sure that I am in favor of the second. There will be a tendency throughout to try to balance up every criticism of injustice and the denial of civil rights with some little weak illustration of something that is being done in the right direction. That may well take the point off what we say.

I could conceive, for instance, when we come to the District of Columbia situation -- which is a very live situation -- that people may point to certain progress in relationships. Where one time we had no institution in the District of Columbia that would admit a Negro on terms of equality with other people, now we may have three. If we were to do that kind of thing, I don't see the value of our work.

MR. ERNST: I agree with you, Channing. Let me give you an illustration, in the District of Columbia, of the kind of thing that I mean to put in, which I mentioned to Bob Carr last night. In the Catholic University in Washington, the president of the

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student body or of the senior class is a Negro. I think my facts are approximately right; there are only ten or twelve Negroes there.

It seems to me that if you put that, it would merely show that the University is continuing. There has been no riot, there has been no trouble.

I think most of these failures to advance are due to invalid fears of people. If you say, "Look; it has worked there", it will encourage somebody to try it somewhere else. I wouldn't minimize by one word the castigations included in the report. I think they are true.

MR. CAREY: Isn't that point well made in practically every section of the report? As it relates to the armed services, it is made; as it relates to the schools, it is made.

MRS. ALEXANDER: As it relates to the Catholic University, it is made.

MR. ERNST: All I have said is that if any member feels it isn't adequately made, he should raise it as we get to the point. If somebody says, "Let's put in another example", I don't think anybody would object particularly. I don't see how you can argue, Jim, in the abstract. You have to get to the particular sections.

MR. LUCKMAN: If our report is now adequate then the statements in the opening part are wrong. If the illustrations are adequate on the positive side, then let's not say that we focused our attention on the bad side of our record because that statement isn't true.

MR. ERNST: On the theory that the focus will speak for itself.

MR. LUCKMAN: Yes. The two are not compatible. You can't say we focused on the bad side if, in fact, there is sufficient illustrative material on the good side of each section. You can't say that this necessary emphasis upon our failures -- that statement is not compatible with the statement that there is sufficient illustrative material on the good side. It is contradictory.

MR. TOBIAS: Mr. Luckman referred to criticisms that would come to us. I think we had just as well make up our mind that we are going to have criticism. We are going to have plenty of it; and I think it will be fair evidence that we have done our duty when that begins to shower upon us.

In all probability, we will all be classified as deserving of

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a place in the Hall of Fame of the Committee on Un-American Activities. I would be greatly surprised if we didn't shoot into that list pretty soon after the report is issued, whatever it says.

MR. ERNST: I assume that the formula I have suggested hasn't found acceptance. Let somebody else try one.

MR. MATTHEWS: I don't think it is necessary for us to put ourselves in the position where we will get in that list. No matter what we do, it is going to be subjected to criticism. I am not afraid of criticism. I have had enough of it. But I think we have a very serious obligation to prepare a report that will warrant the smallest measure of justifiable criticism.

MR. ERNST: Why don't you amend my motion if it doesn't fit? I think we will get nowhere on abstractions. I think we have to get it section by section.

MR. MATTHEWS: I think your motion is all right.

DR. GRAHAM: I think Mr. Carr has the idea that was brought out here and is in sympathy with it. He doesn't want to rewrite the report. He wants to give the report that is written, without pulling any punches, a greater acceptance by the American people regardless of criticism.

MR. TOBIAS: That is right.

DR. GRAHAM: I think we can do that. I think he and the staff, with our suggestions, can do that without rewriting the report.

MR. LUCKMAN: If it will help any to clarify, I would like to reiterate what Morris said. I had no thought of deleting anything that is in this report. I just think it is a one-sided report and not sufficiently constructive. Therefore it will not be too easy to sell to the American people. I don't care about criticism but I don't know why we are interested in sitting down for all these months as we have, and coming up with a report that we cannot conscientiously think will make progress in the solving of the problem.

It is my personal opinion, whether it is shared by the Committee or not, that you don't make progress in America if you say to the American people, "Everything is bad".

MR. TOBIAS: I don't think we have said that.

MR. ERNST: May I ask, do you want to go further than I have suggested as a formula?

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MR. LUCKMAN: I do not.

MR. ERNST: Then it will become the duty, as it is adopted, of each member of the Committee, as we go through a section, to say, "Haven't you some evidence that you could insert in here to show how silly it is to go ahead with segregation when next door it has worked with peace."

MR. WILSON: I go back to what Mr. Luckman said in the beginning if I interpreted him correctly, that he wanted to put in the introduction here a positive statement. Maybe I misinterpreted him.

MR. ERNST: Which I have said, in my motion, Charlie.

DR. CARR: The positive statement is there.

MR. ERNST: No, the evidence, positive evidence. I have recommended that 33 be carried over as the positive evidence.

MR. TOBIAS: We are all agreed.

MR. ERNST: Elaborate as you want to.

MR. WILSON: There was a motion on 33. Is that motion seconded?

DR. DICKEY: I second.

MR. LUCKMAN: It is 33 and the study, section by section.

MR. ERNST: That is one part, to carry 33 forward.

MR. WILSON: To carry 33 forward. We will stop at that for the moment. Are there any further comments on that?

MRS. ALEXANDER: Provided it doesn't kill the effect of the statement of "The American Heritage" as set forth here. I don't want to lose that and I want to call attention to page 3, paragraph 3, that Mr. Carr and the staff have written, "It was this knowledge which led the President to create this Committee; and the Committee's assignment has been primarily to discover wherein and to what extent we are presently failing to live up to that ideal."

I think they have beautifully done the thing and I don't want to kill it by bringing it out of its context.

MR. ERNST: We have to decide sometime whether bringing 33 forward will kill it. I don't think it will.

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MRS. ALEXANDER: I would like to hear from the staff how they feel they can do it.

MR. WILSON: I thought that was answered.

DR. CARR: I would like a little flexibility as to just where it goes in. I think Mrs. Alexander has a real point that, whether it is good or bad, the report as written does have an organized structure or plan. If you start moving things around, there is always the danger of upsetting that plan.

MR. ERNST: I didn't address myself to that but Frank Graham did, to some extent. I have no opinion on exactly where it ought to be.

MR. WILSON: With that understanding, will those who favor the change in the position of 33 vote aye; those opposed no.

It is unanimously agreed.

MR. ERNST: Mr. Chairman, I would like to put before you the second part of the motion, that as we go through the report the staff and the members of the Committee should suggest any factual bits of evidence where our society has worked without bigotry and discrimination and how silly these fears are, as proven by the evidence; that those be inserted, factually, in each section.

MR. MATTHEWS: Do we need a motion for that?

MR. ERNST: I didn't know whether other people were for it or not.

MR. TOBIAS: It is a common understanding.

MR. ERNST: It is all right by me.

MR. WILSON: We are in agreement on that, I take it.

Now, Charlie, before we get off your original premise, do you feel that in the introduction, whether it be under I on page 3 -- do you feel that there ought to be a positive statement of the progress we have made, pointing out that we have achieved greatly along these lines, and so on?

MR. LUCKMAN: I do, Mr. Chairman.

DR. CARR: But that is there.

MR. WILSON: All right. That is the question. Now, Mr. Luckman

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doesn't feel that it is emphasized enough. That is your point, is it not?

MR. LUCKMAN: I think that the things which de-emphasize the constructive statement are the reiterations that we have focused our attention on the bad side. I think that nullifies any constructive statement. I see nothing to be served by our saying that we have focused our attention on the bad side.

MR. ERNST: In other words, you would like the report to speak for itself on emphasis.

MR. LUCKMAN: That is right. I see nothing to be served by saying anywhere at all that we have focused our attention on the bad side, because I think there are so many people in America who think that is the wrong thing to do.

DR. DICKEY: On that point, Mr. Chairman, I think we have a real issue. I am so clear on that one that before we change it I want that put to a vote, and I want to be recorded on the other side. I think the only protection this Committee has in this situation is to have it stated right smack out front that we have concentrated on what is wrong.

I have no objection to pointing out with that, that we have not been unaware of the good and have referred to it wherever it seemed to present a more balanced picture. But I don't think you can ever come out with a civil rights report and serve the purpose of the President here, that isn't going to look pretty damning to this country, in the eyes of the other nations, of other governments, of the people who don't have the same sophistication that we have about this thing. I think that your only protection is going to be to make it very specific that the U. S. State Department may be able to pick out a paragraph in this report, or a sentence, which says that this Committee addressed itself to grievances and that that is what they were doing.

I actually am going to propose that that sentence which begins --

MR. WILSON: What page?

DR. DICKEY: Galley 2. It begins with, "Actually, compared with either the historical or the contemporary civil rights record of any nation in the world", should be put in italics.

MR. LUCKMAN: That is a positive statement. I am all for it.

DR. DICKEY: That is right. It is positive. Put it in italics.

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MR. MATTHEWS: I was going to propose that paragraph 3, under Roman I, be put in italics.

DR. CARR: That is the way I feel about that. That paragraph 3 I think represents an exact interpretation of the President's Executive Order. I think if you throw it out, you have just changed the whole character of the undertaking.

MR. TOBIAS: It is historically correct, too.

MR. ERNST: I agree with Dickey on his statement, but don't you think that the flavor of what Luckman and Mr. Dickey and now Charlie Wilson have found objectionable -- the flavor will change if you get, right near the start somewhere, this affirmative paragraph that you have on 33. It won't stick out like a sore thumb anymore.

MR. MATTHEWS: I think that is what Mr. Luckman wants to do.

MR. ERNST: All you are worrying about is that it sticks out like a sore thumb.

MR. WILSON: I think Dickey is right on that.

DR. CARR: Have you reached the point that you are deciding whether some of the things should be in italics?

MR. LUCKMAN: I think that will be a matter for the staff. They have used excellent judgment in this. They can determine, when they get 33 up forward, whether we have gotten a constructive view into it. It is a matter of viewpoint.

It is a basic issue, actually. I personally do not agree with the flat, dogmatic statement that the President's order requires us to point out only the things which need to be remedied.

DR. CARR: I am not saying "only".

MR. LUCKMAN: The report comes awfully close to giving that connotation. The statement has been made here flatly and dogmatically that that is the requirement, that we point out the things which need to be remedied. I do not agree personally with that, and I am sure in my own mind that the President doesn't agree.

Charlie, you will bear me out, because the day we called on the President to discuss what should be done as to the educational features, you will remember clearly that I said to him when we were talking about movies and things in which he was so deeply interested, that we could point out not only facets of one minority but all

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minorities; point out where it had worked well and, simultaneously, point out the areas in which there needed to be a great deal more to be done.

His statement, if I remember it correctly, while it was not quite in the language of a President, was: "That's the ticket", and he was terribly enthused about the possibilities of pointing out the good; and then where we had to do the other, doing it with all the minorities.

MRS. ALEXANDER: Wasn't that implementing the report and not making the report?

MR. LUCKMAN: That is right. Judged by his attitude, then, if this Committee called on him and said, "Is it your view that our report should be purely remedial; or should it point out the remedial necessities as well as the accomplishments to date?" I am positive he would ask for the accomplishments to date and the remedial suggestions.

MRS. ALEXANDER: Mr. Chairman, may I please answer Mr. Luckman on that. I understood that when you and Mr. Luckman went to the President, you were going to find out if he wanted us to create a plan whereby this report could be actually put to work immediately, as soon as it was put in his hands. How would we effect our recommendations other than by law? How would we get public sentiment back of it? And if the President wanted us to point out good things that had been done, that was quite different from finding out what had to be corrected.

Our report's purpose is first, to say what has to be corrected; and, of course, Mr. Luckman, we would have to show the ways that had been tried. But you didn't go to ask the President whether he wanted us to tell him all those other things. He said, find out what is wrong; and when you went in, how can you correct it? Is that correct?

MR. LUCKMAN: All we wanted to find out was the educational phase. We were not trying to find out what he wanted us to correct in our report, I quite agree. Isn't it appropriate to say what his views were? Because we are talking about his order; after all, he is the man who wrote the order.

MR. ERNST: May I ask, what would you do more than put 33 toward the front -- which we have unanimously adopted -- and hold open as we go through the report where any member sees the place to put in, as an example that we can work decently in this country, a little bit of extra evidence?

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MRS. ALEXANDER: I am not opposed to it.

MR. WILSON: I personally believe that Mr. Luckman has a very good point. After all, you have a job of selling this to the American people. Is that not so? What are we wasting time for if that isn't so? We are not just writing this report for our own edification. We want to sell it. If I understand him correctly, that is what he wants to do, to get the sort of thing in here so that we are going to be able to sell this to the people. I am not at all sure but that the best way to sell it is to set down right in the beginning that this system we have is "gol-darned" good and has been demonstrated to be good. Of course, it has its flaws; and then you go on to point out the flaws.

DR. CARR: But the report as now written says that, Mr. Wilson.

MR. WILSON: I know, but this is in the introductory statement, that you set that forth right off the reel.

MR. TOBIAS: You get it in the introduction and you get it in the very last word. Recommendation 7, which is the last word of the report, is that. That is, to rally the American people to the support of a continuing program to strengthen civil rights. The President's Committee recommends a long-term campaign of public education to inform the people of the civil rights to which they are entitled and which they owe to one another. Then, it goes on to speak of the most important educational task, which is to give the public living examples of civil rights in operation. That is the last thing in the report.

MR. LUCKMAN: I think the only point at issue is as to whether or not it should be the last or the first.

MR. TOBIAS: We are putting it first and last, according to this, which I think is enough in the beginning to encourage sympathetic and cooperative reading of it.

BISHOP SHERRILL: Mr. Chairman, I think we can talk all day back and forth on this general thing. I think this will solve itself as we go along. Let's solve this by going ahead, without trying to take a vote on an issue which yet isn't wholly clear. It can wait until we have gone through the report more in detail.

MR. WILSON: Well, the reason I haven't proceeded that way, Bishop, is that two of our members have said that it was fundamental with them, if I understood them correctly; that these were fundamental objections.

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BISHOP SHERRILL: We have all agreed to move the positive section up front. Now, the real question we are talking of is that Mr. Luckman wanted to take out any reference to the fact that the bad would predominate. Mr. Dickey, as I understand it, thought that was impossible to do. There is the issue.

Now, I think we can find that out as we go through, as this is balanced, and then come back to it after we have gone along.

MR. TOBIAS: That is all right.

MR. WILSON: All right.

BISHOP SHERRILL: There is one added point that has been made that I think we might bear in mind as we go through. I am a little troubled, not because I have any particular defense for the South, but I think we want to realize that there are only two members of this Committee who come from south of the Mason-Dixon Line. It would be most unfortunate if this became a sectional report in the eyes of people in other parts of the country -- I am saying that for the sake of the cause. I would like to see the hands of men like Mr. Graham, for example, -- who are battling for these issues in the South -- strengthened by some words of encouragement of that group.

Then, I would like to say, as has been suggested, that if all these populations were transposed, we would have exactly the same conditions in the North as now exist in the South, as witness the Gary School case today. I would like to bear that in mind as we go through, not to soften any criticism of the report but in order that this may not appear to be a group of Northerners who are meeting and, blind to their own inadequacies, are setting out a report which points out simply the inadequacies in other parts of the country.

MR. WILSON: I think you will find us completely in agreement with that. Of course, some of us think that that has been done; but I know, in my own reading of the report, one of the things I was afraid of, Bishop, is that we were doing just what you have warned against. I thought it had been covered. Now, if it hasn't, let --

BISHOP SHERRILL: I am just saying that we ought to look for it as we go through.

DR. CARR: Just a word on that point. The staff has certainly been aware of that problem from the very beginning. We have given it our most careful attention. Everytime we have revised the report,

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we have taken out two references to the South for every one we have left in.

I think, unfortunately, in the end, the trouble is that many of the most serious violations are in the South. It is true that there was, perhaps, one day not so far back, a lynching in Omaha, but if you take the statistics for the last 10 years, lynching has become almost exclusively a Southern phenomenon. Interference with the right of the Negroes to vote is today almost exclusively a Southern phenomenon. I think if you take out all references to the South --

BISHOP SHERRILL: We don't want to do that; we just want to watch it.

DR. DICKEY: The proposal isn't to take out references; the proposal is to add. For instance, there are points in here where in North Carolina you can commend the Governor. You can commend that judge down in South Carolina a little bit more.

BISHOP SHERRILL: I would like Mr. Graham to comment on this report as he sees it through; his suggestions on it.

DR. GRAHAM: I have just made one suggestion here on page 2. I propose it as a motion. On page 2, the third paragraph from the bottom, just before the sentence which reads, "Much of it has to do with limitations on civil rights in our southern States", I suggest that we insert this sentence, "The report deals with serious violation of civil rights in all sections of the nation."

DR. CARR: I like that very much.

MR. ERNST: May I say that I think we ought to go further. This is nothing to placate the public or satisfy the President. I am much more shocked at the outrages of New York City than I am of many of them in the South because they are without any validity. The fact that there isn't a hotel in New York City where Negroes can go --

DR. CARR: Dr. Graham's suggestion is to put the sentence in right here in the introduction and then follow it up.

MR. ERNST: I am for Dr. Graham's suggestion. I would go further.

DR. DICKEY: I second it.

MR. CAREY: I go into hotels in New York with meetings of 50

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or 100 people.

MR. ERNST: Try to get rooms for Katherine Dunham's troupe.

MR. CAREY: We hold meetings of 1,000 people. We have to house them. We house them in the Commodore, the Roosevelt, or any hotel that is convenient.

MR. ERNST: That is Jim Carey of the CIO.

MRS. ALEXANDER: I stay at any hotel.

MR. WILSON: You have heard the motion. Are there any further comments?

All right. Unless there is objection, we will make the change proposed by Mr. Graham.

MR. LUCKMAN: Mr. Chairman, I might just add this further thought to what these people have said on this subject. As we go through, I don't think we are denying our basic responsibility at all if we insist on bearing this in mind, that our deliberations mean nothing unless the deliberations are put forward to the American people and accepted by them. In other words, to use the term which I used, "to sell it", to the American people.

Of course, we could lean back and take quite a righteous attitude and say we don't care what happens, we are just stating what we believe to be right. But that won't do us any good. Therefore, I think if we do bear in mind the fact that our only good will be accomplished if we sell it to the American people, as we go through the report we should strive to see where we can include other regions as well as the South. Where one minority is mentioned, see if we can't possibly include other minorities. Because of the endeavors of the staff to be so all-inclusive -- I know that it has been unwitting, but if you simply total up the mentions of the minorities, you will see what I mean.

It isn't enough to be right. You have to seem to be right in this particular country in which we live. I am not sure that we seem to be as interested in all minorities as we are in the one. If you total up the mentions -- which I happened to do yesterday afternoon while I was pretending to be Baruch sitting out on a park bench here, having nothing else to do for a little while -- there are 362 mentions of one minority, and the next highest is 16. Now that is a tremendous gap, to the people who read the report and I am afraid that there may appear to be an emphasis.

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Again, I am not talking about any deletions but just as we study the report, paragraph by paragraph, how can we put into it emphasis on minorities which will interest people who may not be interested in the one southern region -- and there are many people in the United States who are just not interested in the problem of the southern region but who may be interested in problems in other regions or dealing with other minorities.

MR. WILSON: All right, Mr. Luckman; I think that is a good background for us to keep in mind as we go.

MRS. ALEXANDER: Of course, that was pointed out in the report. The staff pointed out the fact that it would appear at times that there was one minority, but it was because there were so many more transgressions on their rights. I think that is very clearly stated.

MR. TOBIAS: I think Mr. Luckman will just have to recognize the fact -- as we all do, of course -- that that proportion is just true to the facts, just true to the experiences of the minorities themselves. There are just certain things that the Negro minority suffers that other minorities don't suffer.

MR. LUCKMAN: I am sure that is right.

MR. TOBIAS: Because of their high visibility, it makes it easy to discriminate. It is a different type of thing, in a way; so little progress has been made on it as compared to the progress that has been made with other groups. You have State laws directed against the group. You just can't help but call attention to the facts.

It would be a very much finer thing if we could just have a balanced thing, to speak of Mexicans, Jews, Negroes, in a way that wouldn't call positive attention to one group more than the other; but that isn't the fact in American life today. We are just reflecting the situation as it is.

BISHOP SHERRILL: Mr. Chairman, I move that we proceed.

MR. WILSON: All right. We have passed 2. We are looking at 3.

MR. LUCKMAN: Are we talking pages, Mr. Chairman?

MR. WILSON: Yes; galley sheet 3.

DR. DICKEY: We are agreed on 3, are we, Mr. Chairman, up there in the second paragraph at the top of 3, that the first sentence

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be taken out and that be strengthened a little bit, is what we have done.

MR. WILSON: Correct.

DR. GRAHAM: Mr. Chairman, on page 3, "The American Heritage", the second paragraph. This is not a very significant point but I think it is worth noting. In the second paragraph, the second sentence, it says, "We have a great heritage of freedom and equality for all men." You read the next sentence in connection with that and the implication is that there has been a drop in our time. We acknowledge that the American ideal has not in our own day been realized. The implication is that in previous days it had been completely recognized; and that isn't true.

MR. WILSON: That is Mr. Luckman's point.

DR. GRAHAM: We have a great heritage of a commitment to the struggle for freedom and equality for all men, but the men who wrote our greatest declarations about freedom and equality were owners of slaves. Sometimes we say that our forefathers had all these things and now we have dropped from that high estate.

We didn't have freedom and equality: we had a commitment and a struggle for; the heritage of a commitment and a struggle for it but we didn't actually have freedom and equality.

Instead of saying "in our own day", I would substitute for those words the words "yet".

MR. LUCKMAN: Eliminate the sentence entirely. It doesn't add anything.

DR. GRAHAM: I wouldn't eliminate it. I think we want to keep saying that we have this heritage and we are trying to achieve it.

MR. WILSON: Would you say that progress has been made in our day but not sufficient progress?

MR. TOBIAS: Dr. Graham's very words are the words to use; not that we have a great heritage of freedom; we have a great heritage of a struggle for freedom and equality for all men. Is that what the heritage is?

DR. GRAHAM: "And we cannot avoid the knowledge that the American ideal has not yet" -- we have not dropped down, anyhow. We are just not yet there.

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BISHOP SHERRILL: Can you have a heritage of struggle? Isn't heritage a vision of what can be done?

MR. CAREY: You can have a tradition of struggle.

BISHOP SHERRILL: I would leave out "in our own day", because that puts it out of focus entirely.

DR. GRAHAM: My suggestion is that, "We have a great heritage of a commitment and struggle for."

MRS. ALEXANDER: The staff can phrase it.

DR. GRAHAM: Yes, they can phrase it.

MR. WILSON: All right. Any other on page 3? If not, can we go to 4.

MR. ERNST: I have a point, Mr. Chairman. I think one of the great retarding effects on advance in this country is the ignorance and confusion in regard to State and Federal rights; and in the first paragraph under, "Government and Freedom", we are continuing that confusion in the last sentence by saying, "Thus the people permanently denied themselves the power to interfere with certain personal rights and freedoms."

I pointed out to Bob Carr that the only thing that happened with the Founding Fathers was that they said that the new club, known as the United States of America, couldn't interfere, but they damned well let the States interfere, and it wasn't until deep in the next century that people had any right to vote if they didn't have a thousand dollars or 500 acres.

I hate to perpetuate the illusion. I think that is the greatest confusion in the legislative battle. They said, "Why don't you let the States handle it?" To be sure, if your States did handle everything, there would be no need for a national pattern.

I have suggested to Carr that it seems to me that somewhere we have to face right up to the problem of States against Federal power -- because that is what licks your legislation. That is what confuses people and it is right that it should, because we don't want, except on behavior patterns like bigotry, to have a nationally-run empire.

There is a section on it. I have no words to suggest. It seems to me that the staff can pump in something to indicate more clearly. It doesn't have to satisfy me. I have no specific

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editorial changes. I suggest that we address ourselves a little more frankly to this need of local autonomous changes of patterns of life -- except where, as in bigotry, we must have a national pattern.

MR. MATTHEWS: The only way you can meet that issue is by constitutional amendment, isn't it?

MR. ERNST: I wouldn't think so. I should think much of it can be done by legislation. We have done it with free speech and the right of counsel.

Not until 1925 did the United States Supreme Court hold that there was a national pattern of freedom of speech. Up to that time they said, "Let every State suppress where it pleases." I think this is a field where we can come out frankly and say that it is high time we had a national pattern, as we have in the right to have counsel, which is a relatively new right. Only in the last seven years has the Supreme Court said, We will cut down the rights of the States if they don't allow people to have counsel in criminal cases.

MR. MATTHEWS: How can you have a national pattern on lynchings if you don't have national legislation?

MR. ERNST: I think there is a great difference between the Federal Government butting in to prevent operations and the Federal Government running things. In other words, we are not proposing that they run elections. All we are saying is that they will interfere with any State that runs them on a bigotry pattern. I think that is a very inviting approach to the exercise of further Federal power.

It is a negative power. It is a shield instead of a spear, and we don't want to expand Federal power to go in and run elections; but we want to say, as we have said, that the Federal Government must override the States in the negative way and prevent the States from bigotry in elections.

MR. MATTHEWS: You have the answer to that, to the effect that if you give the Federal Government power to run elections, then they will run them.

MR. ERNST: I don't want them to run them. All I want them to do is to cut down the outrages of the States.

I have no brief for this. It seems to me, in all the hearings I have attended in the House and Senate, that has been the crux of

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the argument of the States Rights Boys. We ought to head up to it. It is true in lynchings; lynching is murder. If the States did their job, they would get them for murder. We have to make that pretty clear, in layman's language, why the Federal Government should butt in, because it is the kind of murder that has been accepted by minorities of States. The Federal Government has the right to say that shall not be done just as it has for the rights of counsel, the right of no forced confessions, the right of free speech. It is this negative aspect of the thing where I think the Federal Government should get in, and not the affirmative of running elections.

Just to come back to this sentence which I used as a springboard, there wasn't a word mentioned in the constitutional debate of 1787 about the rights of the people to free speech. It never came up in the convention; never was mentioned in the convention at Philadelphia. A group of people said they wouldn't vote for the Constitution because they were afraid of a powerful Federal Government. Not until 1925 did we adopt the national pattern on freedom, as the report points out.

I think, unless something is said in that direction of the States and Federal rights, you will just perpetuate the confusion. I make no motion, make no point of it. I have said my piece. If it impresses anybody, let's go ahead.

MR. LUCKMAN: If you considered strengthening it, you would do it where? Under "Government and Freedom"?

MR. ERNST: I don't much care where.

DR. CARR: We have a whole section later on.

MR. ERNST: I know. I have pointed out to you where I think it falls short.

DR. CARR: If that were expanded here --

MR. ERNST: I don't care where. I am not going to make any comments as to the words or where to put them in. We can't all be editors. All I am saying is that the gist of the idea is this conflict of State and Federal rights and the need of a Federal pattern can be strengthened.

MR. WILSON: All right. Let's make a note of this point, and as we go over the section that is supposed to cover it more definitely, if you don't feel that it does sufficiently, then I think

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we ought to strengthen it there, and then maybe change this.

Are there any other points on Galley 4?

DR. DICKEY: The paragraph preceding the heading, "The Essential Rights"; I suggest that we strike out the words "we read new meaning into" and simply say, "Thus, in the words of the Declaration of Independence."

I don't believe it is good sales psychology. I may be subject to Mr. Luckman's correction, though, to suggest that we are reading a meaning into the Declaration of Independence. I think we get all we want when we say, "Thus, in the words of the Declaration of Independence," without reading new meaning into it.

MR. ROOSEVELT: But keep the italics.

DR. DICKEY: Right.

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MR. LUCKMAN: It is much stronger.

MR. WILSON: If there is no objection, that change will be made.

Any others on page 4? If not, 5.

DR. DICKEY: Mr. Chairman, may I make a point here which I believe is of some fundamental consequence?

DR. GRAHAM: Could I go back to page 4, in the last paragraph, where it says, "Where justice discriminates," don't you mean where the administration of justice discriminates? Justice doesn't discriminate.

DR. CARR: Where is this?

MR. WILSON: The middle of the last paragraph on page 4.

DR. CARR: That is correct.

MR. LUCKMAN: "Where injustice ..."

MR. WILSON: A good point, Frank.

It will be changed. Any other? Mr. Dickey?

DR. DICKEY: Mr. Chairman, I don't want to urge it, I simply want to bring it up for consideration. I think it relates as a matter of primary concern to Dr. Tobias and Mrs. Alexander because they have been especially interested in this.

I felt, as I read over the enumeration of the rights that we were concerned with, that Right No. 5 was not on a par with the other four rights and that it tended to fragment the subject. It seemed to me that Right No. 5 would actually be more strongly stated as a right under No. 2, the right of the citizen to participate fully as a citizen in his government.

It may well be that they have other considerations of emphasis that would lead them to believe it should be retained as No. 5. My guess is that for the general public it may tend actually to run down the significance of the other four rights and that it is really, logically, an aspect of being entitled to participate as a citizen in the protection of a citizen's government.

But I raise the question only as one of arrangement. If I were doing it, as I look it over again, I would put No. 5 up as the culminating paragraph -- just that -- under No. 2. But I leave that solely for the suggestion of emphasis.

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MR. TOBIAS: I would agree to that if it did not interfere with the elaborate treatment of the subject.

DR. DICKEY: I would leave it just as it is. I wouldn't change the treatment a bit. I would put it as the culminating aspect of citizenship. I believe that is what it is.

DR. CARR: I hope you have noticed the smiles on the faces of members of the staff, who have sat by the hour talking about this. There have been sharp differences of opinion in the staff. Your suggestion certainly would meet with the approval of a good many members of the staff.

DR. GRAHAM: Doesn't the Constitution itself in the Bill of Rights emphasize the right to bear arms; and since the Bill of Rights itself does it, as distinguished from political and civil rights --

MR. ERNST: It is a very dangerous thing to mention, because we have cut down the right to bear arms by the need of getting a permit for a pistol. So, we have changed the meaning of it very wisely by talking about bearing arms in defense of a nation. It is very different from what the Founding Fathers meant.

MR. CAREY: I second Mr. Dickey's motion.

MR. TOBIAS: It is quite all right with me.

MR. WILSON: You have heard the motion, which has been duly seconded. Are there any other comments? If not, will all who favor Dr. Dickey's motion say "aye"?

(There was a chorus of "ayes".)

MR. WILSON: Is there any objection?

(No response.)

MR. WILSON: All right, we will change that.

DR. GRAHAM: On page 5, in the last paragraph. "We have had human slavery." We had that as policy of the nation. "We have had religious persecution. We have had mob rule." -- we haven't had religious persecution as a policy of the nation, and we have had mob rule but not as a policy of the nation.

I think there is a little confusion there. A foreigner might think that there was a period in our history when we had mob rule as a policy of the country or the state. We have mob rule as glaring instances of the failure of democracy.

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MR. TOBIAS: Always recognized as a violation of our principles.

DR. GRAHAM: We haven't had it as a policy.

MR. ERNST: I agree with you. I think we want to be a little careful because it was a policy of the nation, for example -- or the states -- as late as 1928, not to allow Jews to hold office. That was in the statutes of various states; so just be careful when you handle that.

DR. GRAHAM: We had it as a state policy there.

DR. DICKEY: Is that widespread, Morris? I am much interested in your statement.

MR. ERNST: Oh, yes, quite a few states, including Maryland, until early in the next century. And, then, of course, the great deprivation of civil rights in America was created by the Founding Fathers in the alien laws. That was 10 years after they voted for the Bill of Rights.

DR. DICKEY: I think this is a piece of darned good writing. I would be quite willing, as one who now comes from New England, to see you point up that religious persecution, the fact that they burned people up there within a period of 300 years.

MR. LUCKMAN: I think a suggestion like that would be very helpful. We would get another sectional flavor in.

DR. DICKEY: If it fits into the style later, I would make it specific.

MR. WILSON: Frank, how would you change that?

DR. GRAHAM: I don't know that it is worth changing. It just hit me that we have here, say, a state policy for persecution, religious discrimination. We have a national policy of slavery, and we haven't had, as a policy of a state or a nation, mob rule. We have had many instances of mob rule.

MR. CAREY: Just put it that way, that we have had instances of mob rule.

DR. GRAHAM: Have had many instances of mob rule. We have never fallen so low as to make it state policy.

DR. CARR: This is one of those sections where we tried to indulge ourselves a little in a kind of fine writing. If you try to fix it up technically too much --

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DR. GRAHAM: All right. Let it go.

MR. WILSON: All right. We are on 6 now.

BISHOP SHERRILL: Mr. Chairman, this is at the top of page 7, but it is in keeping with the law.

It seems to me that that paragraph a little overemphasizes the situation. While that is true for the country as a whole, nevertheless minorities and majorities change in different sections of the country. I think that a statement of that kind is helpful.

For example, in the South, Roman Catholics are very much a minority. I come from New England where they are very much of a majority and I have been very much of a minority. Louisiana, the same; and you get a change in your attitude in different sections.

MR. WILSON: I think that is a very good point. I think the way that is set out here, it just covers too much ground in its implications.

MR. CAREY: I have a point, too, about the opportunity for change.

MR. WILSON: I think that is a good one.

MR. LUCKMAN: I wonder if we are in agreement that that should be very specific. This is along the lines that we have been talking on, a very important point.

Instead of any general statement, even that the minorities vary by sections of the country, I think it would be awfully helpful to give specific illustrations. I see no harm in it; just a statement of fact.

Many people in the United States will be completely amazed at the blunt statement that the Protestants are in a minority in Boston.

DR. CARR: Do you want to mention Boston as a specific illustration?

MR. LUCKMAN: I mean, go across the country, picking up where the Jews are a minority, the Polish and different ones, so that people can again realize that no matter what race or religion or color or creed they may be, they are in some sections of the country members of minorities.

MR. ERNST: I had approached the point -- and maybe this would fit in. I think part of our dilemma in this country is that there is no national uniformity of mores. We took in 40,000,000 immigrants,

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the only country in the world that ever had that confusing problem to come along; and you can't talk of the United States very often as a uniform pattern. Now, that applies to your Negroes, because they are down South; your Jews, because they are in New York City. It more or less goes through that same kind of a point.

MR. LUCKMAN: This information is available because we did have it broken down by cities and by sections of the country as to minorities.

MR. WILSON: That could be put in, I think, without any difficulty, Charlie, and give good illustrations. I think it is a good point.

MR. LUCKMAN: In line with that, as long as we are on page 7, I wonder if we might consider a little different wording. It comes in the middle of the second paragraph. "Other racial minorities assume less significance in the American scene when compared with the 13 million Negroes."

That is subject to several interpretations. "Less significance" can either mean size of importance or quality of problem or whatever it may be.

I happen to have in my secretariat in Boston three girls, one of whom is a Jewess, one is a Catholic and one is a Protestant. Each one, in glancing through this, picked that up as a slurring statement. I am sure it was not intended that way. It was intended to emphasize the size of the Negro minority.

DR. GRAHAM: What line is that?

MR. LUCKMAN: The middle of the second paragraph.

MR. TOBIAS: I think that is well-taken.

MR. LUCKMAN: "assume less significance".

MRS. ALEXANDER: "less significance".

MR. WILSON: It will be changed.

MR. LUCKMAN: The word "significance".

DR. DICKEY: The whole sentence might come out, and it wouldn't lose anything.

MR. LUCKMAN: The whole sentence, I think, could come out.

BISHOP SHERRILL: Do I understand that this first paragraph will be enlarged?

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MR. WILSON: Yes, it will. Is that satisfactory?

BISHOP SHERRILL: Yes.

DR. CARR: As originally written, this section was very much longer. We tried to cut it down. I think we, perhaps, went too far in trying to cut it down.

MR. WILSON: All right; those two changes will be made.

Now, have you any other suggestions?

MR. ERNST: That is on 7?

MR. WILSON: On 7; still on 7.

MR. TOBIAS: I would like to suggest, down in the fifth paragraph, where the reference is to "small groups of Hindus and persons of Korean descent." Hindu is just one religious communion of Indians. It isn't the Indian people.

DR. CARR: You are up against that old problem of finding a word that describes the people of India.

MR. TOBIAS: That is a great mistake to say that.

Mohammedans, Hindus, Sikhs, and all the rest of them; those are just religious communions.

DR. CARR: We will fix that up.

MR. WILSON: All right. Any others on 7?

MRS. ALEXANDER: Mr. Carr, do you remember Bishop Sherrill's suggestion that there was a right to live, itself. I didn't see that brought out here under the right to safety and security of a person.

DR. CARR: It is a little bit hard to incorporate it as a right.

MRS. ALEXANDER: You remember, Bishop Sherrill?

BISHOP SHERRILL: It seemed to me it was fundamental. If you can't breathe, there is no use having a right to vote.

DR. CARR: I think we can fix it up. It is there by implication because we immediately go ahead and talk about lynching, which is an interference with the right to live.

MRS. ALEXANDER: I wanted to see it brought out.

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DR. CARR: I think we can put it in.

DR. DICKEY: Isn't that the right of safety and security of the person? Isn't that the right?

MRS. ALEXANDER: It is still stronger when you say that a person has the right to live.

DR. CARR: You have to be a little careful about talking vaguely of the right to live. It is almost never put that way. It is rather the right to security and safety of the person, as Mr. Dickey put it.

DR. DICKEY: The right of a man to live is the Almighty's problem.

BISHOP SHERRILL: I wish it were. Men take it in their own hands, though. That is just the difficulty.

DR. CARR: I think we can find something that will meet your desire here.

MR. LUCKMAN: Mr. Chairman, just a psychological question. I personally have no view on it, but it arose in my mind when I read the last paragraph on page 7, just a question as to why some of these six persons were illustrated as to the accusation and the others were not.

DR. CARR: Three of them apparently had not been charged; is that right?

MR. LUCKMAN: You mentioned six and illustrated the charges on three. It is just a psychological question, whether perhaps some people would wonder.

MR. ROOSEVELT: Three had not been charged, and these were the three who were charged. One was charged with stealing a saddle, the other with breaking into a house, and the third with stabbing a man. With the first three, that totals up to 6.

MR. LUCKMAN: Is that what reference means? I didn't understand it that way. Thank you.

MR. ROOSEVELT: If there is any ambiguity, I think we ought to clarify it.

DR. CARR: "The three who had been charged" -- something like that.

MR. LUCKMAN: I just missed it as I read it. I assumed the reflection was on the quality of the charge, that we were saying as a committee that they weren't really good charges.

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MR. WILSON: All right; it will be clarified.

Anything else on 7?

We are on 8.

DR. DICKEY: Mr. Chairman, on 8 I think there is an excellent opportunity. All we need to do is just point it out, and I think the staff will take care of it, to do what President Graham had in mind. I think he had in mind -- certainly, I had in mind -- to bring out some of the positive activities there.

That sentence in the fourth paragraph, "In an unusual and impressive instance of State prosecution, 31 men were tried for this crime."

That is the sort of thing there in the South Carolina situation. Just spell that out a little bit more, what was done there, the court's behavior, and just a few references to it; and then, in North Carolina, hasn't the Governor recently taken a pretty strong stand?

DR. GRAHAM: Yes, sir.

DR. DICKEY: I would like to ask a question on tactics in that connection. Are we going to hold him up to the criticism of his constituency if we say, "You are a great guy for having done this"?

DR. GRAHAM: The people in the State have already said that, all over the State.

DR. DICKEY: They like what he has done?

DR. GRAHAM: Yes, sir.

DR. DICKEY: So, it would be well for us to put it out as you suggest; that those two instances in North Carolina and South Carolina, specifically mentioned, would have the sort of positive effect that Mr. Luckman has urged.

MR. LUCKMAN: That would be fine.

BISHOP SHERRILL: The Judge in South Carolina might have a quotation from it which would be very strong.

DR. DICKEY: To say that that sort of thing exists right in the South is the type of evidence you want in this report.

MR. LUCKMAN: And, for example, if there is one State -- or several States -- which, say, in 1945 had a lynching but in 1946 had no lynchings, that is, again, a sign of progress. I mean that no lynch-

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ings were recorded, again showing that it is possible to control the problem if the people want it controlled.

MR. ROOSEVELT: That is usually luck, though.

DR. CARR: That wouldn't work, for you are now down to a point where the lynchings are so small it is pure accident, whether it is Alabama or Mississippi in any given year.

MR. LUCKMAN: Then, perhaps, more of a build-up on the decrease.

MR. ERNST: Isn't there one State possibly, that has had no lynching in ten years?

DR. GRAHAM: Virginia and North Carolina.

MR. ROOSEVELT: Virginia hasn't had a lynching in over ten years.

DR. GRAHAM: He said 10.

DR. CARR: Mississippi; a Mississippi attorney pointed out that for a period of six years following a prosecution there had been no lynching.

MR. ERNST: Perhaps you could mention two or three States in the period of over ten years; and such and such States, 20 years.

DR. DICKEY: To be specific on it.

MR. ERNST: Not take away anything from the cracks.

MR. LUCKMAN: Nothing at all, but again showing the record of what can be done.

MR. WILSON: All right.

MR. CAREY: What form did the endorsement of the official's action by the people take?

DR. GRAHAM: Editorials all over the State; letters of commendation.

MR. CAREY: Perhaps you could indicate the support that the action received by the people.

MR. ROOSEVELT: I had rather see that kind of a positive statement of a specific case than to go into what Mr. Luckman is recommending of stating, "Virginia, 18 years," such and such a State, 17 years, and so on. I think that is just giving an argument to the boys down

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South who say, "Well, leave us alone. We are handling the problem, and you are admitting that we are handling it." They say it doesn't need any national legislation. I think we are playing right into their hands, if we give them that kind of case.

There are two things to balance. One is to give them the example of what has been done and say, "Now, boys, make it better." The other is to give them the very argument which they keep throwing at us.

DR. GRAHAM: Don't fail to know that they are going to say that anyway. I mean, in answer to you, that they don't even know that we haven't had a lynching in 17 years.

MR. ROOSEVELT: You are the expert here on public relations.

MR. LUCKMAN: I deny that, as will several members of the committee here.

MR. ROOSEVELT: I worry because it is a tricky thing to word.

DR. CARR: You are absolutely right. It is a very difficult tight-rope to walk here. In one sense, the figures show that the problem has almost disappeared. On the other hand, I think it remains true that as long as there is one lynching you have the serious problem.

DR. GRAHAM: You say that.

MR. TOBIAS: You run into the possible irony of singling out this State and then having a lynching there next week.

DR. DICKEY: Single out the good deeds.

MR. LUCKMAN: May I ask -- I am ignorant on this -- are there any lynchings of any persons, other than Negroes, in 1946 or 1947 to date?

DR. CARR: No; all Negroes.

MR. ROOSEVELT: It says in the Report, "For the eight years from 1937 to 1946 for which statistics are reported, the conservative estimates of Tuskegee Institute show 226 persons were rescued from threatened lynching. Over 200 of these were Negroes;" so you can assume that about 10 percent of those rescues were whites. Of course, the whites would have a decidedly better chance to get rescued than the Negroes would.

DR. CARR: We have a complete graphic presentation to show you later on. To relieve the discussion, maybe you would like to see the chart on lynching. The one at the top will answer the question that has been raised. It shows the decline in lynchings, and also shows the number

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of Negroes lynched and the number of whites.

You see, back in the 19th Century, you did have a very large number of whites being lynched; but the further along you go, the white part of the line literally disappears.

MR. CAREY: There is no way that you can show graphically, I suppose, the impact of a single lynching? That is, what that does to all the people.

DR. CARR: We considered doing that. We tried, for example, to find a picture, but we decided that putting a picture in of a lynching or even the effect upon people -- that it would just have a terribly unfortunate effect.

DR. GRAHAM: Mr. Chairman, on page 8, fourth paragraph, the last sentence: the fact is, he was able to surrender himself safely into the custody of F.B.I. agents and officers of the State. The officers of the State were right there, cooperating with the F.B.I., and as to which one moved first, that is debatable, but they were both moving.

MR. ROOSEVELT: As a matter of fact, I think that is also factual, because the F.B.I. has repeatedly tried to grab the spotlight in these things, and the State people very often are reluctant to cooperate with them because they fear that they won't get the credit for it. Isn't that true in some of these instances?

DR. GRAHAM: Some instances.

I move, Mr. Chairman, that we add "into the custody of F.B.I. agents and officers of the State." That is just a fact.

DR. DICKEY: I second the motion.

DR. GRAHAM: And the Governor was right on his toes to see that the State officers were in there.

DR. CARR: I have already put it down, unless you want to vote on it.

MR. WILSON: It has been done, unless I hear an objection.

BISHOP SHERRILL: Mr. Chairman, this is just to ask Dr. Carr. Mr. Hoover testified in a closed session of this Committee. Have we his authority to publicly quote him in this regard?

DR. CARR: Yes, we have written him and obtained his consent.

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MR. WILSON: Any other question on page 8?

MR. LUCKMAN: Does that apply to all quotes?

DR. CARR: All of the Hoover quotes have been approved.

MR. LUCKMAN: Specifically?

DR. CARR: Yes.

MR. TOBIAS: I just have this question. I don't suggest to change the treatment of the subject, but I think we ought to be clear in our own minds that measuring mob violence in terms of those who are actually put to death is a pretty inadequate treatment of it, because there is a good chance that some of them remain alive and they have been the victims of mob violence.

Take this boy Woodard whose eyes were punched out down in South Carolina. I know his case. I know him. There is a case where he would be better dead than alive, but he is breathing; he is alive.

There are a number of instances of that kind, vastly more than we realize, than anybody realizes, who doesn't know the extent to which people are taken out and beaten up. We have references in the report here of their being beaten up by police; but I mean by mobs that beat them up, and there is no particular virtue in the mob that they aren't dead.

MR. ERNST: We have that on page 9, I think.

DR. CARR: We would like to add a sentence, to go in at the very end of the section on lynching, to strengthen the notion that even though you don't have many lynchings, lynching is still the ultimate threat which forces the Negro into a subordinate position, in that the Southern Negro always has that notion, that in his relations with white people if he isn't careful, whether it is a business transaction, a social transaction -- there is always that threat that hangs over his head and intimidates him in relations with people, because of the fear that if he isn't careful things will get out of hand and end in a lynching. We have tried to do that in these additional sentences.

This comes just before police brutality. It would be the last paragraph in the section just ahead of the new section "Police Brutality."

MR. TOBIAS: Yes.

DR. DICKEY: I had a suggestion or comment I wanted to make there, Mr. Chairman, on the paragraph which begins "Sadistically inclined individuals" * * *. I personally think that is an over-written paragraph which is not going to get us very far and is going

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to antagonize the Association of Police Chiefs and the Association of Prison Guards and a good many other similar associations that are very sensitive and who really hold the power of life and death over individuals quite frequently, and who are very sensitive to these generalized criticisms of their behavior.

I think that probably I personally have had as much experience as at least most members of this Committee in prison work and the administration of criminal justice. I don't think that that sentence, "In spite of notable gains in scattered instances, we have not completely succeeded in recruiting policemen and prison officials who fully appreciate the social responsibilities which these posts carry and who are technically qualified to perform the duties of these offices", gives an accurate statement.

I think the very least we should strike out is the "in scattered instances", because it is not true to say that in general prison officials are not conscious of their social responsibility. There are still bad spots, but if you are going into the problem of prison and mental hospital reform in these matters, you have to go a whole lot further than just a castigation of the sadistically inclined individuals who get into these jobs.

I am reasonably sure myself that it is not simply because they are sadistically inclined but it is a reflection of the fact that the poorest paid positions in the State governments are notoriously the positions of prison keepers and keepers in mental hospitals. Anyone who has spent really time -- I don't mean walking through a hospital in an hour and a half visit, or walking through a prison on a visit of an hour and a half, but who had worked inside prisons for years understands the man doesn't take that sort of a job unless he is pretty well down the economic scale.

Well, that is by way of saying that that is a large subject. I think the Committee has not gone into it, and I personally think we would do well to knock out that entire paragraph beginning with the words "sadistically inclined"; and certainly not to give a specific instance of boys being beaten up in a reformatory.

MR. ERNST: John, I agree. It is probably true, but we have taken no evidence, we have no facts. I take it that that is your point. Would you object to putting somewhere in the recommendations that the standing permanent Commission, among other things, might get a glance at the problems of brutality?

DR. DICKEY: I think that would be excellent.

MR. ERNST: I will approach another angle. It seems to me if we cut this out, we ought to leave out the point and we could put it some-

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where with the permanent Commission that this is one of the things that they ought to look into. I think it requires a separate Commission's investigation.

MR. LUCKMAN: If you cut it out, would you not cut the next few paragraphs?

DR. CARR: I think it would be unfortunate if you take the heart out of the whole section on police brutality.

The files of the Civil Rights Section of the Department of Justice are filled with instances of police brutality over all the United States.

MR. CAREY: It is a matter of point of view, of looking at it from the standpoint of an official or a visitor or, say, a resident. I can't qualify as either an official or a visitor, but I can as a resident of some of our best jails, and I would say that the point should be covered.

MR. ERNST: I only addressed myself to the one point in regard to "sadistically inclined." There is a conclusion as to the state of mind that leads to the evil.

DR. CARR: That can go out. There is no doubt of that.

MR. ROOSEVELT: I think, if we are even going to mention the mental hospitals, there is a situation, just a week ago brought to my attention by a very good social worker, my mother, about a condition which exists up in a State hospital in Poughkeepsie where the cases of so-called harmless people are farmed out to the local farmers as slave labor. They stay there without any medical attention until they die, and then when they die the local farmers send around to the mental hospital, the State hospital, and get a replacement. It is not just one hospital.

I know that Mr. Dickey probably knows much more about it than I do, but it is true all over the country -- and New York State is way ahead of many of our States.

If we are going to touch on it at all, I think we ought not to talk just about the suggestion that these keepers are low grade because of the wages paid them; but also because of the medical approach to the problem, the failure to adopt a lot of the more modern methods of handling these cases.

DR. DICKEY: It is a gigantic social problem which this Committee hasn't even sniffed at.

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MR. ROOSEVELT: That is right.

DR. DICKEY: It is not a question of civil rights except as you get down in the other paragraph. I quite agree with Mr. Carr; when you move down into the other paragraphs, you get into the case of where a man is being beaten up because he is a colored man or a Jew or something of that sort. When you get into the problem of the maladministration of prisons and mental hospitals -- certainly, I don't want what I said to be understood as suggesting there is not maladministration of them -- you are up against a gigantic proposition.

MR. ERNST: Your suggestion only went to the one paragraph?

DR. DICKEY: That is all.

DR. CARR: One reason why this paragraph is in is the mention of the midwestern prison. For once, we referred to something that isn't in the South. But that is not a sufficient answer, I think, to the objection. I would like to point out that we were, at least here, trying to find a non-Southern illustration of something.

MR. MATTHEWS: Mr. Chairman, it seems that first paragraph on page 9, that quotation is a too general indictment of the South.

DR. GRAHAM: "Any white man" * * *

MR. ROOSEVELT: "without much fear of legal reprisal" -- that is the qualification.

MRS. ALEXANDER: That is what I pointed out to Dr. Graham.

DR. GRAHAM: That ~~just~~ isn't my observation.

MR. MATTHEWS: It isn't mine either, with what I know about the South. That is just simply blanketing the whole South as being guilty.

MR. TOBIAS: But it is a quotation. It might well be left out.

MR. MATTHEWS: I think so.

MR. LUCKMAN: I question the entire quotation. I can assure you of one thing without any fear of being proven wrong, that that sentence just read will make any headline in the United States, of any paper which would like to do harm to the United States or to discredit our report.

DR. GRAHAM: What evidence do we have of that?

MR. LUCKMAN: That doesn't mean that Myrdal is right.

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MR. ROOSEVELT: We are assuming the responsibility for it.

MR. ERNST: I will second the motion to eliminate the quote from Myrdal. We have enough other stuff that tells the story.

MR. WILSON: Any further comments on the motion?

If not, will those who favor the motion to eliminate that paragraph vote aye?

(There was a chorus of "ayes".)

MR. WILSON: Contrary-minded?

(No response.)

MR. CAREY: Mr. Chairman, on the point raised by Mr. Dickey, that is, the fifth paragraph on page 9, are we doing something to modify that first sentence of that paragraph?

DR. CARR: I took it you wanted the whole paragraph out.

MR. WILSON: That was my understanding, that you would eliminate paragraph five.

DR. GRAHAM: No motion has been made.

BISHOP SHERRILL: I will make a motion.

MR. LUCKMAN: I second it.

MR. CAREY: In doing that, Mr. Chairman, is there sufficient treatment of police brutality?

DR. CARR: I think what is left is adequate. Several very good cases are described here at the bottom of the page.

MR. WILSON: Those who favor the motion vote aye.

(There was a chorus of "ayes".)

MR. WILSON: Contrary minded?

(No response.)

MR. WILSON: It is out.

MR. MATTHEWS: Is all of that police brutality directed against Negroes?

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DR. DICKEY: There is one reference to union workers.

MRS. ALEXANDER: The one we omit is the white juvenile offenders.

MR. LUCKMAN: Can't we find other cases?

MR. WILSON: Paragraph four covers it, doesn't it?

It covers others widely.

MRS. ALEXANDER: Can't you use this illustration, Dr. Carr, without referring to the sadistically inclined individuals?

DR. CARR: You can if you want to.

MRS. ALEXANDER: I think it would be a pity to lose that.

MR. ROOSEVELT: I agree with you.

DR. GRAHAM: Leave out the first two sentences.

MRS. ALEXANDER: And just use the illustration.

MR. ROOSEVELT: Well, the first three sentences.

MRS. ALEXANDER: Yes.

DR. GRAHAM: The first three sentences.

DR. CARR: All right, we will do that if you want to.

MR. LUCKMAN: I wonder also, if we might not consider some illustrations which are so well known in the country of police brutality against union organizers.

DR. GRAHAM: Surely; that ought to be in there.

MR. LUCKMAN: I think it would be awfully good to include something like that. We certainly don't have to look too far, do we?

MRS. ALEXANDER: We have one in Philadelphia, a policeman carrying the American flag.

MR. CAREY: From the standpoint of trade union effort, we tend to play them down. The purpose of these things is to intimidate people. The more you advertise the fact, the more they will be intimidated.

DR. CARR: If Mr. Carey doesn't object, I think the Committee will be well advised to keep the labor question out of the report so

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as not to raise that additional source of disagreement when people read the report.

MR. CAREY: I wouldn't accept it as a general proposition.

DR. CARR: At least, at this point, let us put it that way.

DR. GRAHAM: I move, Mr. Chairman, that in that paragraph called attention to by President Dickey, the first three sentences be omitted.

MR. WILSON: All right; is that motion seconded?

MR. TOBIAS: Isn't there an opportunity here to say just a word about some of the things that are being done? I know that Mr. Hoover referred to these courses in the police schools. You don't want to leave the impression that all the police are "bums".

DR. DICKEY: I think, Mr. Chairman, that is an excellent point; give Hoover a pat on the back here for what the F.B.I. is doing.

DR. GRAHAM: We have schools for police -- the University of North Carolina. If I signed my name to some of this, we wouldn't have any more police schools. That would be a bad effect of the report. Great progress is made in educating police.

DR. DICKEY: I will state it, to point up here the positive along with the negative, by citing the work that the F.B.I. is doing in giving local police officers an opportunity to secure training which includes a sense of social responsibility in the administration of justice, and President Graham referred to the North Carolina police schools, schools in the South.

DR. CARR: They are referred to elsewhere, but we can do it here.

MR. LUCKMAN: As specifically as possible, too, Bob; not just a general statement.

DR. CARR: We will put in a paragraph on the increasing professionalization of police forces in many parts of the country, with their increasing sense of social responsibility.

DR. DICKEY: And encourage that.

MR. LUCKMAN: With specific illustrations of that.

DR. GRAHAM: Say, "The Institute of Government at Chapel Hill has a group of buildings set aside entirely for the training of police officers."

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DR. CARR: The Institute of Government?

DR. GRAHAM: Yes; and it is in use all through the year, practically.

DR. CARR: Is that part of the University?

DR. GRAHAM: Yes. I wish you would leave the University out. Just say the Institute of Government, Chapel Hill.

MR. WILSON: We will have an intermission now of 10 minutes.

(Short recess.)

MR. WILSON: Can we come to order, ladies and gentlemen?

We are still on page 9.

Any other questions in your minds about page 9, or are you satisfied with the changes we have made?

Hearing no other, we will proceed to page 10.

DR. CARR: On page 10, there are three suggestions on this list. That is the last paragraph, line 7. The sentence would read, "The arrested Negro, on the other hand, may become a 'martyr' among his own people. Consequently, the unapprehended criminal is sometimes protected by the Negro community which feels it owes no allegiance to an unjust legal order." We tried to fix that up a little bit.

MR. ROOSEVELT: That is at the bottom of page 10.

DR. CARR: Mrs. Alexander is much interested in it. Let me read it again. The last paragraph, beginning with the words, "The arrested Negro" as changed would read, "The arrested Negro, on the other hand, may become a 'martyr' among his own people. Consequently, the unapprehended criminal is sometimes protected by the Negro community which feels it owes no allegiance to an unjust legal order."

DR. DICKEY: That is better.

DR. GRAHAM: On page 10, the third paragraph: "there are many law enforcement officers in the South and the North who do not commit violent acts against Negroes" * * * You mean that the overwhelming majority do?

DR. CARR: No. I think the implication there is bad. Maybe we had better fix that up. There is that implication there.

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MR. TOBIAS: I think that sentence could be left out. "We know that decent people everywhere deplore this violence. . . . We are convinced, however, that the evidence of police brutality against Negroes" * * * I don't see any particular reason for specifying the South at that point, so long as we have stated the facts so that they are clear and well understood. I think that everytime we inject sectionalism into the report, unless it is necessary to make clear the facts, we hurt the report by doing it.

MR. ROOSEVELT: That is leaving out "We recognize", that sentence, and leaving out the words "in the South", in the next sentence?

MR. TOBIAS: Right.

MRS. ALEXANDER: You have to take out the next one.

MR. TOBIAS: That paragraph is just as strong.

MR. ROOSEVELT: Then eliminate the last sentence.

MRS. ALEXANDER: Kill the last sentence.

DR. CARR: Kill the last sentence.

MR. WILSON: Kill the last sentence of paragraph three; is that right?

MR. TOBIAS: That is right.

MR. ERNST: Mr. Chairman, on the same lines -- in the last paragraph, the second sentence: "In the South, for example, there is evidence indicating that lawlessness among both whites and Negroes has increased because of knowledge that a double standard exists." I wonder if we have the evidence, (1) that it has increased and (2) that it is due to knowledge?

MR. TOBIAS: Everytime we use that word, it is possible to use an expression that would be more meaningful. That is, in certain States or in some States.

MR. ERNST: I didn't know if we had the evidence either as to the increase or the cause. If we have it, I don't care much how you state it.

DR. GRAHAM: What is the evidence that it has increased?

It is there, but has it increased?

MR. ERNST: I don't know.

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DR. GRAHAM: What is the evidence that it has increased?

DR. CARR: It is the last paragraph, the second sentence: "In the South, for example" * * *

DR. GRAHAM: In many parts of the South the statistics show that there has been a decrease. I don't know what the evidence is here.

MR. ERNST: If we haven't got it, let's leave it out.

MRS. WECHSLER: I think he is talking about a long period, the period since the Civil War.

MR. WILSON: Let's take it out. Any objection?

MR. CAREY: That is in the last paragraph?

MR. WILSON: The last paragraph on page 10, the sentence beginning, "In the South".

MR. ERNST: The suggestion is, Mr. Chairman, to take it out.

MR. WILSON: There is a motion to take it out, by Mr. Ernst. Is there any objection to it? Is there any objection to taking that sentence out?

MR. TOBIAS: If you are going to use it, instead of saying "In the South" say "In some States".

MR. ROOSEVELT: That is what I was going to suggest. Leave the next sentence out or preface it by saying "In certain States the white population can" * * *

MRS. ALEXANDER: Make it, "In some States" in the second sentence of the last paragraph.

MR. ROOSEVELT: Leave that in?

MRS. ALEXANDER: No. "In some States" -- use your "some States" there instead of "In the South".

MR. WILSON: I understand that it can't be backed up very well.

MR. ROOSEVELT: Leaving out the whole second sentence?

MR. WILSON: Then starting off the next sentence, "In some States".

MR. ERNST: I wouldn't limit it to the South.

MRS. ALEXANDER: Mr. Wilson, I am not anxious to put any burden on

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the South, but it seems to me we kill paragraph three of page 10 by taking out those last two sentences; and that the fact is that the incidence of police brutality against Negroes in the South is disturbingly high. That is the fact, isn't it, Mr. Carr?

DR. CARR: Certainly, it is.

MRS. ALEXANDER: "In no other section of the country do comparable outrages occur so frequently" * * * Is that a fact, Mr. Graham?

MR. LUCKMAN: I think that is debatable in many people's minds. Other minorities would debate that to a considerable degree.

(Mrs. Tilly enters the room.)

MR. LUCKMAN: It becomes a matter of what is comparable.

DR. GRAHAM: In total numbers, yes. If you say "comparable", I think --

MR. WILSON: Mrs. Alexander, don't you think just taking that one sentence out and changing the other -- do you really think that weakens paragraph three?

I thought that paragraph three rather stood on its own feet.

DR. GRAHAM: I think the total number is largely in the South. When you say "comparable", then I think the Japanese in California would have much to say in this period.

MRS. TILLY: This sentence, "We are convinced, however, that * * * it is disturbingly high." I think all the way through we have brought out the South too much.

MR. WILSON: We have agreed with that, and we are "soft-pedalling" that. We have taken that sentence out already, "In the South". Unless there is objection, we have taken that out.

MRS. ALEXANDER: The next one is out.

MR. WILSON: "In some States"; we don't say where. That is the way it stands. Are there any other changes on page 10?

DR. GRAHAM: Did you take care of that word "many", Mr. Carr, in the third paragraph?

DR. CARR: Yes.

MR. LUCKMAN: Is there going to be any ability to have some posi-

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tive indication of progress in this administration of justice? Does the staff have any indication of comment that could be put in on the other side of the balance sheet?

DR. CARR: We have, in another section. We can bring it in here, if you want to, but in the Signs of Progress section, which you have voted to move up front, there is a section that deals with improvements in the administration of justice. It could be strengthened.

MR. ERNST: I had suggested that in the reference to Chambers v. Florida, you might just make clear that that isn't just one case; that the Supreme Court has handed down in the last few years a number of decisions due to this kind of practice -- forced confessions, beatings. In the direction of what you are talking about, a great stream of new law is coming out.

MR. LUCKMAN: I see no harm in stating the positive side here as well as in the summary that Dr. Carr referred to.

MR. ERNST: One of the positive suggestions that occurred to me was to try to make it clear that the Supreme Court is striking them down right and left.

MR. LUCKMAN: There ought to be three or four illustrations of that, then.

MR. WILSON: Could we get them?

MR. ERNST: Oh, yes.

MR. LUCKMAN: Just quick mentions.

MR. WILSON: What do you think of this?

DR. GRAHAM: What is that?

MR. ERNST: I made the statement that the way to get at what I think is in Mr. Luckman's mind is to mention, for example, where we cited the case of Chambers v. Florida, that the Supreme Court condemned forced confessions and that there is a mass of decisions coming down; I think there is no harm in mentioning a few of those other cases, or at least indicating that there have been 12 in the last five years. It is a consistent pattern now. I think it has had a great effect on the police and the officials.

MR. WILSON: Any objection? Is there any objection to putting in that positive statement? Mrs. Alexander, you have a question?

MRS. ALEXANDER: There is a question that I want to raise about the last paragraph on page 10. However, I believe that only someone

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like Mrs. Tilly or Mr. Graham or Dr. Tobias, would understand.

The great number of Negroes in a community where there has been a lynching do not feel that the Negro who escaped or the one who is arrested is a martyr. That isn't their concept at all. If they feel that the thing was wrong, that the case wasn't properly tried, they have, over the years, come to the position where they are willing to put the thing in God's hands; and it isn't a fear of being lynched that controls them. It is a deep religious conviction that controls them, and you haven't brought it out here at all, because it would seem from this sentence that the Negro community -- with the suggestion that Dr. ~~Barnes~~ has made -- feels that it owes no allegiance to an unjust legal order.

That doesn't express the concept that Negro people have by any means.

MR. TOBIAS: You are exactly right.

DR. GRAHAM: They have a great allegiance.

MR. TOBIAS: They are not considered martyrs. Whether the victim of the criminal is a white person or a Negro, if the criminal is to fall into the hands of unsympathetic officers of the law, the Negro community feels that the result may be a lynching, and therefore they are going to be less enthusiastic about cooperating with the officers of the law. It isn't that they make martyrs of the persons who are charged with the crime at all.

MRS. ALEXANDER: And they live so far above this situation that it is impossible for you to understand the plane in which we live. If we didn't live up there, we would be embittered; but we are sorry for the people that it happened to. We know that the thing is going to right itself some day and we can see how it has righted itself better than you can see it.

MR. TOBIAS: The whole thing was dramatized in Dubose Hayward's "Porgy", the play. When a criminal was being sought in Catfish Row, Porgy was the best-known there, but the police officers went to one door after another. Nobody knew Porgy. Finally, somebody whispered, "Why, he is all right; he is a good white man; he is sympathetic." And, then, assured of that, they said, "Oh, you mean Porgy?" -- if you catch the significance.

MR. ERNST: I take it you would like that sentence eliminated or change the concept from martyr to some other concept?

MRS. ALEXANDER: It can only truly express the concept if you tell what the feeling of the Negro people is and how they have become a people who put their faith in something much higher than their own

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ability; and, as a result, that they have undying faith in the American Government. They are a true people because they don't feel this way; I know. Am I right, Dr. Tobias?

MR. TOBIAS: Yes. If they are covering up a criminal, they are not covering him up because they think that he is a martyr. They are covering him up because they feel that if they don't he will be a victim of violence.

MR. ERNST: Well, why don't we say that? Why don't we cut out this martyr concept and put it in your own words? I see move.

MR. TOBIAS: Yes.

MR. MATTHEWS: What are you going to put in?

MR. ROOSEVELT: Just what he said.

MR. MATTHEWS: Why don't you eliminate this; put nothing in?

MR. LUCKMAN: I think, Mr. Chairman, if we are going into such a deep, philosophical point, that if it is to go in it would be extremely well to do the same for the other minorities.

MR. MATTHEWS: It strikes me that just that conception of it wouldn't be quite appropriate in this report.

DR. CARR: The point that we are merely trying to make here -- and I think where we have gone wrong is on motivation -- the end result is that your law enforcement program tends to break down, that you will get a sort of extra-legal situation where people control their actions and human relations are governed outside the law; and that is unfortunate.

MRS. ALEXANDER: I think Dr. Tobias has stated and the reporter has it.

MR. LUCKMAN: Mr. Chairman, I feel rather strongly about the point. If we are going to do that, then I think we should make provision for the inclusion of the same general philosophy for the other minorities. I think we should get in there, in other words, just to be specific, not making a generality of it, and try to determine from the representatives on the Committee of the Jewish faith, the philosophical and spiritual reactions of the Jewish people who, through restrictive covenants cannot live in certain sections or participate in the activities of certain hotels but must be segregated into only a specific hotel in a given city which will take members of the Jewish faith. I think it would be a great mistake to take this Committee into the philosophy that we are now discussing for just one minority.

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MR. ROOSEVELT: Why don't we merely state that the situation exists and not worry about the motivation?

MR. MATTHEWS: I think so, because if you do that you are going to get up against something when you get over to education.

MR. ERNST: I agree.

MR. TOBIAS: I am willing to cut that part.

MR. ROOSEVELT: It might not be 70 per cent right as to the motivation. There might be a couple of people who will say, "Well, they are all wet."

MR. ERNST: I take it that the sentence is out.

MR. WILSON: The sentence is out.

MRS. TILLY: I am just a little bit dubious about this back here. I am sorry I was late.

I refer to the paragraph about the Glynn County Commissioner. Does anybody know any more about that Commissioner?

MR. WILSON: What page?

MRS. TILLY: Top of page 10; the Commissioner that gave the report. We are running it down now, that this Commissioner was a man who has a prison record and was pardoned by Governor Rivers when he was pardoning so many people; and that he was reelected in the change of everything down there in Glynn County. It is up there on page 10, the sixth line. If you did not point out who gave that testimony, it might be better.

MR. ERNST: What is your suggestion?

Are you suggesting that we check the facts or that we eliminate?

MRS. TILLY: Just strike out who said it, because other people have said something of the same kind, too.

I think you had better not refer to the Commissioner because there certainly is a question about it.

MR. ROOSEVELT: Why don't you say there was testimony -- or that there was evidence, or that it was stated; or that testimony was given. At any rate, there are three, as I remember it, Glynn County Commissioners; and we are referring only to the one who --

MRS. TILLY: The one who came came before the Prison Board.

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MRS. ALEXANDER: What did you want?

MR. WILSON: Say that it was testified, but don't identify who testified.

DR. CARR: Do you want to take it out? You see, the whole last part of the paragraph is a direct quotation from his testimony.

MR. MATTHEWS: If you bring in the testimony, those who know will know to whom you are referring, and you won't accomplish anything.

DR. CARR: It is an awfully good quotation. If it is true, I would like to have it used.

MRS. TILLY: At the same time I have heard his character questioned.

MR. ROOSEVELT: Aren't we, perhaps, prejudging the opportunity of a man, who was once convicted, of reforming himself?

MRS. TILLY: I don't want to weaken the report.

MR. ROOSEVELT: Are we weakening the report?

MRS. TILLY: You are if there is a question about the man who testified. That would weaken it, wouldn't it?

MR. ROOSEVELT: All we are saying is that one man did state, and that is the whole basis of this case, that we finally got one guy down there to come out with this kind of testimony.

MRS. TILLY: He does say it. I heard him say it.

MR. MATTHEWS: Then the question is, who was it that said it, and what effect is their identity going to have on the local community.

MR. ROOSEVELT: I am not so worried about the local community as I am about the nation.

DR. CARR: Do you mean that there is now a strong suggestion that maybe the killing of the Negroes was justifiable?

MRS. TILLY: That is what the other side says, and the question is as to the character of the man who came before the State Board of Corrections. That may be true, that he was one of those that Governor Rivers pardoned. I thought I would have that definite information today.

MR. ROOSEVELT: Since he was pardoned, maybe he needs a little help from us, too.

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MR. ERNST: Can't you take out the reference to the man and paraphrase the quotes?

MR. MATTHEWS: Why take it out if he is the official who said it? It strengthens the report to leave it in.

DR. CARR: The quote is awfully good. But if it is a dishonest statement it has to come out.

MRS. TILLY: There is going to be a lot of reaction in the South against this report. If you have something here that Georgia or any part of the South can find a flaw in -- and they will find this -- I know what will be the reaction of that county down there, at least. I know the reaction, possibly, of our Governor, because he refused to listen to the man.

MR. TOBIAS: What would you have taken out?

MRS. TILLY: I would just not mention who gave the testimony.

DR. CARR: Use the testimony?

MRS. TILLY: Yes.

MR. ROOSEVELT: Not identify it in any way. That is just as bad.

MR. MATTHEWS: There is nothing if you take out the Commissioner. If you use his testimony, they will say you are trying to hide it if you don't mention his name.

MR. ERNST: That is why I suggested paraphrasing it.

MR. ROOSEVELT: Maybe this fellow got his understanding of this kind of a killing through his experience in jail. Maybe he reformed as a result of that.

MRS. TILLY: I think we ought to, by all means, refer to it. I don't want the report weakened by taking the testimony of a man whose character is questioned.

MR. ROOSEVELT: As I remember the case, the testimony of this man is the whole basis of the contention that this was an unjustified killing.

MR. LUCKMAN: As I recall the reading of a considerable amount of data on it, there certainly are two schools of thought. I don't know why the President's Committee should so firmly want to back up the view of this one man.

MR. ROOSEVELT: The suggestion is to take the whole case out.

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That is another point. Mrs. Tilly is suggesting that we use the case, eliminate who the testimony comes from; but use the testimony, which I think is just as weak.

MR. LUCKMAN: Why not give consideration to the elimination of this particular illustration?

MRS. TILLY: I think we ought to bring it in. It is too fresh in the minds of the people.

MR. LUCKMAN: No, I said the quotation. Why should the President's Committee take one side or the other? Why should it not point to the facts that existed, the controversy, and go right on with the rest of the next paragraph? I don't like to see us take a side on a controversial issue of what was right or what was wrong in a particular instance.

DR. CARR: Every civil rights case that ever occurred was controversial. There are almost always two sides.

MR. LUCKMAN: I don't think that is quite limited enough as a statement, Bob, because there is no question about whether a man was lynched or not. You either have a body or --

DR. CARR: There is no question that these eight men were killed.

MR. LUCKMAN: That is right.

MRS. TILLY: There is quite a question as to whether the guards were drunk or not.

DR. DICKEY: Why don't you knock out that last sentence?

Isn't that perhaps what bothers you most?

Is there a doubt about the other thing? They were shot under the bunkhouse, weren't they?

I saw a picture in Life, at least, showing the bodies under there.

MRS. ALEXANDER: Anytime you get any testimony that says they weren't justified in shooting, it is going to be attacked, and it is very seldom in a civil rights case that you get this testimony.

MR. WILSON: That is why I think we would be wrong in leaving it out, Mrs. Alexander.

MRS. ALEXANDER: I do, too.

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MR. WILSON: I think this is a good case and it is illustrative of the kind we are obligated to bring out.

MR. ROOSEVELT: Mrs. Tilly, there is another thing, too. I think that you are right, that a lot of people in the South are going to look for one way or another to attack this report, one little detail or another. Now, if we are going to fix it up and doctor this report so carefully that there won't be any detail for them to hang their hats on, this report isn't going to be worth issuing, in my opinion.

MRS. TILLY: I want it fixed so they can hang their hats; I don't want to find something they cannot hang their hats on.

My suggestion, however, is that if we give the testimony here of a man whose character is questioned, we weaken it and the South will pick on something that they can attack.

MR. ERNST: Would there be a solution here? We are giving the testimony, it seems to me, for only one reason; not to prove that the testimony is correct, but we are saying that there was an acquittal and the matter was dropped, even though there was evidence as follows. And it seems to me we have gone off base a little bit by more or less relying on the evidence as the point we want to make when it isn't. The point we want to make, I take it, is that the Grand Jury exonerated the Warden of the camp even though a County Commissioner testified.

MR. ROOSEVELT: Unfortunately, that won't work, because the Grand Jury exonerated the Warden of the camp and four guards, and at later hearings on the Highway Prison Camp System, the County Commissioner testified.

MR. ERNST: Then I think we are vulnerable because when were these hearings in relation to the process of the law? Why wasn't that testimony before the Grand Jury? You are opening it up then. I think it is a gratuitous bit of evidence that should have come in before the Grand Jury and didn't. You can't then blame the Grand Jury.

DR. DICKEY: Aren't you arguing too narrow a point?

This relates to police brutality as well as the Grand Jury's failure to prosecute.

MR. ERNST: That is not the way we are stating it, John.

I take it that anybody reading it would say that the action of the Grand Jury was unjustified in the light of this. We, in effect, say that in the light of this evidence they didn't have any evidence.

MR. MATTHEWS: Why didn't the Grand Jury have this testimony?

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MR. ERNST: We don't know.

MR. ROOSEVELT: This Commissioner had an article or series of articles in P.M. and he stated that he tried to appear before the Grand Jury and he was not permitted to appear.

MR. ERNST: That is more important than what he says.

MR. MATTHEWS: Yes.

MR. ROOSEVELT: I agree with you; and his testimony before the Board of Corrections was something that came later.

MR. MATTHEWS: Can we quote P.M. on this instead of this Commissioner?

MR. ROOSEVELT: No. All we have is his signed article in P.M. The incident requires a great deal more research.

MRS. TILLY: Both sides. There are two very conflicting stories, and the people that testified, the guards, before the Grand Jury are people of better character than the County Commissioner in the community, so that is the weak point in it. When you get both stories together, they are not at all alike.

MR. ROOSEVELT: How did this fellow get elected?

MRS. TILLY: How does almost anybody get elected?

MR. ROOSEVELT: That is a bad question to ask me.

MRS. TILLY: Especially in our South.

BISHOP SHERRILL: Mr. Chairman, we can't settle this thing in a committee as large as this. I move that the Chair appoint a committee of three consisting of Mrs. Tilly and two legal members to go over this thing and bring in a report after lunch.

MR. ERNST: I think we can decide it now. I am hesitant to go on at this stage in the appointment of committees because it will mean further meetings. It seems to me we ought to resolve it.

BISHOP SHERRILL: I think we are spending an awful lot of time debating a point that isn't quite clear to most people who are discussing it.

MRS. ALEXANDER: Mrs. Tilly thinks she can have the information for us before the meeting is over.

MR. ROOSEVELT: What information, Mrs. Tilly?

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MRS. TILLY: Whether Glynn County Commissioner had a prison record and was pardoned.

MR. ROOSEVELT: That doesn't bother me in the least.

MRS. ALEXANDER: It doesn't bother me.

MR. CAREY: It surely doesn't bother me.

MRS. TILLY: That is what bothered me.

MR. ERNST: It bothers me because of our implication that the finding of the Grand Jury was wrong.

MRS. TILLY: That is where the trouble is.

MRS. ALEXANDER: If he wasn't allowed to testify before the Grand Jury --

MR. ERNST: Then our statement ought to be "and the Grand Jury failed to call him, even though they should have well known he would so testify."

MR. TOBIAS: The fact is the men are dead, and they met their deaths in the way that was described, and it is not denied in Georgia. I was down there last week. Now, I don't care what the record of this man is, even if he killed somebody himself; he finally decided to tell the truth about the situation, and I think we ought to welcome that truth, coming from any source. It might be that it would be questioned by some people, but I think it is very important.

MRS. TILLY: Do we have to say that it was the Glynn County Commissioner? Can we give an indirect quotation?

MRS. ALEXANDER: No, it would be all the same. They would say that we quoted this and this was the Glynn County Commissioner.

MRS. TILLY: I know Governor Thompson refused to listen to him.

MRS. ALEXANDER: I can't see that that is justification, because the Governor refused to listen to a witness. He had been pardoned.

MR. ERNST: Let's be practical. What if he got \$500 for writing the article?

MRS. ALEXANDER: But this wasn't an article. This is testimony. This is testimony under oath.

MR. LUCKMAN: Is it a reasonable point to raise that anything that

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is as contrivertial as this within the Committee might be extremely more so beyond the bounds of the Committee and therefore not contribute too much to the point we are trying to make? I don't see why we should run risks of this kind. It seems to me an unnecessary risk.

MR. ROOSEVELT: If we are going to refuse to assume risks in this report --

MR. LUCKMAN: There are all kinds of risks. This is a risk of whether the statement of this man is accurate or not, whether his testimony is credible. That, I think, is an unnecessary risk. If the Committee wants to say, as a committee, that the Committee believes that this entire thing was indefensible and was the most outrageous act that was ever perpetrated, that is all right.

DR. CARR: Why not leave it this way? Let Mrs. Tilly check, and whether we make any change at all would depend upon her further information. If it appears that we are running the risk here of using the statements of a man who has been discredited in other ways, then drop what he said specifically and follow the statement of the facts in the case, with the sort of analysis that we have somewhere else -- that on the one hand it may have been an instance of unnecessary police brutality, but if not that, at least it shows an inability on the part of police officers to handle prisoners without finding it necessary to kill them. That in most parts of the country or in other parts of the country all sorts of dangerous criminals are handled and there is no need to shoot them; it is inefficient handling of prisoners when you let a situation develop in which you have to shoot and kill eight prisoners.

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MR. WILSON: Even the South couldn't object to that statement, could they?

MRS. TILLY: Oh, no. I think it ought to be in. I think we have to have the report so absolutely true that there would be no question.

MR. TOBIAS: Some of the strongest editorial references to it have been in the papers down there. There is no defensive attitude on the part of respectable people down there. They regard it as a crime against civilization that the thing was done. Therefore, I don't see that we make any point at all in withholding the facts. I think they can be stated in a way that would do justice to the situation.

MRS. TILLY: There is another side to this, though, that disputes all of this testimony. They even say he wasn't there.

MR. ERNST: May I ask, Mrs. Tilly, would you accept Bob Carr's statement?

MR. WILSON: Will you all accept Bob Carr's statement that we try to rewrite it along those lines so as just to take out this questionable evidence, not the character but the questionable evidence?

DR. CARR: That is, subject to a further check.

MR. WILSON: Is there anything else on page 10?

MR. LUCKMAN: Mr. Chairman, was it agreed to eliminate the sentence preceding "Administration of Justice"? In other words, the last sentence of that first part on page 10.

MR. WILSON: Yes, that is out. Unless I hear objection, the last sentence of the third paragraph is out. If there is no objection, that is done.

We are on page 11.

BISHOP SHERRILL: Mr. Chairman, in regard to involuntary servitude, there are a number of cases of Mexicans subjected to peonage. We can either add some of those cases or perhaps substitute them for the case simply in regard to the Negro.

MR. WILSON: I like your idea.

DR. CARR: I am sorry; I missed that.

MR. WILSON: The Bishop points out that there are good case

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histories with respect to involuntary servitude by Mexicans that could be used as examples and that, instead of just referring to the Negro cases, that we incorporate --

DR. CARR: Do we have such cases?

MRS. WECHSLER: No recent cases.

DR. CARR: The recent cases have almost exclusively concerned Negroes.

MR. ERNST: I take it, if they can find some cases of Mexican peonage recently, it will be inserted.

BISHOP SHERRILL: That is all I am suggesting.

DR. CARR: The Act was passed in 1867 because of peonage in Arizona, but the peonage involving the Indians and the Mexicans has pretty well disappeared, I think.

MR. SHISHKIN: There have been a number of recent cases -- just before the war -- in which there were charges of peonage and some of them didn't come to the court, but there were plenty of cases.

DR. CARR: All the case files in the Department of Justice seem to concern Negroes. Now, it may be that a very careful search of those files --

MR. SHISHKIN: There were the sugar beet workers in Colorado, in which they were very numerous in the '30's. If something like that can be dug up, it could be added to this so that the emphasis will be at least diffused.

MR. ROOSEVELT: Will you get those cases, Boris?

MR. SHISHKIN: I will try.

DR. CARR: This is going to upset things a bit here because we make the point that peonage has pretty largely disappeared as a modern phenomenon.

MR. ERNST: You can add a sentence that what is left isn't isolated to the Negroes.

DR. CARR: But it seems to be.

MR. ERNST: If Boris can give you the evidence.

DR. CARR: Those are ten years old.

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MR. SHISHKIN: I don't have any cases since the war or during the war; all pre-war cases.

MRS. ALEXANDER: Why not take the case in California which was held in court the other day where the woman was kept as a slave up North, by a northern woman -- rather than take a southern case?

BISHOP SHERRILL: That isn't of very great social significance.

DR. CARR: That was sort of personal case; the social implications weren't very strong.

MR. WILSON: Will you see if you can get any reasonably recent case affecting other than the Negroes?

MR. SHISHKIN: I shall. The only fairly current case that I know of is the case of the Puerto Ricans imported from Puerto Rico in which the question was raised. I don't think there were ever any prosecutions; simply separations as a result of the charges made.

MR. WILSON: Those would be pretty poor cases.

MR. SHISHKIN: I think they would be weak.

MR. LUCKMAN: May I just ask a moment's consideration of the elimination of this whole thing? Is the subject important enough to be in?

DR. CARR: Yes, it is, I think. One of our recommendations is directed toward the point that the Department of Justice is very much concerned about the inadequacy of the present involuntary servitude statutes.

MR. TOBIAS: Yet the courts do more about it than they do any of these other things. I mean, the Federal Courts in the South.

MR. ROOSEVELT: Under the present rulings, it has been continuously done. I know that when my father was Governor, he eliminated it temporarily but just through pressure on the individual superintendents. Dr. Graham raised the point whether this situation in the mental hospital up in Poughkeepsie isn't a case of involuntary servitude.

DR. CARR: The trouble is, it hasn't been documented. There has been no prosecution. All you could make are allegations that this or that kind of situation amounts, in the Committee's opinion, to involuntary servitude; whereas here, at least, you have cases that we have prosecuted and won.

MR. ERNST: Mr. Chairman, I move that in case any member of

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the Committee or the staff can find recent cases of non-Negro peonage, that they be incorporated somehow.

BISHOP SHERRILL: That covers it.

DR. DICKEY: I second that.

MR. WILSON: Unless there is objection, we will proceed accordingly.

Anything on 11, now?

DR. CARR: Mrs. Alexander had a suggestion of re-wording the first sentence under "The Wartime Evacuation of Japanese Americans". Do you want to propose that yourself?

MRS. ALEXANDER: You have it written here the way that is satisfactory to me. I didn't like "We feel that we can't pass without comment the interference with the rights to physical freedom", and I had suggested "The most striking mass interference since slavery with the right to physical freedom".

MR. LUCKMAN: I like that very much better.

MR. WILSON: Are we agreed as to that change?

BISHOP SHERRILL: Mr. Chairman, I would like to see a little more regard for the problem which the Army faced in regard to this. I have no defense of the evacuation. Nevertheless, they had a very difficult problem. It was just after Pearl Harbor.

Suppose that things hadn't gone as they had gone. Suppose there had been difficulty there; that would have been very serious. I don't say that they made the right decision but I think they had a very difficult problem involved there and that there might be a sentence that we recognize that there was tremendous pressure and that it was a very difficult problem to solve.

MR. ROOSEVELT: A problem aggravated by what appeared to be a very short time limit.

BISHOP SHERRILL: I say, if it had turned the other way, they would have been very much at fault in not protecting the entire life of the nation.

MR. MATTHEWS: I don't like the section at all. I think it is not going to help this Committee.

DR. DICKEY: I want to add my agreement with what has been expressed by both gentlemen. I am not sure that I would have gone

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so far as to oppose the entire section, but I certainly feel with Bishop Sherrill on this. I particularly disagree with saying that I am disturbed at the basic assumption made which was, in essence, that there was a high correlation between disloyalty and Japanese national origin. Take the words "race and national origin" out of there and put in exactly what we are talking about; namely, correlation between disloyalty and Japanese national origin. I personally disagree with that statement completely, because of some experience during the war.

I was involved in responsibility for the American Black List and we had to decide what we were going to do about the Japanese nationals -- nationals of Japanese origin and nationals of the other American republics.

After a good bit of attention to it and good bit of case work investigation, we reached the conclusion that we simply could not -- with the national interests that were involved, the difficulties -- attempt a case by case evaluation of the loyalty of those people, that it was really impossible to determine it within the time that was involved. The only people we put on the American black list on the basis of national origin were the Japanese.

I quite realize that people can say we were wrong, but having done that and done it with malice aforethought, I am not now going to say that I agree with that statement.

MR. ERNST: Would this satisfy you, John? It seemed to me that we could very well say that the pattern of American behavior toward Japanese and the national heritage led to the situation where it was most difficult, if not impossible, to appraise these nationals one by one and therefore we had this demonstration of mass race-ism. I think that is the fact.

MR. TOBIAS: That the attitude has an economic base, also.

MR. ERNST: This was the real reason. I sat with the Japs -- as John did, probably more than I -- who came East and said, "Please don't screen us." The Japs came East at the conference I attended and said, "Please don't try to screen us one by one. You can do that in a little village where we are known. If you start to screen us one by one in San Francisco, you are going to let out some bad boys and take in some good ones."

There were many groups of Japanese who urged that it be done wholesale. I think the wholesale thing was probably necessary because of our misbehavior over decades in saying that their citizenship depends on birth here. I think that is the only angle that we have a right really to go forward on; not blaming the military.

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MR. TOBIAS: I think there are certain facts that we can't afford to ignore in our treatment of our civil rights. No. 1 is that, regardless of what the circumstances might have been, there was no proof of what they actually were. So far as sabotage is concerned, the record is clear that what was suspected did not materialize.

Now, you might make the point that it did not materialize because of the measures taken beforehand; but the fact is -- the second fact is -- that these people are citizens of the United States. Now, either you are a citizen with all the rights of citizenship as long as you conform personally, or you are not. We can't ignore, in the third place, the effect of that treatment upon the status of those people today.

Their rights in certain states, their property rights, have been interfered with, in the name of emergency action or for the purpose of emergency protection. Nevertheless their property was confiscated. They feel, and they have a right to feel, in my judgment, that that stigmatizes them as a people different from other citizens in the protection of their basic personal citizenship rights.

MR. ERNST: I agree with all that. The only thing we are talking about is the comment of the military wisdom of the order. I will go whole hog on everything. I take it the Bishop only raised the question of our commenting and judging the wisdom of the military decision at the moment.

BISHOP SHERRILL: That is right. I think we ought to point out that these rights have not been restored as they should be.

MR. ERNST: That is right.

BISHOP SHERRILL: I think we make a carte blanche judgment without sufficient information as to whether this should or should not be done for the safety of the country. I am glad I didn't have to decide it at the time.

MR. TOBIAS: My only point is that their rights are being interfered with today because of that action; that their situation is prejudiced today because of that action.

MR. ERNST: I have no objection to that. The only point I am making is, I think, the one the Bishop made: Do we comment on the wisdom or unwisdom of a military decision?

BISHOP SHERRILL: Leave out the quotation from General DeWitt.

MR. MATTHEWS: Leave out the statement that the military, some of them, questioned whether it should be done or not. You have to go back to the conditions that existed at that time and consider

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what the people had to do, what the Commander in Chief had to do with respect to the safety of the country. We had just had Pearl Harbor. These people were known to be fanatically loyal to the country of their origin.

MRS. ALEXANDER: You can't say that.

DR. CARR: A lot of people would question that.

MR. ERNST: You don't object to saying that we regret that we did make the move?

MR. MATTHEWS: I wouldn't even say we regret we did.

MR. ERNST: That you had to make the move.

MR. MATTHEWS: That is a question the Commander in Chief had to decide and that just illustrates the fact that the rights of the individual give way to the necessities of the country.

DR. CARR: You wouldn't go so far as to say that in time of war all civil rights issues must be thrown entirely to the military for decision?

MR. TOBIAS: I can't agree with that, Mr. Matthews.

MR. MATTHEWS: I would say that this Committee ought not to pass judgment upon that action.

DR. CARR: The story is pretty well known now. I think if the Committee feels that it doesn't have the facts, that then we have been at fault in not bringing them to your attention. The War Relocation Authority, for example, has published its final report, which is very detailed, very completely documented. I might say that it goes well beyond the words of this section here in criticizing the policy. I don't see how the Committee can dodge the issue altogether. It may well be that you want to re-word the thing and get away from some of the observations now made.

Incidentally, I would like somewhere along the way to bring Rabbi Gittelson's comments to your attention. I see I have missed a couple already. On this point here, he apparently feels that the statement isn't strong enough. He would go in the other direction, makes specific reference to the situation in the Hawaiian Islands where it was impossible to remove the Japanese, where the problem was handled without evacuation and relocation, where it was -- as he puts it -- apparently possible to single out those whose records were such as to --

MR. ERNST: But you had martial law in Hawaii.

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MR. ROOSEVELT: You see, we had two alternatives: either martial law on the West Coast or relocation. And in Hawaii they had martial law and no relocation. There was just a different solution of the same problem.

MR. SHISHKIN: The point I think is crucial, that under martial law civil rights were better protected than they were without the imposition of martial law.

MR. ROOSEVELT: That is the way it was worked out in two specific cases.

MR. SHISHKIN: The essential point, as far as the long term view that the Committee expresses, is that under martial law we do have a condition of a degree of emergency affecting the nation, in which civil rights are suspended by martial law and decisions are made by the military; but unless the decisions are placed in the hands of the military with the responsibility for such action under such conditions, a situation of this kind is not a right one.

It seems to me there is one point that needs to be expressed here; and that is the point made about the distinction between the individual and mass guilt. That seems to me very important to the whole report. If we leave a loophole open here and say that, Exception 1, there is an exception in which individual guilt need not be established because under certain conditions of historical development we can accept the concept of mass guilt, then it seems to me that the whole report falls down.

MR. ERNST: Would this satisfy you, that we don't try to appraise what we did in the past; but we make our comment that because of our misbehavior as a nation in our pattern toward the Japanese -- and don't pull our punches on it -- this decision was made? We wouldn't have been faced with it, if we had opened the doors of citizenship to the mothers and fathers of these kids that were born here.

DR. CARR: The trouble with that is that you then make a strong implication that the Japanese were disloyal; but that it was not their fault.

MR. ROOSEVELT: I might comment that it is most unusual when Mr. Ernst takes over the job of being the arbitrator. We should encourage him.

DR. CARR: I think there have been some suggestions here that provide a basis for compromise. The DeWitt stuff can go out very readily. I would hate to see the Committee not go so far as to take Mr. Shishkin's point that this episode did represent an attempt to judge people on a mass basis rather than an individual basis; that,

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granted the provocation was great, we were faced with a very serious threat; that the implications for the future are most disturbing; the thought that we shall ever again take --

DR. GRAHAM: For my part, I want that said.

DR. CARR: -- 100,000 or more and, because of their ethnic or national origin, treat them in such arbitrary --

MR. ERNST: Would you be satisfied, from your point of view, to say that if we proceed properly in the future, as recommended with relation to the Japanese, the recurrence of mass guilt in this country would be unnecessary?

It seems to me that avoids our becoming military commanders and deciding whether it is right or wrong or whether John Dickey is right or wrong.

I don't mean to minimize the punch at all. It seems to me if this nation went ahead as we recommend this thing couldn't happen again; and, not having gone ahead, it might have been conceivably a rationale for the General. Is that a solution?

DR. DICKEY: I think there is a very basic question here, perhaps, that gets beyond the Japanese question. The movement of these people was not because of some rationale of prejudice; really, with respect to them, their ethnic origin. I think Morris Ernst was a lot closer to it when he said that what is involved here is the fact that there had been a longstanding discrimination against the Japanese in this country and the type of national life which the Japanese had led at home. Those two combinations resulted in the fact that the Japanese were not assimilated into this country.

MR. ERNST: Due to our fault.

DR. DICKEY: Not entirely. I don't think it was entirely our fault, no, because they weren't assimilated in Brazil. We know the Japanese colony in Brazil was just an absolutely hard core, that you couldn't get any information out of, you couldn't penetrate. They were theoretically citizens of Brazil but they weren't prepared to say whether they gave their national loyalty to Brazil or their national loyalty to Japan.

Now, those things are facts which men carrying responsibility have to deal with. They are not issues of racist philosophy. This thing, I say, reaches beyond the Japanese, because I think it relates to the Negro's problem and the Jew's problem in this country.

I want now to make my peace, at least with myself, on this. I think this Committee has not faced up sufficiently to that fact,

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that the worst aspect of discrimination, in my opinion, in this country, is what it does to the minority -- at least for the people who can't break loose from the minority -- that it quite frequently results in attitudes and ways of living which provide an actual, factual basis for future prejudice, and discrimination; and the thing feeds on itself.

I think that the minorities in this country, especially those men and women such as are represented in this Committee -- and there are legions of them who are representative of these so-called minorities -- carry a terrific responsibility to have their groups understand that fact -- what I believe to be a fact -- that this question of prejudice is not the simple thing which to some extent our proceedings have assumed it to be.

The Jewish people for ages have been driven into their Ghettoes and if you will read Toynbee, you will see him discussing the problem of Ghetto traits. These are sociological phenomena that happen. Unless you deny the fact that environment and the attitude of others can have a terrific influence on the attitude of the person against whom the environment and the attitude operate, you, I think, lose all sight of the magnitude of this problem.

It is not simply a question of men being prejudiced against other men because of some philosophy of race. That unquestionably is the intellectual articulation that is given to the problem by the Hitlers and the others. But, sociologically, we have a much tougher problem.

Well, now, I am led to say that simply out of the Japanese situation which you were commenting on, Morris, that you have a sociological fact there, I believe; at least a basis for an awful lot of argument, that the type of national life which the Japanese pursued led to a type of national loyalty which was distinctly difficult to dissolve under any circumstances and almost impossible to dissolve in this country with our regarding the Japanese as outlanders whom we wouldn't take in on an even basis.

MR. ERNST: What do you propose that we do with this section, due to our fault in part; our fault that we did isolate and make this a difficult problem?

DR. DICKEY: I think this may be one of those things where men hold genuine differences of opinion and we will split on it. What I would do with it would be to say that the Committee holds differences within it as to the judgment that was exercised on the evacuation. The Committee has no differences whatsoever with and recognizes the complexity of that aspect of the question; the Committee is in agreement with respect to the unfortunate consequences which have flowed from that and believes that this country had better do every-

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thing that it can to improve the situation which exists today.

MR. ERNST: Would you mind adding to it -- and you would satisfy me, for one -- that, in part, the decision that inevitably had to be made at the moment, whether right or wrong, arose out of our failure to properly treat this group in this country along the lines we recommend elsewhere.

DR. DICKEY: I wouldn't have the slightest objection myself. I think you get into a sociological problem.

DR. CARR: If you say that and no more; then I think there is a strong implication that you feel the Japanese Americans were disloyal; that it was our fault, in fact.

DR. DICKEY: I guess he is right on that.

DR. CARR: There are those who argue that the disloyalty of the Japanese-Americans was not proved, that there has been no convincing evidence that any very large number of them were disloyal.

MR. WILSON: There was in Hawaii. I have just finished reading a book describing the situation that preceded Pearl Harbor in Hawaii, and it seems to me that there is well-documented evidence. Now, how sound the people were who produced it I don't know, but the evidence was that the Japanese were absolutely disloyal.

MR. CAREY: I think that is true in a lot of areas in the world. It is not because of any peculiar situation with respect to the Japanese. I have known Quislings in other nationalities. Undoubtedly, we had some of them in our own nation.

MR. WILSON: But I mean mass disloyalty, Jim.

MR. CAREY: I don't think there is such an animal. Very frankly, I hesitate to say anything to water down that proposition. We made a mistake in thinking that there is such a thing as collective guilt. We made that by association, and the nation is making that mistake today. It is making it in implying that every labor leader is a Communist. It is just not so. You have some that are and some that are not. And yet, I am required, before they establish proof of guilt, to confirm the indictment, and sign an affidavit -- if I were willing to live up to the law -- which I am certainly not willing to; I would like to be a labor leader but not to that extent.

So there you have the situation. I don't think there has been any proof at all that, collectively, the Jews in Germany or the Japanese in Hawaii or those of Japanese descent in the United States can be generalized in that form. If our machinery was such at that

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particular stage that we couldn't take the time to go through the process of determining the guilty from the innocent -- and of course that was the situation -- we might say it that way. I don't think there is any evidence to show in this country that there is such an animal as collective guilt.

MR. TOBIAS: The thing that concerns me -- and I think somewhere we are bound to say it -- is that, regardless of what the circumstances were that led to this peculiar treatment of American citizens -- and I confine what I say to American citizens -- we must recognize that their future citizenship and the enjoyment of their citizenship rights have been affected by that action and that today they suffer from it.

MR. ERNST: That is right.

MR. TOBIAS: And this Committee is interested that no citizen of the United States shall suffer for anything that has happened for which he has no personal responsibility and no taint of personal guilt.

I don't see how we could expect any man who is a loyal citizen of this country, regardless of what his racial origin might have been, to feel otherwise than that such a committee as this would recommend that his citizenship be made secure against any movement to interfere with it except on grounds of his own behavior being out of line.

DR. DICKEY: You don't put this, do you, Dr. Tobias, on the ground of citizenship?

MR. TOBIAS: Well, that is what we are concerned with.

DR. DICKEY: A third of these people were not American citizens.

MR. TOBIAS: I said I confined what I had to say to those who were citizens.

DR. DICKEY: Yes, but a third of them were not American citizens. As I think the report brings out, they were very largely presented with the question of moving them all or not moving any because in a great many instances the parents were not citizens and the children were. They were unwilling -- both the Japanese and the other people -- just to tear families asunder on this thing. It is a complicated problem.

MR. ROOSEVELT: How about adding one thing there, too, that the Committee recognizes that in certain individual cases, in the Japanese cases, the individuals, for varying reasons, maintained greater loyalty to their country of origin, which situation we deplore

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and we pass on to our succeeding permanent committee the job of spotting these isolated cases -- not just Japanese; there may be Rumanian; there may be Polish instances.

MR. CAREY: And the Irish.

MR. ROOSEVELT: And the Irish; and that great effort be made through this permanent committee to assimilate them and indoctrinate them in the traditions of American Democracy. That is a positive recommendation. In other words, there we give the Army people an "out".

MR. CAREY: That also waters the thing down. That is what I fear about the thing. My parents and their parents before them, liked the land of their birth. My father was broken-hearted because I didn't stop, go 30 miles out of the way to see the place that, five generations back, they hailed from. And they have a tremendous loyalty but they were, none of them, isolationists.

MR. ROOSEVELT: That is a little different.

MR. MATTHEWS: They didn't have a prior loyalty to Ireland.

MR. CAREY: I am questioning whether or not they have a prior loyalty to Japan, and that is the thing I am getting at -- this assumption that they have a prior loyalty and it is peculiar to the Japanese, because here again is evidence of their differences.

I think that this action by the Army at that stage was an appeasement of the clamor of the public and the fears in the minds of people. Not so much of spies and not that they will be engaged in sabotage, but there was a popular demand on the West Coast, incited by the newspapers and by others, and it is true that it just didn't start with the war situation. It started a long time ago.

MR. ERNST: Would you be willing, Jim, instead of shifting our judgment as to the correctness of the military position, to come out with a severe condemnation of our entire pattern toward these Japanese which led to the clamor. I had rather condemn the American pattern than I would pass judgment on the military necessity.

MR. CAREY: Isn't there some way we wouldn't have to pass judgment on the proposition?

MR. ERNST: At the same time, castigate the American pattern where we have individuals born here and their parents could never be citizens.

MR. CAREY: I don't know what I would do under the circumstances. I have a notion that in that position of responsibility I would carry

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out the same action, because you do have to engage in appeasement.

MR. ERNST: Say, "Look, here are our recommendations for the future" -- not only to correct this one, but let them open the door to citizenship, and repeal the land laws.

MR. CAREY: The thing doesn't have to be done; that is, in the future. The record there would indicate that it never has to occur again.

MR. ERNST: If we behave properly.

MR. CAREY: No, no. There is where you start the question of wondering whether or not they were loyal. I would say that that gives evidence. It is part of our history, and it shows that these people were loyal not because they were relocated but that there is no such thing as collective guilt.

MR. TOBIAS: They faced a darker future in the State of California than the Japanese who were guilty in their homeland face under the MacArthur administration.

MR. LUCKMAN: Mr. Chairman, I wonder if we could resolve this in the interest of time. Could we vote on one aspect of it? Could we vote on whether we are agreeable to not try to make a decision whether the military was right or wrong? This apparently makes a plea against the military.

DR. CARR: It doesn't quite say that.

MR. LUCKMAN: The implication is there very strongly, because you quote the words in which DeWitt justified his action.

MR. MATTHEWS: That interpretation is possible.

MR. LUCKMAN: Regardless of what this says, if the Committee could decide that we shall take any position on whether the military was right or wrong, I think that might help resolve it.

MR. WILSON: Hasn't it been clearly demonstrated that the Committee does not want to take the position that the military was wrong? Does anybody object?

MR. TOBIAS: Except that I want it understood that I wouldn't take a position that the military was right.

MR. SHISHKIN: It doesn't say that the military was wrong. It says that we are disturbed at the basic assumption made.

MR. ROOSEVELT: Why don't we start off by saying that this

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Committee does not feel that any advantage can be achieved by passing judgment on the action of the military? Then go on to the need of --

MRS. ALEXANDER: If we don't protect the civil rights of people like this, next time I will be evacuated.

MR. ROOSEVELT: Then go on to a positive statement of what we think should be done: (1) we have to take care of the Japanese situation as it now exists in California. We have to go out of our way to rectify that damage. And then the positive program of how wide we want to have to make our action in the future.

MRS. ALEXANDER: I think Dr. Dickey is right. If we have to do that, then we will say that there is a difference of opinion.

MR. LUCKMAN: Is there?

MRS. ALEXANDER: Yes, there is a difference, because, next time, I may be evacuated. Dr. Dickey says that the Jews or the Negroes or the Japanese owe allegiance. I don't know what country I owe allegiance to other than America. I don't know where I would find one to hang my hat on.

DR. DICKEY: I didn't say anything about the Negroes' and Jewish allegiances. I was talking there about a sociological phenomenon.

MR. CAREY: Didn't you say something about lunch, Mr. Chairman?

MR. WILSON: Yes, I did.

MR. SHISHKIN: Before we get to that, the only warning signal, whatever is done, is that in one well-known song, the songstress sang, "No, no, no; but do it again." I think the position we are getting into here is saying, "Yes, yes, yes; but don't do it again." I don't think that really is a logical stand to take.

MR. ROOSEVELT: That is not what I am saying.

MR. ERNST: Franklin isn't saying that.

MRS. ALEXANDER: What is he saying?

MR. ERNST: He doesn't pass on our militarists.

BISHOP SHERRILL: My idea is that there is no suggestion in this paragraph that the military faced a very difficult situation. It is a rather clear-cut assumption that they were absolutely wrong.

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DR. CARR: There is a sentence, Bishop.

BISHOP SHERRILL: What I would like to have is a recognition that the military faced a very difficult and complicated and dangerous situation. Then, go on from that to a discussion of what happened as a result and what ought to be our attitude in the future.

DR. CARR: I think that can be done. How would this be: We drop all the references to DeWitt and what he said. We start in a somewhat similar fashion, because the first statements are largely factual, although there is a certain suggestion that 110,000 or 112,000 men and women were evacuated without a trial or any sort of a hearing at a time when the courts were still functioning.

I think I would then drop this quotation from the testimony of one of the evacuated. Then, go on, fundamentally, to our whole system of laws, the belief that guilt is personal and not a matter of hereditary association. You have 70,000 United States citizens ordered out of a large section of the country and detained for months in relocation centers.

Then, here, change it a bit. There is a sentence that says here, "We remember well the doubts and fears of the early months of the war, and we recognize that the evacuation policy seemed a necessary precaution to many at the time." That can be strengthened. Then, rather than doing anything more that would pass judgment on whether it was an unwise move at the moment, move on to the implications of the thing for the future, that we must avoid a situation, if we possibly can, where you have mass guilt decisions made in the future, even in time of war. I think it isn't enough to ignore the military altogether, because then you are overlooking the possibility that the situation will arise again where the military has complete authority to make such decisions.

MRS. ALEXANDER: Would you leave out the "high correlation between disloyalty and race or national origin"? That is a very important sentence.

DR. CARR: There is disagreement on that point.

MR. ROOSEVELT: What sentence is that, again?

DR. CARR: But we are disturbed at the basic assumption made, which was, in essence, that there was a "high correlation between disloyalty and race or national origin."

MR. SHISHKIN: Can you put that in the abstract?

DR. DURHAM: You mean, Mr. Shishkin, that we would say we are disturbed at any assumption that loyalty and disloyalty may be

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correlated with race and national ancestry?

MR. TOBIAS: He means that he would have that immediately follow, just as it does, that sentence beginning with, "We remember well".

DR. CARR: And he would even strengthen that somewhat?

MRS. ALEXANDER: I don't want to take out this next one.

DR. DICKEY: I would like to know, as a matter of intellectual certainty, are there people in this Committee who believe that a national group cannot be warped in such a way as to make them a different sociological problem than other people?

MR. SHISHKIN: For myself, I would like only to refer to evidence of that kind of question, rather than to any assumption of that kind. I don't think we are prognosticating here as to what we think the issue will be the case of a particular event. What we can do is to deal with the evidence we have that such is the case.

MR. ROOSEVELT: Jim has expressed himself on that.

DR. DICKEY: Do you believe what I have just said?

MR. CAREY: In a democracy?

DR. DICKEY: No, I didn't say in a democracy. This is a very fundamental question, if we split on that.

MR. CAREY: Where you have a point of view, why don't you present it and show the evidence to support it or statements to support it?

DR. DICKEY: I ask a question because I think that is the important thing. Are there people here in this Committee who believe that a group attitude cannot be determined by national origin?

MR. CAREY: I can testify to the fact that in a democracy you cannot develop such a group attitude of the kind that requires the treatment set forth here.

DR. DICKEY: All right. How about Japan? Japan wasn't a democracy.

MR. CAREY: I am not talking about in Japan. You are talking about the environment in this country.

MR. TOBIAS: Jim, the situation that existed at the time of the war was not that of a democracy either, but we didn't institute similar measures in Yorkville.

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DR. DICKEY: That is right, but Germany and the bringing up of the German assimilation is a sociological fact.

MR. TOBIAS: You insisted at the last meeting that that was true, but you haven't made that point here.

MR. CAREY: Why just the Japanese?

DR. DICKEY: That would require a long discourse on the way the Japanese was brought up and the family loyalty and the religious loyalty that he had.

MR. ERNST: And our pattern toward them.

DR. DICKEY: Yes, that enters it too; but first you have to go back into the nature of the Japanese, why the Japanese colony was as closely knit as it was in other countries.

MR. CAREY: I have read Mein Kampf, and all of that, and I know the claims made by Hitler and the claims made by others; but I think they lacked proof. They talked about this great German family, and so forth. I don't know.

DR. DICKEY: Race-ism from inheritance is one thing; environmental influence is something which I had supposed intelligent men were not prepared to deny.

MR. CAREY: I don't argue on that basis. You are telling me that these people conform to the requirements of the environment of Japan. I say they don't, because they are not in Japan.

DR. DICKEY: I simply say that they are not in Japan physically, but that the actual fact is that they were not assimilated into the American democracy.

MR. ERNST: We had isolated them.

MR. TOBIAS: Would you want Negro members of this Committee to believe that Americans had a right to take into consideration the animistic practices in parts of Africa from which the forebears of some of the Negroes in this country came?

DR. DICKEY: No; I am not saying a thing about their inheritance of animistic characteristics. If you want me to talk about the Negro problem, I will simply point to Myrdal and say I think he is quite right, in the paragraph in which he states that where you discriminate against a group you can create an attitude in that group which then provides a basis for subsequent discrimination and prejudice.

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MR. TOBIAS: I understood you to base what you were saying about the Japanese on the social institutions and practices back in their homeland.

DR. DICKEY: That is right.

MR. ERNST: May I interrupt a moment? Bob Carr enunciated a program which seemed to me to be acceptable to many as a solution of this. I wonder if before we go to lunch you could repeat it, Bob, so we could have it clearly in mind.

DR. CARR: It left some things dangling. I would take out virtually all of the quotes that are in here; all of the references to DeWitt's testimony and the testimony of the Japanese-American evacuees.-

I would begin with a brief, factual review of the episode, much as we do here; change the impression a little bit along the way to make it more thoroughly impartial; admit that at the time it seemed to many that there was a problem; then, go on and say what bothers this Committee, the implications of the situation, that we find ourselves in a situation where the military can pass a mass guilt judgment upon a large number of people and impose such punishment on them as was here imposed -- in effect really destroying their culture because that is what has happened; and that, somehow or other, we have to figure out for the future a way of avoiding such mass guilt decisions and provide the necessary machinery for testing the loyalty of people in time of crisis so that we can preserve our tradition of personal guilt as against mass guilt.

MR. TOBIAS: Or at least to say that we have to recognize the effect that that practice has on the rights of these people.

MR. ERNST: He does that, too.

MRS. TILLY: Are all the quotes to be taken out?

DR. CARR: I think probably take them all out.

MR. MATTHEWS: Would you make a motion that we approve that suggestion?

MR. ERNST: I would approve it. It gets away, I take it, from the danger that the Bishop pointed to originally.

MR. LUCKMAN: I so move.

DR. GRAHAM: I second the motion.

MR. WILSON: Any further comments on it?

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Will you vote on it? Will those in favor vote "aye"?

(There was a chorus of "ayes".)

MR. WILSON: Contrary minded?

(No response.)

MR. WILSON: We will try it.

We are adjourned for lunch until 2:15 p. m.

(Whereupon, at 1:30 p. m., a recess was taken until 2:15 p. m., of the same day.)

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AFTERNOON SESSION

2:45 p.m.

MR. WILSON: We are on page 12. Are there any suggestions of change on page 12?

MR. ERNST: Are we sure of our facts on the incident related at the bottom of the page?

DR. CARR: We would suggest cutting that somewhat, and we are checking it further. This is probably as good a point as any to say that during the last two weeks, and for the next two weeks, a major portion of the staff's time and energy is being used to check all facts; and we propose leaving behind, when the Committee goes out of existence, a card file which would in effect footnote the whole report very thoroughly, so that if the White House gets into any controversy with anybody over anything in the report, there would be this file that would show the source of all the factual statements.

With regard to the proposal for that last paragraph, we will cut the last sentence out, and also cut out this sentence about "It forbids ineligible alien Japanese to live in their children's homes". That is a rather technical point which is rather hard to document; it is certainly subject to misinterpretation. The entire paragraph is subject to investigation and will be looked at very carefully, indeed, before it goes through.

MR. WILSON: But that one sentence you are eliminating?

DR. CARR: We have eliminated the sentence, "It forbids ineligible alien Japanese to live in their children's homes". And we have also eliminated the last sentence.

MR. LUCKMAN: Are there any good things being done about the Japanese repatriation problem, or anything we can mention, any progress at all?

DR. CARR: They have settled in other sections of the country, and I suppose there are instances that could be found where they have been accepted and are slowly but surely finding a new way of life, so to speak, in different areas.

BISHOP SHERRILL: I read a magazine article - and I can't remember where - of how they have been accepted in Chicago and the splendid positions they held, and one thing or another.

MR. TOBIAS: That was true throughout the war.

DR. CARR: On the other hand, Chicago's race relations are certainly not perfect at the moment, and we would have to be awfully careful before we made a flat statement that they had been fully accepted in

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Chicago.

MR. ERNST: As I understand, Dillon Myer's statement is that this difficulty of adjustment is magnified when the Japs have gone back to many places. It seems to me if you have got to quote from Dillon Myer instead of our ideas, that that would answer your point.

DR. CARR: The War Relocation Authority published a final report, and it may be we could find something in there which would do the thing you have in mind.

MR. WILSON: And put something in on the plus side. I think it would be fine if you could do it.

With those reservations expressed by Dr. Carr, I understand you accept page 12.

Now, page 13.

MR. ERNST: There is one minor footnote. I think it would be well to have the population figures indicated as to Guam and Samoa. I would like it from the point of view that it is so small it is a silly thing for this country to do. It isn't as if it were a population of millions and millions, a complex civilization.

MR. LUCKMAN: May I ask, what brought this in? I am not familiar with this having come into our deliberations before.

MRS. ALEXANDER: There was testimony before the Committee on it, as to the fact that they were being administered by the Navy.

DR. CARR: John Collier testified before the Committee on this.

MR. LUCKMAN: Is it considered an important enough issue to include in our report?

MRS. ALEXANDER: Yes, it is.

MR. ERNST: I think it is particularly good, because we also point out that the President has made that recommendation, and that is one of your pluses.

DR. CARR: And also it refers to non-Negro minorities. ✓

MR. CAREY: He anticipated that somebody would bring that up.

DR. GRAHAM: Mr. Chairman, on page 13, in the 6th paragraph, the net implication or the net result of that paragraph is quite inaccurate.

DR. CARR: Which paragraph is that?

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DR. GRAHAM: It starts, "The denial of the suffrage on account of race". It says most Southern States completely disfranchised the Negro.

MRS. TILLY: And the last sentence is too strong.

DR. GRAHAM: It says, "In the past 2 years, the situation has changed to the point where it can be said that some Negroes in the deep South have begun tentatively, insecurely, and hesitantly to exercise the political rights of free Americans." You start out with "most Southern States", you give the instance of progress limited by 2 years, and say the "deep South". If people didn't know, you wouldn't realize from this paragraph that Negroes in the upper South have been voting for 20 years, to my knowledge, in considerable numbers. Sometimes they are the decisive factor in the vote in Raleigh, North Carolina.

It says, "tentatively, insecurely, and hesitantly". Even in the deep South, Mr. Tobias, aren't Negroes voting openly at the polls?

MR. TOBIAS: Especially now. That is true in Georgia. It is true even in Mississippi, where two white men recently fought each other over that issue.

DR. GRAHAM: When you read this paragraph, if you didn't know the facts you would get a very inaccurate picture of the situation. That furnishes material to the enemies who don't want this progress, and then it infuriates the people who have been fighting for the progress and have made some achievement.

MR. TOBIAS: I think it has got to be worded in a way to take care of what is actually happening, or you get a bad comeback.

For instance, in Winston-Salem, North Carolina, a Negro was elected to the City Council this past year, and one came desperately close to it in Richmond, Virginia. Now we don't want to leave out of account facts like that. I mean these general statements which do leave out of account facts like that will bring a back-fire as to facts upon us.

DR. GRAHAM: And undermine the value of the report.

MR. ERNST: That also goes to the word "handful" in the paragraph a little further down where it says, "While a handful of southern Negroes succeeded in spite of various obstacles in voting in general elections..." That refers to 1944. If we had a figure of the total Negro vote, it would be very wholesome to put it in.

MR. TOBIAS: Of course, fairness compels us to admit that although there is this background of fear and all that, in many cases - not only in the South but in other places - Negroes have not register-

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to the extent that they might have registered. An indifference has come about through long years of failure to exercise the franchise, and they do not register. We have trouble, of course, stimulating registration even in the Northern States where there is no problem.

MR. ERNST: Is it your idea that the facts might even split the deep South. Will you get factual material that certain States have come through swell --

DR. GRAHAM: I wouldn't say any of them have come through swell.

MR. ERNST: Well, I meant better, like the Raleigh example you mentioned. Are there some that are worthy of example?

DR. GRAHAM: Take this statement, "In the past 2 years" - you would think nothing had happened until the past 2 years.

MR. LUCKMAN: Could that entire paragraph come out?

DR. GRAHAM: You start out, "most Southern States". Then you give an instance of progress, and that is limited to the last 2 years. If you didn't know, you wouldn't get from this paragraph the fact that large groups of Negroes have been voting in some Southern States for 20 years.

MRS. ALEXANDER: Can't we just say that? I think the staff can say it.

MR. LUCKMAN: Just eliminate that paragraph.

DR. GRAHAM: I wouldn't eliminate it. I would just say to make it more complete.

MR. LUCKMAN: Apparently it is not accurate as it is.

DR. GRAHAM: The total impression is not accurate.

MR. SHISHKIN: The fault is with the generalization, isn't it?

MRS. TILLY: It says, "But resistance to political rights of Negroes in most of the South today is so intense and the gains of the past few years so limited that the future seems very uncertain." I don't think the future seems uncertain at all.

DR. CARR: Now, Mrs. Tilly, I don't quite believe you mean that. You have been telling me about all sorts of uncertainties in the future.

MRS. TILLY: I don't mean in the next day or two, but we are making progress all the time in the Negro vote.

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DR. CARR: I think some of these generalizations should be changed, but we can't make it out that all the Negroes are voting in the South.

DR. GRAHAM: And you can't make it out that only in the last two years a few have started to vote.

MR. ERNST: Is there any doubt statistically as to the numbers that have voted, by years?

DR. CARR: We have no reliable data.

MR. SHISHKIN: The "2 years" came in there because of Smith v. Allwright?

DR. CARR: Yes. In the last 2 years there has been a very significant development, it is true.

DR. GRAHAM: But you jump from "most Southern States", and you give the illustration of progress in the last 2 years in these States. That just leaves untouched other States where it was true before the last 2 years. You make no reference to that.

DR. CARR: I can fix this paragraph up.

MR. SHISHKIN: Particularly the attempts made by the States themselves, as in Tennessee. Although it met a stumbling block later, an attempt certainly was made to remove the barrier, directed by State action, prior to the Smith v. Allwright decision.

MR. TOBIAS: We have to take care of the situation for people like Ellis Arnall, and those who are his followers, who have invited defeat on this issue as an issue, and have experienced defeat on it. To make a statement that generalizes the situation so as to not take that into account would just infuriate people like that who have really been getting scarred and figuratively beaten up over this issue.

MR. WILSON: Why don't we see if we can change the verbiage to the extent that you are anxious to go?

MRS. ALEXANDER: I think Dr. Carr has it in mind.

MR. TOBIAS: He can fix that.

MRS. TILLY: I think that there was --

DR. GRAHAM: (Interposing) When we point out a mistake like this, we don't mean for you to go to the other extreme.

MR. LUCKMAN: Does that mean we will also try to include, then,

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Mr. Chairman, some of these illustrations that have been discussed on the positive side? Dr. Tobias mentioned one or two.

MR. WILSON: I surmise you don't want to do it unless we have specific cases.

MR. TOBIAS: I mentioned that it is a fact that Negroes are voting. This isn't in keeping with the facts here, this "tentatively, insecurely, and hesitantly". At the present time, where they are voting they are going ahead and voting. They did that in Mississippi, and they did it with the support of some of the white men who were in charge of the polls. One of them got into a serious fight. I think a white man killed another white man down there over the issue. And it is true that a Negro was elected a member of the City Council in Winston-Salem, and one came within a few votes of being elected in Richmond, Virginia.

That means that after this decision of the Supreme Court on the white primary issue - of course, they voted in general elections before the white primary issue came up - they went without hesitation to the polls. They were denied the right of registration in Georgia, but they went right ahead and took that to the Court, and that is pending now. So that they are just facing it as people, white and black alike.

MRS. ALEXANDER: I would add to the list of accomplishments the fact that in Kentucky they have the first Negro Legislator since the reconstruction days, Charley Anderson, a member of the Legislature from Louisville, Kentucky.

MRS. TILLY: In Augusta, their voting place was a white church, because it was the only place there. That white church was near another white church. Those white churches were opened for the services of Negroes that day, because they had to stand in line all the day long, and the white women of those churches served sandwiches to them as they stood in line to vote.

DR. GRAHAM: They weren't hesitant about standing in line, either.

MRS. TILLY: No.

DR. GRAHAM: There is a real line-up in those two parties. I was down there last week. The Cracker Party - officially known as that - is the reactionary group; and then there is the Progressive Party. The Negroes are allied with the Progressive Party. They all know it, and the Progressive Party candidates are seeking their support. No man runs for Governor in North Carolina who doesn't go to see several Negro leaders well in advance of his announcement.

MR. TOBIAS: I think Mr. Carr can fix that.

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MR. WILSON: All right, we will go on to --

MR. DICKEY: (Interposing) Before you move from page 13, I wonder if the paragraph just ahead of the one we have been discussing serves any useful purpose. I think that is so generalized that it is not likely to result in any corrective action being taken anywhere.

MR. WILSON: You mean the one which begins, "The electoral system"?

DR. DICKEY: Yes. And I think it might be lifted out overseas and distorted very usefully.

DR. CARR: I am perfectly willing to have it go out, although it should again be said that it represents an effort to introduce the non-Negro aspect of the voting problem. Certainly you have gerrymandering and some of these other things in Kansas City and places like that, and you can't just ignore it.

DR. DICKEY: I don't think it is going to lead to anyone doing anything about those things that are mentioned. You will just have a recitation of it --

DR. CARR: (Interposing) Some of the recommendations for new legislation, giving the Federal Government power to protect elections, would cover this type of irregularity, as well as the interference with the right of a Negro or another minority member to vote. However, I don't feel strongly about it, myself.

DR. DICKEY: It is a paragraph which the enemies of the United States overseas are going to lift out of a report by the President's Committee, and where we are having as much trouble as we are supporting democracy in those countries, I should hate to have the President's Committee cited to the effect that, "The electoral system in a democracy is peculiarly vulnerable to the forces of corruption," unless some useful purpose is to be served by it.

MR. SHISHKIN: My objection to that particular sentence is its emphasis on "peculiarly". It seems to me that most of the paragraph could be retained if the emphasis should be shifted to the positive note, which would be related to our recommendation that there are practices in the political mechanism of the democracy which need to be eliminated in order to have that mechanism strengthened; and it seems to me that if that is the tone of this paragraph, which may be shortened, that it would serve the purpose.

DR. CARR: The first sentence is certainly bad, and is subject to the misinterpretation that Dr. Dickey speaks of.

DR. GRAHAM: It would imply that the electoral system in the totalitarian countries is less corrupt than in a democracy.

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MR. WILSON: We will cut out the first sentence. Do you want to cut out the rest of the paragraph, or tone it down?

MR. LUCKMAN: I don't see that it serves any useful purpose, and I move it be eliminated.-

MRS. TILLY: You mean to cut out the whole paragraph?

MR. WILSON: Cut the paragraph out entirely.

MRS. ALEXANDER: Dr. Carr, couldn't you take out the first sentence, and indicate that there are certain dangers in voting in any type of political system, and these are the ones?

MR. SHISHKIN: I think to cut it out would only increase the sales of Mr. Flynn's book, which can with equal force be used by our enemies.

DR. DICKEY: Not quite with equal force if this is the report of the President's Committee.

MR. ERNST: I feel that it could well go out, because if we were addressing ourselves to these general corruptions, we ought to come forward with a solution.

What worries me on this whole problem is that I think we have failed to make clear to laymen the position of the Federal Government on this question of Federal-State rights, and I think that goes through out the report, because I think that is where all of this legislation gets licked, when people say "What about State's rights?"

Right here you can read this whole section and you get very little idea - and maybe some people ought to draw a distinction between voting for Federal office holders as against local ones; and you get an idea that voting is one of these rights like free speech, which would perhaps be my position, whether local or Federal officers are involved. And we really haven't done any educational work in this report on that basic confusion that comes from a Federal type of Government. I think we have got to make very clear somewhere why we believe that the Federal Government should butt into these local patterns of electing the local selectmen; and I would have the Federal Government butt in on a negative measure to prevent the locality from depriving the vote on race, creed or color; - I wouldn't want the Federal Government to run the election.

I think we ought to make clear that our suggestions for Federal power are negative to prevent abuses, rather than the expansion of Federal power in the affirmative sense.

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I don't have to repeat it, but I find that throughout as being pretty foggy, and that is what comes up at every legislative hearing.

The same thing is true of lynching. Lynching is murder, and if the States took care of that you wouldn't have to bother with it.

MRS. ALEXANDER: What would you do with this paragraph?

MR. ERNST: I would leave it out. I am a State's right man, and I think we have too much power in the Federal Government, but there are certain things like free speech, the right to vote, and not to be lynched, things based on race, creed or color, or freedom of thought, where we have to enunciate a Federal pattern. I don't know whether the Committee is ready to say it, but if you don't you are going to be constantly met with the old argument, "What - even for the local sheriff?" And I think we ought to say, "Yes, even for the local sheriff, do not deny the right to vote on the basis of race, creed or color."

That is a real revolution in the pattern of our national thinking, because we started as 13 separate Colonies, and there was no idea that the Federal Government would ever have anything to say about it, the local choice of election or the local choice of free speech.

DR. CARR: There is one difficulty with taking out this paragraph and with what you have just said, and that is that in one respect, at least, your position would represent retrogression. We already have some Federal laws that are being used by the Civil Rights Section in election cases. They have gone into the Kansas City situation; one of the most famous of all cases, the Classic case, took place in New Orleans, and was an instance where the Federal Government successfully prosecuted a local election officer who stuffed the ballot box. There was no race, creed or color issue involved. Do I understand that you want to back down on that?

MR. ERNST: No, I don't want to back down on anything. I want to expand the Federal power to prevent discrimination on race, creed or color. That is all I was addressing myself to. We have no proposals, I understand, on gerrymandering or stuffing the ballot box.

DR. CARR: We do on stuffing the ballot box. The present law lets them go well beyond race, creed or color. And what you are recommending at the end, when you come to election laws, is a strengthening of the existing laws.

MR. ERNST: That is what we will debate later. Gerrymandering is a much greater denial of the right to vote than stuffing the ballot box.

MR. SHISHKIN: Are you going to have a pink slip on the preface of this report that this Committee's report is solely confined to these

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particular points? This is a report of the President's Committee on Civil Rights. For my own part, I happen to vote in a nearby section of Virginia where the voting booth consists of a canvas curtain in front of a Texaco gas station, where the man, who isn't supposed to see my secret ballot, can look through the window and see what I write.

MR. ERNST: If you are ready to make recommendations for us on how to change our election practices throughout the United States, I would like to make them.

DR. CARR: Is there any objection that the Federal Government should have power to prevent election irregularities which interfere with Mr. Shishkin's civil right to cast his vote and have his ballot honestly counted?

MR. ERNST: I would object to this Committee at this time going into election evils on a general scale throughout the nation. That is a bigger job than what we have.

MR. LUCKMAN: I quite agree with you.

DR. CARR: You are backing downhill, then.

MR. ERNST: No, and I resent the idea that it is retrogressive. What I am saying is that on that we are silent; that is not our job.

DR. CARR: How do you come to that conclusion?

MR. ERNST: You mention gerrymandering. Have you got a single thing to suggest to prevent it?

DR. CARR: Take that out.

MR. ERNST: This "needlessly burdensome technicalities are the milder devices used" is so vague that it is valueless and meaningless. If you have some examples, let's specify them.

DR. CARR: Let's take that whole sentence out.

MR. SHISHKIN: Before you get down to the specification of the surgical operation you are performing, I want to get clear a general question. There are many areas of civil rights which we are not exhaustively treating in this report, but we are certainly adverting to them as major problems, and it seems to me that in a report of this kind that is about all we can do. We can later recommend that some of these problems be dealt with by a permanent Commission.

MR. ERNST: Bob's position is that these ballot stuffings, if I understand, are being covered in a recommendation, and when it

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comes to a general recommendation of purging our outrageous voting system in this country, I want to be heard as to how far we want to go into that without something more than we have before us.

DR. CARR: My point is that we have existing law that enables the Department of Justice to deal with these things, and that it is dealing with them, and that the recommendation at the end of the report on the strengthening of that legislation would further strengthen the power of the national government.

MR. ERNST: If you are ready to show me how you would do it, and this Committee knows the evidence sufficiently to vote on how to strengthen it, I will go along.

MR. LUCKMAN: What does it have to do with civil rights?

DR. CARR: Where is your right to vote if, after having cast your ballot, somebody comes along and fails to count it, or stuffs the ballot box, or the registration list has been padded to begin with? The right to vote is rendered meaningless by such practices.

MR. ERNST: It all comes back to the State-Federal situation. If I take Bob correctly, he would like to expand maybe to the point where, if there are certain vote frauds in the City of New York, as there are every election, you should either go to the State authorities to prosecute or come to the Federal Government. You certainly don't mean to indicate that, do you?

DR. CARR: You can under existing federal law.

MR. ERNST: I think the Committee didn't understand that. If the Committee understands that, the implication is that if you are robbed of a ballot in the next city election, you can go to the city authorities or come to Washington. Do you mean only elections for Federal office?

DR. CARR: Federal elections or --

MR. ERNST: (Interposing) If so, you come back to my major point - are we going to make distinctions on whether you are electing a Congressman or a Mayor?

DR. CARR: There are two separate recommendations, - one refers to Federal elections; and the other refers to State and local, but only on the basis of race, creed and color -- the Fifteenth Amendment basis.

MR. ERNST: I am asking you on the local elections now, do you want to go to the question of ballot stuffing?

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DR. CARR: No.

MR. ERNST: Therefore, I talk to the irrelevancy of ballot stuffing here, not that there isn't ballot stuffing.

DR. CARR: This is not limited solely to local elections.

Put in a qualifying clause, if you want to, that "In elections in which Federal officers are being chosen, vote buying, ballot stuffing, and tampering with registration lists are among the cruder and more daring expedients."

MR. ERNST: I think we are all agreed on Federal elections.

MRS. ALEXANDER: We couldn't have meant anything else.

MR. ERNST: I think anybody reading this wouldn't have any idea of the conflict between Federal and State legislation.

MR. LUCKMAN: Why don't we find out how the majority feel about the entire paragraph? I have moved to eliminate it.

DR. DICKEY: I second Mr. Luckman's motion.

MR. WILSON: The question is whether the paragraph shall be eliminated. It is moved that we do so. All who favor that motion vote "aye"; opposed to the vote, "no".

Let's have a show of hands. This is for those who are opposed to the motion. Three are opposed, and the remainder, I take it, are for the motion. So the motion prevails.

MRS. ALEXANDER: Mr. Chairman, may I ask Mr. Carr why he has not given any citations? I can't get accustomed to Smith v. Allwright --

DR. CARR: (Interposing) We made the decision as a matter of policy that we would try to keep the report as readable as we could possibly do, so that we would not footnote it or put in citations; that since it is the President's Committee's report, you could sort of speak ex cathedra. We certainly ought to give years, and the name of the case.

MRS. ALEXANDER: The year isn't here in every case. If you give the year, anybody can find it.

MR. LUCKMAN: The year is given here.

MRS. ALEXANDER: Yes, in this case, but all through here you will find cases where the year is not given.

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MR. WILSON: Are there any other questions about the material on page 13? If not, we will go to page 14.

MR. TOBIAS: Mr. Chairman, I have a suggestion to make on paragraph 3, beginning "In 1947 the white primary in South Carolina". I think it would be a very good thing to quote directly from the Judge who gave his opinion on that, because as I recall it was a very strong one.

DR. CARR: Do you want the phrase where he says, "The time has come for South Carolina to rejoin the Union"?

MR. TOBIAS: He said that, and if you want to quote from him, he is from Charleston, South Carolina, and I think that ought to be said in connection with it. If you don't want to say that, you can quote what he said about the principle involved in that issue. It was very strong.

MRS. ALEXANDER: Why don't you give the name of the case?

DR. CARR: All right, we can.

MR. ERNST: Just one inquiry. Where you discuss the representation in Congress in relation to the right to vote, wouldn't it be worth while, possibly, to put a table in? One school thinks we ought to cut down the representation in Congress where they don't allow Negroes to vote without a poll tax. Or would it be unwise to hit Congress in the eyes?

MRS. ALEXANDER: There is so much criticism on that, as to how you can tell who would vote.

MR. ERNST: Take your average literate population.

MRS. ALEXANDER: And then they say they don't register.

MR. ERNST: It would be a pretty effective argument.

MR. WILSON: Are there any other changes suggested for page 14?

DR. GRAHAM: What is the date of that case of the college professor having to repeat from memory the Preamble to the Constitution?

DR. CARR: It is quite recent.

MR. WHITING: 1945.

DR. GRAHAM: What State was that?

MR. WHITING: North Carolina.

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DR. GRAHAM: Which town?

MR. WHITING: Chapel Hill. (Laughter)

He was convicted in that case. He got a \$25 fine.

DR. GRAHAM: Who, the Registrar?

MR. WHITING: Yes.

DR. GRAHAM: Wouldn't it be well to put in that he was tried and convicted?

DR. CARR: All right, put that in the fifth paragraph.

DR. GRAHAM: Then say "The Registrar was tried, convicted and fined."

MRS. ALEXANDER: Aren't you going to put in the name of the case?

DR. CARR: Yes.

MR. WILSON: In the paragraph beginning, "In a recent case", insert the name of the case and the result.

Are there any other questions or items on page 14?

There being none, we will go to page 15.

MR. SHISHKIN: I was wondering about page 15. In the second paragraph, right in the middle of it, there is a sentence saying, "Most Americans worship as they choose." That is in line with the kind of interpretation Dr. Dickey was worrying about. I was wondering whether that doesn't leave the implication that there are large areas in which people actually do not worship as they choose because of restraints.

MR. ERNST: Cut out the word "Most".

MR. WILSON: Yes. Does that do it?

MR. SHISHKIN: Yes.

DR. CARR: We had in mind that there are some small groups, like Jehovah's Witnesses, who are interfered with; but certainly "most" is not the right word to use. So the sentence is all right without any adjective at all.

MR. SHISHKIN: Yes.

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MRS. ALEXANDER: Dr. Carr, don't you think the name of the case ought to be given where you first speak of Jefferson's first inaugural address, and then "The second is the doctrine of 'clear and present danger.'"?

DR. CARR: It is a doctrine that took shape through a series of cases.

MRS. ALEXANDER: You quote from it.

DR. CARR: Oh, we can do that, give the names of the cases.

MRS. ALEXANDER: If you are going to quote, you should.

DR. CARR: Again, the only justification I can offer for not having done it is that we were trying to speed things up wherever possible, and didn't think it necessary to give the names of the cases.

MRS. ALEXANDER: You have given first that it came from Jefferson's inaugural address, and it is too broad to say "the Supreme Court". Somebody will want to know where that is -- what case.

DR. CARR: I am perfectly willing to put in the names of cases if you want them.

MR. WILSON: If there is no objection, we will put in the name of the case.

MR. SHISHKIN: I have a question about the next paragraph.

MR. WILSON: All right. Which paragraph are you talking about?

MR. SHISHKIN: The third paragraph, beginning "At the present time". Close to the end there is a sentence there which says, "The second are the self-styled, superpatriots, the bigots, the native Fascists," sort of putting everyone in the same box. You mention above that that the first are the Communists.

DR. CARR: We have pulled out everything but the "native Fascists".

MR. WILSON: "The second are the native Fascists."

DR. DICKEY: Would that mean more if you said, "The second are the totalitarians of the right"?

DR. CARR: If you can find a phrase like that, fine and dandy. Later on in the report there is a stretch where we keep referring to the totalitarians. I don't like the word.

DR. DICKEY: I don't either. If anybody would put the Chairman

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on the Congressional stand - which I fully anticipate - and ask him to define "What did you mean, Mr. Chairman, by those words 'native Fascists', what does that include?", I hope you don't look around the back of the room for support from the Committee.

DR. CARR: You want to make it "totalitarians of the right"?

DR. DICKEY: No, but I say it is a very difficult problem.

MR. MATTHEWS: What are the totalitarians of the right?

DR. CARR: Native Fascists. (Laughter)

What we have got in mind are the Gerald L. K. Smiths, people of that kind. They are not Communists. We don't want to use the word Communists that broadly.

MR. CAREY: No, sir, I resent it. (Laughter)

DR. CARR: As I said, a word that is commonly used is "subversive" - a noun. But I think that is a word that is most unfortunate in connotation, and it is very confusing. I would be willing to call it the totalitarians of the right.

DR. DICKEY: I don't particularly advocate that.

MR. WILSON: I am glad you laugh when you say that.

DR. CARR: Just the "totalitarians". At a later section we just use the word "totalitarian", and maybe we might as well use it here, too.

DR. DICKEY: I do think we have a very important problem there, though, when we get to using the terminology of "native Fascists". Somebody is going to call for a definition.

MR. CAREY: People that believe in white supremacy, and such things - that is not too difficult. You can name them if you want to.

The committee that you appear before, you can say that he is sitting there - Rankin.

DR. DICKEY: You don't want to go down on the Hill and say everybody in the South who believes in white supremacy is a native Fascist.

MR. CAREY: No. You point to a member on the committee named Rankin - no reflection on the one I am pointing at.

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A Congressman did ask me, "Isn't it true that there are a lot of racketeers in the labor movement?" I asked him if he could name one in the CIO, and he couldn't. I said, "Perhaps I can help you. I will name a few racketeers in your Congress", and I proceeded to do it, and he stopped me and said it was off the subject.

I don't think the Chairman would have any difficulty whether you call them "native Fascists" or what you call them.

DR. CARR: I think "native Fascists" probably comes as close as anything you can get.

BISHOP SHERRILL: Mr. Chairman, I am a little troubled about the impression of the whole report, not because I disagree with anything that is said here, but from the point of view of strategy. This is a current problem of Communists, and so forth, to which we are addressing ourselves. But we are addressing ourselves to it at such great length that I am fearful that it will run off with what seemed to me the more far-reaching and more important aspects of this report. This is the thing that will be quoted and will be discussed, to the exclusion of racial discrimination, to the exclusion of politics, political voting, and everything else. That is why I am fearful of so much philosophizing on this whole question.

I just raise the point to see if any others feel the same way. As it is written up, this is going to seize the headlines and be about the only thing that will be discussed.

MR. ERNST: I agree with the Bishop, particularly because in the second paragraph on page 15 we say, in the third sentence, "We were not prepared to do this, partly because it has been and is being well studied by others." Obviously the loyalty provisions which follow from this naturally are being studied by others much more than we ever studied them. As a matter of fact, things are moving fast with Flemming issuing a statement, that there will be no guilt by association, and with the statement of Clark in today's papers that he is getting up a list and having trials of organizations, that they are guaranteeing counsel, and so forth. This section will have to be kept up to the last minute to see that we don't make fools of ourselves by criticizing in the direction that has already been taken care of. I think it is extraneous to our field.

DR. DICKEY: I want to be recorded as thinking that it is not extraneous to our field.

MR. ROOSEVELT: Didn't we have an argument about this?

MR. WILSON: Oh, yes, we did before.

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MR. ERNST: I didn't reopen it.

DR. CARR: This is certainly a point where the Committee has got to make up its own mind. But in conversation with people over a period of months, people whose known personal interests are not such that they are concerned with the lynching problem and that sort of thing, the first thing they ask is whether the report is going to have anything to say about this whole issue of loyalty of Government employees and the suppression of the free speech of liberals. I think if the Committee ignores it altogether, that you are going to be subject to very strong criticism.

What we have tried to do in writing the report is to make it clear that the Committee did not go into it deeply. We have limited your observations to fairly general ones about the need for maintaining freedom of expression, and making sure that --

MR. ERNST: (Interposing) As a member of the President's Committee, I would want to be very careful that I read the last word, and that I saw Flemming's recent statement and the rules of procedure, insofar as they have been worked out.

DR. GRAHAM: Is there anything in here so far stated that you object to?

MR. ERNST: No, except that there is an assumption in here that there will be guilt by association, and that there will not be counsel -- otherwise why do we shout about it?

MR. WILSON: I think we ought to take a good look at that. Why don't you point out where we hit that?

MR. ERNST: I think it is here throughout. I think we ought to say, if anything, that a report has been issued by Mr. Flemming, and he has provided the following protections as to the rights of minutes, witnesses, the right of appeal; and we think we ought to give the additional right that he be faced with the accuser if we feel it. Now I am not ready to cross that bridge. You can accuse him with the act, but to face the accuser is something that I am not ready to say we should do.

MR. LUCKMAN: Perhaps your point is illustrated in the first sentence of paragraph 3 on page 16: "A second danger is that the procedure by which the loyalty of accused Federal employees is determined will not accord with our traditions of due process of law." That is an assumption on our part that it will not.

DR. GRAHAM: That is because the House Committee didn't accord that right.

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MR. ERNST: Oh, no. Let me tell you what worries me. As I take it, this was put through by the President only to fend off something that was going through the Congress that was much worse, and it nearly went through. I wasn't happy with the vagueness of the order.

Here we are going through with this on the assumption that they won't be protected; whereas, if we pick up Flemming's statement and say, "You have done well on this and this, but we think you ought to have the accuser come in - the FBI guy or whoever it is" -- you say it. I won't.

DR. CARR: What is the Flemming report?

MR. ERNST: He is supposed to have issued one in the last week. It was referred to in the newspapers. I communicated with Justice, and they said they would send me a copy. I know that the Department has got it formulated so we can see it. Fly has been down for the Civil Liberties Union, and we have gone over in detail the proposals for protection of these rights. We are satisfied in the main that what they are working on now is all right.

Now I don't ask you to agree with me. All I am saying is that as long as the process is in that stage in the Government, this kind of vague stuff is not the thing we ought to argue.

DR. CARR: This isn't vague, Morris.

MR. ERNST: This says "the danger is", and if you find they have already issued a regulation that there is no such thing as guilt by association, then we ought to say we commend them on this.

DR. GRAHAM: Some of these statements are out of date, in view of what has gone on since.

DR. CARR: I think we have worded it so it can't possibly get out of date.

MR. ERNST: It creates an assumption --

DR. CARR: (Interposing) Don't you think there is a danger that Government employees' rights will not be protected? I will have to say that I am in flat disagreement, if you want us to say that it is the position of the Committee that Government employees are in no danger.

MR. ERNST: I am not saying that.

MR. ROOSEVELT: Let me ask you a little question. If Flemming

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or Tom Clark has set up this procedure, supposing that Tom Dewey became the next Attorney General of the United States; is there anything in the Good Book which says that Tom Dewey couldn't throw away Tom Clark's and substitute Dewey's prosecuting methods?

MR. ERNST: Not at all.

MR. ROOSEVELT: Then that is exactly why I think that we should say we recognize that these things have been taken care of to date but that there is a danger.

MR. ERNST: (Interposing) O.K. I will go along with you if you get hold of Tom Clark's list and examine it, and say it isn't adequate. Let's say it; no pussyfooting.

DR. CARR: As written, this does amount to that.

MR. ERNST: This went rather farther than that.

DR. GRAHAM: Can't we say this in such a way that it backs up Clark in setting up these procedures?

MR. ERNST: That is all I am talking about.

DR. GRAHAM: Then let's do it. Also, there is danger in the States.

MR. ERNST: And also that Dewey may be President.

MR. ROOSEVELT: I have only got him to Attorney General. Don't go jumping me. (Laughter)

MR. ERNST: Then you have got the danger if you want to say that Congress should enable these safeguards, and I am not willing to say that.

DR. DICKEY: Why do we need to say that?

MR. ERNST: I am only saying that in answer to the point that somebody may come in and shift these regulations.

DR. DICKEY: It seems to me that all you are saying is that here is a problem. This Government today, in this country, is pre-occupied with the subject of the loyalty in Government. We say that that is a proper concern of Government, especially in these times, but there are dangers, and these are the dangers which we think should be watched out for. I can't for the life of me see what is wrong with that.

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MR. ERNST: If you find that these dangers have already been protected against in part, even --

DR. GRAHAM: (Interposing) Adapt the language as of that date.

MR. ERNST: All right, I am sorry. If you do that, I will settle.

DR. GRAHAM: I second the motion that it be included.

MR. ERNST: Carr doesn't think you can do it.

DR. CARR: I think your interpretation of the whole section is distorted.

DR. GRAHAM: I seconded your motion; you made one, didn't you?

DR. DICKEY: I hadn't, no, but I will.

MR. ROOSEVELT: I don't know if this is taken up somewhere else but I think this might be a good place to point it out. When you question the loyalty, or you demand the loyalty test of civil servants, government employees, we should take a crack at the type of legislation such as the Taft-Hartley Bill, which forces only a certain segment of the total economy to take loyalty tests in order to benefit from those laws, from the laws of the Government.

I, for one, think that if the Taft-Hartley Bill had said that every American, in order to benefit from any American laws must take an oath that he is not a Communist or a Fascist, or belongs to a subversive organization which advocates overthrow of the government by force, that might be one thing. But to single out one specific group such as the Taft-Hartley Bill does, I think is a dangerous precedent. It is an interesting thing to note the tenor of the people when the whole population didn't arise and say that you can't discriminate against one group and force them alone to do one thing that you are not demanding of the rest of the community.

MRS. ALEXANDER: That is because we discriminated too long.

MR. ROOSEVELT: I don't think this comes in in any other part of the report; but I do think that that is almost a basic thing that we ought to include somewhere in our Report, and I think this Loyalty section is about as good as any other.

Now I don't know, Jim, whether you think that we ought to leave that whole subject alone, or not.

MR. CAREY: I am pretty firm about the proposition that we shouldn't leave it alone, and I therefore disagree with the Bishop

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because he thinks that we should strike it out. I will put it this way, that he thinks it is treated too much because it is timely, and I think it is timely and therefore I think it should receive adequate treatment.

I will give you, if I may, the very practical problem that confronts you on this. I was a member of the Production Planning Board and they had access to all the secret information about the needs of the Lend-Lease program. I was investigated pretty thoroughly. I was on some other committees of the President during the war and was investigated on all of them. So was Dr. Graham when he was on the Mediation Board, and so were many others. But I am confronted with the proposition that only a Communist can agree with. A Communist can say he is not a Communist. I happen to be a member of the General Council of the World Federation of Trade Unions. I can't swear I am not associated with some Communists because I have some reason to believe that the delegates from the Soviet Union are Communists.

You have this business where the whole labor movement is charged with being Communists, all labor leaders - and some are. But this effort was not directed against the Communists because it is not illegal to be a member of the Communist Party in this country. So they engage in the badger game of trying to trap you into perjury, or something of that sort, and leaving it in a very broad and open way, "Are you associated with any Communist front organization", the way the law is written, without specifying what organizations are included in or considered as "Communist front" organizations, and so forth.

So the whole thing is an important question. For instance, I couldn't discuss that matter when he was talking about political matters because it would be a violation of the law for me to discuss political matters because I am on the payroll of a union. So you do have this suppression of the right of freedom of speech and all these other things that grow out of it. Of course I am not a particularly law-abiding citizen, but you do have it. In order to practice the kind of work that I prefer doing I have to operate in violation of the law. Now there is no other profession, whether it be a minister or any other, where you have to sign an affidavit to practice your profession; but a labor leader today has to accept this indictment that has been made, and he is guilty until he proves himself innocent. And then the next step I think will be, if you do sign the affidavit, they will say, "Well, a Communist will swear to anything anyway, so it has no meaning."

I think it is something that does have to be treated, especially with respect to Government employees. Now the labor leaders are put in the same category as Government employees, and I think that is a

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violation of - well, our concept of a free economy. If you make the labor unions instruments of the Government, and make labor leaders the servants of the Government, you have a Sovietization of the American trade unions, and since I am opposed to Communist infiltration I have to be opposed to it whether Taft does it or somebody else. But I do think it is timely and I think it is extremely well treated here.

I think it doesn't set up or provide opportunity for people to make statements that this Committee has opposed proper and due protection of our Government and our way of life, but it does set forth the important point that guilt shall not be of a collective nature and shall not be done by association, and it brings forth the important question of trial, procedures and so forth and so on.

You might say, "Well, they should be required to sign an affidavit. A lot of people in Government belong to labor unions."

Now if they put that on the application that is required of them, or anything of that nature, they are in jeopardy of the law, subject to extreme penalties.

I think we should treat it because of the international situation as well. Over there you get the impression that next week the Communists are going to take over our Government, that there are so many of them in the Government service that they are about to take over, and you get the notion that they have already taken over the labor movement, and things of that nature.

I think it is well that we treat it in the very fine manner that it has been treated here.

MR. ROOSEVELT: Jim, my basic point is that I think it is against everything this Committee stands for to permit the Congress to pass legislation which singles out a single group. I mean it is a part that goes contrary to all you have just said.

MR. LUCKMAN: Then, we have to be opposed to the loyalty check. That does the same thing. That singles out a group of Government employees.

MR. ROOSEVELT: That is different. That is the right of the Government, which does have the right to choose loyal employees. This is picking out a private civilian group. I think there is a difference.

MR. LUCKMAN: I don't see how you can draw the line.

MR. ROOSEVELT: You draw the line because of the security of the nation's interest.

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MR. SHISHKIN: The important thing in this whole section is to point out at the outset that in the conditions with which the nation is confronted, to develop new techniques. But those techniques, in order to be consistent with democracy, must not be applied to any group because of the identity with the group.

Now, civil servants are not a group in that sense, but a principle should be stated with respect to groups, whether it is raised because they are workers or because they are Negroes. I think that kind of principle needs to be spelled out in order to indicate what we want to have done when we apply the tests of the right procedure -- that is, the test of the right to appeal or the right to be represented by counsel, and also the test of that kind of procedure being applied to everyone in the community.

The civil servants do present a special problem, and I think to that extent this language seems to be quite effective.

DR. GRAHAM: Mr. Chairman, I move we include this with such adjustments as this discussion has suggested and refer it to Dr. Carr and the staff.

DR. CARR: I don't know what those adjustments are.

DR. GRAHAM: One, that you make no statements in here that are not in conformity with the facts at the time of the report.

DR. CARR: As our schedule is set up, that would be two or three days from now.

DR. GRAHAM: Then, take notice of this thing in the paper this morning.

MR. ERNST: The newspapers carried the story.

MR. STEWART: I would like to say we have tried to get the Department of Justice's proposals for the loyalty procedure without success. They say they are still working on it and haven't given it to us.

MR. ERNST: Have you read the Flemming statement?

MR. STEWART: Yes, I have read it, but it contained no list of procedures. As I understand it, he is now trying to line up people for his Appeals Board.

MR. ERNST: If there is something, you can refer to it; otherwise, not.

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MR. WILSON: If you can't, this is the statement.

DR. GRAHAM: Do you second my motion, Dr. Dickey?

DR. DICKEY: I will second it.

MR. OAREY: Does that include repeal of the Taft-Hartley law?

DR. GRAHAM: We will bring that up next.

MR. TOBIAS: What was your motion?

DR. GRAHAM: That we include this discussion on the right to freedom of opinion and conscience.

MR. WILSON: Will you all who favor those motions vote aye?

Is there any opposition?

BISHOP SHERRILL: I am opposed to it, not because I am opposed to the discussion, but I don't believe it is good tactics. I won't make a minority report, but it is a matter of tactics.

MR. ERNST: I agree with that, but we are outvoted.

MR. LUCKMAN: May I ask whether anyone else was disturbed by the last sentence of this page 16?

DR. GRAHAM: The last sentence?

MR. LUCKMAN: Just before "Enemies of democracy."

DR. GRAHAM: "Loyal and disloyal"?

MR. LUCKMAN: Yes. That disturbed me considerably.

DR. DICKEY: Why not make that, "civil rights of the citizens"?

MR. LUCKMAN: It seems to me the way it is worded now it can be picked up and distorted horribly.

BISHOP SHERRILL: Page 15 is a similar one. You have the statement: "A state of near-hysteria now threatens to inhibit the freedom; not only of Communists, but of genuine democrats".

MR. WILSON: That is on page 15?

BISHOP SHERRILL: Third paragraph from the bottom. You have to think a little as to just what that means.

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MR. ROOSEVELT: Unfortunately, a liberal today in Washington goes around with his fingers crossed and his toes crossed for fear he is going to be accused of being a Communist.

BISHOP SHERRILL: Would you say "so-called Communist"?

MR. WILSON: Most of those I have seen are seeking martyrdom.

MR. STEWART: A lot of them are getting it.

MR. LUCKMAN: I think the Bishop has a point there.

MR. WILSON: Yes.

MR. TOBIAS: How about the small "d"?

DR. DICKEY: That is the important thing. Just don't make a typographical slip on it.

MR. WILSON: You have got this change?

DR. CARR: Has it been voted?

MRS. ALEXANDER: This isn't correct.

MR. ERNST: Change it to "citizens".

MRS. ALEXANDER: This is something else.

DR. CARR: The third paragraph from the bottom of page 15.

MRS. ALEXANDER: "A state of near-hysteria" -- is that it?

DR. CARR: Yes.

MR. LUCKMAN: Wouldn't you say, as you do on the next page, "of all citizens"?

MR. ROOSEVELT: You miss the point.

DR. CARR: It is the liberals who are in danger.

MR. LUCKMAN: You strive for definition, then, or rather face the necessity for definition. What is a liberal?

MR. MATTHEWS: What is a genuine democrat?

MR. LUCKMAN: It should be all-inclusive.

MR. CAREY: Wouldn't it say, "a state of near-hysteria now

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threatens to inhibit the freedom of genuine democrats" -- small "d".

BISHOP SHERRILL: That is right. We are not interested, particularly, in Communists as such. I would take them out.

MR. LUCKMAN: Freedom of genuine democrats?

MR. CAREY: Yes.

MR. LUCKMAN: I would go for that.

MR. MATTHEWS: That is better.

Would you make that motion?

DR. DICKEY: Bishop Sherrill made a good suggestion. Strike out "not only Communists". We are not concerned.

MRS. ALEXANDER: I differ with you. As a lawyer you could not say that. Maybe a Communist is guilty of something, but the guilty has a right to have his civil rights protected, his right to trial, right to an attorney, and so on.

DR. DICKEY: You didn't understand me. I said that no one will object to saying "a state of near-hysteria now threatens to inhibit the freedom of genuine democrats".

MRS. ALEXANDER: That isn't what we are talking about.

MR. ROOSEVELT: Now, you are saying only the genuine democrat, therefore, is entitled to the freedom; and if you are a Communist, under this statement --

DR. DICKEY: (Interposing) I didn't say that.

MR. ROOSEVELT: By inference, if you put it in the positive, you get the opposite.

DR. DICKEY: The specific to the contrary is stated down below there. We say that no special action should be taken against --

MR. LUCKMAN: (Interposing) You talk about the Communists specifically in the next paragraph.

MR. ROOSEVELT: I think the way it is written is O.K.

MRS. ALEXANDER: Perfect.

MR. LUCKMAN: It is more in the spirit of the preceding paragraph.

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MR. MATTHEWS: Shouldn't that second sentence say, "employ only persons of unquestioned loyalty"?

DR. GRAHAM: Have they settled this other sentence?

DR. DICKEY: I will make a motion that it read "A state of near-hysteria now threatens to inhibit the freedom of all citizens."

MR. LUCKMAN: Second.

DR. CARR: That misses the point.

MRS. ALEXANDER: It misses it terribly.

MR. CAREY: And deliberately.

MR. ROOSEVELT: You have got it in enough other places.

MR. CAREY: I am in favor of missing the point.

MR. LUCKMAN: Vote.

MR. WILSON: You have heard the motion. Will all those in favor of the motion signify by saying aye; contrary, no.

It is carried unanimously.

How about the other items on page 15?

MR. ERNST: At the bottom of page 15, you have the statement:

"The danger of indiscriminate Red hunting is clearest, at the present time, in the effort to protect the Government against disloyal employees."

I would like to see the evidence. I don't say the clamor of the public isn't there.

DR. CARR: It merely says the danger.

MR. ERNST: "The danger of indiscriminate Red hunting is clearest, at the present time, in the effort to protect the Government against disloyal employees."

DR. CARR: Look how close Congress came to passing legislation that would do just that.

MR. ERNST: That isn't my stand. The danger isn't the greatest. The danger is in the hoopla of the press, the Hearst crowd, and, if

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anything, this report should give strength to the arm of the Government that will provide due process.

As I read this, it indicates that you better look out for your Government -- it is pretty troublesome.

MR. WILSON: I don't read that into it.

MR. ROOSEVELT: What about putting in, "in Congress' effort"?

(Laughter)

MR. ROOSEVELT: I am trying to run Mr. Truman. That is all.

MR. LUCKMAN: I would like to record that I am sympathetic with what Morris said. I think it is plain if we say, "We feel there is no danger of suppression of civil rights by the Government in connection with its present loyalty activities". That is one meaning; whereas, if we say, "There are a number of dangers in connection with the present activities", that has an entirely different meaning and thought. The two are poles apart, and in each case we are taking a position and indicating a view, and I don't think the Committee should do that.

MR. SHISHKIN: It seems to me the difficulty is in that sentence being in the superlative. It says, "clearest". That gives one pause. If you said what the sentence attempts to say, without using that form and saying that this is the clearest danger, but simply say that there is a danger of indiscriminate Red hunting --

MR. ERNST: (Interposing) The danger is in the influence from certain sections of the press; and, if we make a contribution, we should say, "We have confidence that", or "We hope that", or "We are sure the Government will see that there are fair trials". There is none of that in here. We have pussy-footed in that regard. We don't know, none of us here know, what we would recommend to the Government with respect to the special jobs referred to. I frankly will admit I wouldn't know.

Where it says here that we know that the Government has certain very confidential, highly secret character work, I take it we mention that because the process of protection in those departments must of necessity be different than when you are hiring a day laborer or a stenographer; or, maybe, you think they all ought to be the same.

I really believe that in the case of the Atomic Energy Commission they should have some different rules than the rules which would apply to a stenographer in the Interior Department. I really do.

DR. CARR: This says that.

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MR. ERNST: We say there is a difference in quality, but we don't say that the rules should be different; and I think it is a bit of arrogance on the part of our Committee to say there is a difference which should follow in the rules and not have the wisdom to say how it should follow.

I will admit that I am intellectually bankrupt on that. I have sat with Lillenthal and the others on the Commission, and I don't know. I would say there should be no difference.

MR. WILSON: Won't they get it?

MR. ERNST: Yes, but we are sticking our chins out by saying there is a difference in the quality of secrets. If anybody here has an idea, I suggest it be incorporated in the report.

MR. CAREY: Is all this directed against that one sentence?

MR. ERNST: No.

MR. CAREY: The sentence seems to be awkward and could be taken out.

MR. ERNST: I don't much care. I have stated my position, and my position will be known to the public through organizations that are working concretely instead of just by general observations. We have nothing but general observations.

DR. CARR: What is wrong with that?

This Committee can't possibly go into detail. Without making general observations on some subjects, it would be derelict in its duty.

MR. ERNST: I am outvoted.

MR. ROOSEVELT: I wish we hadn't stopped to lunch. We lost the arbitrating mood.

MR. ERNST: I have spent too much of my life trying to get these decent rules out of the Department of Justice, and I don't think this will help us at all.

DR. CARR: But you think this is directed solely against the Department of Justice? It is broader than that. The greatest danger is the Congress itself.

MR. ERNST: I wish you would say it.

MR. ROOSEVELT: I did.

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DR. CARR: I think Mr. Roosevelt has a point that within two years, four years, six years, eight years, the administration in the Justice Department may change completely. This report, I hope, will have vitality over the next decade.

MR. ROOSEVELT: It will be something we can tie to when Tom Dewey takes over the Justice Department.

MR. SHISHKIN: I don't think we ought to make it topical.

MR. ERNST: If you like that indiscriminate stuff, it is all right by me.

DR. DICKEY: Would it help, Mr. Chairman, Morris' concern if we made a motion to eliminate the second and third paragraphs on Galley 16 and amend the word to read "misuse" up there rather than "use of loyalty checks" in the last line of the first paragraph? Then this report would simply have stated principles. It wouldn't state any aspects of the danger and wouldn't go into any definition of what ought to be the protective procedure set up.

MR. ERNST: I think you shouldn't think whether it should satisfy me. I am not happy about the whole thing.

DR. CARR: That makes it more meaningless. It wouldn't be tied down at all.

MR. ERNST: This doesn't come in immediately, but it disturbs me. We recommend in connection with strengthening the right to freedom of opinion and conscience that the revenue laws should provide a special affidavit. It is required to state whether they advocate violence, et cetera. I am against that. That is what I am fighting on the loyalty stuff.

DR. DICKEY: If you think this Committee could come out and ignore this phase of the civil rights problem, I think you have completely misjudged the temper of the people who are concerned with civil rights in the country today. We would simply be laughed out of the marketplace.

MR. ERNST: If what?

DR. DICKEY: If we ignored this subject.

MR. ERNST: I don't agree. Don't let's reargue it.

MR. ROOSEVELT: I just want to back up President Dickey in that. I spent last week end at Hyde Park, and I think my mother knows the temper of the people pretty darn well and knows what they are thinking about. The one thing she is most worried about is that we may

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gloss over or leave out this whole subject. I also talked to taxi drivers about civil rights. The one thing that comes to them in that connection is this loyalty order and the Taft-Hartley Bill.

MR. CAREY: There is the problem of the Attorney General being able to stand up in the face of the rest of the Government.

MR. ERNST: This doesn't support its right arm. The way I would treat it is: We say frankly here that we are not going into various fields. Why? We say because it has been and is being well studied by others. Don't tell me that this Committee has studied the loyalty bill.

DR. CARR: You don't need to study the loyalty oath situation.

MR. ROOSEVELT: Let's leave out that statement. Let's say we are leaving it to other people. Cross that out and see what we have.

MR. WILSON: You have aroused too much interest here.

MR. ERNST: I have been outvoted and I am a good loser.

MR. STEWART: May I make one comment?

Let me explain what we are getting at. The thing that disturbs me, at least, is that there is confusion now about what the proper standards and procedures in this matter are. All this section tries to do is state what those procedures and safeguards ought to be.

Now, if the Attorney General in his recommendations follows through along those lines, it seems to me this will strengthen it.

MR. ERNST: You really mean this Committee has considered this and has come to the conclusion that one of the safeguards is the right to face your accuser? If you mean it, say it. But you do some more thinking before you say that.

DR. GRAHAM: That is what we say.

MR. ROOSEVELT: He is afraid the F.B.I. will have to disclose its spies.

MR. WILSON: Let's let him finish.

MR. STEWART: I think this specific recommendation as to the confrontation of accusers is reasonable. If you think the danger is greater than that irresponsible people will be able to make accusations without standing back of them, well and good. If you think there are other safeguards that should go in, propose them. But you haven't really hit the basic idea, which is to re-enforce

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the standards we want followed by the Government or anybody else in testing this matter; but by limiting ourselves to this, we make it possible to evaluate what Congress does, what Dewey does when he becomes Attorney General, and so on.

MR. ERNST: You should address yourself to this.

MR. ROOSEVELT: There is one thing about the good right arm of the Attorney General. I read this thing pretty carefully about Tom Clark, and I notice he has already prepared a list of organizations which on the information of the F.B.I. and his own investigation -- because he says he is investigating each of these organizations personally in The New York Times -- he has already decided there is a list of organizations. Any connection with them and -- boom!, you are subversive - out you go.

There is a second category that he says are organizations to which he is going to give a hearing, and they have to then defend themselves. Then, I suppose, there is a third category of one or two organizations which can't be subversive. I am sure one of those will be the American Legion.

However, I don't think that the strong right arm you are trying to uphold is so darned strong already.

MR. ERNST: Then, I would take Clark's statement and crack the hell out of it. And the Flemming statement is already published.

MR. ROOSEVELT: We cracked hell out of it by inference here.

MR. MATTHEWS: What would either of you do if you were Attorney General?

MR. ROOSEVELT: If I were Attorney General, I would hate to tell you because I would probably be called a Communist, but I would pay as little attention to the whole thing as humanly possible, and whenever any cases came up, I would try to justify the fellow keeping his job unless they presented awful good evidence. I feel very strongly about it.

However, I can see if he is going to go ahead and have to set up a system, which he has apparently decided on, I don't think the indications are that he has set up an adequate system; and I am opposed to Morris' trying to uphold his strong right arm because I don't think it is a strong right arm.

We should change that and instead of one sentence, we ought to go into it in more detail.

I think as far as taking care of the last point -- that is, being

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confronted by your accuser -- you can modify that with a couple of qualifications, such as where the security of the Government would be jeopardized by the accuser being presented to the accused. Then, another would be that adequate evidence must be relied upon.

Under normal circumstances where the security of the Government is not at stake he should be confronted with his accuser, but where the security of the Government is at stake, there is another step. I think those are little details we can take care of.

MR. ERNST: If you people are happy with this, all right.

MR. SHISHKIN: If the administrative means are used to deal with this problem that are good, this will strengthen them. If Mr. Palmer becomes Attorney General, this will rally public opinion against him. If the Archangel Gabriel becomes Attorney General, this report will prove healthy. I don't think we ought to be guided in this by what Tom Clark proposes to do.

MR. ROOSEVELT: I don't think so either.

MR. ERNST: I would like to get some effective results.

DR. GRAHAM: The motion has been put and passed.

MR. WILSON: We just found out that the Clark statement is not an official statement, so that throws out consideration of that, I presume.

MRS. ALEXANDER: Our report is going to be written in the next two days, so there would hardly be anything that could be changed.

MR. WILSON: That is the point, and I don't want Mr. Carr put in a position of disregarding the wishes of the Committee through misunderstanding as to what he is going to do because, presumably, he isn't going to be able to get much new knowledge officially.

DR. GRAHAM: Then we will make a statement that would be made without regard to time or person.

MR. WILSON: That is what he thought he had.

DR. DICKEY: May I make a specific suggestion, Mr. Chairman?

MR. WILSON: Please do.

DR. DICKEY: In view of the fact that we don't have all of the regulations before us and can't have, I move that in the third paragraph we change the word "will" to "may" -- that is page 16 -- so that it reads:

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"A second danger is that the procedure by which the loyalty of accused Federal employees is determined may not accord with our traditions of due process of law."

That is the third paragraph, the first sentence. And then substitute for the rest of that paragraph a sentence which would read:

"This subject has not been settled definitely by the responsible governmental authorities at the time of the writing of this report. Accordingly, this Committee limits itself to an expression of its concern with the problem and the principles involved."

DR. CARR: That would eliminate the last sentence?

DR. DICKEY: It would eliminate the sentences which are specific as to the guarantees to be provided.

MR. SHISHKIN: I can't see why we shouldn't state specifically the right of counsel and the right of appeal and the elementary principles of that sort that need to be included.

MR. ERNST: I think you could write to Tom Clark or see him and ask him if among the protections he proposes to incorporate for the public, does he intend to include the right of counsel, the right of witnesses, the right of appeal. I think you will get an answer back, as we did, saying, "Sure". If you do it, you should put that in that we urge they be imbedded in our statutes and we urge that they include the following protections in addition.

MRS. ALEXANDER: Why do you have to write to Clark on that? We can urge that.

MR. ERNST: The implication is you are not going to get it.

DR. CARR: I don't think that is correct.

MR. WILSON: We can still urge it. Isn't that our job-- to urge it, regardless of who is going to combat it?

MR. ROOSEVELT: That is my point. I think Morris is giving the inference that we are attacking the administrative arm of the Government. My whole inference was that we are really wagging a finger at the legislative branch of the Government.

MR. ERNST: I don't see it.

MR. ROOSEVELT: I don't see that in regard to the Attorney

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General. It refers to the United States Government here.

MR. ERNST: You are addressing yourself to the Truman Administrative procedure, not Congress.

MR. LUCKMAN: We shouldn't do it.

MR. ROOSEVELT: It is a question of interpretation, then.

MR. LUCKMAN: If you go into the next paragraph -- "More than the civil rights of our 2,000,000 Federal workers -- important as they are -- is involved here. All Americans are bound to be affected by what is done. If the Government maintains a loyalty program which inadequately protects the civil rights of its employees, will not many private employers follow suit?" -- this Committee is fearful that that is going to be the interpretation.

If in that same sentence you said, "The Government must maintain a loyalty program which adequately protects the civil rights of its employees -- period", that is a different connotation and a different interpretation.

MR. ROOSEVELT: I agree.

MR. LUCKMAN: If all of it were treated that way, then the Committee says, "They are protected", not "if".

MR. ROOSEVELT: I will buy that.

DR. CARR: I am going to have to ask you to rewrite it yourselves. You are piling up more rewriting here than can possibly be accomplished.

MR. CAREY: Discard the rest and take that. The last suggestion seems to be a good suggestion to take care of it.

DR. CARR: There was added to the statement the suggestion that the same thing be done all the way along.

MR. LUCKMAN: Only where you say "If there is a danger" instead of saying, "There may be a danger of so and so" -- instead of that, you would simply say what the view of the Committee is or what your own view is; in order to prevent the abrogation of civil rights, the Government must do so and so. Make it positive and not have the inference that we, the Committee, believe the thing is going to be loused up.

MR. CAREY: I second the motion.

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MR. WILSON: Is there any objection to the motion?

MRS. ALEXANDER: If Mr. Luckman is going to take out that sentence, then Mr. Carr is going to have to take out the end of it.

MR. LUCKMAN: I didn't say take it out.

MRS. ALEXANDER: If you change the sentence and not raise the question of what will happen to private employees --

MR. ROOSEVELT: The Government must maintain a loyalty program which adequately protects the civil rights of its employees.

MR. LUCKMAN: "It is a severe punishment --

MR. ROOSEVELT: (Interposing) "Furthermore, private employees --

MRS. ALEXANDER: (Interposing) That is my point. Come down further and say, "Surely we can safeguard the rights of all citizens to speak freely and organize." That develops the whole thought of the paragraph, doesn't it, Mr. Carr?

DR. DICKEY: That is a very basic point, Mr. Chairman, that you raised yourself in our discussions in Hanover that if the Government is going to throw a fellow off, can an industry such as yours afford to employ him with any less regard for his loyalty?

MR. WILSON: What is the difference?

DR. DICKEY: If we get that to snowballing in this country, I believe it is something that will take us back to the classic concept of worrying about civil rights.

MR. LUCKMAN: Leave them in and make them positive -- "Both Government and private employers must safeguard rights".

MR. ROOSEVELT: Shouldn't the Government take certain steps to enforce employers safeguarding civil rights?

MR. LUCKMAN: No. We should only establish what this Committee believes should be done in principle.

DR. GRAHAM: I think we know what we want now. Can't this be done positively as suggested?

MR. STEWART: I think so.

DR. GRAHAM: All right.

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MR. LUCKMAN: If it can be done negatively, it can be done positively.

MR. WILSON: All right. You are going to try it that way, try to write it today so we can read it tomorrow. It is an important thing. This is where I agree with the Bishop 100 percent. If we get it in at all, we don't want to get it in in a way that is going to cause a lot of mid-sliding that we will feel foolish about. But that part which comes where we are all pretty sure of ourselves, I don't care about it.

MR. TOBIAS: I think we need to recognize the fact that the press is going to say because this is the one point where the Committee seems to be drawn up exactly on the opposite side to the Government itself -- and that is the point --

MR. WILSON: (Interposing) Is that the inference you take from this?

MR. TOBIAS: I can't help it.

DR. CARR: I interpret what he is saying different from what you say.

MR. TOBIAS: The Attorney General's order is supported by the President, and this is the President's Committee. What the press will say is that the President's Committee takes issue with him on the loyalty test.

DR. CARR: How will they document that statement? What can they quote from this report?

MR. TOBIAS: I don't say they shouldn't, but I am saying that will happen.

MR. CAREY: I would think that the public press will be in resistance to the general campaign of hysteria, and they may attack us for not attempting to hold that back; but I doubt if they can interpret the final efforts of the Attorney General to meet the situation in the inadequate way it is being met as being in conflict with the purposes of this Committee's report, as stated here.

MR. ROOSEVELT: I agree. In other words, we are not taking issue with the Government. We are just emphasizing that in the administration it has to be carried out with these safeguards.

MR. CAREY: We are upholding the hand of the Attorney General in his efforts to do this.

MR. TOBIAS: That is the reason I favor Dr. Dickey's short

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statement at the beginning -- that is, to lay down the principles, the protective measures that should be accorded to all employees and to warn against the injustice that might be done to liberals who are not Communists through any regulations of Government that would classify them or cause them to be classified in the public mind as being all alike. The shorter that could be made, the better. I may be all wrong.

MR. SHISHKIN: I don't agree with Dr. Tobias' major premise. It seems that we, as a committee, if we are consistent with that approach, we should preface our report --

MR. TOBIAS: (Interposing) We are going to differ, but when we go into details here without the opportunity for adequate study of all the facts and the consideration of what is being done by Government at the present time on this particular issue, why, we are going to be called into question. That is all.

DR. GRAHAM: I wouldn't like to see this report give any weight to the idea that all liberal organizations are Communist Front organizations and that people who have got connected with them got connected with them through ignorance.

MR. ERNST: May I make one other final suggestion? If you are going forward with it in any form, I suggest that after mentioning native Fascists, you do not lose sight of the fact that we make damned sure that they include on that list of organizations and the rest of it what we have called here the native Fascist groups; because, as I read this, the emphasis is so extreme on the Communist group, and I think it is very important that they play both sides of the street.

MR. ROOSEVELT: I would say I think the emphasis here is on Communists.

DR. CARR: That is what the danger is, in fact.

MR. ROOSEVELT: Don't let me hear you say that.

DR. CARR: Nobody seems to be worried about the Government firing any native Fascists.

MR. ROOSEVELT: That is far different. I personally think the real danger to our country is much more serious from the Fascists.

DR. CARR: I agree.

MR. ROOSEVELT: I think this report might well point out that one of the fallacies of the present Administration and of the President's Loyalty Order and one of the concerns, the only concern

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of the Congress, is about Communists in the Government. We should point out that it is just as dangerous, if not more so, that we have the presence of these Fascists.

MR. TOBIAS: Yes. Of course, the thing is high-lighted, as we mentioned at Hanover, by the audacity of Mr. Rankin classifying Dr. Graham on the basis of his own expression of opinions of controversial issues that do not accord with Mr. Rankin's ideals -- that because of that Mr. Rankin classifies Dr. Graham as a Communist or follower of a Communist Front.

MR. ROOSEVELT: And, therefore, as a subversive individual.

MR. TOBIAS: Yes.

MR. WILSON: I think we have your idea with respect to that now, and it is agreed that the staff will try to rewrite it so we may even take another shot at it tomorrow.

MR. LUCKMAN: The Bishop just made an aside to me for the consideration of those who will rewrite it. That is, perhaps in view of all our interpretations and perhaps misinterpretations, it might be well in the rewriting to consider the ability to shorten it. It should be a positive statement, but the less said, the better.

DR. CARR: I am sorry, but that leads me again to protest. I am afraid it is too easy from your point of view as you go along to say rewrite this and rewrite that and shorten it up, put in more specific illustrations, take out that illustration; but in doing that you are presenting us with a job of writing another report, and I must confess it is just not possible unless you are going to the President and ask for an extension of time and a new grant of money and a new staff.

Several of the members of the present staff, on the understanding that the job will be over as planned, have made other arrangements.

MR. LUCKMAN: Mr. Chairman, I would certainly concur with that. I think as between a five-minute speech and a thirty-minute speech that the five-minute speech is the most difficult. However, we should not have as our guide the completion of this the day after tomorrow if that means we will have a report we are not reasonably willing to sign.

MR. WILSON: Check. If we can't come to a point of agreement tomorrow, then we should go to the President.

MR. CAREY: Is there sufficient information to meet the requirements of editorship the way the motion was put?

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DR. CARR: If you are going to throw in a general observation to shorten it, it can't be done by throwing out every other sentence. You have to rewrite it.

BISHOP SHERRILL: I think I would prefer the summary on page 54 rather than the large one.

DR. CARR: If you don't like the report, then nobody can ask you to vote any other way; but then I say you have got a real problem on your hands. In effect, you have to start over. This thing will print out to about 150 pages. This one section will print out to about 6 pages.

My feeling in that regard is that if this report is much shorter than is contemplated, it will be an apt illustration of the mountain having labored and brought forth the traditional mouse. You can't cover it adequately in much less than the space that has been used.

We have tried throughout to offer general observations and then to document them with highly selective illustrative material; and I must confess that while here and there I am sure you could find sentences that could be taken out, by and large any major change to affect the length would necessitate a rewriting of the report.

DR. GRAHAM: I understand you wrote this; is that right?

DR. CARR: Nobody wrote any one section. It has been a joint staff effort. You might be interested if I may take just a minute, in a description of our procedure.

Following the Hanover meeting, we went right to work to produce a report. We used the first month to turn out the first draft. That was a joint effort. Different people were assigned to different jobs and they worked on different sections. We had that first draft at the end of the first month. It was about twice the length of the present report.

The inadequacies of that report were so apparent that we made no attempt to secure outside advice. We went to work, and in two weeks we made a shorter draft. That draft was sent to Mr. Wilson, Mr. Ernst, and Dr. Dickey, who served informally as the subcommittee which was authorized at the Hanover meeting. They offered suggestions, and we also referred the draft to different people in the Government and outside the Government on a confidential basis.

This is the result of the advice we received and is technically the third draft. It is a joint staff effort. I think you will not find a single sentence that is truly the result of the labor of any one person.

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MR. ERNST: When you are doing it, I think you should take a look at the recommendations which do not gee with what you have said in the report. Your procedures for the protection of due process are not the same. You may say it is unimportant, and I don't intend to vote negative on any of this, but if you are looking at the report --

DR. CARR: (Interposing) If you see any serious discrepancies, they should be brought to our attention.

MR. ERNST: There is the matter of the accusers.

DR. GRAHAM: We have agreed to drop that.

MRS. ALEXANDER: I think the question raised was whether or not this could be shortened. My impression was they had done a marvelous job in so few pages. I didn't dream the first report would be this short.

MR. STEWART: This will print out to 150 pages and the summary will take up 6 pages.

MR. LUCKMAN: It is what is said in those 6 pages that is important and not the number of pages. I think the Bishop's point is pertinent and that on page 54 the whole subject is very beautifully covered and more than adequately summed up.

MR. CAREY: I think it is possible to put it in the form of a recommendation, summing it up, if you have it documented. That is why I was so attracted to the organization of the report, because it seems to make it possible to arrive at those things sufficiently supported by considerable material.

Now, I read it with the idea of shortening it. I thought it would be too long to be used in a popular way, and I came out of the thing with the idea that it was a splendid job, and I would think at this stage unless we had an important point of severe criticism, that we should proceed with the proposition after giving instructions in a general way to the executive secretary, that if it is possible with the material and equipment he has to shorten it, to do so; and then, if any of the members of the Committee can make suggestions on that basis without destroying the purpose of the report, to do so.

MR. WILSON: That is the way we should look at it.

DR. CARR: If you look over these two mimeographed sheets, you will see that we propose the deletion of numerous paragraphs.

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MR. ROOSEVELT: You know, in reading this summary on page 54, we have been arguing here about a lot of things that are inherent in this. For example, the very first sentence is an example of Dr. Tobias' statement that this is what the press will pick up as showing that we are taking a different position, a position opposed to the Truman Administration. There is this statement:

"Irreparable harm will be done to the Federal Civil Service if the tendency to subject Federal employees to general charges and mass accusations as to their loyalty continues."

There is an implication. Then we go ahead. I think Morris and Dr. Tobias have a real ground for disagreeing with this summary, much more than I do with the documentation in the front.

MR. LUCKMAN: We had better wait until we get to the summary.

MR. ROOSEVELT: I agree. Let's wait.

DR. GRAHAM: Let's leave this to the staff.

MR. WILSON: Let's go to page 17.

MR. LUCKMAN: Dr. Graham says they understand.

MR. ROOSEVELT: Leave it to the staff.

DR. CARR: On page 17 there is a suggestion on the memorandum to change paragraph 11, which is the third paragraph from the bottom -- rather, the paragraph beginning, "The minority job seeker". The suggestion is to cross out "New York banks" and substitute "business concerns".

DR. DICKEY: That is very advisable unless somebody has evidence which they are prepared to stand on.

MR. ROOSEVELT: What do you substitute?

DR. CARR: "Business concerns".

MRS. TILLY: Did we skip over all of this on 16, "Enemies of Democracy"?

DR. CARR: We settled that. Did I skip a page?

MRS. TILLY: I have no complaint about that.

MR. WILSON: We are on page 17, but we will go back to the end of page 16 if anybody has any questions about it. Has anyone any

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questions? If not, we will proceed to page 17. We have made one change unless I hear objection. That is that we are saying, "Many business concerns" down there in the eleventh paragraph.

DR. DICKEY: Mr. Chairman, may I suggest up in the first sentence under "The Right to Employment" at the top of that page that probably that is not the strongest way to present this right, that is, to tie it to freedom from want.

I think that probably is going to raise the whole question of the Four Freedoms and is unnecessary. I have no objection to it myself, but I don't believe it is the strongest way to present it.

MRS. ALEXANDER: What would you suggest, Dr. Dickey?

DR. DICKEY: I wouldn't put in "if he is to enjoy". I would say, "A man's right to an equal chance to utilize fully his skills and knowledge is" -- if you want to say "a fundamental right of a citizen in a democracy --

BISHOP SHERRILL: (Interposing) Say "is essential -- period."

DR. DICKEY: If you tie it to freedom from want, you put a narrower base on this right than is really involved.

MR. WILSON: Would you be satisfied if you put a period after the word "essential"?

DR. DICKEY: Yes. I don't want to urge this as an important point.

DR. CARR: That is fine. Then you go on to say, "The meaning of a job goes far beyond the pay check".

DR. DICKEY: The phrase "in the market place of thought", it might better be "the market place of opinion".

MR. SHISHKIN: That is Morris' trademark. Don't encroach on it.

MR. ROOSEVELT: Where is that?

MR. MATTHEWS: The last part of the first paragraph.

MR. ERNST: I got it from Brandeis and Holmes.

MRS. ALEXANDER: You had better keep it.

MR. LUCKMAN: Did you steal it correctly?

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DR. CARR: Do you want to change it to "opinion"?

MRS. ALEXANDER: Thought and opinion are two different things.

DR. DICKEY: Yes, and I think you may stir up those people who are afraid of exactly the opposite of what you are concerned with -- the academic people and others, who regard any regulation of the market place of thought as an interference with the individual's right to think what he will.

The market place of public opinion is a somewhat different proposition. Maybe that is a little too fine.

MR. WILSON: We will use opinion unless I hear an objection.

You have a statement in here that I just don't think you can back up. It may be that somebody has better knowledge of it than I have.

The statement is right below where you say, "Many business concerns have an unwritten rule against appointing Jews to executive positions". You say, "the aircraft industry has restricted its Negro employees to the porter or plane washer level." I happen to know that isn't so because I have seen thousands of Negroes doing all kinds of work in the airplane industry. I darn well saw to it they were in there.

MR. SHISHKIN: The FEPC report, which is referred to here as a basic document, points out that the best progress was made by the greater firms in the industry.

MRS. ALEXANDER: I think you refer to the pilots, do you not? Isn't that what you mean? Isn't that what you had in mind?

DR. CARR: Let's delete it.

MR. LUCKMAN: The aircraft industry.

MR. WILSON: It doesn't mean aircraft industry. It is air transportation.

MR. ROOSEVELT: Even that. Are we sure about it?

MRS. ALEXANDER: You have never seen Negro pilots.

DR. CARR: There have been notable examples of firms that do not employ Negroes.

MR. WILSON: Right in Baltimore I established three factories with thousands of Negroes in it. That is right in Maryland.

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DR. CARR: What outfit is that?

MR. WILSON: Fairchild. We took on thousands of people.

DR. CARR: Why don't we take it out? Do you want to change it to "air transport"?

MR. WILSON: If you change it to "commercial air transport" I don't know.

MR. ROOSEVELT: In that part of the industry which employs most of the personnel, which is the over-all end of it, the Machinists Union is the controlling union, and they have no discrimination, and there are a good many -- at least I would say a proportionate representation of Negroes in that end of it; however, as Mrs. Alexander points out, none of them are pilots. You don't see them hauling the little trucks unless they are porters.

MRS. ALEXANDER: We don't know. I say remove it.

DR. CARR: Eliminate it.

MR. WILSON: You will get a storm for nothing.

MR. CAREY: It is certainly true in the operating end of the air transportation.

MR. WILSON: This says "aircraft industry".

MR. CAREY: That is wrong, but this is a serious problem.

MR. LUCKMAN: It is in other industries.

MR. CAREY: Even the contracts are required to be written on a discriminatory basis.

MR. TOBIAS: No question about it.

MR. LUCKMAN: I think the aircraft should come out entirely.

DR. GRAHAM: Does air transportation belong in?

MR. WILSON: We don't seem to be sure of our facts.

MR. CAREY: We didn't have it before the Committee, but it is true.

MR. SHISHKIN: On the next sentence there would the Committee stand on the charge that the discrimination in employment as to the

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engineers and conductors is based entirely on unions alone? That certainly wasn't the way --

MR. CAREY: (Interposing) I wouldn't think so, Mr. Chairman, and I don't represent any of the members involved here as the unions involved, but I think that is a joint effort, and we shouldn't eliminate the responsibility on the part of management about the hiring policy.

Nor should we eliminate the responsibility on the part of the unions because the unions and the management and the joint efforts of the operation of a lot of railroads in this country jointly prevent Negroes from being engineers or trainmen.

MRS. ALEXANDER: I think Mr. Houston testified to this matter.

MR. LUCKMAN: I think Mr. Carey's point is well taken. The burden should not be put on unions.

MR. SHISHKIN: The basic evidence is the existence of the Southern Conference Agreement to which both unions and employers were signatories. That is evidence of their joint responsibility.

MR. TOBIAS: The unions have had a good opportunity to protest against it as they do everything else they don't like, and they have not protested.

MR. CAREY: Yes, they do protest, but the unions that are involved do not protest. I don't think you should put it this way where the full responsibility is on the unions without sharing it. You deny your opportunity of getting it straightened out, (1) because it is not true, and (2) --

MR. ROOSEVELT: (Interposing) Say "railroad management and unions". What are we arguing about?

MR. CAREY: O.K.

MR. TOBIAS: I was in the Belgian Congo a year ago and found the Belgian natives operating the railroad system in the Belgian Congo. There were ticket agents, engineers, conductors, and everything. They run the whole works.

MR. SHISHKIN: We have that in the United States, as a matter of fact.

MRS. ALEXANDER: They don't get paid for doing it.

MR. TOBIAS: Where?

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MR. SHISHKIN: The wartime FEPC has dealt with it in all parts of the country, and we have evidence of it in the report.

MR. ERNST: May I suggest that the paragraph refers to Jews and some business concerns in New York and to railroads, and it is less than a pointing of a finger at the areas where it is futile. We just single out New York for Jews and railroads for Negroes, and it is an understatement. I should imagine we should leave out the paragraph.

MR. TOBIAS: It should be --

DR. CARR: (Interposing) This illustrates the problem. If we make a generalized statement and then in the interest of brevity, just document it as slightly as we can and get away with it; it means while you have got a reasonably brief report, there are many points along the way where the supporting evidence seems pretty thin.

MR. SHISHKIN: Could we phrase it this way, Mr. Chairman? I was wondering whether we could put it in and say "Many business concerns in metropolitan areas".

MR. ROOSEVELT: Why?

MR. TOBIAS: Why metropolitan?

MR. SHISHKIN: We have evidence with respect to New York, Chicago and San Francisco.

MR. ROOSEVELT: You could say, "Some business concerns have an unwritten rule against -- railroad management and unions discourage -- there are fields" --

MR. WILSON: That is the word I want to take out. I don't see why we don't eliminate the word "several". We could say, "There are fields". We know it is broader than this.

MRS. ALEXANDER: You can make it "Business concerns have an unwritten rule". You don't have to say New York.

DR. CARR: New York is out.

MR. WILSON: "Many business concerns have an unwritten rule --

MRS. ALEXANDER: (Interposing) "against employing Jews in executive positions. Many colleges and universities have a similar rule as regards all minorities." That is true, isn't it?

MR. ROOSEVELT: You mean as to employment?

MRS. ALEXANDER: Yes. They do not employ as teachers Jews or Negroes.

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MR. MATTHEWS: That is covered under "Education"...

MR. ROOSEVELT: Bob's point is that he states the fact and then gives a couple of illustrations only in the interest of brevity.

DR. CARR: It is a real problem. I think there are points where it is possible we have shortened the thing too much.

MR. WILSON: We are on page 18 now.

DR. CARR: While we are talking about unions, there is a suggestion that has been made. Down two-thirds of the way on the page the paragraph beginning, "Finally, labor unions", about eight lines down there is the sentence reading, "But the national organizations have been unable to prevent some local unions".

The suggested change is that the "national organizations have failed to prevent some unions from either excluding Negroes or placing them in segregated locals".

MR. CAREY: In our particular instance we can deal with the situation and do. We have the machinery to do it. It is part of the official machinery. We can take action.

That may not be true of other groups, but we can't evade our responsibility on the basis of the autonomy of an international union, et cetera.

DR. CARR: It is true you have a small handful of CIO unions that do have discriminatory practices.

MR. CAREY: If that is so, it is my fault. I am Chairman of the committee, and in each case where we have had it we correct it.

MR. SHISHKIN: That is not true, Jim.

MR. ROOSEVELT: Hold your hats, boys.

MR. STEWART: Are there any segregated locals?

MR. CAREY: I would suggest you name them.

MR. SHISHKIN: I can name them. (Laughter)

MR. CAREY: You can name them, he can name them; they are not named in the report. It is not covering the point. You should name the organizations in the report that engage in such practices.

MR. ROOSEVELT: Then we ought to go back to page 17 and name the business concerns.

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MR. WILSON: We won't do that. (Laughter)

MR. CAREY: In the interest of brevity we shouldn't do that.
(Laughter)

MR. WILSON: Is the statement correct that there are unions, national unions, as stated, who discriminate or not?

MR. TOBIAS: Yes, it is true. The Railroad Brotherhoods do discriminate. It is a regulation of theirs. Everybody knows it. It is a regulation of theirs that Negroes cannot hold jobs as engineers and as conductors.

MR. SHISHKIN: In the next sentence, Mr. Chairman, you say, "Thus the railway unions have 'Jim Crow' auxiliaries into which the Negroes, Mexicans, or orientals are shunted."

There are 21 labor organizations in the railroad industry. I didn't raise any question with respect to the engineers and conductors, but here is a general statement that all railroad unions do that, which is not correct because there are many of the railway unions that do not discriminate. However, there are some such as the clerks, conductors, and engineers, that do.

MRS. ALEXANDER: Then say "some".

MR. ROOSEVELT: Leave out the word "Thus"?

DR. CARR: Yes. "Thus" is out.

MRS. ALEXANDER: The CIO doesn't have any railroad unions?

MR. CAREY: Yes. They do not discriminate.

MRS. ALEXANDER: Doesn't this put it in as though it were both AF of L and CIO?

MR. CAREY: I object to it, and I was going to make a more pronounced objection later on in the case of the Maritime Unions. You make a clear definite statement that Maritime Unions don't discriminate when one of them does. It happens not to be a CIO union. Why in this fine effort to be impartial when the facts will not support that --

MR. SHISHKIN: (Interposing) Let's come to that later. (Laughter)

MR. CAREY: The CIO is able to straighten out the matter and to say the national organization is unable to do it I think is a misstatement. I don't say we have attained perfection, but I do declare we are able to do it.

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MR. SHISKIN: You are not. The facts so show.

MRS. ALEXANDER: Take out "unable" and say "failed". Wouldn't that meet it?

MR. CAREY: No, because it is too generalized. I notice in the report that when you list the organizations that are engaging in effective work in this field, you do not mention the name of the Congress of Industrial Organizations, and I would like to put the record of that organization against the record of any of those that are named; and the very fact that the traditions in the labor movement have been to discriminate, and when an organization actively engages in a campaign against the very traditions that have been inherent in that type of organization, it should be mentioned.

MR. SHISHKIN: Brother Carey, I would like to say in that connection that I have served on the FEPC for four years and I have gone through the evidence and I have never raised my voice in the course of all that work in a manner that would indicate that there is any kind of rivalry because this issue is far above that.

I have evidence as of now which grows out of the experience of FEPC and has not been corrected. There are dozens and dozens of situations that are very difficult to correct. There is evidence that Local No. 1 of the Smelter Workers in Butte, Montana, told President Murray to go to hell when Murray told them to employ Negro workers during the war. They have never been employed in Butte, Montana.

MR. CAREY: You are wrong. I went to Butte on the issue, and I am saying to you that your facts might have been sufficient as of four years ago.

MR. ERNST: It seems to me in this labor field they have got the same problem that I have been hopping on without success with regard to national and state rights. The real problem of the labor organizations is how far can the big parent organization possess the power by agreement of its local organizations, and even if it possesses it, how far can it exercise it? The CIO has the technical powers, which the AF of L hasn't got.

MR. SHISHKIN: I am only concerned because of the fact that there is a local union of oil workers CIO down in Texas which does have a segregation policy which is against the policy of the CIO. In that local the policy of segregation is there and apparently will continue to be there because at the present time that is not dealt with.

MR. CAREY: The situation in Texas is taken care of. We had to modify that union's constitution in order to get action by the national organization to discipline the local organization.

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MR. ERNST: Would it be any help if this Committee would indicate that it would be a more wholesome situation if the national organizations had the power and fully exercised that power?

MR. CAREY: I think we can let it stand.

MR. ERNST: That is the real issue.

MR. LUCKMAN: Let's go on. He is willing to let it stand.

MRS. ALEXANDER: Are you sure we won't get criticism from the unions?

MR. CAREY: I am sure we will.

MRS. ALEXANDER: They have struggled.

MR. LUCKMAN: You will get criticism from businesses.

MR. CAREY: You haven't mentioned the names of the National Association of Manufacturers or the United States Chamber of Commerce.

MR. LUCKMAN: You have said in the preceding one "businesses".

MR. CAREY: You don't assume any responsibility in that generalization. You can make this so generalized that you don't include the names, but where you do include the name, where you are going to be specific, I say be specific. I don't ask that you go into the generalization.

It happens that in the United States unions do assume responsibility for their conduct. You can't find that true among the business enterprises because they are just not so considerate.

MR. LUCKMAN: You want to strike out AF of L and CIO and say "large labor unions"?

MR. CAREY: I would give the name of the union. Here you are condemning some others that do not discriminate, and I think that ought to be applied especially as it relates to unions for no other reason than I expect more in this field from unions than I do from business enterprises.

MR. TOBIAS: Why not say, "Both AF of L and CIO have repeatedly condemned discriminatory union practices but have not been successful in preventing some local unions from either excluding -- " and so on?

MR. CAREY: They have not been wholly successful. They have not attained their goals.

MR. WILSON: Fully attained their goals.

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MRS. ALEXANDER: Have not fully attained their goals in this effort.

DR. CARR: You want to do that?

MR. ROOSEVELT: Let's say "have not yet fully attained". That is by implication that they will, Jim.

MR. CAREY: That sounds good.

MR. WILSON: Anything else on page 18?

MR. LUCKIAN: We ought to say that some businesses have made remarkable progress in employing Jews in executive positions.
(Laughter)

MR. WILSON: I recommend at this time that we take a ten-minute intermission.

(Whereupon, a short recess was taken.)

MR. WILSON: Shall we come to order, please. We are on page 19. Hearing no objection, we will pass to page 20. We are now on page 20.

BISHOP SHERRILL: Did you say 25? (Laughter)

MR. SHISHKIN: I bid 26.

MR. WILSON: Going, going, gone.
We have now decided to go back to page 19.

MRS. TILLY: I would like to ask what the 17 Southern States are.

DR. CARR: Those states are listed in the Table, which include Delaware, West Virginia, and one or two others. They are the States with separate schools. It bothered me for a long time to call them Southern States, but we find that the Census Bureau and the Office of Education have adopted that terminology, and referred to the States in that region as Southern States. They are below the Mason-Dixon Line.

MRS. TILLY: Does that hold true about the South having only one-fifth of the taxpaying wealth?

DR. CARR: All those references are to that same group, the 17 States plus the District of Columbia.

MRS. TILLY: All right.

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MR. WILSON: Any further suggestions as to page 19?

MR. ERNST: I don't know whether this should be raised here, Mr. Chairman, but this basic question that we voted on before comes up in this subject, and that is enunciated most clearly at the bottom of page 20. I intend to raise the question as to whether in any instance we are going to fail to condemn discrimination on race, creed and color based on other than prejudice and bigotry, as was the suggestion. I don't care where you raise it but that is the fundamental issue, in my mind, on the educational situation.

DR. CARR: That is at the bottom of page 20?

MR. ERNST: Yes.

MR. WILSON: We will come to that when we get to page 20. Is there anything else on page 19?

DR. CARR: Rabbi Gittelson has a suggestion - and I have failed to call your attention to some of his comments; -- I think it is going to be a little cumbersome bringing them in because he has got 27 suggestions, -- but about two-thirds of the way down on the page, where it says "Discrimination in public schools", I don't know that it is necessarily located at that spot but he says that it would be highly advisable to give specific figures here on the rapid decline of Jewish student admissions, particularly to medical schools. My reply to him in effect is that that is the sort of a figure that we have found very hard to come by.

MRS. ALEXANDER: The American-Jewish Congress has them; I know they have them specifically for the decline in Philadelphia in the medical schools. That is where you get it.

DR. CARR: Does anybody here want to comment on that?

MR. STEWART: Only that we do have figures for one or two cities. There aren't any general figures which you can really rely on for the whole country.

MRS. TILLY: Is this the latest table you can get? There has been a great deal of advance since 1943 and 1944 in the differential in teachers' salaries.

DR. CARR: It is fairly recent. That is one difficulty we encountered. Of course the Office of Education and all reporting agencies of that kind bring out a 1947 publication on 1945 figures. We do say that the gaps have been narrowed.

For example, it appears in the paragraph just below the table that we are making a comparison between the school years, 1939-1940

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and 1943-1944. Undoubtedly there has been further progress since, but you can't get the figures for a year such as 1945-1946 yet.

MRS. TILLY: There is a sentence there that is going to disurb the Confederacy again - "But this impending development raises the fair question whether the country as a whole should be asked to help bear the added costs of maintaining adequate separate schools in those States that maintain a pattern of segregation". That is a true statement, but can't we soften it a little. I am afraid that is going to be one of the things that is going to make us awfully mad.

MR. WILSON: And fight the war all over again?

MRS. TILLY: Yes. Just don't make it too hard on us; try to understand us a little bit and don't rub it in quite so much.

MR. ROOSEVELT: I was going to say that my objection to it was that it was put in the form of a question. I would like to see it state that we shouldn't. I would like say that the country as a whole shouldn't be asked to assume that, without specifying the South - but everybody will know what we mean.

DR. CARR: One reason it is put in the form of a question - and this bears only on the mechanical side of the problem of writing the report - is that some places in the earlier text we come very close to giving away the recommendations, but we have tried finally, in so far as possible, to avoid foreshadowing the recommendations precisely, and to leave that until the end.

MR. ROOSEVELT: The "come-on".

DR. CARR: In some cases we have succeeded pretty well and in others we have almost succeeded in giving the recommendation in the advance section.

MRS. TILLY: While that is true, the approach to this is awfully hard.

BISHOP SHERRILL: What paragraph is that, Mrs. Tilly?

MRS. TILLY: Galley 20, the last sentence of paragraph 4.

MR. ROOSEVELT: It begins with "The extension of the Federal grant-in-aid for educational purposes."

DR. CARR: No, it begins with, "But this impending development."

MR. ROOSEVELT: I am sorry.

DR. CARR: This goes right to the heart of the most controversial

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issue at the Hanover meeting.

MRS. TILLY: It was stated a while ago that each section of the nation would high-light something. This is what will be high-lighted in the South, this whole question of segregation in education. It is going to overshadow everything else in the report, in my opinion.

MR. ROOSEVELT: They don't have Communists down there except in labor unions, I guess.

MRS. TILLY: We call everybody Communists; I am a Communist down there.

DR. CARR: Let me remind you that this section on education is foreshadowing the two recommendations: One, that grants-in-aid be withheld sooner or later - the thing equivocates a little on that point - where segregation is the pattern. Also, that the Committee recommends something similar to the Austin-Mahoney Bill to cover private education, and I think you have got to decide here, in looking at these Galleys 20 and 21, whether you are standing by those recommendations or not.

MR. ROOSEVELT: Mr. Chairman, I think in this particular case it would be very helpful if we could read Galleys 19, 20 and 21, or the first half of 21, at the same time that we read the bottom of Galley 54 and the top of Galley 55, which last two contain the recommendations.

DR. CARR: That is right. I also suggest, for the purpose of clarifying the discussion as much as possible, that maybe you would do well to separate the two issues and not talk about both of them at the same time.

MR. ROOSEVELT: Before we get into those two issues, on Galley 19, under The Right of Education, the last sentence reads: "We have allowed discrimination in the operation of many of our private institutions of higher education, particularly serious with respect to the admission of Jewish students."

I am under the impression that actually our private institutions have discriminated more against the Negro than they have against the Jew. I think you will find that true, numerically.

DR. GRAHAM: You are talking about the North?

MR. ROOSEVELT: Yes.

DR. CARR: The trouble in the North is that the discrimination against the Negroes is largely brought about by the inability of Negroes to meet the cost of higher education. Many private institu-

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tions in the North have never reached the point where they have had to discriminate against the Negroes.

MRS. ALEXANDER: That is just not so. There is a quota in every medical school, for Negroes, in the North.

DR. CARR: I was thinking only of the college level.

MRS. ALEXANDER: There is a quota in the colleges.

MR. ROOSEVELT: What I would like to see would be something that didn't single out the Jews, because I think the Northern Negroes are going to say, "Why pick out the Jews when Northern Negroes are even more discriminated against?" I would like to see the words "minority students" substituted.

MR. CAREY: Let's put a period instead of a comma after the words "higher education".

MR. ROOSEVELT: That should be a period. Now if I can shift to pages 54 and 55 --

DR. GRAHAM (Interposing): Before you leave that I would like to observe that throughout the Report every time anything is wrong in the South - and heavens knows we have got enough that is wrong there - we always say the "South". But when we come to the North and West we put it in a locality or an institution, we never say the "North" or the "West". But you never fail to say "South".

MRS. ALEXANDER: This should be, "throughout the United States."

DR. GRAHAM: Then say "throughout".

MR. WILSON: Very good; I think we had that coming.

MR. ROOSEVELT: It actually says, Dr. Graham, in the first sentence of that paragraph, the second line, "in this country", and this first introductory paragraph doesn't apply to the North or the South or the West or any particular place; it applies to the whole nation.

MR. MATTHEWS: Say "in this whole country, including the South".
(Laughter)

MRS. TILLY: You don't find the Southern schools discriminating against the Jews.

MR. ERNST: As a matter of fact the discrimination on the Jewish level is accepted in the North.

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MRS. ALEXANDER: Do you want to make this, "particularly serious in the North with respect to the admission of Jewish students"?

MR. ERNST: Yes.

DR. CARR: I think there is a certain advantage in leaving that in and saying "in the North".

MRS. ALEXANDER: All right.

MR. WILSON: We are going to say "particularly serious in the North."

MR. CAREY: I question that unless it says "with special reference to Jewish students".

MR. WILSON: That is right.

MR. ROOSEVELT: I will pass over for the moment this question of Federal grants-in-aid, to this second recommendation, which is to use the method of publication, Galley 55, the top paragraph. At the bottom of Galley 54 we recommend the setting up in the States of Fair Educational Practice Laws, with an administrative committee. Then we say, "The committee does not believe that formal sanctions such as the cease-and-desist order or the misdemeanor penalty are a desirable or feasible means of enforcing public policy against educational institutions or administrators."

I would like to see the evidence on which we base our belief. I don't believe myself that it will work. Next, "It believes such institutions are very sensitive to public opinion". There is actual evidence in New York State that this is completely in error and very much off the record, the President of Cornell University has more or less admitted that in off-the-record proceedings.

"Where a complaint against an institution is found to be valid" and so forth - that is all right; we believe in that.

"Failing that, wide publicity for the commission's findings will, we believe, be adequate for the enforcement of a fair educational practice law."

I don't think it works and I am against it.

MR. ERNST: You aren't against it; you don't think it is enough.

MR. ROOSEVELT: That is right.

DR. CARR: As you recall, the Committee in Hanover left the Staff with a very narrow tight-rope to walk, and we tried to work this out, thinking we had found a compromise solution.

DR. GRAHAM: I wasn't at that meeting. Is it true that in some

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States they are trying to work out machinery of sanctions in this regard? If they are, we ought not take sides against it.

MR. ROOSEVELT: That is it, the machinery of sanctions - just what do you mean by that, publicity?

DR. CARR: Here is the point --

DR. GRAHAM (Interposing): That is, if a State itself is seeking to set up sanctions, a national committee should not take sides against a State seeking to set up those State sanctions.

MR. ROOSEVELT: That brings me to my main point. The backers of the Austin-Mahoney Bill, being good strategists, started off their fight in New York two years ago with the policy of eliminating tax exemption from institutions which didn't live up to the standards of non-discrimination. They did that with their eyes open; they realized that after the first year that would cause a hell of a lot of discussion. After the first year they dropped that controversial phase of it and they came to what they really wanted, which is a cease-and-desist order.

Pennsylvania, however, is a couple of years behind us and they are now in the taxation phase, and they will tone down. In fact, at the next meeting of the Legislature they will probably come around to the new model Austin-Mahoney Bill which, as revised, calls for cease and desist orders.

Massachusetts is in the same position as Pennsylvania.

Now they say that if we come out with a policy which recommends publication, that we have eliminated five or six years of their work, and that they have to start all over again.

DR. GRAHAM: But we are taking sides against that.

MR. ROOSEVELT: We are taking sides against the people who are fighting for this very model statute, and we will slow down the whole process by at least five or six years.

DR. GRAHAM: I don't think we should take sides against them, Mr. Chairman.

DR. CARR: May I just add a word that I think will clarify the discussion? At Hanover you may recall that you had an almost even split; that a slight majority of the Committee was in favor of some sort of a fair educational practice act, and almost half of the Committee was against any such act. We thought that perhaps we could find here a compromise proposal that would receive the approval of most if not all of the Committee. Maybe that isn't possible.

DR. GRAHAM: Couldn't we at least get together on this, that the

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national committee will not take sides against a state committee that is trying to effectuate those policies?

DR. CARR: There are some members of the Committee that don't like it as a matter of policy.

DR. GRAHAM: At least don't take sides against them. We don't have to make any statement against a particular program in a particular state, as we do here.

MR. ROOSEVELT: Dr. Graham, I think, bringing you up to date, the big argument at Hanover, as I recall it, was that if we included cease and desist orders and really put teeth in our recommendation, we would be going far towards making things very difficult for church schools, for schools with other reasons for exemption. The Austin-Mahoney Bill specifically, in its definition of the type of schools it applies to, exempts all church schools from any application of the law, and there is another exemption too. Here it is: "Educational Institution includes any institution which is subject to visitation, examination or inspection by the regents or the commissioner of education, but does not include: (a) any religious or denominational institutions; or (b) any educational institution which is in its nature distinctly private and is not tax exempt or otherwise supported by public funds."

That takes care of the Communist schools. I asked that question, if they were exempt from the law. So they pay taxes. I think that eliminates the major objections that some of us had at Hanover to putting teeth in this recommendation.

If we include this definition of what it should apply to, then I think we can go one step further and substitute for publication the cease and desist order.

MR. ERNST: May I give my viewpoint on this section - and we argued it out at length. At the bottom of page 54 you will find that the report is so worded as to permit discrimination not based on bigotry or prejudice. Without repeating it, it seems to me that those are meaningless words and I couldn't subscribe to that.

BISHOP SHERRILL: What are those words?

MR. ERNST: It says:

"The enactment by the State Legislature of fair educational practice laws for public and private educational institutions, prohibiting discrimination in the administration and treatment of students, based on race, color, creed, or national origin, and motivated by prejudice or bigotry."

In other words, you have to prove that the discrimination was motivated by that, and I don't think you could live long enough to prove that. I think they are meaningless weasel words.

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MR. ROOSEVELT: Why do we qualify it?

DR. CARR: That came out of the Hanover meeting.

MR. ERNST: That was Dickey's point.

DR. DICKEY: I am not going to reargue it, for I have stated my position. I am perfectly clear about it and I don't think they are meaningless, Morris, they are the heart of the thing. And I am just perfectly clear that to suggest myself that there is any proper concern with an educational institution in the selection of its students, so far as civil rights are concerned, which goes beyond the prevention of selection, or rather the exclusion of men and women because of bigotry, is a complete interference with that institution's right to select a student body for educational purposes.

MR. ERNST: I think we have thrashed that out at length and we both feel strongly about it --

MR. CAREY (Interposing): Some of us haven't had the opportunity to express an opinion on it.

MR. ERNST: I was referring to the Hanover meeting.

All I want to say is that I feel as strongly the other way and this may be one of the points where we ought to say that there is a division of opinion - which wouldn't bother me at all.

MR. CAREY: I don't think the workers can select the members of their union. In the same way I don't think an institution operating in a democracy can determine the make-up of their student body. I think they are answerable to society.

MR. ERNST: I think they can make it up except on the ground of race, color or creed.

MR. CAREY: Suppose a labor union attempted a program of high initiation fees. If you are going to apply that same notion in these other areas, high initiation fees can apply to whites, Negroes, Indians and all of them. Still it is an institution operating here and it is subject to the operations of the public authorities. The same thing would be true if we attempted to limit or restrict the membership for reasons other than these.

Now I don't know - do we have a special situation with regard to educational institutions?

BISHOP SHERRILL: What are you going to do with an institution that can take in 1500 people and has 3000 apply for admission?

DR. GRAHAM: Higher scholastic standards is one basis.

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MR. CAREY: That is quite a different proposition. If you establish it on the basis of - let's say a labor union can discriminate against people not working in the trade or industry --

MR. SHISHKIN: (Interposing): They are not qualified.

MR. CAREY: That is correct. But here, if they discriminate on any basis other than academic requirements, I question whether it is proper. In other words, can a public institution or even a private school operating in a democracy operate as a business enterprise and solely that? I think they have an obligation to the community; they are given a right to operate and they should operate on a democratic basis.

DR. GRAHAM: What would you think of a case like this? I wasn't at the Hanover discussion and I am trying to catch up with it. In the State of North Carolina there is a policy now to provide for medical care for its people. We are way behind, one of the worst in the Union. We have a shortage of doctors. We are establishing a State Medical School primarily for the purpose of having more trained medical personnel for the people of North Carolina. Now it is going to discriminate by policy in favor of the people of North Carolina, and one way is to give North Carolinians a preference in the admission to the medical school, because they are more apt to settle in the State of North Carolina.

I say we will have no discrimination except that provided by law, with regard to religion, for example, among the people of North Carolina. Then, to the extent that we admit people from outside of North Carolina there will be no discrimination with regard to those people.

Now sometimes a person from another State will insist on being admitted because he is of a certain denomination, even though he doesn't qualify under this policy. Does the State have a right to say, "We want to serve the medical needs of our people; the Northeast has medical care away out of proportion; we have medical care away below proportion". The State says, "We want to meet that proposition and set up a State Medical School primarily for the North Carolinians."

MR. SHISHKIN: That is not race, color or creed.

MR. CAREY: We are talking about things other than that.

MR. ERNST: May I state my position? I think you have a right to discriminate on any ground other than race, creed or color, anything but race, creed or color, and I object to saying that you can discriminate on that basis if it isn't on the ground of prejudice or bigotry, because that is just double talk.

DR. GRAHAM: In the Southern States of course they do discriminate on the grounds of race, as you well know.

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DR. DICKEY: To say it is double talk is a very unfair characterization.

MR. ERNST: It will be used as that.

DR. DICKEY: It is not necessarily double talk on the part of an individual who knows what he is doing in an educational institution.

MR. ERNST: That is right, you wouldn't discriminate on that ground.

MR. TOBIAS: As I recall the Hanover discussion, it took the form of a discussion of distribution, the right of a private institution to so handle the matter of acceptances as to make it possible for that institution to live up to the purpose for which it was founded and the public service that it is to render.

I said then and I say now that there are dangers in that, but I don't think it is as simple, probably, as we might think offhand. For instance, here is an interracial hospital in New York, Sydenham Hospital. I sent a young woman, a young Negro woman, to apply for an assistant's position in a research section. Now she was turned down with this explanation: "Your qualifications are good; we need someone; you are first to apply; we won't turn you down definitely, but in keeping with our policy of making this institution interracial, it is now the turn of a white girl to occupy that position." What are you going to do in a situation like that? That is in defense of maintaining the interracial character of the institution.

MR. ERNST: I should say that is due to the fact that that is the one institution of its kind in the City, and if they all had a door open, free of discrimination, such a situation wouldn't happen.

It is the dilution theory that concerns me, with hotels and all of them. Any one institution that bucks the stream is the trouble.

MR. CAREY: You don't have enough colleges and schools and private institutions. If you did, I don't suppose we would have the difficulty, if we had some that would carry out the policy of no discrimination. Is that wrapped up in this, that there are just not enough facilities?

DR. CARR: I think you have got an awfully good point, Jim, but one thing that has bothered me - and I simply throw this out for further thinking - is that you have got geographical concentration. I think you will agree that it would be unfortunate if you got an all-Negro or all-white or all-Jewish college. But you would also agree that if, through the State approach, all of your New York institutions tended to be Jewish, or at Boston if Harvard University became largely an Irish-Catholic institution and was not a church college - I am not questioning the right of the church to operate separate church schools -

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but on the purely State approach, how are you going to make certain that your dilution theory would operate?

MR. ROOSEVELT: I feel that this is a problem that is a very involved one. Dr. Tobias' story there of Sydenham Hospital is just typical of the detailed ramifications. Dr. Graham's statement is corroborated in New York State; for example, our upstate institutions feel they owe a service to their local community. Hobart College, for example, wants to serve its local community.

There are certain reasons for that. If they have a lot of their graduates in the immediate community, they have quite a lot more political influence than if their graduates disperse across the nation. On the other hand, Columbia or Cornell like to see their medical students go out across the country so that the leading surgeon in each one of the 48 States comes from Cornell Medical School. They feel that gives them a standing.

So you get varying emphases in various institutions. So I would like to see us limit ourselves to the racial and the religious, and not try to bite off the whole thing.

If anybody is interested, I would like to pass around this model law, which is the result of about 6 years of concentrated effort by some highly trained people who have looked into it a lot more than we have. They leave out the bigotry problem, the bigotry clause, as we have got it here, mainly because it just brings in a very difficult thing to prove; it is a very difficult thing to administer. I know if I were sitting on any administrative committee appointed in a State to administer such a law, and I had to prove each time that discrimination existed because of race, creed or color, and had been motivated by prejudice or bigotry, it would be almost an impossible thing to administer. This would be a step in the right direction, I think, if we eliminated those words and put some teeth in this.

Do you agree with me?

MR. ERNST: Yes, but there is an honest difference of opinion on which people feel very strongly. It seems to me the best we can do is to say that the Committee is divided one way or the other on the addition of that clause.

MR. TOBIAS: I don't know that it would come to that. All I think is important is that we understand the difficulties involved in the situation. I am for the principle as you lay it down, but here is another situation. I am a member of the Board of Trustees of Howard University. We have a Medical School at Howard University. Surely Howard is the last institution in the country that would want to draw any racial lines, considering what we are up against. Here is a very practical situation, however, with which the University is confronted. You know how difficult it is to get admission to medical schools at the present time; the pressure is simply terrific. Howard University has had great pressure from white students to enter the

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Medical School.

Well, Howard is one of two Negro Medical Schools in the entire nation, or schools that serve Negro students freely and without embarrassment and difficulty. Increasingly, others are opening up. The President of Howard University is as strong on any of these principles that we are dealing with here as anyone in the country could possibly be, and yet Mordecai Johnson had to say, when the question arose, "We would appreciate it if you white young men could find openings in the schools that are freely open to you, because this is one of the two freely open to Negro students, and if you take up the space you put them practically out into the cold."

MR. ERNST: He is right.

MR. TOBIAS: That is just a very practical difficulty.

DR. GRAHAM: That would mean that some Negro students would not have the opportunity to study medicine.

MR. ROOSEVELT: This is an example, I think, of President Dickey's statement that one evil creates another, which in turn is even a worse one.

MRS. ALEXANDER: That is right.

MR. TOBIAS: That is why I am for the basic principle.

MRS. TILLY: Still another picture. Emory Medical School is filled rather largely with Jews from the East who are excluded from medical schools, and that has presented a problem to us because of the shortage of doctors down South. These Jewish doctors do not stay down South; they leave us.

At the same time, here is a Methodist institution that has never discriminated against Jews, but always that is on the horizon - what shall we do? If it is going to be a medical school that will help the health situation of the South, something will have to be done to keep too many Jews from coming into it.

MR. ROOSEVELT: Is this a good place, Mr. Chairman, to point out these difficulties such as Dr. Tobias and others bring out, and Dr. Graham, and emphasize that if all institutions at the same time decided to play ball with our recommendations, the need for such legislation would almost disappear?

MR. TOBIAS: That is right.

MRS. ALEXANDER: And it is a vicious circle.

MR. ROOSEVELT: And it is creating a vicious circle at present.

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I do think, again in the interests of being practical on this, we should add here somewhere in our recommendations the exemptions of religious and denominational institutions and of educational institutions which in their nature are distinctly private and are not tax-exempt or otherwise supported by public funds, because unless we especially eliminate the religious and denominational institutions we are going to draw the wrath of a body that I think would support us otherwise.

MR. ERNST: I have no objection to that, if we take out the motivation clause.

MR. ROOSEVELT: Right.

DR. CARR: How easy would it be for the liberal arts colleges to go back and pick up their traditional religious affiliations --

MR. ERNST: (Interposing) I am not much worried about that. As I understand it, the Jewish religious institutions and the Catholic ones are not really worried. They will take a non-Catholic into a Catholic place, and the Jews will take a non-Jew.

MR. MATTHEWS: They take too many of them, I think.

MR. CAREY: Should that be "discrimination in the admission", or "discrimination in the administration"?

DR. CARR: "Admission"; that is a misprint.

MR. WILSON: Some of the copies have been changed.

MR. ERNST: May I ask something? John, there is a clash about the clause "motivated by prejudice or bigotry". For certain reasons, I take it that you would not go along unless the clause were in.

DR. DICKEY: I don't think that I want to make the argument, because I don't think that you can legislate effectively on this thing without endangering a much larger principle, the independence of the private educational institutions.

As I said at Hanover, if the principle is stated this way, I will go wholeheartedly with the principle, and intend to do everything within my power, both in my institution and wherever I am involved elsewhere, to see that this principle is applied; that people are not discriminated against because of prejudice and bigotry regarding their race, color or national origin. But I think that any action by Government to interfere in the educational process of private educational institutions in this country has greater possibilities for serious disadvantage than possibilities for advantage.

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MR. ERNST: Would you therefore be willing - it could be done either way, and I don't care - would you be willing to remove the clause, "and motivated by prejudice or bigotry," but say "some members of the Committee feel that that should have been added because", and then state your argument? Or do it the other way. Leave it in and say, "but some members objected to the inclusion of the test of motivation by bigotry or prejudice". I am against leaving the "motivated by prejudice or bigotry" clause in.

DR. DICKEY: My conviction on the thing stems from the fact that on the question of principle, it is of the greatest importance that the private liberal arts college should be able, if necessary, to preserve its diversity for purposes of the educational value of a diversified student body. I would not, as I said in Hanover, have the slightest hesitation in believing that the entire character of a private liberal arts college could be completely changed if one religious denomination became dominant in the affairs of that institution; and I do not see how one can believe in the role of the private, independent liberal arts college, and still be intellectually honest in going along with anything designed to prevent such institutions from preserving their diversity.

On the other hand, I have made my peace with my maker on the basis that they should not be permitted to exclude people from admission to their institutions because they are prejudiced against that particular race, religion or color.

MR. ERNST: Let's assume that I, for one, and maybe some others, take the position that we don't agree with you; how do you think it is best and most easily resolved here, other than by saying that there is a division of opinion as to the additional test of "motivation by prejudice or bigotry"?

I see no great harm in that. It would create a springboard for some public discussion. I, for one, can't subscribe to the test of discrimination unless it can be proven that it was motivated by prejudice or bigotry. I can't go the other way, and it seems to me we ought to be honest about it, and say that as to that there is an honest disagreement. I think that it is a good thing to say.

DR. GRAHAM: State the disagreement?

MR. ERNST: Yes.

MR. TOBIAS: The difficulty is that you won't be able to indicate what the weight of opinion was.

MR. ERNST: Some of us don't want it in --

MR. MATTHEWS: Say "So many of the members of the Committee thought --"

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MR. ERNST: Any way, but just so there is shown that there is a division.

DR. DICKEY: I don't say there is any question at all but what you are going to have to do that. I assumed that you were going to have to do that, from the very beginning.

MR. ERNST: Shouldn't we say -- is it sufficient to merely say that there was a disagreement as to that clause, or should there not be a sentence or two as to the nub or the essence of the disagreement; that one group felt that free public education of the colleges, cultural colleges, was imperiled, or whatever the argument is that John wanted to put in --

DR. GRAHAM: Free private.

MR. ERNST: Yes. Now I take it there is another footnote, if I understand correctly, that in the higher education, professional schools, we all went along - I may be wrong on this - that the motivation test would not be applied to the medical schools and the law schools, because there there isn't the same need for the cultural cross-section concept.

I think that John ought to be authorized to write the sentence or two, stating it as forcefully as he wants.

DR. CARR: We probably ought to vote, and see which way it is going to be stated; whether the majority stand or the other stand will be stated.

MR. SHISHKIN: (Interposing) I would like to have a division on this - who is on which side? I don't think there need to be a motion.

MR. ERNST: I will make the informal motion to eliminate the clause "and motivated by prejudice or bigotry".

MRS. ALEXANDER: I second that motion.

MR. WILSON: I think you all understand the motion. Will all who favor the motion vote by a show of hands? There are five for. Those opposed please show hands.

DR. GRAHAM: On the grounds as he analyzed it, I vote with Dr. Dickey.

MR. WILSON: Five opposed.

MR. ERNST: I think it is close enough, and I have such respect for John's statement, which I thought was a rather normal approach to the problem, that I don't care, if he would prefer to have it in;

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and then have the statement in reverse, that some people couldn't subscribe. I don't care.

MR. ROOSEVELT: I would like to ask Dr. Dickey one question.

MRS. ALEXANDER: There were six voting that last time, I believe, rather than five.

MR. WILSON: We will have another show of hands. Will those opposed raise their hands again?

MR. ROOSEVELT: Those who are with Ernst, do you mean?

MR. WILSON: Yes.
There are six, I beg your pardon.

MR. ERNST: I wouldn't think it is important.

MR. CAREY: I don't think it is important to say which is the majority and which is the minority.

DR. CARR: Why don't we try to write it so it just states that the Committee saw this thing two ways?

MR. SHISHKIN: I might mention, for the information of those here who were not present at the Hanover meeting, that I think Mr. Luckman sided with Dr. Dickey, as I recollect, and Rabbi Gittelson sided with Mr. Ernst.

MR. ROOSEVELT: There is one question that I would like to raise, John. You said that you think - paraphrasing what you actually said - that it is dangerous for Government to interfere with the right of private institutions to select as they best see fit. Again referring to my own local situation in New York, when the private institutions were asked whether they thought it would work to leave it up to them to police themselves, invariably they all said "no, we can't do it; somebody will always chisel or cheat, and then the whole system falls down." So I think that we have all got to face the fact that we have got to have Government direction of this policy.

MR. ERNST: May I make a motion --

DR. DICKEY: (Interposing) In so far as I have a guess on it, - and it is purely a guess because, as I said at Hanover, I was just making a confession of faith on the basis of thinking pretty darned hard about a problem for two years, - but in so far as I have a guess, my guess is that where you can get an Act passed and put teeth into it, that you can break down discrimination probably more

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quickly and get further faster, than you can with the voluntary method. That is my guess on the thing.

I think that is probably particularly true in the case of the graduate schools where - I want to enlarge on this a little bit - where the traditional selective factor has been primarily the man's intellectual abilities. They take into account other considerations, of course. But where, at the undergraduate level, the traditional factors of selection have been much more diffuse - personality, recommendations of local committees, geographic factors, public or private schools, economic, and so forth - I am very doubtful how far you can get. But it is a guess either way; I don't know.

What I say, however, is that regardless of how far you can get, and how fast, by legislation, when you undertake to legislate with respect to institutions that have been primarily valuable to the public weal in this country because of their independence - and that independence has had its bad aspects, too - but which have been primarily of value to the public weal because they were answerable to no one, when you undertake to legislate with respect to the composition of their student bodies you have crossed an awfully big Rubicon. From that point on, the hand of the State with respect to what they may teach, with respect to whom they may have on their faculty - and that is, as far as I am concerned, just around the corner - once you have taken that step, what students they may admit for reasons other than race, color and religion, are considerations which could change the whole fundamental character of these institutions.

However much I believe in the principle of not permitting these institutions to discriminate because of prejudice based on race, color and religion, I am not willing at this point to cross that Rubicon. I have considerable faith, myself, in the value of public insistence on this issue. As a matter of fact, just within the past five or ten years, I think a lot of progress has been made on it, and will be made in the future if public agitation is kept up.

Have I answered your question straightforwardly and clearly?

MR. ROOSEVELT: Yes.

DR. GRAHAM: It would be unfortunate, for example, if the legislature of New Hampshire would say that at Dartmouth College you can have only 10 percent of students from outside of New Hampshire, wouldn't it?

DR. DICKEY: We think it would be disastrous; and of course, Dartmouth College has got a history behind it on the issue of independence from State control which I don't think it would give up -- well, very possibly it would give up entirely before it would give that independence up.

DR. GRAHAM: I respect the sincerity of your analysis, and the

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deep implications that go way beyond this issue.

DR. DICKEY: Yes.

DR. GRAHAM: For that reason I voted with you.

MR. ROOSEVELT: We have settled that, I think --

MR. ERNST: (Interposing) No, we need a motion.

MR. SHISHKIN: In connection with what John said, I would like to make a brief comment, - that on this issue of race, creed or color, the consequences of Government intervention are extremely grave, and they were extremely grave in the case of labor organizations, because to free society the intervention of the Government in directing the affairs of voluntary organizations, either are the making or breaking of the basic freedom of the workers, and we have seen the effects of that abroad.

So logically, the same position was taken before, and the same position is taken now, that no form of intervention by the Government as to the composition of the unions should be permitted, because of those possible consequences of regulating the free choice of the workers themselves and their freedom of association. Historically, that, of course, is the crux. As a matter of fact, of even greater importance in its consequences, but after a good deal of soul-searching on this particular issue, on this one issue alone, as far as I know organized labor has accepted it and is now backing Federal intervention only to the extent, in this particular institution - self-organization of the workers - where there is danger of discrimination, which has its economic consequences, and that alone. There is no other step that would be permitted, or labor would fight, because it does open the door, of course, for Government to intervene and say what is going to be the worker's education and what is going to be the worker's activity in any field. But that Rubicon had been crossed, as a matter of both economic and moral necessity, really.

MR. ERNST: Mr. Chairman, may I make a motion?

MR. WILSON: Yes.

MR. ERNST: It seems to me, and I so move, that both in the text and the recommendation, the problem of discrimination in schools be discussed from a point of view to show that on the motivation test, without elaborating, there was an even division of opinion, or a substantial difference of opinion, along the following lines - stating, as briefly as possible, the dangers that Dr. Dickey sees if you don't add the motivation test.

MRS. ALEXANDER: Don't you want to state equally the dangers if

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you do add it?

MR. ERNST: I think it has got to be stated both ways, and I am begging the question as to whether our recommendation shall have the clause or not have it; I really don't care. I think it ought not to have it, but then state, "But many people strongly felt" - and then state what Dr. Dickey says.

DR. DICKEY: I don't know how we are going to get this thing worked out without really turning it into a brief, which isn't in the interests of the Committee on either side of this issue, because the statement which I have given in response to Frank Roosevelt's question went not only to the principle of prejudice and bigotry being the basis of the prohibition, but went to the whole question of legislating.

MR. ERNST: Then you would oppose the recommendation, even if the motivation clause were out?

DR. DICKEY: That is correct. I stated that at Hanover. I am opposed to legislation.

MR. ERNST: Then oughtn't we to state the provision just on that ground, using your arguments against the legislative power, in such phraseology as you want? Isn't that the more basic thing?

DR. DICKEY: As far as I am concerned, both are important.

MR. ERNST: Then state both. But which do you say first?

DR. CARR: That is going to be more difficult to do, to state both of those.

MR. ERNST: I know that, and I am trying to find the formula that will do it easiest, and I tried to get John to make the motion. We could state the difficulties the other way.

DR. DICKEY: I think that probably the simplest thing for you to do is to put in what the majority wants, and then simply let it be shown that the entire Committee does not hold that view.

MR. ERNST: That is all right with me.

MR. TOBIAS: There was about an equal showing; there is no majority.

MR. ROOSEVELT: There is a majority.

MR. WILSON: If I remember correctly, I think you will find

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that Luckman will vote or did vote -- I think he was in favor of John Dickey's statement.

MR. ROOSEVELT: And Gittelson was in favor of Ernst's.

MR. WILSON: And if the Chairman votes, it will be seven to seven.

MR. ROOSEVELT: If we come out and say that the Committee is evenly divided between either recommending legislation or not recommending legislation, that is the one issue.

DR. CARR: I don't think the vote was taken on that.

MR. ERNST: Let's take a vote on that.

MR. TOBIAS: On the principle itself?

MR. ERNST: On the principle of the State putting its hand in, in a negative way, to prevent discrimination.

MR. ROOSEVELT: Before we vote on that, because I think I can probably cull one or two votes from the people who voted against us, if we include right at the bottom of Galley 54, after: "The enactment by the State Legislatures of fair educational practice laws for public and private educational institutions", the words, "excluding (a) any religious or denominational institutions; or (b) any educational institution which is in its nature distinctly private and is not tax exempt or otherwise supported by public funds." Then eliminate "and motivated by prejudice or bigotry."

MR. ERNST: You are writing two qualifications?

MR. ROOSEVELT: I am suggesting what I hope will cull a few votes. Then when we get over to the next page, page 55, we change this publication to using the feasible means listed, such as cease and desist orders, or misdemeanor.

DR. CARR: I think we had better vote on that separately.

I wonder if I understood John Dickey correctly that he really doesn't care to have the Committee get into this business of Government regulation of any kind, that he would be content to have the split shown as to whether the exceptions should be made for discrimination which is not based on or motivated by prejudice or bigotry. Do you want the Committee to also go to the extent of including a statement as to the dangers of any form of Government regulation?

DR. DICKEY: I haven't asked the Committee to do anything on the subject. I don't want to be in the position of attempting to

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work out some formula that will cover up an honest difference of opinion on this thing. At the same time I wanted to be very clear with my associates on this Committee that I think that the principle is wrong if you attempt to preclude private independent liberal arts colleges from selecting men for educational purposes, whether the factor be race, religion or geography or economics, so long as it is not a reflection of prejudice and bigotry.

However, even if the principle is right, and I think it is wrong, in my eyes, that is by the inclusion of the motivation factor, I still think that there is a much more fundamental issue of principle and wisdom involved in asking the States to step in and legislate with respect to the composition of the student bodies of private, independent educational institutions.

MR. ERNST: May I suggest that it might be well to have an informal vote, as we did on the other issue, as to whether we believe that the States should give in on any terms in any negative way of preventing discrimination.

MRS. ALEXANDER: Before we do that, may I ask Mr. Dickey what would be his formula for assuring all the people of the United States who were capable mentally of obtaining a college education, the opportunity of so obtaining it?

DR. DICKEY: Mrs. Alexander, I am perfectly confident there is no way of assuring that, regardless of what you pass. There are this year, and there will be for a good many years ahead in my opinion, if not indefinitely, thousands of people who are not going to be able to go to the educational institution they want to.

MR. ROOSEVELT: Let's take the year 1938 as the norm, let's eliminate these special circumstances today - what formula do you recommend under normal times, when the colleges are actually looking for students, of insuring every citizen who is capable of subjecting himself to a college education, for insuring him the right to get that?

MR. ERNST: That he won't be excluded on the grounds of race, creed or color.

MR. ROOSEVELT: Yes.

DR. DICKEY: Let me make one statement which I think is very fundamental. It is clear to me that any institution which is operated by the State, which is going to be the big reservoir for training the great majority of our people in the field of higher education, is answerable to public policy, and I have no objection whatsoever --

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MR. ROOSEVELT (Interposing): In New York State we don't have a State college as such.

DR. DICKEY: I can't speak for New York State, but that is my answer to you, that any State is in a position to establish a projection of its public school system. I have voted here, Frank, for the elimination of segregation in the public schools, and I would be perfectly clear about its projection into any State-operated institution, and that is where, to be perfectly realistic about it, our people are going to have to, in increasing measure, get their education, because the private institutions are not going to have the funds, are not going to have the financial strength, to expand to meet the need which is upon us.

MRS. ALEXANDER: What assurance are you going to give us of the diversity which you say must be preserved, diversity as regards all types of students? I believe in your hands at Dartmouth it will be preserved.

MR. ROOSEVELT: Actually the creation of a State college in New York might further the prejudice that did exist in Columbia up to a year and a half ago.

DR. CARR: I take it that Princeton has excluded Negroes and that the motivation has been prejudice and bigotry. I understand there is some indication that Princeton's policy is changing, but assuming it isn't, I think the question being asked is, "How would you handle the Princeton situation?"

DR. DICKEY: Just the way they are getting at it at Princeton. Princeton is being forced open by enlightened opinion.

DR. CARR: It was partly Government pressure through the V-12 episode.

DR. DICKEY: It is coming through the Boards of Trustees of all these institutions. As men who understand the implications of these issues come on to the Boards, they are going to change their policies.

MR. ROOSEVELT: I have had a number of institutions report to me where the Board of Trustees, the graduate body, and the body of benefactors, the donors, are in violent disagreement with the student body as polled. There you have a student body requesting that the college administration take in Jews and Negroes, and I can think of one specific college --

MRS. ALEXANDER (Interposing): That happened at Swarthmore.

MR. ROOSEVELT: And also at Cornell. The Board of Trustees, the

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graduate body and the major benefactors were opposed.

DR. DICKEY: Let me assure you that this isn't going to change the situation materially for your people. These institutions have tops beyond which they cannot go. The number of additional people, Negroes, that can be taken in under any legislation on this thing today, and would be taken in, isn't going to change your fundamental problem.

MRS. ALEXANDER: Oh yes it is.

(Discussion off the record).

MR. ERNST: I move: (1) that the Report be changed as to recommendation and in content so as to remove the motivation clause; (2) that it be stated clearly that the fears of some members go to the question of State interference with the private liberal arts colleges; (3) that there is a fairly even division - or however you want to state it, because it is a really close division - with respect to the inclusion of a clause (and then take up the motivation argument); and (4) that as to this motivation clause being added, I take it everybody agrees that it is not needed in the graduate schools. I take it that was the position at the last meeting. My motion is to those four points, and it leaves open still the question collateral to this of the grants-in-aid, and I don't think we ought to confuse them.

MR. MATTHEWS: I don't see any difference between the colleges of arts and the professional schools.

MR. ERNST: Then we ought to say there is a division on the professional school; if there is a difference, let's say so.

DR. CARR: If there is a division why just ignore that distinction and let your discussion run along as though you were talking about all educational institutions.

MR. ERNST: Then, Mr. Matthews, Bob Carr suggests that I eliminate my suggestion, which I will do, about the professional schools.

MR. TOBIAS: You are assuming the exclusion of denominational schools?

DR. CARR: Yes.

MR. ERNST: I am excluding also the denominational schools and the schools that do not seek any grant-in-aid.

MR. ROOSEVELT: And you don't touch on the sanctions?

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MR. ERNST: That is right. That is my motion. John, will you second that?

DR. DICKEY: I am perfectly willing to second it.

DR. CARR: I think it is a reasonable solution of the whole dilemma.

MR. WILSON: The motion has been seconded; do you want to discuss it further? All who favor the motion, vote "aye"; is anyone opposed?

BISHOP SHERRILL: They can't be opposed to an omnibus motion like that.

DR. DICKEY: I would like to hear it read.

DR. CARR: Let me state it as I understood it. (1) That the Committee recommends legislation without any motivating clause, that is, without any exception that where discrimination isn't motivated by bigotry it is permissible; (2) the discussion then concedes that some members of the Committee distrust Government regulation of private educational institutions; (3) that a sizeable minority, or I wouldn't use the word "minority", but a sizeable group on the Committee favored adding a motivation clause to the fair educational practices act.

DR. DICKEY: The thing that bothers me a little bit about it is that I don't want to vote for recommending legislation.

DR. CARR: This motion concedes that there are members of the Committee who are against legislation. That is in Point 2. It begins with Point 1. Point 1 in effect calls for an Austin-Mahoney Bill. Then there are two indications of exceptions on the part of members of the Committee.

DR. DICKEY: I don't think I had better be a seconder of the motion.

DR. CARR: But included in the motion is the statement that there were two exceptions to this proposal: (1) that there were those who were against, in general, any kind of Government control of private educational institutions; and (2) that those who are willing to accept a fair educational practice law but feel it should include a clause where the discrimination is not motivated by prejudice or bigotry.

BISHOP SHERRILL: I am wondering if we need the "motivated by prejudice or bigotry" clause in there at all because that was put in

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as a compromise measure to try to satisfy both sides. Why not have the two; one, that people want to legislate, and the other that they don't. The other was really a formula to try to compromise.

MR. ERNST: That is O.K. by me if it is by John Dickey. I will change my motion.

DR. DICKEY: I don't want to get into the position of trying to trade this thing out in the Committee.

MR. ERNST: No, I want something that will satisfy the dignity of your position.

MR. ROOSEVELT: In other words, Bishop Sherrill will go along with the statement here, if the statement "and motivated by prejudice or bigotry" is left in, and if religious and denominational schools are excluded?

BISHOP SHERRILL: My thought is --

MR. ROOSEVELT (Interposing): You would go along with legislation?

BISHOP SHERRILL: No, I am against legislation. I see no reason discussing the motivation by bigotry. We have two classes, the ones that want to legislate and those who don't.

MR. ERNST: Let me change my motion so as to eliminate reference to the motivation clause, and then you can take a vote on that, and if anybody wants to go separately on the motivation clause we can have a separate motion.

MRS. ALEXANDER: What is your motion?

MR. ERNST: That the motivation clause be excluded from the Report and then state that some members are opposed on the Governmental interference theory.

DR. CARR: There is going to be one difficulty with this. I assume that that motion would be adopted unanimously, but in writing it that draws the line very, very carefully. Do I then indicate that the division was an almost even one? I think it would be a little unfortunate to come out for a recommendation for legislation if your split is almost even.

MR. ERNST: Let's find out what the split is on the legislative impact.

MR. ROOSEVELT: Dr. Graham, you are for legislation provided

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there is a motivation clause in it, aren't you?

DR. GRAHAM: I voted for that already.

MR. ROOSEVELT: That is why we have got to, Bishop.

BISHOP SHERRILL: All right, then put in the 3.

DR. CARR: I think there is a gain by keeping Point 3 in because 95 per cent of your discussion has been over that.

MR. ERNST: I will accommodate back again.

MR. ROOSEVELT: Mr. Chairman, you are for legislation with the inclusion of a motivation clause, aren't you?

MR. WILSON: With the motivation clause, if it is practicable.

MR. ROOSEVELT: I think we have boiled it down to only two or three being opposed to any legislation.

MR. ERNST: My motion stands for the three points.

MR. ROOSEVELT: All I am trying to do is to clarify the emphasis for you in writing it.

MR. WILSON: The motion is now to put all three points in. And that was unanimous?

MR. MATTHEWS: No. As I understand it, this motion is in favor of legislation.

MR. ERNST: With the statement that there is a substantial number against it. The motion also states that a substantial number of people are against legislation in any event.

MR. ROOSEVELT: That takes care of you.

(Discussion off the record)

MR. MATTHEWS: This is only to put in the report a statement to the effect that the things that you mention represent the Report, but it doesn't put us in favor of legislation?

MR. ERNST: No; I specifically state that a substantial number of people are against legislation in any event for the reasons that John indicated. Also, that a substantial number would like to see the test of motivation clause.

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MR. CAREY: Aren't we just dealing with the question of saying it should read: "The enactment by the State Legislatures of fair educational practice laws for public and private educational institutions, other than denominational (or whatever the exception is) prohibiting discrimination in the admission and treatment of students based on race, color, creed, or national origin" - period. "This was not a unanimous report" - period.

DR. CARR: And not provide any indication as to what the basis of disagreement was?

MR. ROOSEVELT: I think we ought to say "because some of the members of the Committee felt that State legislation might start a chain which would lead to other controls."

MR. MATTHEWS: I don't like to have my position based on any statement like that. I am against legislation - period, and I don't care to have anything in the Report to try to present my reasons for taking that position, because the Report can't do justice to it. I would rather just be recorded as against legislation affecting private institutions.

MR. CAREY: All private institutions?

MR. MATTHEWS: All private institutions, private educational institutions.

MR. ROOSEVELT: Now we have got another question here that is a very interesting one. This now reads "public and private". You are for State legislation on public institutions?

MR. MATTHEWS: I think the State has the right and the duty there.

DR. CARR: Let's take the "public" out of this.

MR. ROOSEVELT: Then all we do is say, "A group on the Committee were opposed to any legislation dealing with private educational institutions" - period.

MR. TOBIAS: That is after the main statement?

MR. ROOSEVELT: Yes.

MR. MATTHEWS: That is all right.

BISHOP SHERRILL: That is what I proposed and that is what I thought Dr. Graham wanted put in.

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MR. ROOSEVELT: Then you get a second statement to take care of Dr. Graham, "However, other members of the Committee felt that a clause should be added" --

BISHOP SHERRILL (Interposing): Before we leave this I wonder if we can't state this. When you get to the churches it looks as if they would be allowed to have an unfair educational practice. Couldn't we say that from the operation of the Act they may well be exempted for special reasons, or something like that? The statement here is "from the operation of a fair educational practice act". It looks as if they were dealing with something which was entirely unfair.

MRS. ALEXANDER: Yes, and there is great danger, Bishop, because a group that is not a church group might go out and get some affiliation.

DR. CARR: I think there is an easy answer to that. As a matter of fact it would be fairly easy to establish whether Dartmouth College is being supported by the Congregational Church or not. You couldn't escape the operation of such a law merely by trying to re-identify a college like Dartmouth with the Congregational Church.

DR. DICKEY: It is the other way around; we support the Congregational Church. (Laughter)

DR. CARR: I do think, before we break up for dinner, we might settle the cease and desist order matter.

DR. GRAHAM: I would like to have a little more time before I cast my vote. I missed the benefit of the Hanover discussions. As a representative of a public institution, in all honesty I have to say that they have a great debt to the private institutions because the private institutions, not being subject to State control, have been able to experiment in ways a State university could not, and I don't like to see that independence destroyed because of its far-reaching value to education in America in the long run.

On the other hand, it is difficult for me also to say that they could practice discrimination which public institutions could not practice, and I am on the horns of that dilemma.

DR. CARR: We will give you a draft in the morning.

MR. CAREY: I am on the horns of a dilemma too if the assumption is left that the Government is evil. I see in Government the opportunity or means of formalizing the relationship between the private institution and the public-at-large. But to say that the Government is evil, when you say that you owe a debt to a private institution --

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DR. GRAHAM (Interposing): Mine is a public institution, and the last thing for me to say is that the Government is evil, but as a part of the American Governmental tradition that these institutions have a certain right of autonomy, to have a diversity of student bodies and so on, and I am slow to move to take it away from them.

DR. DICKEY: I am glad you said that. I had intended to say it but I didn't think it would sound very good coming from me.

DR. GRAHAM: I have had to fight private institutions in maintaining the social responsibility of public institutions, but even so I am a partison of private institutions.

MR. CAREY: I think our difficulty here is your approach from the institutional side on the one hand, and on the other hand there is some interest in maintaining our approach from the point of the individual and the citizens involved. That is where we get into our difficulty. If someone could say to me that there is no problem, I would go along with the notion of the complete absence of interference, but here we have a problem that we should be dealing with, and in dealing with it do we say that this is one area in our society where the Government should not exercise an influence? Now we don't say that in any other place. You talk about the workers' conditions, the employers prerogatives, the unions' prerogatives, the people, to decide who they shall work with. You could build a big case up on the fact that I or a group of citizens should have the right to join together and decide who they are going to work with, the same way that an institution has the right; under this theory of operation, they should decide what policies they are going to follow, they should decide that they want two students from each State. Well, if that is denied on the one hand where, if educators sit in judgment on the operations of one group, likewise they should say, "Let's do something about this problem." Now can this problem be met without the operations of Government; can this problem be met without the influence and the impact through legislation on the attitudes of the general public in the educational field?

DR. GRAHAM: You are talking about State legislation now?

MR. CAREY: Yes.

DR. GRAHAM: Where it is based on prejudice and bigotry I am for the State saying "no".

MR. WILSON: As soon as we convene at eight o'clock we are going to take up this grant-in-aid question and I hope everybody will be here because it is a controversial one and I want you all to know, in case anyone is planning not to be here, that that is going to be before us and we will probably reach a settlement on it. I hope we

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shall.

Before we adjourn we have one other matter.

MR. ROOSEVELT: I think that only those who are in favor of this legislation by the States need stay and vote on this. (Laughter) My motion is that we change the recommendation of publicity to a recommendation of cease and desist orders.

MR. ERNST: Also?

MR. ROOSEVELT: Yes.

MR. ERNST: I second the motion with the emphasis on cease and desist, and not just on publicity.

DR. GRAHAM: I said I wanted to withhold my vote until I thought about it some more. I am ready to vote for that on the basis of bigotry and prejudice.

MR. ROOSEVELT: The way this thing reads we have cut out the motivation and bigotry clause.

DR. CARR: Doesn't it add up to this, that since you are going to admit that there are people who are against legislation, you now want to change the recommendation so that it will include a sanction?

MR. ERNST: That is what he said.

MR. ROOSEVELT: Those who are in favor of legislation without the motivation and bigotry clause I think should vote on whether they favor including these sanctions that I mentioned, instead of just publication.

MR. ERNST: I will second the motion.

MR. ROOSEVELT: We can have a Point 2 to that, that somebody would be in favor of that if it included the motivation.

DR. CARR: That would be pretty cumbersome.

MR. ERNST: I second the motion to include the sanction of cease and desist.

MR. WILSON: You have heard the motion --

MR. TOBIAS (Interposing): Does that apply to the recommendations to States?

MR. ROOSEVELT: That is what it is.

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MR. WILSON: Are there any further remarks on the motion? If not, all in favor will vote "aye"; opposed.

DR. GRAHAM: I am not voting yet.

MR. WILSON: One not voting. The motion is carried.

MR. SHISHKIN: I didn't vote either.

MR. WILSON: We will adjourn until eight o'clock.

(Whereupon, at 6:45 o'clock, p.m., the Committee adjourned until 8:00 o'clock, p.m., of the same day).

EVENING SESSION

8:00 p.m.

MR. WILSON: Come to order, folks.

We are back on page 19, but with specific reference to the grants-in-aid, and we are using that as a lever to accomplishment. Are you ready to accept the proposition set forth in 19 and 20 concerning it?

MRS. TILLY: I want to go back to that sentence to which I called your attention, the last of the second paragraph under the table.

DR. CARR: Galley 20.

MRS. TILLY: Yes. There is a taunt in that sentence that will irritate, and I know what the answer of the South will be -- "We won't accept it. We would rather be ignorant."

MR. TOBIAS: Where is it?

MR. WILSON: On 20 under the table.

DR. CARR: "This impending development".

MRS. TILLY: I know folks in the South who have been working so hard to get the South to accept this and have had this thrown at us so long. It means the Government will take charge of our students and we will have Negroes and whites together in schools.

In the past two years we have got our southern Congressmen almost 100 percent back of this. That is the thing they have been afraid of all the time.

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If this comes out as it is not, I do not believe it will be possible for us to get that Federal Aid to Education Bill through next year because there is something very irritating about that sentence.

MR. ROOSEVELT: Is there any possibility, do you think, of getting it through now and enforcing that condition later within a reasonable time, say five or ten years?

MRS. TILLY: I think our approach is too much -- I am concerned more about the wording than I am about the real thought back of it. It looks to me like there is a threat and a taunt there that will irritate, and there ought to be a smoother, more understanding approach than that.

It raises a fair question, and a fair question is very irritating.

MRS. ALEXANDER: Very well. We will take out "fair".

DR. CARR: If it just the taunt in the question, we can get rid of that, but there is the additional problem of the recommendation. You probably should look at the recommendation on Galley 54, which carries out the Hanover decision.

The Printing Office failed to get some of these recommendations in black type and on 54 half-way down where it says, "The conditioning by Congress of all Federal grants-in-aid and other forms of Federal assistance to public or private agencies for any purpose on the absence of discrimination and segregation based on race, color, creed, or national origin."

Rather than keep repeating that under Education, Health, Housing, Public Services, we put it in here as an over-all recommendation, but it amounts to the same thing. It follows out the decision made at Hanover by a very slight majority to recommend the use of grants-in-aid as a means of striking at segregation.

MR. ERNST: Bob, in answer to Mrs. Tilly, you could certainly cut out the words, "raises the fair question", and say, "raises the question", or even tone it down.

MRS. TILLY: I don't believe we are going to get the South to accept any funds on a non-segregated basis, and I think this report is going to have to temper itself so it can understand that and lead up to it. Dr. Graham knows more than I do about this problem, but this is the one sore spot. I think you could get something through for the elimination of segregation in any other area more easily than you could in education.

MRS. ALEXANDER: Which is the basis of all segregation.

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MRS. TILLY: But if we get Federal aid, it will raise the standards of our schools to a point where segregation will be eliminated a lot more quickly than it will be if we don't have Federal aid for education.

MR. ERNST: Mrs. Tilly, would it help if we expand on the one sentence which says, "The Committee believes a reasonable interval of time might be allowed for adjustment of such a policy?" That is in the recommendation.

MR. CAREY: If I may direct myself to the question as to whether if we, by unanimous vote, adopt this report, does that abolish segregation, does it bring about enactment of State legislation, does it do anything other than provide a great deal of time?

We are setting up the standards in democracy, as I see it. I don't believe this will answer the problem, nor do I have any ideas that people who believe in segregation are going in any way to be appeased by the striking out of a word in a report of this nature. I think there is a struggle going on, not only in this country, but throughout the world, and we are not just going to join sides. We are going to decide whether or not we will take issue with the abuses, the use of democratic institutions to deny people freedom of access to opportunity.

We are not asking for an awful lot. I don't know why we should monkey with the words. We ought to justify it as best we can in our words, but I don't see any reason to struggle over the appeasement of a situation or to in any way get into the field of that if we word this in a certain way, people will stop believing in segregation and go ahead and adopt some different course.

MRS. TILLY: I think you are missing the point. The South is making progress rather fast, but we are going to highlight some things here that will bring that progress it is making out in the open more than the foes of the progress have seen before, and I believe it is going to retard it. I believe you will be more conscious of the strides we have made and the forces that are pulling it back will when it is highlighted and shown up in this way -- I believe we will have trouble.

MR. CAREY: I might say that is the accusation that is directed against anyone that agitates the question, and definitely we are in a field of agitation on this issue.

However, as to whether or not it retards it, I don't think it would help in meeting the problem that we are confronted with if we join forces with the opposition.

MRS. TILLY: I am not asking that we join forces on it. I think

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we have to be careful of the way it is approached. There has to be an understanding. The South has the largest minority group and has the biggest problem and it is hard for anyone who doesn't live in the South to really understand the heart throbs and heartaches on both sides.

MR. ROOSEVELT: And those in the middle like yourself.

DR. GRAHAM: Mr. Chairman, I have talked continuously in schools for about twenty years, and in my talks I have taken the position over twenty years -- in answer to direct questions -- that there was not to be Federal control of education in the States.

I said in the bill we were proposing -- in that bill it was expressly provided that there was not to be Federal control. That is the position I have taken, beginning twenty years ago.

MR. ROOSEVELT: Let me ask you this, Dr. Graham. If we don't put in this kind of controlling clause, do you believe that the South will work it out more quickly? In other words, if they get the Federal aid, get higher standards, they will work it out more quickly than if there is presented the alternative of either having the aid without any discrimination or segregation or not having the aid?

DR. GRAHAM: I think the South will work it out more quickly, yes.

MR. ROOSEVELT: You two are the experts in it.

DR. GRAHAM: I can't give you any assurance.

MR. CAREY: My children are going to southern schools where segregation is being practiced. Now, tell me this: Am I to submit to that pattern because I don't care to buck the tide or shall I do what I can to offset it?

Then comes the question: What is the best way to handle the situation? Is it by saying to them -- and I feel this is one of the strongest things we have to deal with -- if some of my taxes are going into the perpetration of that proposition, I have something to say about it. I will not be party to segregation, and I certainly won't be party to segregation where my children are involved; and yet, that is what I am confronted with, and I am counselled to be patient. I have difficulty being patient.

DR. GRAHAM: I get your point. I am telling you my position.

MRS. ALEXANDER: How can a committee representing America, sent out to find how we can improve civil rights, recommend that we shall

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have segregation in education?

MR. ROOSEVELT: Or not take a position on it? If you carry Mrs. Tilly's argument logically to its conclusion, we should not aggravate the southern Congressmen and just overlook the question.

MRS. TILLY: I didn't ask to overlook the question. I don't believe we can pass it by. I wish I knew the answer, but if bucking it would really make it come, would really make the South submissive, I would be willing to buck.

I am trying to find a way to get the South submissive to it. You might not be willing to spend tax money, but that is not the answer. The South would rather be ignorant.

Don't you think that would be the answer, Doctor Tobias?

MR. TOBIAS: Yes, I think that would be the answer. I want to inject another consideration here, which I think probably belongs in here. It grows out of a conversation I had with a college president, a white college president in the South, two weeks ago.

He is a very good personal friend of mine, and we were at dinner at the home of a mutual friend in the South. He said, "We are struggling in our county with the whole question of getting adequate appropriations for education, but I say to you what I cannot say out in the open, that it is a terrible thing to realize that we are shut into an impossible situation of demanding a dual system when we are not able to support a single one, and I don't see how we are ever going to find our way out of this thing as long as our section, which is the poorest section of the country, adheres to this principle of two sets of institutions along racial lines when we are unable to support one."

I mean it is a question not only of the ethics of it under the principles that we are discussing now, but it is a very practical question of how much progress can be made under those conditions.

Now, I want to say this: that I realize, and I think I said it once before in one of our meetings, just the attitude that will be taken by Congressmen, the possible advantage that will be taken of this in order to repudiate all the work of the Committee, but I feel we have come to a time in the history of our nation and in the history of the world when we have got to say what is really in our hearts on this question of segregation and be willing to take what comes.

I think it ought to be worded as carefully as it can be worded, but I think we ought to say it. Segregation is injurious, as

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Lillian Smith brought out, possibly more injurious to the white child than it is to the Negro child because it brings that child up with a feeling of arrogance and group pride as he realizes that he occupies a different and a preferred position.

I think if there is any way to approach it from the point of view of the best interests of the South and the best interests of the nation, that that is the way to approach it; but I do not feel that in a report of this kind we can evade that issue. I think it has got to be faced.

MR. ERNST: May I ask if Mr. Tobias has any suggestions as to a different wording? Is there any way you think we can mellow the impact? I don't think so. I think it goes to the merits of the proposition which has been laid down by Jim Carey.

However, if there is some wording that can be used as a sop, let somebody suggest it.

MR. TOBIAS: I think at some place there should be attention called to that fact which the president of the college called to my attention.

MR. ERNST: Attention has been called to duplicate expense.

DR. CARR: There is the statement which goes to the whole problem.

MR. ERNST: Which goes to Government expense.

MR. LUCKMAN: I just learned the other day, Mr. Chairman, that the President has appointed a Commission on Higher Education. I wonder if we were all aware of that.

DR. CARR: We have been in touch with them and have their findings and have compared them. On this particular issue they don't have to come to grips with it in quite the same way we do because they are dealing with higher education only.

On the other hand, they apparently do deal with it and have equivocated somewhat. As I understand their position, it is to be that segregation is wrong, that they deplore it, but they will not recommend that grants-in-aid be withheld where segregation is practiced.

I have talked with the Executive Secretary of that Commission. We have kept in close touch with each other. I don't know what their final decision is. Their schedule is about the same as ours. They are meeting at about the same time. I haven't been able to find out

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their final decision.

MR. TOBIAS: Anybody hesitates when he thinks of what the almost certain outcome will be of the education bill. It would be the defeat of it. Naturally, you hate to take responsibility for the defeat of a bill that will mean so much in the way of appropriations. That was faced when the bill was offered in the 78th Congress.

MR. ERNST: Aren't your fears a little reduced by the clause we put in that we recommend, in effect, an interval of time for a shift in this program? That was the compromise up at Hanover.

MRS. TILLY: I don't think there is a southern Congressman who would ever want it.

MR. ROOSEVELT: Let's look at what effect this will have on the bill. I think this bill will be introduced in the committee with this clause. I think when the trading starts in the committee, they will drop this out of it and it will probably be passed without this restrictive clause in it.

I don't think we by taking this stand affect the chances of the bill's being passed.

MRS. TILLY: I wish I didn't think so, but I am absolutely convinced of it.

MR. ROOSEVELT: I would like to make a sizable bet that not more than one out of every fifty Congressmen ever hear of this report.

DR. CARR: We will send them copies.

MR. ROOSEVELT: Sure.

MRS. TILLY: I think this is the one thing that the southern editors will pick up.

MR. CAREY: Do you think that these southern Congressmen are in favor of Federal aid to education and this would be the deciding point to convince them that they shouldn't be?

MRS. TILLY: If the people back home want it.

MR. CAREY: I am only talking about some of the people back home, that small part of the population found to be eligible to vote, eligible to meet the requirements confronting them. I am not talking about the people of the South.

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MRS. TILLY: I am talking about the people who influence the vote of the Congressmen.

MR. CAREY: I just hope I am not reduced to relying on that.

MR. TOBIAS: They will decide to stay in ignorance and forfeit the appropriation rather than accept it.

MR. CAREY: Those same people will be opposed to education, and I don't think this is the deciding factor. I am not given a choice as to extended educational opportunity on a compromise basis or inspiring people to engage in the fight for educational opportunity extended on a democratic basis.

MRS. TILLY: Mr. Carey, you are too far away from the South. You just don't feel it.

MR. CAREY: I suppose you are right, but I am not quite far enough away from the South on this particular issue. Now, Virginia may be pretty far from the South, but I am not too sure these questions aren't pretty well sharpened up in the in-between areas. I think perhaps the little community in which I live where everybody knows the nature of the work in which I am engaged -- my son seems to like to pass out CIO pamphlets in that section of Virginia and a few things like that. I think perhaps that they are just as much up on these things as in the deep South, and I can't say I haven't had some experiences there.

It is true I haven't lived there, and all of that, but maybe it is better if you are a little away from the picture. Perhaps you get a better view of it, especially when you deal with these people you are talking about in Washington. Perhaps you know these people when they are in the South, but I know them when they are in Washington, and I know that they are not representing the interests of the people, but representing their prejudices; and I don't think these people that will decide this question will decide it on the basis of the provisions contained in this report.

I think their minds are made up, and you are asking me to accept a hopeless proposition of convincing them. I doubt if that is possible. We have to convince the people who have not yet participated in the political decisions, and those people I want to get interested in it and interested in new patterns rather than the continuation of the old ones.

MRS. TILLY: If we had better education, even on a segregated basis as now, we would come nearer getting to the point of non-segregated schools.

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DR. GRAHAM: That is true.

MR. ROOSEVELT: Say that again.

MRS. TILLY: If we had Federal aid to education on a segregated basis, we would raise the standards of our schools, and it would hasten the day when we would cease to have segregated schools.

MR. CAREY: Why don't we have Federal aid to education on a segregated basis? The question was up in the past, and we did not get it. I am saying that is evidence enough for me that the issue is not segregation, but that the issue is the question of education. I think that is what we are up against here.

However, you are telling me the issue is segregation or non-segregation, that that is the deciding factor in this.

MRS. TILLY: It is as far as the southern votes are concerned. We have had to work and work and work to get our State Educational Associations up to the place where they will back this. Now, I think in every southern State they are the first people back of it.

MR. ERNST: The position seems to have simplified itself in my mind. We can say what we say here or we can say we deplore segregation -- period, and say we are bankrupt as to any idea of any sanction and the quickest way to abolish segregation is for the Government to do nothing about it and that life will take care of it. I am not ready to say that.

Unless somebody has an in-between proposal, it seems that the compromise of suggesting an interval of time to permit a shift over is the best I have heard.

MR. CAREY: Mr. Chairman, I would regret any consideration of a modification of a democratic policy with regard to this. I think it would violate everything we believe in, and it would be making an unnecessary compromise that will serve no good purpose, and I think this is not just a question of asking the people of the South to continue their patterns until they decide to change them, but it is asking other people to pay in part the price for the prejudices of the people in the South.

This is one issue that may be judged on the question, and I wouldn't say that if I had a choice between segregated education being extended and this compromise policy or the vigorous policy, I would say no segregation -- I am not too certain I can rely on this future of training people to further engage in a segregated policy because that is what we are asking.

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We are saying that we are to bear a portion of the expense in order to perpetuate a policy of segregation. There is no answer to that. It is a squirrel in a cage that keeps going around, not that I say that our report is going to be effective, but if our report contains a compromise on this issue, it will be a damning proposition.

I don't think we can ignore the issue of segregation, so it has to say something; but, certainly, I would prefer to strike it out or destroy the report rather than say we are going to assist in justifying on the basis of expediency any program of segregation in the field of education.

MRS. TILLY: I don't think the South would accept any of it.

MR. CAREY: I keep asking that question.

MRS. TILLY: They would refuse it.

MR. CAREY: They would refuse the grant-in-aid whether or not we say segregation or non-segregation.

MRS. TILLY: They will not accept it on a non-segregated basis. I am not trying to say leave it out. I want us to find some way to approach it. I don't know. It is one of the most serious things connected with this report.

MR. CAREY: I think it is time to set up the challenge with those people.

MRS. TILLY: That is just it -- those people -- you don't consider the South as being part of the nation. You say "those people".

MR. CAREY: I don't accept those people as you do. You are saying they are the South, and I don't say that. "Those people" is that small section that happens to use the prejudices that happen to exist in the South.

MRS. TILLY: They have one-fifth of the children of the nation.

MR. CAREY: Do you mean the Rankins?

MRS. TILLY: No.

DR. GRAHAM: The Rankins have been opposed to Federal aid to education.

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MR. CAREY: They are opposed to education.

DR. GRAHAM: Don't identify Mrs. Tilly with the Rankins.

MR. CAREY: I don't, but I don't want it said that they are proper representatives of the people of the South.

MR. ROOSEVELT: Just don't limit it to the Rankins because there are a lot of people who are a lot better than the Rankins but who still won't go along, Jim, on a non-segregated Federal aid to education. There are a lot of Southerners -- I would say 95 percent of the southern Congressmen won't, but I don't think they will really represent the majority of the South.

MRS. TILLY: I am afraid they do when it comes to this segregation in schools, don't you, Dr. Graham?

MR. ROOSEVELT: Not if you include all the Negroes in the South.

MR. ERNST: I suggest we get an informal show of hands as to how we stand on the acceptance of the report. I don't know exactly what the division is on this issue.

I make a motion we approve this sector of the report just in order to get a show of hands.

DR. GRAHAM: The withholding of Federal funds?

MR. ERNST: The use of the sanction of the spending power of the Federal Government vis-a-vis segregation.

MR. ROOSEVELT: Let's leave out the word "fair".

MR. ERNST: I don't want to complicate it.

DR. GRAHAM: We are voting on the recommendation?

MR. WILSON: That is right.

MR. SHISHKIN: Would that include tax exemption?

MR. ROOSEVELT: No.

MR. WILSON: Just grants-in-aid. Is it clear? Is it seconded?

Is the motion seconded?

MR. ROOSEVELT: Second.

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DR. GRAHAM: There is a question I don't believe that you have taken account of, Jim. I get the full force of everything you say, but I was on the President's Committee to draw up the bill, and we faced this question of Federal control of the schools in the States, and it was written in the preamble of the bill that there should be no Federal control of the States with regard to education.

MR. LUCKMAN: I wonder if we could explore this point further for my edification. I am not sure I understand it. If I do, I think it changes the import of this considerably.

MR. WILSON: Go ahead.

MR. LUCKMAN: Am I to understand from what you said, Doctor Graham, that the preamble indicated that there was to be no Federal control of education?

DR. GRAHAM: That is in every bill that has ever been presented.

MR. LUCKMAN: Does that mean from where you sat on the committee that you interpret the requirement of non-segregation in order to get Federal aid as control over education?

DR. GRAHAM: I would interpret withholding of Federal funds from a State in order to compel non-segregation as Federal control.

MR. LUCKMAN: That is what I meant.

MR. ERNST: Even though it is a negative control that they must meet a certain standard?

DR. GRAHAM: That was so interpreted by our Committee.

MR. LUCKMAN: That point has a considerable area of exploration. All the educators that I have heard speak on the subject appear to feel, either rightly or wrongly, that that is the key to the matter of Federal aid, that there shall not be Federal control of any kind; and yet, apparently, from your interpretation of our recommendation, you would construe that to be Federal control.

MR. WILSON: It is negative control.

DR. GRAHAM: That is right.

MR. LUCKMAN: Am I correct in thinking that as the educators of the country and the heads of the universities have expressed themselves, that their concern about Federal aid is tied to this matter of Federal control?

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DR. DICKEY: Very much so.

MR. ROOSEVELT: Do they interpret it that way?

DR. DICKEY: I don't know.

MR. ROOSEVELT: This is clear, Charlie, that on the entire use of the Federal spending power the Federal Government has consistently laid down standards. You have the case of the Nurses Aides, and so on. In effect they have said that you must meet certain Federal standards to share in this money. There is the matter of road building, et cetera.

DR. GRAHAM: Where the States participate?

MR. ERNST: Yes. If the Federal Government were to say, "You must have this kind of education", or "You must use these text books", that would be different. However, as Charlie Wilson says, this is negative control -- "You may not do this".

MRS. TILLY: You don't get any money if you do.

MR. ERNST: Yes. I would like to see a show of hands generally.

MR. CAREY: Is it a good thing to have a show of hands?

MR. ERNST: Why not? We have debated it. I would like to see if there has been a shift.

DR. DICKEY: We haven't discussed, though, Mr. Chairman, the basis on which I would vote against this recommendation, and that is that I think it will not get rid of segregation but will entrench it because it will prevent us from getting money into those States which will hopefully produce ultimately a better teacher, which is our best chance, it seems to me, of introducing enlightenment into the educational system of the South.

MR. CAREY: If our job is to determine what is acceptable and what is not acceptable to the present level of authority that makes these decisions, that is something quite different.

Whether or not we are going out to see if we can establish some goals, some objectives, that we may eventually approach within a reasonable period of time, I am afraid we are getting into the notion that we are now legislating and making decisions. I am not asking that. I am asking to put up against the people who make

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those decisions some standards of operation, some argument.

MR. WILSON: Ideals.

MR. CAREY: That is correct. Some educational matters that they can use. If we could get a report and give it widespread publicity where people can see it, that this is the opinion of people, of a cross section of the American society, it is the policy of our Federal Government, it goes way beyond what we expect to get even during the present Administration, which Administration has asked us to engage in this activity.

That is as I see it. I don't think I am confronted with a choice of limiting the extension of education in the South. I just say that as we expand, this is our hope. This represents our aspirations, and this is what we should seek. I think we will get the same measure of education we had before with more constructive thinking in this field of what kind of education will it be, and it will give added weight and argument to the other.

The two most important people on this particular issue are the ones that in my opinion almost outweigh the others. That is what I am up against. I am more interested in what Mrs. Tilly thinks on this subject and in what Dr. Graham thinks than I would be on what a half-dozen of the others think.

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MR. ROOSEVELT: I will be your goat.

MRS. ALEXANDER: Mrs. Tilly, how would a report in which we recommended that the South maintain segregated schools read to foreign people?

DR. GRAHAM: You are not suggesting we recommend segregated schools?

MRS. ALEXANDER: No, but you are recommending Federal aid be granted to the present system.

DR. CARR: Perhaps I have no right to suggest this. As late as the Hanover meeting I hadn't made up my own mind, but it was the writing of what has been written that persuaded me -- I am now persuaded that what Mr. Carey said is true -- the Committee has to take a stand on the level of principle and let the compromising occur at the political level, if need be. This matter becomes personal, however, in regard to the two members of our Committee, the two southern members of the Committee. I am a little worried about what you are going to do. We don't want to destroy your effectiveness as workers in the South. If you sign it, what will it mean?

DR. GRAHAM: I have signed a good many statements against Federal control of education, which I interpret this to be. I am in the battle. I am not just removed here sitting in a detached committee. I am already in the fight for Federal aid to the States for schools.

DR. CARR: You mean you could dissent on the ground that you interpret this as Federal regulation and control and that is why you are opposed?

DR. GRAHAM: Yes.

DR. CARR: That would be an out. I don't mean to suggest that you are seeking an out.

DR. GRAHAM: I have supported that preamble before the Senate Committee, the House Committee, before a dozen southern States where the battle has been terrific to win support of southern people for Federal aid. They have been against Federal aid.

MR. ROOSEVELT: Wasn't the whole argument whether they are against education or for education? The question of withholding funds on a segregation issue didn't come up.

DR. GRAHAM: Whether they are for education or not, it might surprise you to know that the southern people pay more in proportion

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to their income than any people in the world.

MR. ROOSEVELT: I know that.

DR. GRAHAM: They go deeper into their pockets for public schools than do any other people in the world; so it isn't a question of being against education.

MRS. ALEXANDER: They wouldn't have any education if they didn't do that.

DR. GRAHAM: No. Senator Morse quizzed me very thoroughly not exactly on this point, but on the value of Federal aid in the advance of education in the South. I have been heckled in a good many southern States on this point. I was asked if I was in favor of equal distribution of the Federal funds as between the races. That used to be the ground of southern opposition, that there would be equal distribution.

The man said, "Well, that is Federal control." I said, "Well, on that point you get the money on the basis of the number of children. You get the money for children, and if you misappropriate by taking money that was to go to Negro children" -- that is the way I put it -- "and you put part of it over for the white children, then you are stealing, and the principle there is not control but honesty."

MR. ROOSEVELT: That is a slick argument. It ducks the question, though.

DR. GRAHAM: No, that is true. That is just honest bookkeeping.

MR. ROOSEVELT: You agree with the word "discrimination" here, but not "segregation"?

DR. GRAHAM: I hope the time will come in the not too distant future when there will be no segregation

MR. ERNST: I understand, but in the report we have recommended use of the spending power, the withholding of funds -- if you discriminate or segregate, I take it the discrimination point you would go along with because the discrimination point would be the matter of taking dollars from Negroes and giving them to the whites, but it is the segregation point that worries you.

MR. CAREY: It is the same point that worried the officers of the CIO when they were determining whether or not they should adopt the policy to meet the conditions in the South and in that manner

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build larger labor unions faster or whether they should operate on the high plane principle and make their job much more difficult and adopt a non-discriminatory policy in their unions.

I am not as far away from the people as my residence may indicate because it is a serious situation when you are given that responsibility. There I was in the position of deciding the issue, or, at least, contributing to the decision to be made. On that basis, which is much more difficult than this on account of setting the pattern or trying to put the goals before the people, and even there we came to the conclusion that as much as we wanted to organize in the South, much as we wanted to make our job as easy as possible, it is a point we wouldn't give up, and we wouldn't give it up on the ground that this effort is being conducted in part in the interest of the nation, paid for by some people that are not accustomed to those difficult practices and things of that nature, but on the basis of the principles involved you had to carry it out the hard way.

Don't forget we had to operate against the patterns of the workers who didn't think it was possible. We would hold meetings in the South. If I go to a dinner meeting, I have to insist that that meeting is a mixed group in violation of State laws and things of that nature; and yet, it is done and we get away with it to some degree despite the difficulties.

I would rather take the more difficult course in this situation, even though it may be used as an excuse for delaying the perfection or the improvement of the educational opportunities.

Now, it is not that the people of the South because they live there can safely or properly say that no one else is confronted with matters of principle of this nature, and I think this is the same kind of decision that we were confronted with, and I will be very frank with you in saying that our results justify the decision of taking the difficult way.

MRS. ALEXANDER: What Mr. Carey has said leads me to believe that the improvement of education and a change in the policy of segregation in the South is coming from movements such as the labor movement in the South.

MRS. TILLY: You have Negro and white schools visiting each other and having projects back and forth between the schools. You have white speakers at Negro schools and you have Negro speakers at white schools. You have a good deal of that.

What I am afraid of is if we do this, we will stop all that. We will make the schools conscious of what they are doing, and I am

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afraid it will stop all that. It is not altogether a parallel to the organization of the CIO -- that is, the organization of the CIO and the school system. You haven't got the unions there while we have got the schools. We have got to do something now.

MR. CAREY: We have got a lot of unions which we got on that basis.

MRS. TILLY: You haven't got enough of them to help us.

MR. CAREY: That doesn't make our job any easier, but there are a lot of companies that operated plants as a result of the war in the South, and the question on our part was whether or not we are going to take the difficult way of trying to apply the patterns that these same companies had adopted in the North, and we were confronted with some very difficult problems, for instance, on wage questions.

A very sincere employer would say to me, "Jim, what you say is fine. However, if we operate this pattern in Shreveport, Louisiana" -- referring now to Libbey-Owens-Ford Glass plant -- "the Negro common laborer will be getting a higher rate of pay than the Mayor of the city, a 98-cent minimum."

I said, "That Negro common laborer produces more glass than the Mayor, so he deserves the higher rate of pay."

I think we have a difficult situation here on the matter of principle. I do agree that this report is not going to make your task or Dr. Graham's task any easier in the South, but to write it the other way, I think, would make it more difficult because you would be --

DR. GRAHAM: (Interposing) I wouldn't ask anybody here to stultify himself or compromise his conscience in order to make our problem easier. That would be the last thing I would suggest.

I think everybody here ought to vote according to his conscience. I am clear in my own because I have already been in the battle and have taken the position against Federal control, and I am committed to it.

MR. ERNST: May I suggest we call for a vote and see what there is in the division and then we may have to do what we did on the other issue and say that some people strongly object to any Government control and consider this to be Government control.

I am sure we can't persuade you people and I am sure that you people can't persuade me.

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MRS. TILLY: It isn't a question of telling. It is what we can do. I agree with this.

MR. ROOSEVELT: The interesting thing is that 20 years from now probably Mrs. Tilly and Dr. Graham will have led this very fight the way this report reads, and 20 years from now they will accomplish it. We have to find some kind of out now so we don't stop their progress.

MR. ERNST: Maybe they have got a majority.

MR. LUCKMAN: May we define the two sides?

MR. ERNST: My motion was to approve the essence of the recommendation.

MR. LUCKMAN: For those who vote no, let's discuss the alternative.

MR. ERNST: It seems to me if the "nos" carry, then they will have to say what the alternative is.

MR. LUCKMAN: Can we outline that? I would assume from listening that the alternative would be that we are against discrimination. We pass segregation for the moment, although we come out in the report itself as being against segregation as a practice.

MR. ERNST: You apply no sanctions to segregation.

MR. LUCKMAN: Apply no sanctions except that perhaps we indicate it is our belief that in five or ten years, whatever the period of time is, that the Federal aid then should have the sanctions.

MR. ERNST: We have said that. That is part of my motion. My motion leaves it wide open as to an interval for transition because that is in the recommendation.

MR. LUCKMAN: The interval?

DR. CARR: That is in the discussion. You could move it into the recommendation.

MR. ERNST: I meant to include both discussion and recommendation.

MR. LUCKMAN: I don't see how Jim will vote on that if you include in the recommendation that there shall be an interval. I

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understood Jim wanted to vote now on the matter of principle. What you are suggesting is that the vote will be on the matter of principle, but not applicable for a given period of time.

MR. WILSON: Not a given period.

MR. CAREY: The interval is not stated. It is just stating something that exists now anyway.

MR. ERNST: I am moving on what is on page 54, which includes the statement that the Committee believes a reasonable period of time might be allowed for adjustment to such a policy. That is my motion.

MR. WILSON: Are you ready to vote on that?

BISHOP SHERRILL: I understand this is only a straw vote because I have very serious doubts about the advisability in this of having a split report if we can possibly get away from it.

MR. ERNST: That is why I want the straw vote.

MR. WILSON: It won't be recorded on the minutes if you don't want it. All who favor Mr. Ernst's motion, which has been duly seconded, please show the right hand.

Seven voted in favor. That is a majority.

MR. ERNST: May I make a suggestion? I am sure the people who didn't vote for it --

MRS. TILLY: (Interposing) We are not against it; yet couldn't vote for it.

MR. ERNST: The people who did not vote for it certainly would want to have some explanation in here so that they are not deemed to have voted for it; particularly Dr. Graham, for instance. I would like to hear from them as to what they think the report ought to say. For instance, it could say, "A substantial number of members of the Committee felt that the process of education itself would be frustrated or delayed", or whatever we want to say.

It should be in the report so that there is no assumption that it was unanimous. I am not content to let it go and have the assumption of unanimity.

DR. CARR: We need to be instructed.

DR. GRAHAM: Could we append a statement of our position?

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MR. ERNST: I should think you would want something.

MR. ROOSEVELT: Suppose this report reads as it is, that it is favored by the majority, and then in the South when you are asked -- and you will be -- if you voted for this -- well, your name is on it -- you issue a statement.

MRS. TILLY: I wouldn't issue a statement. If my name goes on the report, I will stand by it.

MR. ROOSEVELT: What will you add here to put your name to the report or what does Dr. Graham add so that he can put his name to the report?

DR. CARR: I think it is entirely possible to add a statement saying, "There is a substantial dissent on this." One reason would be Dr. Graham's reason that he is opposed to conditioning Federal grants-in-aid and another would be that in the long run the better way to get rid of segregation would be through the slow educational process.

MR. ERNST: Yes, that should be in.

MR. LUCKMAN: That seems to me to be a confusing thing to people who read that. Is it not enough to consider just the simple statement that "While there was a dissenting minority, the majority felt that Federal grants-in-aid", et cetera? Wouldn't that be satisfactory?

DR. CARR: Yes.

MR. SHISHKIN: Instead of using the word "minority", you should say "a substantial number of the Committee" or "a number of substantial members of the Committee didn't subscribe." (Laughter)

MR. ERNST: The same statement should come from those who dissented.

MR. LUCKMAN: Yes.

DR. CARR: Dr. Graham and Mrs. Tilly, which way would you rather have it stated?

MR. LUCKMAN: I hate to see the issue confused.

MRS. TILLY: I don't think that will keep the southern people off of it. I talked to one of the editors in the South about it. He is the editor of the Atlanta Journal. He is one of the most

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liberal and outstanding men in the South, Mr. Biggers. I talked to him about this, and he said the Atlanta Journal itself would have to attack the report.

MR. LUCKMAN: If there is a simple statement that there is a minority?

MRS. TILLY: It is a question of fact in this report. I think we would be saving Dr. Graham and myself, but we would not be saving your report.

DR. GRAHAM: I am going to be asked in meetings, heckled, and so on, "How did you vote one way in President Roosevelt's Committee and another way in President Truman's Committee?" I would say I voted the same way both times.

DR. CARR: Which one of the three solutions do you people prefer? One would be that there shall be no reference to dissent. The second would be that the dissent be noted. Three would be that the dissent be noted and some of the reasons that influenced the dissent be indicated.

DR. GRAHAM: I think it would be all right to note there was a dissent.

MR. LUCKMAN: That would leave a gracious out.

MR. SHISHKIN: Can't you make it more specific and say, "Some of the Committee members felt"?

MR. LUCKMAN: I think it is wrong to give the reasons. I think you get it confused in the minds of the public.

DR. GRAHAM: What is this point? Was the vote seven to five?

MRS. ALEXANDER: Some didn't vote.

MR. WILSON: It was seven.

DR. GRAHAM: There was no contrary vote called.

MR. WILSON: No.

MR. ERNST: I would like to make a motion that the phraseology indicating that there was a dissent be left to Mrs. Tilly and Dr. Graham, if they want, and if not, merely a notation of the dissent.

MRS. TILLY: That saves us, but it doesn't save the report.

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MR. ERNST: I don't want to save the report at the cost of not being able to live with myself.

MR. CAREY: I understood that vote was a straw vote, not a matter of record.

MR. WILSON: That is right.

MR. CAREY: I think we make a serious mistake, if we have any notions that a recommendation, a divided vote, has any impact whatsoever except to protect the records of the individual members of the Committee or for other reasons.

I think it loses its force and any validity as a report worth while to the President if it is a divided report because everybody knows what these issues are in the country, I think, who are interested in the subject. If we merely report that a committee of this nature couldn't even agree on the subject, I think it is damning. I think it just destroys the purpose of it.

MR. ERNST: On the other hand, we have no right to put before the President or the public something that is less than the truth, and it is less than the truth to indicate there was not a dissent. I would rather look to that element than to the effect. We have to be honest with the President and the public and say there was a dissent and in respect to the individuals. I am sorry they won't go along.

MR. ROOSEVELT: If this Committee had been a little different, you and I and Morris and various others might be in the minority, and the majority report would be different. Then what would we have said?

MR. CAREY: In each case when a vote was taken I was not in the minority. I am speaking now as one that has been in the majority, and I say that this serves no good purpose.

MR. ERNST: But what do you do with honest people who say they don't want to be held up? As for me, I don't want to have Dr. Graham held up by inference that he agrees. That is more important to me than the effect of the report.

MR. CAREY: I am not sure we have discussed it sufficiently.

MR. ERNST: We have discussed it all over.

MR. CAREY: As to whether or not this is a matter of Federal control of education?

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MR. SHISHKIN: We spent a half day on it.

MR. WILSON: We went all over it.

MR. CAREY: That is posing it in the manner that Federal aid to education means Federal control of education?

MRS. ALEXANDER: We didn't discuss that.

MR. ERNST: We discussed it with reference to the spending power in regard to housing, in regard to health, and in regard to education, and we decided there by the same vote --

DR. CARR: (Interposing) Are you saying that if we talk about it for a longer period, we might find a compromise formula or are you regretting the fact that the dissent will be noted?

MR. CAREY: There are other ways of doing it than taking votes, and one way would be just to present the arguments on each side without coming to a decision with emphasis on the point that there are differences among this Committee.

The question I ask is whether or not Federal aid to education means Federal control of educational standards. I don't think it does. I have heard no reasons.

DR. GRAHAM: Not standards.

MR. CAREY: Federal control of education -- period, is even worse. If you are against Federal Government intervention in the field of education, I am not too sure you can be for Federal aid to education if you believe Federal aid to education means Federal control of education.

MR. ROOSEVELT : Dr. Graham doesn't feel that Federal aid to education means Federal control. Only Federal aid coupled with non-segregation qualification.

MR. CAREY: Any qualification.

MR. ERNST: No, Jim, the qualification that no more is to be spent for whites than for Negroes, he would accept.

MR. CAREY: Can you define where Federal control of education starts and where it ends? If some conditions can be applied to a Federal aid program without having Federal control of education, where do you reach this point? That is, where it does bring in Federal control of education if you apply policies of this nature. Do you see my point?

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DR. GRAHAM: It is Federal control of the State in its own policies with regard to education.

DR. CARR: I would hate to see it go off on that tangent because the argument is only partially true. There never has been a Federal grant-in-aid that wasn't conditioned in some particular. For instance, you have your Land Grant College, grants-in-aid. There are conditions in that regard, although they are acceptable conditions and don't interfere with the rights of the States to determine policy.

DR. GRAHAM: They are conditioned on the State accepting them.

DR. CARR: Yes, but there have been certain conditions. The State has to build highways to conform to a national pattern, and so on.

MR. CAREY: Have there been any experiences where Federal aid with conditions has resulted in the Federal Government controlling the curriculum? I don't know of a situation.

DR. CARR: Only in this sense: that they offer money in order to make possible the teaching of certain courses that might not otherwise be taught. Your whole Land Grant development was in part designed to make it possible for States to operate --

MR. ROOSEVELT: (Interposing) All ROTC courses are taught as a result of aid to specific colleges for a specific purpose.

DR. CARR: That is true.

MR. CAREY: Have the educational institutions in the South had any unfortunate experiences that give rise to this?

DR. CARR: I don't think so.

MR. ROOSEVELT: The answer to your question is that Dr. Graham says certain conditions are O.K. That is not Federal control such as non-discrimination, but when you get to non-segregation, that is over the hair line, and that is control.

Now, you and I don't agree with Dr. Graham, but he has spent 20 years of his life expounding that belief, and I don't think, no matter how long we sit here and argue, I don't think we can ask him to change his opinion now.

I think the report ought to admit that frankly.

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MRS. TILLY: Mr. Roosevelt, that money that is appropriated for the ROTC in the schools cannot be directed to anything else. Here is money that is appropriated on a pro rata basis of the number of children. You cannot divert it from those children any more than you could divert money from the ROTC to the teaching of a course in science, for instance.

MR. ROOSEVELT: That is just a mathematical formula used just as a purely arbitrary formula. They might use any other formula. They could say that Mississippi has the same number of children as in Florida, but the schools in Mississippi need more money because their standards are lower. There, unfortunately, they use the number of children as the mathematical formula, and I think Dr. Graham has grabbed this as something to hang his proverbial hat on and bring in the honesty thing, and that is why I called it a slick argument earlier in the debate. I think it is.

MRS. TILLY: In Georgia the State controls the State funds. When that money is sent down and is not used for that Negro child, the funds are withdrawn. It has been a good weapon for us to see that the Negro child got his money.

MR. ROOSEVELT: I think it is a good weapon at present, but I think we are getting off the really basic argument as to where you find Federal control coming in.

MR. LUCKIAN: It seems that Dr. Graham's definition is perhaps logical because no State, so far as I know, in the South has any State law against discrimination, but States do have laws against non-segregation.

DR. GRAHAM: A State law is involved in using the money for the purpose for which it was appropriated.

MR. TOBIAS: I think this ought to be said and that is that we have voted here on a principle in which we believe. It represents an ideal. If and when the bill comes up for consideration, even though it does not include such a sanction clause, as in ninety-nine chances out of a hundred it will not, it will be supported if it contains a non-discrimination clause as to the use of the funds by those who vote for this principle here tonight.

MR. ROOSEVELT: There is one thing, Dr. Graham, I can't quite understand. You go along with the ultimate objective of eliminating segregation. I suppose, answering my own question, you feel it is just a question of method really whether application of standards now will accomplish non-segregation more quickly than the other

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way. You are putting it as a question of method and we are putting it as a question of principle.

MR. CAREY: The question is in tactics.

MRS. TILLY: That is all it is.

MR. CAREY: Yes, it is a question of tactics. How do you go about it? Do you come closer to what you expect you will get or do you raise the ante? I am in favor of raising the ante.

They say by raising the ante we will create antagonism. I say we set forth a goal. I think that is what we should do, not that we expect to attain those goals in a short time, but at least, that is what we are striving for.

MRS. ALEXANDER: A goal based on national policy.

MR. CAREY: That is right. In the expenditure of national funds I think education should be distributed on the basis of need and not on the basis of the ability of the local taxpayer to support educational institutions; but I also believe, as Frank Graham believes, that it would be bad to have the standards of education, the curriculum and other questions, determined on a national level. That can be determined on a level closer to the people.

Now comes this business as to whether you can operate with Federal Government determining certain things. You shall not expend Federal funds unless you do it as follows. Now, they say to me we set up an exceptional situation, we make an exception in the field of education. That is the last place I would want to make an exception. That is the last field. I wouldn't object to making an exception in certain other fields, but nothing as important and as fundamental as the question of education. I wouldn't want to make an exception in the field of religion, either.

I think it would be a horrible thing. We have it, I know, but every church is against it in principle and as much as they can in practice.

Now comes this business: How are you going to present this? I don't know. I have no suggestion to make in it, but it is so important that I hate to let go on it on the basis of announcing that there was a difference of opinion on this subject, which is nothing new, and is not worthy of too much attention.

MR. ERNST: I think the only hope would be for Dr. Graham and his group to persuade us or for us to persuade Dr. Graham and his group.

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MR. CAREY: Let's don't get too far away from the possibilities we have here that everybody is in favor of non-segregation as a policy and some believe that the way of approaching that is to do it in this manner and some believe it should be done in the other manner.

I think that is the better way of doing it instead of saying there is a difference of opinion.

MR. TOBIAS: The history of the proposal is this: Morris Ernst presented it at the White House, and he renewed it at Hanover that there never had been a test by the Federal Government of this particular thing, and that it was about time there was such a test. Isn't that true?

MR. ERNST: Yes. I don't think there is much value in re-discussing it. I just prefer these sanctions to the criminal sanctions.

MR. SHISHKIN: State that the Committee in its entirety is opposed to segregation, that some members of the Committee believe it should be done through sanctions, and that other members of the Committee believe it should be done without sanctions. That wouldn't detract from the force of our report.

MR. ERNST: Do we say the majority of the Committee came out in favor of using the spending sanctions?

MR. SHISHKIN: Yes.

MRS. ALEXANDER: That is psychologically good.

MRS. TILLY: I still say it is not saving the report. It is saving the members of the Committee.

DR. CARR: There is no resolving that dilemma. I think the lines have been pretty well indicated. I wish I could think that if we went on discussing it, that we could finally hit upon an easy way out.

MRS. ALEXANDER: I don't believe the Supreme Court would sustain such a bill.

MR. TOBIAS: At the present time if such a bill comes along, I will support a bill that does not contain this clause.

DR. GRAHAM: In the last battle we had in the Senate the National Association for the Advancement of Colored People took the same position I am taking here.

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MR. CAREY: But they didn't get the bill enacted into law.

DR. GRAHAM: No, because Senator Langer introduced this as an amendment and that killed the bill.

MR. LUCKMAN: Introduced the sanctions?

DR. GRAHAM: Introduced the sanctions.

MR. TOBIAS: It was in a little different form.

MR. ROOSEVELT: He is right on that.

MR. CAREY: It was done deliberately, and it wasn't the sanction that killed it.

DR. CARR: Wasn't the amendment separate-but-equal?

DR. GRAHAM: It was milder than this.

MR. TOBIAS: It was substantially the same.

MR. ERNST: May I ask, Jim, what you propose? Is it a rewriting of the recommendation and the report on the subject or just the recommendation to indicate the difference? If I understand you, you are going to get the impression across that we are all against segregation, but that the majority of the Committee is in favor of the use of spending power sanctions. I don't care how you do that.

DR. GRAHAM: On this point, in answer to you two gentlemen, non-discrimination is a legally interpreted definition and is now a policy of the Southern States as interpreted by the courts, so there is no control there. This is not a slick proposition. This is a very real policy of the Southern States more nearly fulfilled in some states than in others, but it is not now a policy of the Southern States to have no segregation. The constitutions and the laws are otherwise.

Therefore, there is a great deal of difference in the matter of control as between the two. If you say you can't have money unless you, North Carolina, change your constitution with regard to education, that to me is Federal control. That is no control to Jim, but it is control to me.

MR. ERNST: It wouldn't be control to you if the court ordered it? That wouldn't be control. The South would say that wasn't control if the court ordered it.

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MR. CAREY: I am not an opponent of compulsory education, and here I ask for a little bit of compulsory education.

BISHOP SHERILL: Our goal is a non-segregated society. Is the use of Federal funds a part of that goal or is it a weapon to enforce the speedy attainment of the goal?

MR. ERNST: That is the decision.

MRS. TILLY: You have stated it.

DR. GRAHAM: It is a long haul, gentlemen, and those who are down in the South have a feeling that the best approach is through the people themselves in the States themselves.

MR. ERNST: It is an honest difference of opinion. I would like to see Jim formulate a motion that seems to meet or would approach what you had in mind in a sufficiently concrete manner so that Bob could have it indicating how to rewrite it. There is a split on sanctions; whereas, there is no split on the matter of opposing segregation in principle.

MR. CAREY: Could you formulate such a motion?

DR. GRAHAM: I think we are all for the elimination of segregation as an ultimate goal.

MR. WILSON: Say that again.

DR. GRAHAM: We are in favor of the elimination of segregation as an ultimate goal of our people. Now, there is a great deal of history, psychology, anthropology that we have got to become acquainted with before our people reach that point. Just passing a law isn't going to remove segregation, whatever some of us may feel about it, in the South itself. Religion and education are going to be far more powerful in eventual attainment of this ultimate goal than any sanction you may apply. If I didn't believe that, I wouldn't now be in the South and I wouldn't now be in education.

MR. ERNST: I understand your preference when we were debating it was that there be mention made of the dissent. Jim says that weakens the report. That is true. Then, Jim comes forth with the suggestion that we say we are all against segregation, but in the matter of the use of sanctions there is a dissent.

MR. WILSON: Good. That is one way out, it seems to me, because apparently we are all in favor of the principle in regard to segregation, and if this Committee could go on record that way --

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MR. SHISHKIN: (Interposing) I so move. I don't see why we don't vote on that now. I would suggest that we now vote on the question and have the report state we are against segregation and that the majority of the Committee is for sanctions while a number of the Committee members feel that solutions short of sanctions are proper.

MR. ERNST: Second.

MR. WILSON: Are there any further remarks? If not, will all who favor it show their hand, please?

DR. GRAHAM: As an ultimate goal?

MR. WILSON: That is right. It is unanimous.

BISHOP SHERRILL: Isn't that the feeling in the South in regard to segregation, not about the sanctions? The real feeling is about segregation, is it not?

MRS. TILLY: Yes.

BISHOP SHERRILL: So that really in your voting you are losing the report by voting on segregation and not on sanctions.

MRS. TILLY: It is saving my skin but not saving the report.

BISHOP SHERRILL: I wonder if she is saving her skin.

MRS. TILLY: I am not trying to.

MR. WILSON: Mrs. Tilly, did you vote in favor?

MRS. TILLY: Yes.

DR. GRAHAM: I voted for elimination of segregation as an ultimate goal.

MR. ROOSEVELT: You are taken care of on the second part which says that only a majority are in favor of these --

DR. GRAHAM: (Interposing) I think it would amplify my position by saying my way is through religion and education.

MR. WILSON: Page 21.

DR. CARR: The staff has a change or two to suggest on page 21. The staff wants to take out at the end of the first paragraph on

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page 21 the reference to the American Mercury. We have concluded it is not a trustworthy source to cite.

MR. LUCKMAN: Mr. Chairman, I would like to put in my usual remark that I would hope that the staff could find some instances in the South of where this problem is being met and where some progress is being made on this matter of non-segregation.

MRS. TILLY: You better not highlight that, because you might stop what we have done. There are lots of things we do quietly.

MR. LUCKMAN: Are there some schools that exist that are not segregated?

MRS. TILLY: You have a theological school at Glover and one or two in a Presbyterian school in Virginia.

MR. LUCKMAN: You think it would be harmful to bring that out?

MRS. TILLY: Yes.

MR. ERNST: Could we say it without mentioning the institutions?

DR. CARR: They may be violating the law.

MRS. TILLY: We had better not say it.

MR. ERNST: Could the exchange and visiting students be mentioned?

MRS. TILLY: We have got some things I don't think can be told. At the Atlanta School of Social Work, a Negro school, there were guards out of the Federal Penitentiary going there because they have to have a degree in order to get a promotion. They are white guards, but they never say anything about it. The Georgia law would prevent it, and yet it is breaking down this pattern. I don't think you better tell about that.

MR. WILSON: You took out the American Mercury.

MR. SHISHKIN: The Committee recommendation is fine. On the question of complete deletion of the second paragraph, you recommend that?

DR. CARR: That is a mistake. We want to delete the paragraph and substitute another phrase. The reason for deleting was that it isn't wise to state statistics on Jewish enrollment without going into a very long explanation because that statement might seem to

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show that there is no discrimination since the Jewish population is less than 5 percent of the total. The Committee on Higher Education, having more space on this, goes into this in detail and points out that the Jews have a tradition of wanting to go to college, that a considerable portion of the Jews lives in urban centers, and so on.

"In many of our educational institutions the enrollment of Jewish students never seems to exceed a certain fixed point, and there is never more than a token enrollment of Negroes." I believe that statement can be documented.

MR. WILSON: All right.

DR. GRAHAM: Is that in the North and West you are talking about?

DR. CARR: Yes, we might say so.

DR. GRAHAM: They don't fail to say "South" when it is South.

MR. CAREY: Are we going to extend these patterns?

DR. GRAHAM: Just acknowledging what is true, that they are in other parts of the country.

MRS. TILLY: I wish you would.

MR. WILSON: State it. I see no objection.

MR. SHISHKIN: You start in the middle of page 21 on housing, and the only suggestion I have on that, on page 21, which to me in a kind of background discussion seems to be fundamental, is that the whole case is made out here on the basis of the profitability of restricted housing.

In other words, either have covenants or any other means of restricting against minorities and that is where the profit lies. Whereas, it is generally acknowledged by the students of the problem that there are two forces. One is that there is a vested interest in ghettos and slums where the profitability per square foot is greater.

It seems to me that the profitability of the slums and the pressures that are generated by the desire to hang on to the segregated housing itself ought to be mentioned.

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MR. ERNST: Would you object to putting it this way: New York City -- I like to pick on that city. There are no such things by and large as leases for Negro flats. The demand long before the war had been so great they never had a lease because they couldn't move out.

DR. CARR: That would illustrate your point. That is true quite generally. It is so profitable in ghetto areas that you don't have to get leases.

MR. ERNST: You can't get out.

MR. SHISHKIN: Nine and ten people living in a single room.

DR. CARR: We can put that in.

MR. WILSON: Any objection? Let's do it.

MRS. TILLY: In the last ten days something has happened in Birmingham. There was a Negro who bought a lot and built a house in a white community. They tried to prevent his moving in, and he got a ruling on it, and the judge ruled that the covenant clauses would not hold.

The Negro attempted to move in the house and it was bombed.

MR. ERNST: The court struck that down in the South.

MRS. TILLY: Yes.

MR. ERNST: Telegraph down and get that case. In New York they just sustained a restrictive covenant.

MR. SHISHKIN: Now, on page 21, I would like to go right through on this. On page 22, on housing also there is something. I have a very serious reservation about the entire discussion of public housing here, and it seems to me that there are two or three specific points to be raised, but in general I think the subject is too long and gives too great an emphasis.

The important thing in the country as a whole is the kind of segregation that is practiced in the community, in neighborhoods, and predominantly, of course, in private housing. There are two things about the public housing discussion. Public housing today is under attack. I feel very strongly that some of the material used here and going into considerable detail will certainly give the opponents of public housing very strong ammunition against public housing in a political kind of use.

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Secondly, as far as the accuracy of this goes, there is no misstatement, but there is somewhat of a distortion of emphasis in the fact that basically the policy with respect to occupancy is of necessity written by the local housing authorities themselves, because the administration of the program is in the hands of the local housing authorities, and there lies the strength of the Federal aid to public housing.

So that fundamentally the Federal Public Housing policy is merely based on the acceptance of the decisions of local housing authorities, and of aid to improve and perfect that, but the way this is stated it creates the impression that the Federal Government does prescribe standards which it actually does not. It goes into considerable detail which is seemingly completely superfluous.

There is reference to the employment by the FHA of a person handling minority problems.

DR. CARR: Race Relations Adviser.

MR. SHISHKIN: That is a very important and a very vital question, but it is right at the top of the controversy in Congress as to the alignment of votes on the job the FHA does. It would not serve any purpose because if the use of some of the parts of this report will be made to destroy public housing, then whatever happens in public housing will then be a moot question.

DR. CARR: Do you have specific recommendations?

MR. SHISHKIN: I think it should be condensed very greatly. It can be generalized. I would take exception to specific mention of, say, Memphis, where 42 per cent is now utilized for non-white housing, because if you use that kind of illustration it has strength only if you indicate the extent to which the low income families have fallen into that category. If you just use the bare percentage that might be taken out of context and used against the housing program.

I think also the reference to the FHA is unfortunate because it is here characterized as generally bad, although it does say that until the spring of 1947 it was so. Actually that is not in itself accurate. Foley, who came as the Federal Housing Administrator in 1946, laid the foundation for modifying the policy and actually modified FHA policy almost immediately upon his assumption of office on this issue. He felt very strongly.

He happens to be an administrator that is extremely sensitive. If any kind of a report in the administration comes out of this

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kind, implying that the F.H.A. is traditionally bad, I think it will weaken his position, because he will be in controversy with the administration itself.

The final point is that there is a statement here in paragraph four from the bottom, the middle, of the paragraph that is a sentence saying: "Some observers believe that through its construction of large, standardized housing projects, the F.P.H.A. program has on the whole strengthened rather than weakened housing segregation."

This merely reaches into a realm of pretty abstruse thought, abstruse and peripheral discussion of public housing. I think that sentence alone would do more harm than good.

BISHOP SHERRILL: How about the one before it?

MR. SHISHKIN: My recommendation on this, although it would be met by great unhappiness of the staff, would be to reduce this to not more than two or three summary paragraphs.

DR. CARR: We can do that very readily by dropping out a great deal. I think what is left will give you what you want. We may have to write a few connecting sentences.

MR. ERNST: May I suggest that whereas I realize the Metropolitan Life could go ahead and admit Negroes, I would hate for you to let the City of New York off because the City had ample time and ample power to put in a ruling that they couldn't, and the blame was also the City's in saying "You cannot discriminate."

DR. CARR: One advantage it is a New York City illustration.

MR. ERNST: I would get the facts as to the City of New York having failed.

MR. ROOSEVELT: The facts are correct as far as they go. Both Metropolitan and the City of New York are responsible here, and this only labels Metropolitan.

DR. CARR: Do you want us to add a sentence that would include the responsibility of the City of New York?

MR. ROOSEVELT: Yes.

MR. WILSON: New York City's guilt. All right.

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DR. CARR: The staff would like to drop the last paragraph on the page. It is the only place in the entire report where we call attention to this problem specifically. It is discussed in a more general way in the section on Government Responsibility where we point out there is a need to watch legislation, administration and court action, that you just can't keep your eyes focused on what the laws say. Accordingly, we felt it wasn't necessary to make this point separately on housing. So we will drop the last paragraph unless there is objection.

MR. LUCKMAN: Do we have in the material available any successful illustrations of public housing?

DR. CARR: Of course, part of this was intended as that. In the Memphis illustration we were showing a very high percentage of housing made available to Negroes. I don't mean to be arguing against dropping that, because I think Mr. Shishkin's comments are well taken.

MR. ERNST: What you would like principally is where Negroes and whites have both gone into housing and it has worked out?

MR. LUCKMAN: Yes.

MR. ERNST: Is there an instance where you can name the area?

MR. LUCKMAN: When we were studying that in a subcommittee, didn't we have some examples in Chicago?

MR. ROOSEVELT: That is a case where they had a fight and Human Relations stepped in and straightened it out and everybody lived happily ever after.

DR. CARR: There has been another fight. They are scared to death that there will be a race riot. That was the Fernwood project; Airport Homes was last year.

MR. ROOSEVELT: There are some.

DR. CARR: You have to be careful in picking them.

MR. ERNST: If you can pick one or two and say it has worked --

DR. CARR: (Interposing) It has been done.

MR. WILSON: 23.

MR. ERNST: I have one affirmative step there. There are figures as to what has happened to the health of Negroes in the

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last 40 years. I recently saw that the life expectancy has grown from 38 to 53 years in the last 40 years. I am just suggesting putting in some of the hopeful stuff.

MR. WILSON: Thirty-eight to fifty-three.

DR. CARR: Put in statistics on the lengthening life span?

MR. ERNST: Yes.

MR. LUCKMAN: Are there any examples of hospitals that properly --

MR. ERNST: (Interposing) Mrs. Tilly mentioned a hospital where Negro and white doctors are servicing Negro and white patients, down South.

DR. CARR: Group health in Washington, I am told, is another illustration.

MR. ROOSEVELT: Georgetown University Hospital.

MISS WILLIAMS: The St. Louis Hospital.

DR. CARR: We say in the District section that there are Washington hospitals that will accept Negroes, but what about this New York City hospital, Sydenham?

MRS. ALEXANDER: It is a private hospital.

MR. ERNST: You would have to say it is the only one in New York, to be honest.

MR. LUCKMAN: You just give it as an illustration, and you are taking care of your honesty.

MR. ROOSEVELT: It is not the only one that takes Negro patients.

DR. CARR: Why not say it has both a joint staff and admits members of all races?

MR. TOBIAS: It is the only private hospital that does that, Sydenham Hospital is the only private hospital that does that.

MRS. TILLY: We have lots of instances like that in Americus, Georgia, and Royston, Georgia.

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DR. CARR: I am afraid in many of the Southern States it is against the law to do this, and it is being done outside the law.

MRS. TILLY: I don't know any special law against it, but it is progress that we are making.

DR. CARR: Well, the thing to do is to take the last paragraph, which tries to point to some of the good things happening, and strengthen that; and I think we can do that with relative ease in the short time that remains.

MR. WILSON: Page 24.

MR. ERNST: On page 24, it seems to me some of Mrs. Tilly's suggestions about what is done in the restaurants or cafeterias or something down South, the public services, those you could mention properly without any fear of reprisal.

MRS. TILLY: Yes.

MR. ERNST: Didn't you mention something about some lunch rooms?

MRS. TILLY: That is general, yes.

MR. ERNST: Couldn't we have a few of those in when it comes to public accommodations?

MRS. TILLY: It is just so general. You go into any of them and you will find mixed waitresses.

DR. CARR: Mixed patrons?

MRS. TILLY: No, not at all.

DR. CARR: That wouldn't go in here, then.

MR. WILSON: There is nothing further on page 24, I take it.

DR. GRAHAM: One thing. In the third paragraph, third sentence -- I will read the preceding sentence: "Discrimination in public services supplied by the Federal Government is seldom directly authorized by legislation."

DR. CARR: We are going to make that "never", instead of "seldom", if that meets your point.

DR. GRAHAM: Then it says, "It results; instead, from faulty legislative definitions of coverage." What do you mean there?

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DR. CARR: We have got a new sentence to replace that entirely. Let me read it. We are going to change the "seldom" to "never", and then say: "It sometimes results inadvertently from the limited coverage of social service legislation."

Then we go on to show that since agricultural workers are excluded from the Social Security system, and you have a heavy concentration of Negroes in an area like that, that you get inadvertent discrimination against certain groups.

DR. GRAHAM: That is not faulty legislative definition.

DR. CARR: No, the phrase now would be: "It sometimes results inadvertently from the limited coverage of social service legislation."

MR. WILSON: Does that cover it, in your judgment?

DR. GRAHAM: Yes.

MR. WILSON: Are there any other questions on page 24?

MRS. ALEXANDER: This sentence, "The streets in Negro districts are often not kept up", wouldn't that be better if it read, "The streets in Negro districts are often not paved, or if paved are not maintained to the standards maintained in white areas. Isn't that more accurate?"

DR. CARR: I don't know whether we can document that or not.

DR. GRAHAM: I can document that. We have expert testimony that that is true in Harlem, too.

MRS. ALEXANDER: That should be made general -- "The streets in Negro districts throughout the country", which is true.

DR. CARR: At Mrs. Tilly's suggestion, if there is no disagreement, we are also going to drop the reference to the Farm Home Administration. She thinks that is one of these cases where an otherwise good agency might be endangered through criticism.

MRS. TILLY: I think it is one of the best agencies we have.

DR. CARR: In other words, it is under attack from another source, and it would be a misfortune if the Committee joined forces with the opposition.

MRS. ALEXANDER: I should say that we should eliminate the statement.

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MRS. TILLY: I have just spent a lot of Methodist money saving that.

MRS. ALEXANDER: Dr. Carr, I think the sentence, "The streets in Negro districts" should be made general -- "streets in Negro districts throughout the country."

DR. CARR: Yes, I put that note down.

MR. WILSON: We will now take up page 25.

DR. CARR: First, before we get down there to No. 5, -- which incidentally will disappear as No. 5 and have to be moved up and absorbed as part of the discussion under No. 2, in line with your earlier decision, but I think that can be done.

You may recall the discussion at Hanover about the problem of liquor for the Indians. We left that out, but we have got a passage that can be added if you want to put it in. It is on Sheet No. 2 of the mimeographed section. I don't know whether you want me to read it or not, but it begins, "In the West bars often display signs which read 'We do not serve minors and Indians.'"

One difficulty with the thing was finding a place to fit it in where it didn't seem to be just drawn out of the blue. I think if you are in favor of including it, we have now found a logical spot; that it does tie in very nicely with this discussion of discrimination in the rendering of the public services.

BISHOP SHERRILL: I think that is good for a comic supplement, or something.

DR. CARR: It is up to you to decide. I am not going to argue it one way or the other.

MR. LUCKMAN: I would rather not see us set up as a civil right or liberty, the right of the Indians to buy liquor.

DR. CARR: It is undoubtedly a case of discrimination --

BISHOP SHERRILL: (Interposing) But we aren't covering all that there are in the United States. We can miss a few, I think.

DR. CARR: And, of course, it is a non-Negro case. I am not arguing for it, don't misunderstand me. I am perfectly willing to let you make the decision.

MR. LUCKMAN: Unless there are some examples of where they got good whiskey, I would think it should be left out.

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MR. WILSON: I take it that you want it out. It is out.

MR. ERNST: May I suggest that we might consider whether we want to mention by name the city, in Paragraph 3, and not make it seem too anonymous. "In a recent campaign to compel enforcement of the law in a city covered by a civil-rights statute, many restaurants closed their doors to make repairs." I just don't like to anonymously mention "a" city.

DR. CARR: What city was it?

MRS. ALEXANDER: Cincinnati.

MR. ERNST: I think we should mention the name of the city. Whatever city it is, I am proposing we mention it.

May I make one other minor recommendation?

MR. WILSON: It is agreed we put in "the City of Cincinnati."

MRS. ALEXANDER: I am sure it is right, but I will check on it.

MR. ERNST: I think where we mention the Pennsylvania Railroad, we ought to be sure whether we should include Pullmans. Pullmans are not mentioned there.

MRS. ALEXANDER: It is coaches out of New York.

In the fifth paragraph, "Jews are discriminated against principally in recreational and resort areas where beaches, hotels, and similar facilities are closed to them", I suggest we add "in the North" after "areas".

DR. CARR: Right.

MRS. TILLY: You are not saying anything about the signs, "Gentiles only" -- Oh, yes, you have it here.

Incidentally, Tampa passed an ordinance in the last few weeks that prevents that sign from being shown.

MR. WILSON: Is there anything further on page 25?

MR. SHISHKIN: In that same paragraph where we talk about resort areas and beaches, two sentences later there is something about "hostile stares" -- "and endured hostile stares". I was wondering whether we should include that.

MR. CAREY: "Looks", you know.

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DR. DICKEY: "Glares".

MR. SHISHKIN: I think you had better eliminate it.

DR. CARR: "Hostile stares" is removed from the report.

MR. WILSON: Is there anything else on page 25?

We will go to page 26.

DR. GRAHAM: By the way, is enlistment in the Marine Corps now limited, for Negroes, to the Steward's branch? I don't think that was true during the war.

MR. KAUFMAN: They have reverted since the end of the war.

DR. CARR: It is all based on memoranda that we have received directly from the Armed Services.

DR. GRAHAM: During the war that wasn't true, by Executive Order.

MR. WILSON: But since they have reverted to it, you are satisfied to have it in?

DR. GRAHAM: I am not satisfied, but I acknowledge it.

MR. ERNST: On page 26, Mr. Chairman, I wonder if it would add anything if we knew when the 6 Negroes -- this is in the third paragraph -- when the 6 Negroes, during the last 7 years, were sent to Annapolis? It seems to me that statistics mean one thing if all of them were 20 years ago, and if all were in the last 5 years we ought to know it. If so, it is a sign of progress.

MR. SHISHKIN: Senator Green just nominated somebody the day before yesterday.

MR. ERNST: If we can find when the six got into Annapolis, I think it would add to the report.

MR. WILSON: Yes, let's acknowledge it if it is lately.

MRS. ALEXANDER: I know it goes way back.

MR. ERNST: Whatever it is, let's state the year or years.

MR. WILSON: We can get that information readily enough.

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MRS. TILLY: Do we want to say, "The absence of Negroes from the service academies is unfortunate because it means that our officers are trained in an unnatural environment"?

DR. CARR: What we are getting at, of course, is that if officers are trained in that environment, they inevitably carry over into their service that pattern of attitudes and relations.

MR. SHISHKIN: Do you mean "artificial"?

MR. CAREY: "Undemocratic environment."

DR. CARR: Change "unnatural" to "Undemocratic".

MR. WILSON: If that is all on page 26, we will take up page 27. Are there any suggestions for changes on page 27?

DR. DICKEY: Under the discussion of the Supreme Court setting up an "equal" doctrine, it states: "At the very beginning it was necessary to surmount a serious constitutional barrier to legally compelled segregation." Well, it seems to me that that is lifting ourselves up by our bootstraps by saying "it was necessary to surmount a serious constitutional barrier", and it seems to me that the one friend we might conceivably retain is the Supreme Court.

MR. ERNST: I agree with Dr. Dickey.

DR. DICKEY: That is going to be regarded as a gratuitous statement.

DR. CARR: That can certainly be fully documented. The best historical opinion is that the three Civil War Amendments certainly were intended to prevent segregation; and the Supreme Court, in the 1870's, as part of a political compromise, went out of its way to interpret it away. The very same Congresses that passed the Amendments turned around and passed the laws which were declared unconstitutional.

Now what better interpreters did you have at that moment, of the meaning of the Amendments, than the members of Congress?

DR. DICKEY: Under our system, the Supreme Court is the only one entitled to interpret the Amendments.

MR. ERNST: Say "The will of the people was expressed by the Congress, but the Court struck it down on unconstitutional grounds."

MR. CAREY: Do you get the impression when you read this that there is an improvement in the Supreme Court?

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DR. CARR: Oh, yes, they are moving away from that position, and I don't think you are going to anger the Supreme Court. This, of course, applies to some of the later discussions. You are going to provide them with a little more encouragement to move ahead on this issue. There were, as we point out, dissenting opinions in each of those cases.

DR. DICKEY: I still think that it is fairly gratuitous for this Committee to say that the United States Supreme Court surmounted a serious constitutional barrier in order to impose segregation on the country.

MR. ERNST: I agree.

DR. DICKEY: I think that is a pretty serious charge.

DR. CARR: But it is a charge that virtually every student of the American Constitution is making today.

DR. DICKEY: Exclude me from the rank of the students.

DR. CARR: How much do you want to go out?

MR. ERNST: It seems to me just the attitude in regard to the Supreme Court having gone out of its way to strike down by stretching the Constitution.

DR. DICKEY: Begin with "The fourteenth amendment forbids a State to deny 'to any person within its jurisdiction the equal protection of the laws.' Moreover, the general spirit of the three Civil War amendments seemed to guarantee to all persons a full and equal status in American society. However, the Supreme Court, beginning with its decision in Plessy v. Ferguson, in 1896, held otherwise", and so on.

MR. WILSON: Any other changes?

MRS. ALEXANDER: Yes, at the very end of the last paragraph, the third sentence from the bottom -- "Throughout the segregated public institutions of the South, Negroes have been denied an equal share of tax-supported services" -- that wouldn't apply only to the South. I suggest we say, "Throughout segregated public institutions, Negroes have been denied", and so on.

MR. WILSON: Good.

MR. LUCKMAN: Is that true?

MRS. ALEXANDER: It is true right in the District of Columbia.

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MR. LUCKMAN: In other words, there aren't any places where --

MRS. ALEXANDER: (Interposing) That was true in Philadelphia. It is one of the reasons it was broken up. It is just recently we have won teaching rights for colored and whites.

MR. WILSON: Page 28.

BISHOP SHERRILL: Where do you get this statement, in the middle of the page, "Two out of every three white men admitted that at first they had been unfavorable to the idea of serving alongside colored platoons. Three out of every four said that their feelings toward the Negro soldiers had changed after serving with them in combat." What is the authority for that?

MR. ERNST: The question is that we ought to state the source.

DR. CARR: It is stated.

MR. WILSON: Report ETO-82.

BISHOP SHERRILL: I wonder if those quotations from those people add anything to it? You can go and see four other people and get four other expressions.

MRS. ALEXANDER: But these are cross-sections of a report that has been filed by the Army, isn't that so?

DR. CARR: Yes, and what we are trying to do in this whole section is show that where you have had non-segregated patterns of social relations, they seem to work and people lose their prejudices or begin to lose them.

BISHOP SHERRILL: That is an official report of the Army?

MR. STEWART: Yes, it is.

MR. LUCKMAN: The Bishop's question is whether the report gains anything from these specific quotations.

MR. TOBIAS: I think it does. That is, it is a cross-section as to sections of the country and gradations among the officers -- I think it answers a question in the mind of some people.

MR. LUCKMAN: Did that same report deal with Jewish officers, or only with Negro?

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MR. STEWART: Only with Negroes. This is the one instance where the Army broke segregation in a combat situation.

DR. DICKEY: Of course, I don't think that those quotations support the opening paragraph in this section too well.

DR. CARR: There is more than just the quotations. We have got data there -- two out of every three; three out of every four -- and these are some of the representative comments.

DR. DICKEY: What I meant was this. Up there we have a very simple statement, which for my money is a little too Pollyanna-ish. "They prove that where the artificial barriers which divide people and groups from one another are broken, tension and conflict are replaced by friendliness, cooperation and an environment in which civil rights can thrive."

Well, it requires an awful lot of work to break those tensions peacefully, as we have discovered in some of the housing projects.

You get down below, and you find in these quotations such phrases as, "... we briefed the white boys in advance -- told them these men were volunteers coming up here to fight and that we wouldn't stand for any foolishness." -- and "I selected the best company commander I had to put over them."

It looks to me like you are documenting the fact that to get along together, they damn well made clear to these fellows that they were in the Army.

MR. ERNST: It is a sign of hope.

DR. DICKEY: But I am saying that as proof behind this statement up here, it leaves me with considerably less than conviction.

DR. CARR: We can tone down the introductory paragraph.

MR. TOBIAS: I think that method of handling the situation has its merits and has paid off. Take the case of this baseball experience. The most encouraging thing to me is the fact that Branch Rickey and Ford Frick took a definite stand. There were any number of Southern boys involved, on the Brooklyn team itself. If they had felt that public sentiment was going to back them in their prejudices, they would have made a stew. But they were reminded by these men that public sentiment would not back them, and come on and play ball.

MR. ERNST: John, isn't your point that we overstate it when we say that under certain circumstances, tension and conflict are

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replaced by friendliness, cooperation, and so forth?

DR. DICKEY: Yes, I say that is too simple and Pollyanna-ish.

MR. ERNST: The most we have a right to say is that there is hope of replacement, or a tendency toward that.

DR. DICKEY: Yes. We don't want to expose ourselves to the charge that we are naive about these things.

MR. WILSON: All right, that will be fixed.

BISHOP SHERRILL: The whole thing impresses me along that line, even those quotations. It doesn't read solid to me. I spent a lot of time with the Army, and those things just don't sound real to me, somehow.

MR. LUCKMAN: I would like to reconsider those quotations. I think they do more harm than good.

MR. ERNST: I should think you would like them, Charley, because here is at least a little scant evidence to show that when you do experiment, there isn't hell to pay --

MR. LUCKMAN: (Interposing) But that is covered in the preceding paragraphs, and the following paragraphs.

MR. ERNST: But doesn't this dramatize it?

MR. LUCKMAN: I don't think it is believable.

MRS. ALEXANDER: You say you don't believe the report that the Army made? This is a record --

MR. LUCKMAN: (Interposing) I quite believe the report; but I don't believe, as it is placed in here, it will be believable to the average person who reads this.

MRS. ALEXANDER: He doesn't believe in the Army report, then.

MR. LUCKMAN: That is true of a lot of people.

MR. ERNST: We can say, "Unbelievable as it may appear".

(Laughter)

MRS. ALEXANDER: I think it would take a lot of flavor out of it to remove it.

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MR. CAREY: It does give you the flavor of audience participation here.

DR. DICKEY: Up in the second paragraph on page 28, it would be a little more graceful to say, "This insistence upon equal facilities for Negroes is encouraging." I think it is a little patronizing for this Committee to say it is "welcome".

MR. LUCKMAN: May we have a quick show of hands on these quotations?

MR. WILSON: Will those who favor including the quotations indicate it by a show of hands?

There is a majority in favor of the inclusion of those quotations.

Page 29.

MR. CAREY: Mr. Chairman, can I delicately approach the first paragraph? I understand that you have difficulty stating the facts without creating the unpolitical situation of favoring one segment of the labor movement as against the other.

MR. STEWART: May I explain that that is not the reason it is stated the way it is. I plead sheer ignorance. I didn't know that Harry Lundeberg's union discriminated until recently.

MR. CAREY: It isn't just that question. It is being proud of the fact that they make it a policy of their organization to discriminate, and they seek a measure of respectability on that basis.

MR. ERNST: I take it we have two choices. One is to cut it out, and the other is to state that some of the unions do and some don't.

MR. CAREY: Let it go as it is, but it is just not true.

MR. SHISHKIN: Before you get into that, I want to say that this paragraph doesn't deal with the substantive problem in the Merchant Marine. It merely illustrates the types of situations. The whole section deals with experiences of this kind. It is the reporting of a segment of our life where these events occur.

Is that what the staff attempted to do here?

DR. CARR: Yes.

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Is that the second sentence you were referring to?

MR. ERNST: Couldn't we say, "some seamen's unions"?

DR. CARR: And take out "constant"? Would that be all right, Jim?

MR. CAREY: It is all right as it stands. If you want to say that the Seamen's Union of the Pacific discriminates against minority groups, and that the CIO National Maritime Union does not, I am afraid --

MR. ERNST: (Interposing) Can't we duck it by being truthful--

MR. CAREY: (Interposing) You can't be truthful by ducking it. That I know, because this does duck it.

DR. CARR: If you say "some", does that satisfy you completely?

MR. CAREY: It is all right, as it is, because I can understand how bad it would be if --

MR. ERNST: (Interposing) I recommend, Mr. Chairman, for the sake of truth, that we indicate that some seamen's unions seek, and so forth, because they all don't.

MR. WILSON: Any objection to that change - "some seamen's unions seek to gain equality"?

Hearing no objection, then, we will change it accordingly.

Are there any other changes on that paragraph?

DR. GRAHAM: In the last sentence, do you have evidence of an absolute condition there?

MR. STEWART: No, it is overstated, Dr. Graham.

DR. GRAHAM: I don't want some seamen to write letters saying, "Well, that isn't true."

It says, "Prejudice did not survive contact with Negroes on an equal footing in a situation of mutual dependence and common effort." I should be pleased to know that that is an absolute fact in all cases.

MR. STEWART: Unfortunately, it is not.

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MR. CAREY: In our situation -- the National Maritime Union, to be specific -- the contact did overcome the prejudice.

MR. STEWART: This refers to a specific research project. There still were seamen who were prejudiced, even though they were NMU members.

MR. ERNST: What is the truth as to the survival of the prejudice?

MR. ROOSEVELT: Why not say, "In the majority of the cases, prejudice did not survive."

MR. ERNST: Or "prejudice was reduced."

MR. ROOSEVELT: The inference there is that prejudice was in the majority. Actually, what the report showed was -- why don't you say what the report said?

MR. CAREY: Prejudice was no longer directed against the Negroes.

MR. WILSON: If there are no other changes on page 29 --

DR. DICKEY: (Interposing) I would suggest striking out the word "smashing" before "indictment", the last sentence in Paragraph 3.

MRS. ALEXANDER: I would suggest cutting out the word "unwarranted", in paragraph 5.

DR. CARR: We have done that already.

MR. WILSON: Now on page 30, are there any changes?

MR. LUCKMAN: I am not overly impressed with the importance of this diaper service business, and this pet cemetery. It strikes me that we might appear to be a little ludicrous if that were taken out of context.

MR. ROOSEVELT: What did you say, Charley? I didn't get you there.

DR. CARR: Two-thirds of the way down it says, "For example, some diaper services will not serve colored families, and a pet cemetery will not accept pets owned by Negroes for burial."

MR. LUCKMAN: I am all for washing diapers, but I don't think we ought to do it in our report. It would make us look ludicrous

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if it were taken out of context -- "The President's Committee is quite upset because the diapers wouldn't be washed."

MR. ROOSEVELT: I think it is excellent cartoon material.

DR. CARR: Do you want it out?

MR. LUCKMAN: Yes.

MR. ROOSEVELT: Our dignity is really way up, there.

MR. SHISHKIN: Rising to the pinnacle of grandeur as compared with diapers, back to the DAR's. I would like to get it clear. The last big incident here in Washington on Constitution Hall that I know of was in connection with the Tuskegee Choir, where the DAR refused to let any Negroes in the audience, but the Tuskegee Choir sang here. This states the opposite, and I was wondering if there was any recent, last-minute change in their policy.

MRS. SADY: They let Negroes on the stage for charity purposes only; not for commercial concerts.

DR. GRAHAM: This says, "allows no Negroes on its stage."

MR. SHISHKIN: In the case of the Tuskegee Choir, the whole point was that their tradition was not to admit Negroes into the audience, to discriminate; and finally, because of this charitable purpose and so forth, they did admit Negroes into the Hall, but only for the charitable purpose.

MRS. SADY: We will have to check that.

DR. CARR: Are there any Negroes in the audience at the Symphony concerts, Merle?

MRS. WHITFORD: Occasionally I have seen them, but they look like Hindus or Indians. I have scanned the audience a lot, and I don't see them.

MR. WILSON: Can't we find out officially what the practice is?

MISS WILLIAMS: There is no segregation at Constitution Hall; for lectures and music and dancing, the audience is not segregated. Their ban applies only to performers, commercial performers.

MR. SHISHKIN: On the stage?

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MISS WILLIAMS: Yes. The trouble about the audience was at Lisner Auditorium and the National Theater, and not at Constitution Hall. That was because it was on the stage, but on the stage for a charitable purpose, as distinguished from Marion Anderson, which was considered a commercial.

MR. SHISHKIN: At the time, I served on the committee that dealt with it, the local committee, and at that time we had brought before the committee that in connection with the concerts for profit, at Ballard's and at the ticket office at Constitution Hall, Negroes were refused the purchase of tickets. That was one of the reasons why the local committee took such a strong stand.

MR. ERNST: Obviously we can't settle this fight here. I move that the staff check and find out what is the fact.

MR. WILSON: Is there anything in the last paragraph?

Then we will go to page 31.

MR. ERNST: On this page, you might insert the mention I made before, about the president of a class or of the undergraduate body of the Catholic University.

MRS. ALEXANDER: Does the person look like a Negro?

MR. ERNST: Yes. You check the fact with Father Sheedy.

MR. LUCKMAN: Do we want to mention these universities by name? Is that an advantage or is it fair to the universities? It seems to me the first time in this whole subject of education that we have mentioned universities by name, and surely there are many others throughout the United States that share the guilt.

MR. ERNST: Princeton was mentioned here before.

DR. CARR: Not in the report.

MR. LUCKMAN: I didn't mention it.

MR. ERNST: No, I mean that Princeton was mentioned as one that should be included.

MRS. ALEXANDER: This is the District of Columbia.

MR. SHISHKIN: This is directly under Federal policy.

DR. CARR: This whole section on the District is documented more fully, and becomes a sort of case study that is more fully

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presented than anything else in the report.

MR. LUCKMAN: I think I would be awfully upset if I were the President of one of these universities and were picked, out of all the universities in the country, for these practices.

MRS. ALEXANDER: The reason for this is that we felt that the Federal Government had direct control over the District of Columbia, and if we pointed out the things that could be corrected here, we might have an opportunity --

MR. LUCKMAN: (Interposing) I am not objecting to the point, Mrs. Alexander. If my thought were carried out, you would say something along the line of "the universities" or "some universities"; but here we are specifically naming two schools that share the guilt with perhaps hundreds of other universities around the country.

MRS. ALEXANDER: Have we picked out all in the District of Columbia?

MR. ROOSEVELT: That is the point, Bob. Have we picked out all the schools in the District of Columbia that do have prejudice?

DR. CARR: Why don't we leave in the good ones, the specific recognition of Catholic University --

BISHOP SHERRILL: (Interposing) Is that the only one you can name?

DR. CARR: As we say, American University admits them to one of its schools.

MR. ROOSEVELT: I think this is a good opportunity to list all the bad ones, all the good ones, and all the in-betweens.

MRS. ALEXANDER: In the District?

MR. ROOSEVELT: Yes, but get them all.

DR. CARR: George Washington, American and Catholic are the big institutions. Washington, like many large cities, is full of many sort of business colleges and that sort of thing.

MRS. ALEXANDER: Isn't it true that there is no school here other than Catholic University that accepts Negro students, and the National University at evenings? Is there any business college to which a Negro person can go?

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DR. CARR: There are a lot of trade schools and dental schools, and we don't know the story on all of them.

DR. GRAHAM: Why not put in notable exceptions?

MR. TOBIAS: I kind of hold back on naming those institutions. It seems to me that we could say that private universities have generally followed the lead of the public schools, a notable exception being the Catholic University. I don't see any objection to mentioning that in that way.

DR. GRAHAM: And American University in its School of Social Science and Public Affairs.

MR. LUCKMAN: I won't quarrel with naming those on the plus side.

MR. WILSON: Would that be satisfactory to follow that suggestion of Dr. Tobias?

O.K., it is done.

MR. SHISHKIN: If you mention the American University, you will have to say that it is confined only to the senior classes --

MR. ROOSEVELT: (Interposing) As Dr. Graham said, the American University in its School of Social Science and Public Affairs.

MR. SHISHKIN: Not in its school, but only in its night school of Social Science and Public Affairs.

DR. CARR: I think we had better leave it out, because that would be pretty refined, if that is all that American University is doing.

MR. WILSON: Is there anything else on page 31?

All right, page 32.

MRS. SADY: Does that mentioning of names go to the hospitals, too?

MR. WILSON: How about that, on page 32; do you want to mention or fail to mention the names of the hospitals?

MRS. ALEXANDER: This is important.

DR. GRAHAM: What paragraph?

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MRS. ALEXANDER: The third -- "Discrimination in health services."

DR. CARR: The last sentence in the second paragraph has to come out, because checking proved that it wasn't correct, the George Washington University Hospital part of it.

MR. LUCKMAN: I think, Mr. Chairman, it should be a matter of policy on the part of the Committee, in a spirit of fair play, not to point the finger at one if there are others that are equally guilty. If it is possible to name them all, each and every one, large and small, I am all for it. If not, I don't think we should name any of them.

DR. CARR: A possible exception might be made with respect to Gallinger and St. Elizabeths, since they are both public hospitals. I don't think it is quite as bold a thing to condemn a publicly-owned and operated institution.

MR. WILSON: Wouldn't you agree with that, that a public institution we would be entirely justified in naming, if we have the facts concerning it?

MRS. ALEXANDER: That takes us back to the same thing. These are tax-exempt private institutions here in Washington that don't admit Negro patients.

DR. CARR: As a matter of fact, apart from the reference to the George Washington clinic situation, all references to hospitals are to the public ones, aren't they -- Freedmen's, St. Elizabeths and Gallinger. No private hospital is really mentioned by name.

MR. WILSON: Do I understand that in the case of public hospitals, you have no objection to mentioning the name; is that correct?

MR. LUCKMAN: If we have mentioned all the public hospitals.

DR. CARR: That seems to be the case.

MR. WILSON: Then it is all right.

Anything else on that page?

MR. TOBIAS: I want to raise a question about some of these denominational hospitals, because some of them have been notorious for almost inhuman exclusions, like the Methodist Hospital, to be

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specific, where deaths have resulted through failure, even in emergency cases, to take them in. That is so well known over the country that to mention these others -- we ought to clean those up.

MR. ROOSEVELT: Shouldn't that come not under the District of Columbia section, but under the General Health section?

DR. CARR: If you are going to use it at all, I would favor using it here, because as I say, this section is a more fully documented one.

MR. ROOSEVELT: But as I remember, the case that Dr. Tobias pointed out at our Hanover meeting was a case in the South, and not in the District of Columbia.

MR. TOBIAS: I am talking now about the Sibley Memorial, a Methodist hospital.

MR. ROOSEVELT: In Washington?

MR. TOBIAS: Yes.

MRS. TILLY: Is that the only one that has been guilty of that, Dr. Tobias?

MR. TOBIAS: I don't say it is the only one.

MRS. TILLY: We don't want to single out one.

MR. ERNST: Would you be satisfied if we said something like this, that it was peculiarly shocking when religious denominational hospitals practice racial discrimination?

MR. TOBIAS: Yes.

DR. CARR: Without naming the hospitals?

MR. WILSON: Do you think that covers it to your satisfaction?

MR. TOBIAS: Yes.

DR. DICKEY: Has that reference to the Capital Transit Company about not employing Negro operators been fully documented?

DR. CARR: Yes, indeed, that is a cause celebre.

DR. DICKEY: Wasn't there a considerable question as to whether union workers would work, because I know I had a personal interest

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in that thing, and talked with the loader and the driver of the bus that I came in on, and their view was that, "By God, if any Negroes were hired as loaders or drivers on those buses they were through and every other driver was."

MRS. ALEXANDER: The same thing happened in Philadelphia when they sent the Army in to see that they did work, that the colored men worked. The United States Army came in and put men on every street car to see that the colored men got on and worked. There was a soldier sitting on each street car.

MR. SHISHKIN: That was a wartime thing. There was the same kind of talk --

MRS. ALEXANDER: (Interposing). They said the same thing, that they wouldn't work.

DR. DICKEY: All I am raising is the question of whether you have got your records sufficiently clear so that the Capital Transit Company isn't going to come back and say that this wasn't a management practice.

DR. CARR: They took the responsibility in the end, whatever forces may have been at work, to enunciate and follow this policy.

MR. SHISHKIN: We had public hearings on that, and certified the case to the President. The facts are all in there.

DR. CARR: Do you think it is all right as it is?

MR. SHISHKIN: Yes.

When the Mediation Board came into Los Angeles to hold a hearing on the transit situation we had an awful lot of talk and the mayor actually had tears in his eyes pleading with us not to hold a hearing because, he said, the town was going to be in a spirit of turmoil when the hearing was started. However we settled the matter at the end of the day.

MR. ERNST: I take it that all John had in mind was that he wanted to know if we had fully and correctly stated the facts.

DR. DICKEY: Yes.

MR. TOBIAS: You can say, "as certified to the President by the FEPC", which is absolutely true.

MR. LUCKMAN: What is this Washington Branch of the Amateur Athletic Union?

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MR. WILSON: Is that on Galley 32?

MR. LUCKMAN: Yes, it is about the fourth paragraph up, just before "Discrimination in places of public accommodation".

MR. TOBIAS: That is the national Amateur Athletic Association, or Union -- the AAU.

MR. WILSON: Nationally you have got to have a card from your local AAU if you are going to run in national meets or participate in national meets. I used to have one of those cards myself. That shows what a memory I have.

DR. GRAHAM: What event were you in?

MR. WILSON: No good ones.

MRS. ALEXANDER: Dr. Carr, you didn't mention that the closing of the District Bar Association to Negroes means that the law library is not available to Negro lawyers.

MRS. SADY: They do have library facilities.

MRS. ALEXANDER: Where do they go?

MRS. SADY: They said that they have library facilities wherever the District Bar Association law library is.

MRS. ALEXANDER: You had better check that from the colored lawyers.

MR. TOBIAS: I take it that you are going to check and double check all these things that are supposed to be facts?

DR. CARR: Yes, we have spent the last two weeks on that.

MR. SHISHKIN: At the end of page 32, the sentence before the last, which says, "There is an equal number of stories about Negro Americans being able to obtain ordinary accommodations in their Nation's capital only by donning a turban or otherwise assuming an alien role." I know there is an equal number of stories, but I don't think the Report will suffer a great deal if that were dropped. It gives a sort of twist to it.

MR. CAREY: Mr. Chairman, I don't know whether that sentence makes the point, but it is an important fact that an American citizen abroad gets a great deal more protection of his civil

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rights and dignity than a Negro does in the Nation's capital. The forces of our Government are put into operation to protect a citizen abroad. I am wondering if we shouldn't use that as an illustration.

MR. SHISHKIN: I agree with that, but I think this is a sort of droll way of making the statement.

MR. LUCKMAN: Wouldn't you have to consider the elimination of that whole paragraph? It all relates to the same thing.

MR. SHISHKIN: The rest of the paragraph states the problem, and even the point that the foreign visitors are mistaken and thereby offended I think carries the point. But I think the other sentence sort of assumes a masquerade.

MR. ERNST: Take it out.

DR. CARR: It is out unless you object.

MR. WILSON: Unless there is objection, it is out.

MRS. ALEXANDER: It is true that if you can pass for anything but an American Negro you can be admitted. If you are an American citizen, no good; but if you look like an East Indian you will get served.

MR. CAREY: You might add, if you want to make it really funny that Chinese restaurants here, run by foreign-born Chinese, discriminate against American Negroes. That kind of rankles with me. The Green Lantern Restaurant, operated by foreign-born Chinese, discriminates against American Negroes.

MR. TOBIAS: We don't want to go too far into that because most of the theaters here are owned by our Jewish friends.

MR. LUCKMAN: Are we eliminating this paragraph or just that sentence?

MR. WILSON: That last sentence.

MR. LUCKMAN: I was trying to read the two together. If you just eliminate that sentence then you say, "Many stories are told about foreign officials being mistaken for American Negroes and refused food, lodging and entertainment." Then you say, "This is the situation that exists in the District of Columbia. The Committee feels most deeply that it is intolerable."

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DR. CARR: That last is a new paragraph.

MR. LUCKMAN: But the average quick reader would go right on and read that next and perhaps feel that we were only deploring that one thing.

DR. CARR: We can put in some stars after that last sentence, or a space to set it apart.

MR. LUCKMAN: Yes, so they realize that you are deploring the overall situation.

MRS. ALEXANDER: I just think that what the Staff was trying to say they didn't say in the way we would like it. I think they are trying to bring out the point that an American Negro cannot be served, but if he looks like anything but an American Negro he will be, and that is what they are trying to say.

MR. SHISHKIN: Then let's say that.

MR. CAREY: As you read that sentence there is a feeling that you ought to discriminate against the foreign visitors as well.

MRS. ALEXANDER: Yes, but our own citizens are discriminated against.

MR. CAREY: I don't particularly like the reasoning that goes into that. If it was put in a way that "this shows how it operates" it might be something different.

MRS. ALEXANDER: I don't like the "many stories" because they are not stories, they are true facts. Couldn't you put the fact in that discrimination is against the American Negroes?

MR. ERNST: Rather than foreign colored people?

MRS. ALEXANDER: Yes.

MR. LUCKMAN: Do you feel, Mrs. Alexander, that this is really a basic point, this whole paragraph?

MRS. ALEXANDER: It is very basic. If I look like an East Indian I can go into the Statler and be served.

MR. TOBIAS: It leads to diplomatic difficulties, diplomatic incidents. Take the case of the Liberian minister, or the Ethiopian minister, they don't know who they are, they don't know

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who they are, they don't know them from American Negroes, and they have had trouble; the State Department is on the anxious seat always about that very situation.

MRS. ALEXANDER: And their families are afraid to go out; they sit in the embassies the whole time they are here.

MR. TOBIAS: I think it is a very important thing.

MR. WILSON: Are we on Galley 33 now? This paragraph that we have just been talking about the Staff is going to try to tone up to meet our objections.

DR. CARR: We have two inquiries we would like to make on 33. It has been suggested that in that listing of organizations the Federal Council of Churches be added just ahead of "and numerous Protestant social action groups". Bishop, is that the best inter-denominational body to mention?

MR. TOBIAS: I had that in my notes too.

BISHOP SHERRILL: Yes, I think so.

(Discussion off the record.)

DR. CARR: This is limited to national organizations. There is another important paragraph where we talk about the groups in the South. Do you think we should name them?

MRS. TILLY: Yes, I think we should name the Southern Regional Council.

MR. LUCKMAN: Are these all of the good national groups; are we sure of that?

DR. CARR: I think it is a reasonably complete list, as it stands, of the large national organizations.

(Discussion off the record.)

MR. CAREY: On the question of the merits I would like the opportunity of documenting the fact that the unions deserve a place within the list.

DR. CARR: I am not denying that at all.

MR. CAREY: But you did say that this is a complete list as far as you know of all the organizations that deserve a place there.

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DR. CARR: No, that isn't what I said.

MR. LUCKMAN: Mr. Chairman, I would like to have us give earnest consideration to the elimination of these names. We are asking for a hell of a lot of trouble throughout this report and I don't think we ought to do it needlessly. Here you are sitting around discussing some Southern groups, now, you are discussing sectional groups, and there surely must be other groups that deserve an equal place. I don't see what we gain by naming some of them.

BISHOP SHERRILL: I am in favor of leaving them out. Take the Federal Council of Churches, with which I am connected, there are groups beyond that, further, and if you leave out groups and specialize on these you are going to stir up a lot of opposition, and these are our friends anyway on this and I would be inclined to leave them all out.

MR. WILSON: All right.

MR. LUCKMAN: Leave out all names, national, Southern and everything, leave them all out.

MR. WILSON: Leave them all out, all right.

DR. CARR: We have found an additional fact that we would like to add down here in the third or fourth from the last paragraph on the page, "and the employment of more than three-score Negro teachers by twenty-five white or predominantly white colleges."

MR. SHISHKIN: On which page?

DR. CARR: 33, the paragraph that begins, "Similarly, one recent survey of Negro progress". That is a paragraph that has a sort of cataloging of various signs of progress. This point was well documented in a recent magazine article that lists the names of the institutions and the number of Negro teachers they have.

MR. LUCKMAN: Might I also ask your consideration of the elimination of the paragraph which starts out, "Most heartening of all these," the fifth paragraph.

MR. ERNST: Why do you want it out, Charles?

MR. LUCKMAN: I hesitate to take on all the other groups.

MR. ERNST: No, he is merely saying that it is peculiarly heartening because they are in the South.

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MR. LUCKMAN: That isn't what it says. It says in effect that the best of all are in the South.

MR. ERNST: I think you are right.

MR. LUCKMAN: It says that the "most heartening of all these are the groups in the South".

DR. CARR: Change the first phrase?

DR. GRAHAM: Say, "Most heartening is the fact that".

MR. LUCKMAN: Mr. Chairman, I still ask your consideration for the elimination of that paragraph.

MR. TOBIAS: I think it would be a mistake to leave it out.

MR. LUCKMAN: Is this Committee to take the position that the groups that work in the South are more courageous than the groups that work in the North?

MR. ERNST: I take it that it is going to be revised to indicate that we are most heartened by the evidence of the courageous Southern groups, and I think that is right down your alley.

MR. LUCKMAN: Then the other groups are not courageous.

MR. CAREY: Not as courageous.

MR. TOBIAS: Look at the number of times you have picked out the South throughout the whole statement for other than complimentary reasons.

MR. ERNST: I think all we ought to say is that the fact that there are most courageous groups in the South is most heartening.

MR. LUCKMAN: That is fine. But the way it is now I think every other group would be offended.

DR. CARR: We can do that.

DR. DICKEY: Has it been established that Frick will stand up behind that quotation?

DR. CARR: No, it hasn't.

DR. DICKEY: It would be absolutely disastrous if he ever washed out on you.

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DR. CARR: It would be absolutely disastrous for him. We considered checking it and decided finally that inasmuch as it appeared in a very reputable source, the New York Herald Tribune, and had never been denied, that that was sufficient.

MR. LUCKMAN: A first-class paper.

DR. CARR: I think there is one chance in ten million that Frick would take it upon himself to say it wasn't true.

MR. ROOSEVELT: Why can't we ask him?

DR. CARR: We can; we just didn't do it.

MRS. ALEXANDER: You can say, "as reported in the New York Herald Tribune", and leave the burden to them.

MR. ROOSEVELT: Let's not give it any favorable publicity. (Laughter) I am a very good friend of Whitey Reid, or maybe I should say that Whitey Reid is a very good friend of mine.

MR. ERNST: On the naming of specific organizations or corporations you indicate that the International Harvester Company has done a good job. Do you think they are the outstanding one?

MR. CAREY: I think when you have a condition where an employer or a corporation does an outstanding job, that there should be some mention of it.

MR. WILSON: It says "such business concerns as".

DR. CARR: One of the subcommittees heard a representative of the company who explained very fully what they are doing, and very recently in the New York Times there was a very interesting story about the firm.

MR. LUCKMAN: I just don't like to say that that is the one company, which is the inference there.

DR. CARR: It says "by such business concerns as".

MR. ERNST: And there must be dozens of them.

MR. SHISHKIN: It is virtually a monopoly when you say "by such business concerns as" and then name but one company.

DR. CARR: It isn't a case of where you are reaching out and picking one of ten that are almost on equal terms -- but you can

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take it out if you want to.

MR. CAREY: I thought it would help to eliminate the notion that all labor unions are bad or all labor unions are good, or all employers are bad, if you indicate that here is a company like other companies that does a good job, and put it in by name. I would hesitate, on the basis of a corporation, to say anything nice about it. But here is a case where I think that you can in good conscience say nice things about this company.

MR. TOBIAS: But there are other companies that would feel that they stand out equally as well.

MR. CAREY: Let's name them. I couldn't name a company that has overcome the difficulties that this one has.

MR. LUCKMAN: The Standard Oil Company has been written up ten times as many times as International Harvester, Standard of New Jersey. There are very few companies that have better employee relations and plans and benefits for their employees, and non-discrimination -- they have everything.

MR. CAREY: Nothing like International Harvester.

MR. LUCKMAN: Why say that this is the one of all of them?

MR. CAREY: All right; I withdraw any of these things I have said about any corporation. I don't like this class business.

MR. LUCKMAN: Just "business concerns" or "some business concerns".

MR. TOBIAS: There is a growing number of them.

MR. LUCKMAN: We are going to need a few friends when this is over.

MR. CAREY: We like to say that so and so does an unusually good job, and in this instance we did, and it happened to involve AFL and CIO operations as well, and we think the company deserves that kind of recognition which they would get by saying so, and for the CIO to say anything nice about a corporation is quite a struggle. (Laughter)

MR. WILSON: Is it really?

MR. CAREY: Yes.

MR. WILSON: That is a constructive statement.

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MR. LUCKMAN: I move its deletion, Mr. Chairman.

MR. TOBIAS: I second the motion.

MR. WILSON: All who favor deleting the name of International Harvester, vote "aye"; contrary minded. It is out.

MR. ROOSEVELT: I am abstaining.

MR. TOBIAS: Where it says, "A few other States and cities, as we have noted, have followed suit" --

MR. WILSON (Interposing): That will have to be changed.

DR. CARR: "Followed suit" was an unfortunate choice of words.

MR. LUCKMAN: Isn't this a good place to adjourn?

MR. WILSON: We were going to see if we couldn't finish Galley 34.

MR. LUCKMAN: I thought we were through with that.

MR. WILSON: If we are, then we can adjourn.

MRS. ALEXANDER: I guess they did follow suit in the field of fair employment practices.

MR. ROOSEVELT: It isn't limited to that; it is all civil rights status.

DR. CARR: May we ask everybody to take their galleys with them to their rooms? I don't know that it is entirely desirable to leave things in this room overnight.

MR. WILSON: Then we will adjourn now to meet at nine o'clock tomorrow morning, and if you are all here by nine o'clock we may be able to get home by tomorrow night.

(Whereupon, at 11:20 o'clock, p.m., the Committee adjourned until 9:00 o'clock a.m., Saturday, September 13, 1947.)

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MORNING SESSION -- SATURDAY, SEPTEMBER 13, 1947 -- 9:00 A.M.

MR. WILSON: We will come to order, please.

MRS. ALEXANDER: Mr. Chairman, may I make one request, that wherever possible, without giving the staff any additional work and where they already have documentary material on the Indians, that it be included in the manuscript? And I would suggest in such places as "Restrictive Covenants" on Galley 21, that mention be made of a citation which I do not have but I am sure the staff does, in which an Indian has brought action, in Los Angeles, California, and that the specific case be mentioned. Similarly, in housing, that the Indian be singled out as one who is denied an opportunity for proper housing, along with the American Negro. That would help overcome these 360-some cases Mr. Luckman spoke of.

MR. ERNST: It holds the theory up to ridicule a little more when you take the American Indian.

MRS. ALEXANDER: I may have been groggy last night and not seen it, but I see no reference now to the Aleutian Islands which seemed to me to be one of the sore spots in all of this.

MR. ERNST: I mentioned it as the Eskimo thing.

DR. CARR: Several members of the Committee have been over this ground who rather vehemently opposed this and the staff in writing the report tried to follow a middle policy on the Indians. There was much discussion and talk at Hanover about it, and I got the impression there that there were a good many members of the Committee who did not want the Indians stressed to any considerable extent, or to the extent it would appear that you have constituted yourselves a committee to study the Indian problem at considerable length.

MRS. ALEXANDER: I could not sit here without raising my voice for the Indians. If I were not represented on this Committee, I should hope there would be some citizen who would speak for me.

DR. CARR: My suggestion is, that in the light of the controversy existing here, you might wait until everybody is here. I would hate to put things in and find other members of the Committee rebelling against it.

MRS. ALEXANDER: I do not think there would be any objection to broadening the material on housing.

DR. CARR: No.

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MRS. ALEXANDER: For the other matters, I will wait.

There is just one other thing I would like to mention: I thought Dr. Graham was going to do this last night, and he did not.

On page 32, third paragraph from the last sentence, "A Negro is seldom accepted at the great hotels." I do not know what "great" means. I think it would be more accurate to say "A Negro is not accepted in the downtown hotels."

DR. CARR: Again, one or two members of the Committee specifically requested that it be put on this way, on the ground that there are exceptions.

MRS. ALEXANDER: If arrangements have to be made. You see you are not automatically accepted. I think that would be an accurate statement.

MR. ERNST: I would go further. I would say, "Hotels catering to whites" whether uptown or not.

DR. GRAHAM: The smaller hotels do not accept them.

MR. ERNST: In New York City, there is no hotel really open to Negroes, big, small, downtown, or anywhere.

MRS. TILLY: This is in the District of Columbia we are talking about.

MRS. ALEXANDER: I think we all agree that in the District there is no hotel which automatically accepts a Negro, and the only one admitted is one who has, through application, made the way clear.

In view of the fact that this Washington hotel situation is being carefully studied, I do not believe we can afford to do less than state what the facts are, because there is a national committee studying it.

The wording is "A Negro is not accepted at the hotels". This refers to Washington. (Continuing) -- "unless prior arrangements have been made."

MR. CAREY: That is a difficult sentence, because the reaction you get reading it is that it is because of insufficient accommodations. I think the staff might have a little leeway in that.

MR. WILSON: I think "special arrangements" would be better.

MR. TOBIAS: Either that or "as a rule not accepted."

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MR. WILSON: Did you have any others, Mrs. Alexander?

MRS. ALEXANDER: No, thank you.

MR. ERNST: What page are we on?

MR. WILSON: Page 35.

Please give Mrs. Alexander your attention at this time.

MRS. ALEXANDER: Before the Committee had fully assembled, I had raised the question of wherever the staff has documentary material on the American Indian, to supply it under such sections as "Restricted Covenants", feeling it would broaden our base, and as Mr. Luckman said, take off the 360-some references to one racial group when another is equally discriminated against.

I believe the staff does have or can easily obtain a very well known case in Los Angeles, involving an American Indian affected by restrictive covenants.

That would refer to page 21.

Similarly, that under "Housing", reference be made to discrimination against the Indian, compelling him to live in slum conditions to which the Jew in some cases and the Negro is relegated.

We did not anywhere mention the Aleutians, and we might well on page 13, or anywhere the staff suggests, mention the Indian in the Aleutians, who is under the control of the Fish and Wildlife Service, which has no knowledge concerning personal services which should be rendered these people, but is mainly interested in fish and wildlife.

MR. ERNST: You do not want more than just "mention"; you do not want elaboration?

MRS. ALEXANDER: No.

MR. ERNST: That would include the Alaskan Eskimo?

MRS. ALEXANDER: Yes.

MR. ERNST: It seems we should not be silent on that.

DR. GRAHAM: How about the Indian's right to vote?

MRS. ALEXANDER: I think we have that somewhere, but we do not mention his rights as a veteran, do we, to receive the same benefits

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that other veterans do?

DR. CARR: I do not believe we have any documentary evidence that they are not being observed.

MRS. ALEXANDER: Mr. Nichols testified to that. I remember his testifying that they could not get loans the same as other veterans.

MRS. SADY: We have the loans under public service.

DR. CARR: What do you want to say?

DR. DICKEY: They could not get loans because they were people being kept by the Government. It was not because of any discrimination against the Indians. I feel we have no business going into grievances, however worthy the grievances, if not related to some right accorded all other citizens, other individuals. If that is not accorded to him, it is because people believe he is receiving a bounty, and that is a case of faulty information in the Government but not a case of denial of individual civil rights, in my opinion.

MRS. ALEXANDER: Your civil rights are denied.

DR. DICKEY: Mrs. Alexander, as far as there is a definition of civil rights sufficiently precise for me to understand it, I think every individual's civil rights are denied in that sense ten times a day, because of misunderstanding as to the facts of life in some respects, but not due to prejudice because the individual is an Indian.

MR. CAREY: Mr. Chairman, that is putting it on an extremely narrow base. The Indians are considered wards of the nation. The Indians are not permitted to establish themselves as adult citizens. They are put into a category, the same as the Negro, the same as any other group, where we feel they are inferior people, and that is the question we are considering. The Indians are denied the same rights and privileges as others.

MR. ERNST: On Galley 24, it is explained.

DR. DICKEY: I think it is a matter of concern for this Committee, but I think we should not go into the whole question of the treatment of Indians.

MR. ERNST: I think we have on Galley 24, sufficiently to add this one frill that Mrs. Alexander and others propose.

The staff informs me that that is true. All you want to do is add something on 24 to what we already have, Mrs. Alexander?

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DR. CARR: Just how far do you want to go in charging some wrongdoing?

MR. ERNST: As I understand Mrs. Alexander's point, when the denial of certain other services have arisen, she would also add the services under the G.I. Bill. I do not believe she wants more than that.

MRS. ALEXANDER: No.

MR. WILSON: Paragraph 4 really gives you the opportunity. At the end of paragraph 4 is where it is.

MRS. TILLY: They took that all out yesterday, because it refers to the Farm Security.

DR. CARR: We just took out the reference to the Farm Home and not the rest of it.

MR. ERNST: Does that satisfy you, Mrs. Alexander?

MRS. ALEXANDER: Any place where we have documented information we should add it, to broaden the base of it.

DR. CARR: Of course, in the way one of the best illustrations of that is that liquor thing that was brought in yesterday. There is a case of clear discrimination.

MR. LUCKMAN: I feel perhaps the responsibility for part of this discussion, inasmuch as I was the one suggesting that we give serious consideration to the attention paid to the various minorities as indicated by the various total mentions of their problems. There are two ways to handle that situation, if the Committee believes that it should be handled. One is to superficially mention a number of other minorities, and the other is to dilute the emphasis on the one minority.

I am not suggesting that we eliminate some of the issues which have been raised, pertinent to the Negro Race, although I, as an individual, think that some could be eliminated in this report and do more good for the Negro Race than the inclusion, but that is a personal opinion, and one that I am not suggesting that this Committee consider. However, I do urge strongly, that in our desire and my desire to properly attest our interests in other minorities, that we do it on a sound, sensible, clearcut basis and not just a mention for the sake of a mention.

MR. CAREY: I agree with the previous statement. I think however that we might find a better example of the Government's

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indictment of the Indian as an inferior group. I have no particular objection to it, because it is an indictment that the Indians are children under this prohibition. It is not just the fact that they cannot hold their liquor; it is more than that. It is an indictment of their ability in self restraint. It says that our Government must set up special provisions to prevent the sale of liquor to Indians.

MR. WILSON: Is not this Los Angeles case one, Mr. Carey?

MR. CAREY: The point I am attempting to make is the fact that there is the condition which does exist.

My own experience is that there are others in our community who can not handle our liquor. We had an experiment in the country, and we decided to remove it, except for the Indians. It is not just the idea of mentioning them. I think this question has to be treated. I do not like the idea of setting up an accounting sheet and saying so many mentions of this group and so many mentions of that group, and then trying to fill it out on that basis, but if the thing is well treated you do not need to do it on the basis of additional mentions, but because it was not the best example we could use, does not mean we should strike it out without substituting something for it.

MR. WILSON: I think we all go along with that, Mr. Carey, but let us keep it on a ground in consonance with the efforts of the Committee. If we do it on the housing ground, and the Indian has been discriminated against with respect to his G.I. Rights, would that not be sounder ground for us to barge in on it rather than the question of liquor? We do not have the background dope on it, I do not believe.

MR. CAREY: I do question the reason behind, finding the Indians guilty of being an inferior group and then saying they purge themselves of their crimes by their service in the war, and the other notions I get out of that idea. Because they're GIs, Negroes, or Japanese descent, or some other group, they have purged themselves of the crime by proving their patriotism.

It is distasteful to me.

MR. WILSON: Are we saying that, Mr. Carey?

Where do you get that impression?

MR. CAREY: It comes from one of the suggestions made that the GI has certain rights and privileges as a veteran.

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MR. WILSON: In dollars, the same as any other veteran.

MR. ERNST: And the Indian is discriminated against, and we do not believe he should be discriminated against. I think we would all back that up.

MR. CAREY: That is correct.

Now, my point is I would like to see some other examples used that point up this collective guilt our society has directed against the Indians.

MR. WILSON: With respect to the liquor question, or generally?

MR. CAREY: I mean some substitute for that.

MR. WILSON: I think the housing thing gives you that. I think he is discriminated against terribly on housing, and we have a case, as I understand it.

MRS. ALEXANDER: Mr. Carey, what about his inability to hold property and own it collectively?

MR. CAREY: I am attacking the whole reservation. It is something perhaps that is too big.

DR. DICKEY: It is a place where this Committee probably ought to say that it believes the status of the Indian in American society should be the subject of a thoroughgoing investigation by people who do not hold vested interests in the subject either by office holdings, or otherwise.

MR. ERNST: I will second that motion.

MRS. ALEXANDER: That is right. Would that be a recommendation?

DR. DICKEY: I will make it a motion.

DR. GRAHAM: I will second the motion.

MR. WILSON: Very well. Now, if you will turn to 35.

MR. ERNST: I have but one minor comment that lawyers will pick up in the third paragraph from the bottom. "Similarly, interference with the right of a qualified citizen to vote locally cannot today remain a local problem, if indeed under our Constitution it ever could."

I would like to see the "if indeed" from there on stricken out. I would like to strike out the observations as to whether or not

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it could have been under the Constitution. It falls in line with something like what Dr. Dickey mentioned the other day.

DR. CARR: You want the qualifying clause to come out?

MR. ERNST: Yes.

MR. WILSON: Are there any objections? It is removed.

Is there anything else on that page?

MR. SHISHKIN: Almost in the middle of the page it says, "We cannot afford to delay action until the most conscienceless community had learned to prize civil liberty." I wonder if that should be rephrased. I believe it should be "backward" or "misguided" or something like that.

DR. CARR: Let us make it, "backward".

MRS. TILLY: That is rather bad.

DR. CARR: Well, there are backward communities.

MR. SHISHKIN: I think we are making a mass accusation on moral ground in terms of that kind of vocabulary with the necessary emphasis. I think the whole community can be considered as being backward.

MR. WILSON: Will you accept "backward"?

All right.

DR. DICKEY: Mr. Chairman, I have a comment which goes to the general tenor of this entire situation in this entire section that perhaps could be taken care of easily, and more probably, I think perhaps the majority feel other than I do about it.

I feel we get off on the wrong foot as far as getting general acceptance of this report is concerned, and you get off as far as any general hunches are concerned, in placing so much emphasis on the national government's approach on this problem. I think there are places where the national government must act, and in those areas we specifically say it should act, but I, for example, decidedly disagree with the statement, and many others in the field of civil rights disagree with the second sentence, that we believe that is the most important single observation that can be made about the civil rights problem in our country today. That is the second sentence on Galley 35.

I do not for a moment believe that. Up in the first sentence,

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I think if it is to stand that way it should at least be qualified to state "must take the lead in safeguarding the civil rights of all Americans wherever it properly can".

That may be regarded as a weasel phrase, but I do not believe we will get this report off to a very good start unless we indicate that we do not expect the national government is just going to legislate away the civil rights problems of America.

MR. ERNST: Mr. Dickey, I can say that this touches on the point I made yesterday. I think the philosophical weakness of the report is that we are not really faced up to the vitality of the government, of the people, and the States' rights, Federal duty problems throughout. I may not agree with Dr. Dickey as to the ultimate solution, but we straddled it, very frankly, and in the recommendations that the States do so and so, I think it is a little unfair of us to report to the President of the United States that the States should, without saying, "We call upon you to call on the Governors of the States," or something. He is powerless on the State actions we propose. We are making a report to him. My purpose may be different than that of the rest of the Committee. I think it is high time that we take as a Federal duty, the establishment of a Federal pattern of civil rights, as we have the rights of counsel and free speech and other matters in the field.

However, look on the next galley, in the second paragraph: "Safeguarding civil rights in these areas, it can protect several million people directly and encourage the States and local communities."

I think we ought to implement it somewhere if we take it up, as to suggest to President Truman how this should be done. I would go the whole hog and say that it is the duty of the Federal Government to prevent discriminations, but you are faced with the question of lynching and murder, and you would not need an anti-lynch law.

MR. CAREY: I think as it stands now, it is qualified sufficiently. I would go further than this statement. I would say instead of "safeguard", that the Federal Government shall guarantee the fulfillment of the Bill of Rights.

MR. ERNST: And it is a right of national citizenship we are talking about.

MR. CAREY: This merely says the national government shall act in the event the State governments fail to act. "Safeguard" is the qualifying word in the sentence, but I do not believe it goes far enough. I think it should say, "The national government of the

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United States should take the lead in guaranteeing civil rights of all Americans."

MR. ERNST: We have taken the position that the Government should act where the States fail. In other words, on the lynching problems, which is the most simple.

MR. CAREY: We at least go as far as this goes when it says in the event the community or the State Government fails to act in the protection of civil liberties of a citizen, that the Federal Government shall act. It merely says, in the event of abuses, to safeguard.

If you are going to write it stronger, you might do that, and I will agree with it, but if I understand correctly, Dr. Dickey's remark is that this already goes too far. I do not think we are sitting here with the purpose of reviewing whether or not the President has accomplished all of the purposes with his powers. I think the biggest issue is that the powers are insufficient on the part of the Federal Government which deal in this field and a new concept must be recognized. I might say a fundamental concept of our Federal Government in this field of civil liberties.

DR. CARR: Would it help any to take out the second sentence?

MR. LUCKMAN: I would like to go along with Mr. Ernst. I do not think we should take our time now quarreling with a sentence here and there. I think we are straddling the issue and should decide which side of the fence we want to sit on. Whether we want to be for the Federal Government over States' rights or condemnation of Federal leadership without recognizing States' rights. I do not think there is any area of compromise between the two positions.

MR. CAREY: I think if it is put in this way, that there are a few sentences leading into a quotation of the President where it states that the Federal Government shall be vigilant in defending the rights of all Americans, on the basis of equality.

If the President was wrong when he said that, we ought to take issue with him, but I think that is consistent with the President's quotation, and I think the President's quotation is a proper one. "The rights of all Americans."

MR. LUCKMAN: That is over States' rights?

MR. CAREY: It is not over States' rights. It says our Federal Government should show the way.

MR. ERNST: Let me make my position clear, because I have

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thought about it for so many years. I think there are certain patterns which the Federal Government can lay down; and we have only recently said that one is the right of free speech, and the other the right of counsel in criminal cases. We are increasingly laying down patterns where the States must meet those standards.

I think everything dealt with here falls into that category, and they are rights of national citizenship. This thing of national citizenship, for example. I would like to see the report otherwise, but I do not think you can change it now.

MR. LUCKMAN: Just educate me for a moment, then, because I am confused on something: If we take the position as a committee that national citizenship entails and carries with it certain benefits that must accrue to all and that it is the responsibility of the Federal Government to guarantee those rights to all people --

MR. ERNST: (Interposing) And to see that the States do not cut them down.

MR. LUCKMAN: Yes. Then why, in this field of education, are we not forced to take the position that the Federal Government must contravene the laws on segregation which do in fact deny the rights of citizens to attend any school they wish to attend.

Does it not follow that we must do that, that we must recommend the Federal Government change its Constitution, if necessary, so as to have the ability to override any State constitution?

MR. ERNST: I am for that, and the courts, I might say, are constantly doing that.

MR. ROOSEVELT: You are right, and I am for it, too, but I think to avoid our getting our heads really in a noose, there is a limit beyond which this Committee cannot go, and we have already decided that we will not go as far as recommending full Federal jurisdiction in that special field of education and segregation.

MR. LUCKMAN: Then we are straddling the fence.

MR. ROOSEVELT: No, we are coming up to a point. 15 or 20 years from now we will all be in agreement, because the situation will change more. We will have grown some more. However, we are coming up to a point where it is moving down the road.

MR. LUCKMAN: I am a great admirer of progress, but just for clarification, we cannot do what Mr. Carey suggested.

MR. CAREY: I say I am a defender of this, as it is written.

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MR. LUCKMAN: I thought you wanted to change "safeguard" to "guarantee".

MR. CAREY: No, I am defending this report against a weakening process of Dr. Dickey, by saying I would like to see it go beyond this, but I am willing to accept, because it is in fine keeping with the statement of the President.

DR. CARR: If I may say so, respectfully, I think the discussion has departed somewhat from the language of the report.

On page 36, beginning with the third paragraph, after this point has been made that the national government must take the lead, there is a thoroughly detailed statement of how the States have a very important role to play, too, and that much must be left to the States.

Then, following that, the paragraph: "Furthermore, Government action alone, whether Federal or State, or all combined" -- they cannot take care of the whole problem. There must be private efforts as well.

MR. LUCKMAN: May I call your attention to the middle of page 35. There is a paragraph starting out, "Third are civil rights", and the second sentence, "They can not be left to Government at the local level for proper recognition and action."

That is contradictory to the point you have been making.

MR. ROOSEVELT: This is a part of the straddling process.

DR. CARR: I think that must be reworded.

The idea in back of that was simply that since they have international implications, we cannot leave it entirely to the States to be worked out. Insofar as there is an international issue, the national government must assume responsibility, but I agree the sentence does not say that.

MR. LUCKMAN: I think you just said it when you put in the word "entirely".

DR. GRAHAM: We must be careful we do not frighten the American people with the idea that we are going to concentrate everything here in Washington.

MR. ERNST: If I had it my way, I would have come out historically for the need of local vitality, and the only place the Federal Government comes in is in a negative sense, to see that certain

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standards are met and that in every case it goes to race, creed and color.

MR. LUCKMAN: Dr. Graham certainly has a point. One of the things is the continued encroachment on what are their local powers and rights.

MR. CAREY: That is all right, if you say that the United States Government is seated in Washington, and that is the Government.

My notion about the Federal Government is one running a little beyond that. I think the Government is the people of the United States.

MR. LUCKMAN: We are just talking amongst ourselves.

MR. CAREY: I will move the adoption of the first paragraph on page 35 as it stands.

MRS. ALEXANDER: I second the motion.

MRS. TILLY: Including that second sentence we have been discussing?

MR. CAREY: That is right.

MRS. ALEXANDER: I second the motion.

DR. GRAHAM: I do not know that I can agree with that second sentence, just as a fact. I have no particular objection to it, but I do not want to say something that I do not actually know as a fact, and I do not know that the second sentence is a fact.

MR. ERNST: Will you agree, Dr. Graham, instead of safeguarding civil rights, will you agree if we said something to the effect of laying down minimum standards of decent behavior against discrimination?

MR. WILSON: Would you agree to saying "One of the most"?

DR. GRAHAM: I would say "One of the most", yes.

DR. CARR: Change the second sentence.

MR. CAREY: It is my notion that the President has taken the leadership. If someone can tell me that the people in some particular State have assumed the leadership for safeguarding the civil rights of the people of this country, I would like to hear about it.

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MR. LUCKMAN: The point of Dr. Graham is that the second sentence in that paragraph is a misstatement of fact. He does not believe that the leadership of the national government is the most important single phase of civil rights; nor do I. He wants to change it to "One of the most."

MR. SHISHKIN: I wonder if we could not get around the difficulty by changing the sentence to say "This" instead of "We believe" and stating it directly and saying, "This responsibility is of foremost importance with regard to civil rights problems in this country."

MR. ROOSEVELT: "One of the most", we should settle for. It is the same thing.

MR. CAREY: Might I clear it up by withdrawing my motion?

MRS. ALEXANDER: No substitute, with the exception of "one of the most".

MR. WILSON: Are you satisfied with "one of the most" or not?

MRS. ALEXANDER: Yes.

MR. ERNST: Yes.

MR. WILSON: Will you accept that in your motion, then?

MR. CAREY: I will not be able to go that far. It will not be in my motion, but I will go along with it.

MR. ERNST: I will make the motion.

MR. TOBIAS: Is there any reason why "national" should be there? It is not in the heading.

MR. CAREY: I think that is just consistent with the President's statement.

MR. TOBIAS: I would rather say "Federal Government".

MRS. TILLY: The President uses it either way.

DR. CARR: The Government of the United States is a good phrase but it is ambiguous. Common terminology is either "National Government" or the "Federal Government". Just say "The National Government must take the lead".

MR. WILSON: There is no objection to it. I will not put it to a motion.

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DR. CARR: We have good constitutional authority to tell us it was Justice Holmes rather than Justice Brandeis who originated the 48 State laboratory phrase. I think both Justices took it up and used it repeatedly in their opinions. We will check this further.

MR. WILSON: Are there any other comments on page 36?

MR. LUCKMAN: Mr. Chairman, I have just an observation on a point that is going to be rewritten: In the next to the last paragraph on page 36, the paragraph starts out, "The Committee rejects the argument that governmental controls are themselves necessarily threats to liberty."

The first time I read this report it seemed to me that that was a contradiction to our point on the Loyalty Order where we seemed terribly fearful that the Loyalty Order was itself going to contravene the rights of people, and I am just bringing up the point because I think this statement is correct. I agree wholeheartedly with this statement, and in the rewriting of the Loyalty Order we must be careful and be consistent with this view.

I make that as an observation.

DR. CARR: There is nothing in the Loyalty Order section that says we think the Government is inevitably going to mistreat civil servants. It is a discussion of a possible abuse that might take place.

There is nothing inconsistent between saying on the one hand that the Government control is not necessarily a threat to individual freedom, and yet turning around and saying that governmental power may be used in an abusive way.

That is one of the great paradoxes of government, that you must have government, you cannot get away from it, and it is not necessarily going to curtail the freedom of the individual and indeed only through governmental action can freedom of the people have much meaning today.

Yet on the other hand, undoubtedly governmental power can be abused and there must be a constant watch set in a democratic society, lest governmental power be abused.

MR. WILSON: Is there anything else on 36? Are there any other questions?

We will accept 36 and we are now on 37.

Are there any observations concerning 37?

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DR. CARR: Beginning at the very bottom of the page and extending over to the next page, we have a reaction from the White House. I might say we submitted the report to both the White House and the Department of Justice about two weeks ago. The White House reaction, through the President's advisors, was that they liked this section very much. This section on governmental responsibility is the section to which I refer. They think the material at the bottom of the page, page 37, and the top of page 38 is very important, but as it stands it has been stripped down too much and should be expanded a bit and put into layman's language, a little more than it has, so that this enumeration of constitutional bases will take on more meaning for the average reader.

MR. ERNST: More or less as you did in No. 5?

DR. CARR: We can do that. We were working on it. I would have in mind not allowing it to grow unduly long.

I do not think it is necessary to have more than a very short paragraph following each one of these items, making it a little clearer than it is now.

MR. ERNST: On page 38, will you put in the name of the case when you refer to the Federal Circuit Court?

DR. CARR: Yes, I have that note.

MR. WILSON: That is on page 38.

MR. ERNST: Yes, that is a part of the eleven points.

DR. CARR: In moving to 38, one authority on treaties to whom this particular section was submitted, suggests a slight change in the paragraph beginning "The United Nations Charter".

John, what do you think of this? "The United Nations Charter, duly ratified as a Treaty after the Senate voted its advice and consent."

DR. DICKEY: No, I do not think so.

MR. ERNST: The point here was raised in one decision in California where the Judge based his decision in a restrictive covenant case.

MRS. ALEXANDER: That was Canada.

MR. ERNST: There was one in Canada and it was followed by one in California.

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MRS. ALEXANDER: We did mention the Canadian case.

MRS. WECHSLER: That was in reference to the public policy of Canada, as expressed in the Treaty.

MR. WILSON: There are no other questions about 38?

MR. ERNST: On 39, I again revert to my original opinion on the State-Federal thing. In the paragraph near the top, it says, "We wish to emphasize the program of action"; I think we are needlessly putting into the Federal situation the State things. When we say things preventing the State's behavior, it is a preventive action we are talking about, that no State may do something.

We leave the impression that the Federal Government will butt in on it.

MR. STEWART: When there is State inaction in the protection of a right, would you then agree that the Federal Government has to act?

MR. ERNST: Yes. That is the thing we have ducked. We have ducked the issue, whether there is no State power or no State action under the power.

Every State has the power to convict for murder. You are raising two questions in effect, which we have just evaded. One is, if there were no murder laws, should we have a lynch law, and two, where there is a murder law and they do not act, should the Federal Government go in, and the third point is, should the Federal Government go in, even if the State would be ready to act. Should it go in first?

I think it is too late for us to do anything about that, but that is a basic fight on every bill in Congress. I have stated enough where I stand on it and I do not recommend that we try to revise the thing.

MRS. ALEXANDER: How would you reword this?

MR. ERNST: Wherever we talk of Federal action, I would say what we mean in a way, that we mean that the Federal Government, in the main is creating a standard or preventing State action in deprivation of these rights.

In the main, we are interested in cutting down the States, so that the Federal Government can cut down their powers to act in a discriminatory pattern.

MR. SHISHKIN: Would you say, "Wherever standards or safeguards

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are not provided by the States"?

MR. ERNST: No, even if they have them provided, they do not act under them.

DR. CARR: You would have to say that you do, Mr. Ernst, in the main.

MR. ERNST: The staff may do as it pleases. All I am saying is "action of the Federal Government" needlessly goes beyond at times what we want.

MRS. ALEXANDER: Could we say "We wish to", and so forth, where there is a deprivation of civil rights?

MR. ERNST: We have done it in the free speech parts for the last 20 years.

DR. DICKEY: I do not like getting into the argument at the very top of Galley 39 on interpretation of the United Nations Charter. I hardly think that is for us. My suggestion would be to knock out the first sentence and the first word of the second sentence. Then down in the last line say "an even stronger basis for congressional action under the treaty power may be established."

It will depend on what does come out of the International Bill of Rights, and I do not believe you can say with certainty that what comes out will be established, because it will depend on how they write that bill, which they are very much in disagreement about.

They may very well write a bill which may by-pass the treaty power.

DR. CARR: I have followed this very closely. This may be of interest to the Committee: Several months ago, Mr. Wilson was invited to designate a member of this Committee to become a member of the Subcommittee on Human Rights of the federal government International Social Policy Committee. It is a committee which was set up in effect to determine the National Government's position, in the international social policies that develop, and this Committee on Human Rights has been providing Mrs. Roosevelt with information and advice with respect to the work of the Human Rights Commission.

We have had repeated meetings and gone over the Declaration of an International Bill of Rights which is taking shape, and now the proposal for a separate convention.

Mr. Dickey is correct that there has been a considerable

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difference of opinion. It has not been resolved yet. I personally felt that some of the representatives of the State Department were taking an extremely conservative position on this issue, and the effect upon the constitutional problem. If we get a treaty, the doctrine of Missouri v. Holland is pretty clear and it will take a lot of explaining away to destroy the power that we try to suggest here at this point would come into being as a result of the treaty.

However, I agree with Dr. Dickey, it is not necessary to overstate it.

MR. WILSON: We do not weaken it to any degree by following the suggestion there, do we?

DR. CARR: No.

MR. ERNST: I will second the motion.

MR. WILSON: Is there any objection? In that case, we remove entirely the first sentence on 39 and strike out the word "moreover". Was that correct?

DR. DICKEY: That is correct, and the addition on the end, "may be established" rather than "will have been established".

MR. WILSON: We will go to 40.

MR. ERNST: Mr. Chairman, there is no specific mention made in the report to the two tools which are the most important, in my opinion. That is that there are two civil Federal statutes, one of them against Government officials and the other against private individuals, which can be used to protect civil rights. One of them I had some experience with, with a buccaneer by the name of Frank Hague. It is my own judgment they are the great tools of the future and they are Federal tools.

I understand they are going to be specifically mentioned, the statutes, to which I think the Committee will agree.

DR. CARR: I think that is a wise suggestion.

MR. WILSON: Any objection to the inclusion of those items?

The staff is cognizant of the specific items and will include them, unless you have objection.

We will next proceed with No. 41.

MR. ERNST: May I just come back a moment. There is one thing

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I overlooked on 40: In the same level I mentioned "meager" up above. When you get to the final solution, I doubt if I really believe, in the paragraph starting Section 52, and it is down a little past the middle of the page, it says "Since 1939 these laws have all been employed by the Civil Rights Section and have served as useful tools in the development of a more comprehensive civil rights program."

It is my personal suggestion that although useful, they are inadequate, and we have so held elsewhere.

DR. CARR: There is a certain inconsistency there.

MR. WILSON: If there is no disagreement, it will be changed accordingly and we will proceed with 41.

MR. ERNST: I would like to see if we can get some statement of the meager few dollars that are voted or allocated towards the civil rights unit.

DR. CARR: I recall when I made my own study a couple of years ago, I tried to get the figures and their budget is not broken down. They regard it as a part of the Criminal Division and about all you could do is figure out how many secretaries they have and how many lawyers and note the salaries paid to them and try to construct it roughly.

MR. ERNST: Where we say there are seven attorneys, that is out of 1700 in the Department, or the salary of the total seven is pennies compared to the total.

DR. CARR: You could make a rough estimate.

DR. GRAHAM: What is your suggestion there?

MR. ERNST: If we can get any dollars, in connection with insufficient personnel we can show maybe as we have tried to show, only seven employees somewhere, we can say "Out of 2800", and then we could say "The total salaries are only \$72,000, out of a total appropriation of \$19,000,000." I think it is a way of selling the bill of how meagerly we are treating these divisions. If you can get it I think it is a very telling point.

MR. WILSON: Is there anything else on 41?

MR. ERNST: There is one other thing, Mr. Chairman: "The Committee has found" that very few cases show that we have done something. I think we could say relatively few cases have been prosecuted.

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MR. LUCKMAN: I have the same thing marked, but from a little different standpoint. I would like to come back after we finish page 41. I think there is a double implication there of criticism. I go beyond that, to what you were talking about on the preceding page.

MR. ERNST: Anybody can find it, and I think the only thing we can say is "Relatively few cases have been prosecuted."

DR. CARR: You can say that if you want to. The point can be documented as thoroughly as any fact found in the report.

MR. ERNST: I do not say it is wrong that we found but few cases, but the impression that we found something. Everybody found it.

MR. SHISHKIN: I think it would be better to say relatively few have been found because of the insufficient personnel.

MR. ERNST: I do not like the style of saying we found something. It is a matter of anybody finding it. The implication is that we did a smart job in finding it.

MRS. ALEXANDER: I do not see that.

MR. SHISHKIN: Relatively few cases have been prosecuted due to insufficient personnel.

DR. CARR: I do not get Mr. Shishkin's suggestion.

MR. WILSON: Will you state the wording you propose again?

MR. SHISHKIN: Commenting on Mr. Ernst's suggestion concerning this, I would say "Relatively few cases have been prosecuted, due to the insufficient personnel of the section."

DR. CARR: Except it is only in part the result of insufficient personnel.

MR. LUCKMAN: Then I think we must come back after we finish page 42, perhaps.

This I take to be a criticism of the Department?

DR. CARR: Absolutely.

MR. WILSON: Why do we not leave it, if we are going to come back to 40 and 41 on this point? Why not go right over to page 42, and have that one finished?

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MR. ERNST: I would like to know if any subcommittee of this Committee looked at the evidence that leads to the conclusion of serious criticism on 41, and serious shortcomings. I know the staff has gone over it, and I want to know if any committee has gone over it and then given an opportunity to be heard by people of the Department as to charges.

MR. LUCKMAN: I think we are to start that point on the bottom of page 41. I may have missed that meeting at which the Committee agreed with the evidence of the results of the indictment of the United States Attorneys.

MR. ERNST: I have no doubt that anybody can go through the files of our Committee or the General Electric Company, or any place else and find some isolated cases.

Has the Committee been given a chance to look at them?

Number 2, I ask whether that is a fair conclusion.

Assume we find that in all those cases there has been dereliction of some kind. Is it a fair conclusion to indict general work? Is it enough of a pattern?

In the third place, in some instances, I raise the question whether it is a helpful way of improving the prestige of the Department.

DR. DICKEY: I am all with your comment, but it seems to be rather late to bring it up. We have certainly indicated, everyone that I know in the United States of America, as near as I can make out, without asking them any questions in a specific hearing, and I would say the Department of Justice was expressly invited in to testify at one hearing where I was present.

MR. ERNST: Let me say this, that I see a great distinction myself when it comes to saying that John Jones has done a lousy job in the Government, and saying the American people are stinking in their relations to their attitude.

DR. CARR: Do we want to argue the procedural or substantive question first?

MR. ERNST: I do not care. In the indictment I want names, and we do not give them as to the attorneys, and I want to know whether we have heard the answers of the attorneys.

DR. CARR: Let us separate it into the procedural and substantive arguments. On the procedural side, I think what you are

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saying suggests a rather unrealistic view as to how this Committee has operated. It had three subcommittees which held hearings and listened to various people.

As Dr. Dickey has said, as far as we have listened to anyone directly, the Department of Justice has been listened to. Subcommittee No. 1 had several sessions where it listened to the Assistant Attorney General in charge of the Criminal Division. Mr. Clark and Mr. Hoover were also heard by the whole Committee. There is no use dodging this. The Committee has not been able to function itself as a trial jury or a Board of Review which has sat and listened to representatives of the South and determined whether it could be fairly said that the South permits lynchings to take place. It has not heard representatives at many points along the way. As we have tried to say in the introduction, we have drawn on the accumulated mass of evidence available. We have submitted written inquiries to all sorts of Government agencies and received their replies. The staff has been directed both by the Committee at large and by the Subcommittees, and Subcommittee No. 1 did specifically direct the staff to go into the Department of Justice and make a careful study of the files in the Civil Rights Section. That was done.

You now have before you the findings and in part you are being asked to approve the work of the staff, and the findings of the staff as made in its studies. The staff accumulated information from books, Myrdal's study, Government records, and all sorts of things which have come into our files.

At this late date are you going to throw out everything that has not resulted in direct intensive inquiry by the Committee itself?

MR. ERNST: I do not intend that at all. It is a gross misstatement on my position. When it comes to the philosophically abstract subjects and the general subject of lynchings, that is one thing. But I am saying I am unwilling for one -- I do not care what the time element is, it is never too late for me -- to see that the man we are charging with malfeasance in office has had a proper hearing. Upon that you cannot disagree.

DR. CARR: A few weeks ago we did submit the report to the Department of Justice. I have never had a word from the Attorney General. He has been absolutely silent. We have had repeated conferences since then with people in the Civil Rights Section and people in the F.B.I. We are ready to report on those conferences as soon as you want to get into the substantive side of it.

To say these people have not been given a hearing is not

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correct.

MR. SHISHKIN: I would like, to say, Mr. Chairman, that it seems to me that the special procedure suggested here by Mr. Ernst would be entirely uncalled for.

It seems it would be a dereliction on our part to withhold the kind of a comment that the members of the majority of this Committee feel strongly about.

MR. ERNST: Let me ask you this: Are you convinced that the delays in that particular case, or delays in many cases, I take it, have had a fatal effect upon the prosecution?

MRS. ALEXANDER: Yes.

MRS. TILLY: Yes.

MR. SHISHKIN: We do not even go so far as to say that.

MR. ERNST: Yes you do: "These delays are very serious, for they often have a fatal effect upon the prosecution of cases."

If we are going to attack an attorney I want him named. If an attorney has expressed doubts, and was wrong as a lawyer, I wonder who that man is.

If we have a charge against an individual in this report, Government or otherwise, and we have not mentioned his name, I want to change my vote.

DR. DICKEY: Let us go back all through the report and look at what we have done in kicking the War Department around.

MR. ERNST: In mentioning the War Department, you say "a Government agency".

DR. DICKEY: We say "the Marine Corps", or whoever it is.

MR. ERNST: Yes, we mention them.

DR. CARR: If there is any failure to identify, it can be done quickly, if you want it done.

MR. CAREY: I am ready to identify them.

DR. DICKEY: I am not interested in the particular merits of this matter, but I am interested in the question of procedure. I have complained at least a half-dozen times about the way we have

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been going about these things and have never had any support from anyone else in what I have spoken about.

I never heard you, Mr. Ernst, raise your voice about the kicking around of the Marine Corps and the Coast Guard Academy and the War Department, and the F.H.A.

MR. ERNST: I will tell you why; it seems when you are doubting a department you have specified the department. If we could have pinned it on Bob Patterson in the Army, I would not have objected, if you find an order on Bob Patterson, but it seems to be an indictment of a department.

Here we mention everything anonymously, such as attorneys in the field. If we find the fact is true that they have had a vital effect, let us name the so-and-so right in our report.

DR. CARR: This Board was not set up as a Board of indictment and this was to make representations for improved machinery. I think the Committee would be going out of its way if it singled out F.B.I. agents by name. I think it is unnecessary. I think all that is necessary here is to provide enough evidence to show that there is, in some way, or at certain points, inadequate machinery or inadequate procedure for the full safeguarding of civil rights.

MRS. ALEXANDER: Mr. Ernst, on page 42, at the top, do you want to name all the United States Attorneys who extend cooperation?

MR. ERNST: No.

MRS. ALEXANDER: Would we not have to?

MR. ERNST: No. All I am saying is when a human being is being attacked in a report like this, not a department, we are saying "A man did not do his duty", and I want for myself to say "John Jones is the guy".

MR. ROOSEVELT: When you say "Certain hospitals in the District of Columbia", or "Certain denominational hospitals in the District of Columbia failed to take in emergency cases", is that what you mean?

MR. ERNST: I wish our staff could name them, and the only reason we did not was because we were not sure we had the right ones or not.

MR. ROOSEVELT: If you have three attorneys who had a disastrous effect on some cases, you must go through the whole thing and name every single one who ever had any disastrous effect.

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MR. LUCKMAN: I am a little confused on one thing and that is, I was present when the Attorney General, Mr. Clark, testified, and Mr. Hoover testified, and I believe I have read all the Subcommittee testimony. The note I made on this, before I attended this meeting, on this draft, was merely a note of surprise, that it seemed to me that nothing I have heard in any way led to this general indictment.

I wonder if we should consider that first before we spend more time on this really big issue, if there is to be an indictment should we name the individuals involved. There is a serious question in my mind. It seems to me it is written in the spirit of intending to indict the Department. If that should be done, all right.

Another reason I think it is written in that spirit is that this subhead we have been quarreling about starts out, Number 3, with the italics heading "Inadequate Cooperation by United States Attorneys".

That is a slap straight statement. Now later on it is qualified. It says specifically on 42, that some U. S. Attorneys have done a good job and some have not. It seems to me that that illustrates that the feeling of the staff was that we should indict the Department.

If that is correct, if the facts warrant an indictment of the Department, I will naturally vote for it. If the facts will not warrant that, then I will not vote for it.

I think that what we need to do, in essence, is to evaluate the total work that has been done by the Department of Justice and the F.B.I., that is -- Is the vast majority plus, or the vast majority minus? If it is the vast majority plus, let us clearly start out with that as the premise and then bring up the fact that there are weaknesses and we should correct it in a certain manner.

If the vast majority is negative, then this approach is right.

DR. CARR: It is possible that it is not either. It is not a case of the vast majority being one way or the other.

MR. LUCKMAN: I do not know the facts, Mr. Carr. Anything I have read or sat in on on the Committee meetings does not lead to this indictment.

DR. CARR: This is the job of Subcommittee I, and I would say they have looked into this as much as any subcommittee has looked into anything.

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MRS. ALEXANDER: Mr. Luckman, I am sure you were not present when we directed the staff to make this study. Mr. Matthews was present, I remember, and we wrote a little memorandum to Dr. Carr, asking that the staff go to the Department of Justice and make a personal examination of their files to determine how quickly the cases were acted upon. That was one thing I remember we asked, and what support they got from the F.B.I., whether the F.B.I. men were trained to handle civil rights cases, etc. We knew they could not go through the whole file, but we said, "Pick at random some cases, and find how quickly they are processed after being received. Study some of the cases that have not been tried and find why they have not been tried."

DR. CARR: I think the point has probably been raised where I might ask Mrs. Wechsler to report on the nature of this study that was made. Certainly we are here closer to the original sources than we are at most other points in the report. Perhaps the data collected is incorrect, but certainly we are down to the original sources.

MRS. ALEXANDER: I want Mr. Luckman to know that the basis for the investigation was that.

MR. LUCKMAN: I seriously question whether this Committee should take this approach.

DR. CARR: There were hearings at which Subcommittee No. 1 heard --

MR. LUCKMAN: (Interposing) I have read every one of the minutes on those.

DR. CARR: I am not sure those particular meetings were reported. We had a session with Candle, several sessions with Turner Smith, and with several other members of the Civil Rights Section, Folsom, Hubbard and Meltzer.

MR. LUCKMAN: I can only report on those sent out to the full Committee and nothing led to this type of an indictment.

If our procedure was to go over and, hit or miss, pull out cases from the file --

DR. CARR: It was not hit or miss.

MR. WILSON: Would you like to hear how Mrs. Wechsler carried this work on?

MRS. WECHSLER: A number of questions had been raised before

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the Committee. Some were just outlined by Mrs. Alexander and some were raised by witnesses.

One was the question of the number of complaints in relation to the number of cases. Another was the question of cooperation with the F.B.I. and the speed of cooperation, as well as statements of incompetence that had been made.

We tried to do three things. We had to define what we were doing and sort of stick to our plan, simply from the viewpoint of the amount of time that we had and of the amount of material to inspect.

We studied mail over a period of a week. We studied every piece of incoming mail and read it, to see if they handled the 20,000 or so complaints they received each year promptly.

Some of the witnesses had complained about the statistics there, and we found that was a wholly misleading situation, and the great majority of mail received was crank mail or mail that could not possibly lead to cases. I think that was the case from the studies we made of the mail. That was confirmed by studies which had been made in CRS. We then did two other things. We took a time sample of cases which had not been investigated. The procedure over there is that they get a complaint which may be anything from a complaint from an organization to a letter from an individual who is wholly illiterate. A lot of the mail is of that character. First they must decide whether or not to start an investigation. Most of the stuff is not investigated.

We took a sample period and took a period of three months on the advice of the staff over there that that would be a fair period. We called for all the files under certain headings, which are the important headings in this field. For all the southern States and for a random sampling of other States, I think we must have had about 18 other States in addition to the southern States. We simply went through all the material in those files, in order to get some feeling about how many cases were investigated and how many were not, the basis upon which they decided to turn down a case or not turn down a case, what they told the complainant, and so on.

Some of those cases, because the filing system was not perfect, were cases that were investigated, and some of the material in that report came out of that part of the survey.

In general this part of the survey reflected a rather small number of investigations, in proportion to the complaints coming in that appeared on their face to merit investigation.

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That was the impression we gained from studying those particular cases. I think we tried to take a narrow view of what seemed to merit investigation.

Of course at that point our judgment came into play. We had to say there were, let us say, 10 cases that, if we were there, we would ask for an investigation of. That was the sort of thing we ran into.

The third phase of it was the study of cases which had been investigated. Those we picked entirely at random because we simply knew of no other basis to pick them.

We went through Turner Smith's card catalog and pulled out cases under index headings.

We took about 40 cases. In addition we studied a few cases brought to the particular attention of the Committee.

That third group of cases, in addition to some of the cases in the second group, and some other material which we found in the files, is the basis for a good deal of what is now in the report.

I do not know whether I should go through it point by point.

MR. LUCKMAN: May I ask something which I believe is extremely pertinent. You have made a very clear outline of the procedure. What I am interested in are the results. In other words, the tabulations. You say you determined, for example, how many, in your opinion, cases should have been tried. You then determined out of that number how many were tried?

MRS. WECHSLER: No, it is not quite that precise, Mr. Luckman. In that category, it seemed to us, after studying I don't know offhand how many cases in that category, they were not investigating cases which seemed to warrant investigation.

MR. LUCKMAN: What is the balance sheet? Do you have the figures to show how many cases?

MRS. WECHSLER: These are cases where no investigation was asked for at all.

DR. CARR: Has not that point pretty well disappeared in the report?

MRS. WECHSLER: That is right.

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MR. LUCKMAN: I cannot agree with that. It has not disappeared in the report.

DR. CARR: You are talking about something else, Mr. Luckman. This second point covers only the Department's record in receiving complaints and then following up on them, deciding whether to make any sort of investigation, or any sort of case at all.

I take it that the conclusion of the staff was that perhaps they were not following up on as many cases as they might.

MR. LUCKMAN: All I want to know is what the factual information was that led to that conclusion.

DR. CARR: We say nothing about that at all in the report. We decided to drop the point.

MR. WILSON: They dropped that point.

MRS. WECHSLER: I would like to go through that phase of our investigation.

DR. CARR: There were cases that were fully developed, full investigations and many carried to court and tried. Those were the ones examined.

MR. LUCKMAN: Our point is a simple one, but it is a broad one, Mr. Chairman, and I think it pertains to this entire issue, where we are going to stub our toes as a committee in a serious way if we are not careful. That is to determine a balance sheet of the Department which admittedly has done more than any other departments preceding them and many other agencies of the Government.

Now Mr. Carey knows perfectly well that while, as he has several times indicated, the CIO has a fine record against discrimination, there are isolated cases, individual problems, which if pulled out and pointed to, could lead to an indictment.

I think there are employers in this country, a few, who are recognized by all labor unions as being liberal employers. Yet, if a record of their negotiations were scrutinized, it would be possible to pick out isolated sentences in that report, which could be put together to make an indictment.

All I am pleading for is that this Committee determine the balance sheet on this Department because the approach in this report is a critical approach and is justified only if the balance sheet is preponderantly negative.

MR. WILSON: Very well. Why do we not have Mrs. Wechsler go on through the third category. It is true, if I understand it correctly, that the third category of cases has brought about the

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criticism contained in here. Is that not so?

DR. CARR: That is right.

May I have just a word before we turn back to Mrs. Wechsler?

I think a word can be said here about the historical context of this Section. It was set up eight years ago and the Department of Justice embarked on a civil rights program which is unique. For the last eight years, the Department of Justice has been doing more than was done in the preceding 50 years. There is no question of that, but it is very clear that within the last year, a feeling has arisen that the time has come to evaluate that experiment. It has not always been successful, the Department finds itself faced with using inadequate statutory tools and that sort of thing.

There is no doubt at all that one of the reasons for the setting up of this Committee was to bring about an analysis and evaluation of this experience.

Certainly there could have been no intention that this Committee was to do nothing but congratulate the Department of Justice for its experiment of the eight-year period. We say in the report just that, that it is an unusual experiment, that much had been accomplished, but the time has come to look at the record and see if there are inadequacies.

Therefore, if this Committee criticizes anything about the Section, if it decides it wants to criticize it, it is certainly not going to be uncalled for and certainly will not seem to be a gratuitous criticism of the Department that is trying to do a good job.

MR. LUCKMAN: I do not believe you should twist what I said in the way you have.

All I have said, and I will say it again in simple words, is that we must decide whether we want to say the majority of this work has been good, and the minority has been bad, and the minority should be corrected in this way; or whether we wish to say the majority of the work has been bad and only the minority good.

DR. CARR: Certainly, it is the first point we have been trying to say and if it is overstated, it ought to be corrected.

The attitude of the staff, if I may anticipate what Mrs. Wechsler will tell you, is that criticism of the Department can be documented fully. That certain changes are needed is evident. That by and large the Department is certainly on the right track and has done a great deal of good work. There has been exceptional talent shown by people in the Civil Rights Section, people in the F.B.I. and the United States Attorneys, but there is evidence of inadequate work by people along the way and those inadequacies are used as a basis for some of

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of the recommendations which come at the end of the report.

If the case is overstated, and I am inclined to feel that it is at certain points, that should be corrected.

MR. ROOSEVELT: I think that if exactly what you have said now is substituted for what is in here --

MRS. ALEXANDER: (Interposing) You mean added.

DR. CARR: You must document the reason why the recommendations are necessary.

MR. ROOSEVELT: You do not document them by singling out one district attorney, naming him by name.

DR. CARR: Would you prefer to say simply that there are examples of inadequate work by the United States Attorneys?

MR. ROOSEVELT: I think that would satisfy Mr. Luckman.

DR. GRAHAM: I have entire respect for Mrs. Wechsler's survey and report. I think we as a committee have admitted saying in the galley sheets what you have said here. I do not think it is fair unless you do say that.

MR. TOBIAS: As I recall, Mr. Chairman, the Attorney General met with us on the first meeting, and he met with us a second time to testify and to be questioned. Each time he made the statement that he did not want the Department spared any criticism of its present procedures, and that he wanted the suggestion of any changes that might occur in the Committee as necessary, and that he wanted us to suggest whatever legislation might further implement the Department in carrying out its work. Those things he very definitely said.

Now he would of course expect us to do that, but it seems to me there is a difference between calling attention to shortcomings and making constructive suggestions, and making a case against the Department. Those are two different things. I think we can do the former and take nothing away from what we want to say.

MR. LUCKMAN: I quite agree.

DR. GRAHAM: From the standpoint of North Carolina and South Carolina, with all the criticism that can be pointed out about detail, the Civil Rights Section of the Department of Justice and the F.B.I. have been more active in defense of civil rights of minority groups in the last several years than ever in my lifetime.

MRS. TILLY: Is it still not very inadequate, Dr. Graham?

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MR. LUCKMAN: However, this Committee would not be agreeable to building up a case against the Department. Of course, we want to point out the inadequacies, but not that.

MR. ROOSEVELT: As you said last night, it is not what you are but what you seem to be.

DR. CARR: I think by and large that is what this section does. I think there are certain sentences that need to be changed or certain case studies that could be dropped altogether.

MR. ERNST: Why do you not make your suggestions as to what you think should be changed?

DR. CARR: For example, on the F.B.I. section, we have a suggested rewrite for the whole thing. That is on page 42.

MR. LUCKMAN: We have not come to that yet.

DR. CARR: How do you want to take it up?

MR. ERNST: Any way you want.

DR. CARR: As far as governmental agencies are concerned, there are two here. One deals with United States Attorneys and one with the F.B.I.

MR. ERNST: Leave out the F.B.I., because we have not started with it.

MR. WILSON: Beginning with the last paragraph on page 41, and from there on.

MR. CAREY: Does it not actually start on page 40?

DR. CARR: That deals with the laws, and I think that is beyond controversy. We have no suggested rewrite on the inadequate cooperation by the United States Attorneys.

MR. MATTHEWS: That heading ought to be in accordance with the context, "Inadequate Cooperation by 'some' United States Attorneys".

DR. CARR: It might be better not to slant the heading at all.

MR. MATTHEWS: It should be to the effect that all United States Attorneys have given cooperation but some have given inadequate cooperation.

DR. GRAHAM: Why not make it a positive statement: "Cooperation of United States Attorneys"?

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MR. LUCKMAN: That is just it. The vast majority do cooperate.

DR. CARR: Now we have come to the substantive point: We have no suggested rewrite on this, because we feel there is overwhelming evidence in the files of the Department of Justice of inadequate cooperation on the part of United States Attorneys, but not on the part of a majority. It is on the part of a large enough number, however, that this creates a large enough problem to be one of the serious aspects of the program. A lack of cooperation on the part of a goodly part of the United States Attorneys.

MR. LUCKMAN: All I am interested in is, "What is the balance sheet?" This is written in a spirit to indict the Department.

DR. CARR: I think it would be a terrible mistake if the report were written in such a way as to suggest the Committee regarded its chief assignment here as passing judgment. I think instead of that, anything used by way of criticism should be used only to support the recommendations for improvement. It will be gratuitous for the Committee to go out of its way to condemn somebody, as though it were a jury that had sat in judgment on them.

On the other hand, if you are going to make recommendations for improvement and if you think the program can be made more adequate, you must document the thing with some criticism in order to give your recommendations any meaning. I would say here that this section on the United States Attorneys should give just that impression. If it overstates the case, I am all for rewriting it.

MRS. ALEXANDER: I wonder if the difficulty is that some of us felt we were indicting the Department of Justice when we refer to the United States District Attorneys who are off in the various sections of the United States and are really not under the control of Mr. Clark. It seems that some people here think we are talking about the United States Attorney General in Washington.

We are talking about these men in little communities over whom the United States Attorney can exercise no control.

MR. MATTHEWS: They cannot even start litigation without his permission.

MR. CAREY: I think we are trying to meet a situation that runs two ways. As I understand the situation, from looking at the report, I thought we were excusing, or at least explaining the inability of this section of the Department to function, because of lack of sympathetic administration. It would seem to me that we could help the Department, and we are doing it, by explaining, as has been stated here, why they have failed to find the proper solution and seek directive measures in these instances.

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Now I wonder whether or not we are going to rewrite this report in such a way as to wipe out the problem that exists, or in our effort to be kind and sympathetic to a department, and then include in that Department all the machinery that they have to work with.

Now it is true and there is no doubt about it that these district people are subject to the patterns in their communities and their concepts are different with regard to civil rights cases.

That is the problem, and it is not being adequately met. I think if we say, approaching it that way, instead of being defenders of the department and saying there is no problem when there is actually one, and trying to slough over it. I understand from my conversations with men in the Department, they need assistance and want constructive criticism. They are asking for our recommendations. I think it must be done on a basis of explaining why they have failed in the past, and they have actually failed. They have failed very definitely, or we would not have this Committee at all if the purposes were accomplished. However, they were pleading with us, as I heard them, to render some support in this case.

MR. ERNST: May I say that I would like to see the report approached along the lines of Mrs. Alexander's and your statement. In other words, I think we ought to raise the very question as to the impact of the local attorney, who is called upon for advice in order to even try the case, and the pressures on him that require a shift such as we have proposed, or would propose of sending more people out of Washington to try the cases, to have people try them who are relieved of the local pressure. That isn't the attitude of the section.

Let me go further. An attorney down South -- I assume this is quoted for the purpose of adverse criticism -- says he didn't think he would win the case or a true bill would lie. I think it is his duty if he believed it. I think many of them are timid, that the judgments of these local men, their environment, the fact that they go back to private practice, is such that require a fundamental shift in the functioning of that bureau. That isn't in here. That is one of the great points I make against the Civil Rights Bureau.

Then you go along where a lawyer expressed great doubt as to the advisability of proceeding. I can't criticize a lawyer for providing great doubt.

DR. CARR: Even though the Supreme Court had ruled on it?

MR. ERNST: I have guessed wrong.

DR. CARR: This is after the Supreme Court had ruled.

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MR. ROOSEVELT: My God, Bob, the Supreme Court has done nothing but upset decisions.

DR. CARR: This is a recent ruling. The most important civil rights decided case in the last five years, and almost immediately thereafter the United States Attorney refused to go ahead with a similar case.

MR. ERNST: If I relied on Supreme Court decisions, I couldn't have gone into the cases I did in the Supreme Court.

DR. CARR: If you let the United States Attorneys ignore the Supreme Court decisions, where are you?

MR. ROOSEVELT: It is a question of integrity.

MR. ERNST: When you get to the question of delays, you have something that I want documented. How many were there in the total? Have we got an answer?

DR. CARR: That can be documented.

MR. ERNST: I think we ought to get the Department's answer.

MR. LUCKMAN: The whole last paragraph 2 can only be construed as a very general indictment.

MR. WILSON: What page is that on?

MR. LUCKMAN: That is on page 42.

MR. ERNST: I would put along, "How often have they allowed them?" In whose judgment is it that they really said they were the final arbiters?

DR. CARR: I would like to restate my formula for solving this difficult problem because I think if we aren't careful it will degenerate into a situation where there will be no easy way out; and that is that the Committee not regard itself as an agency to set up as a jury to indict or acquit the Department, but rather as an agency that was set up to find ways and means of improving a program that is "unique and remarkable and yet admittedly inadequate" in the words of the Attorney General; that you simply regard each one of these sections here, particularly the ones on the United States Attorneys and F.B.I. agents in that light as to how much need be said in order to justify the recommendations that come along at the end for change.

MR. ERNST: My suggestion is that much must be said, much must be said if we are going to do our duty: One, we must say that because of an inadequate staff they haven't had the personnel to promptly and

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quickly and vigilantly get in; number two, we must say something about the local attorneys, and we must say the pressure they are up against requires it, and that feeds right into our solution, it requires that there be more functioning right from Washington so as to overcome the reluctances of the local attorney.

Now I go on in that spirit, rather than this overriding spirit of "often fatal effects", and this and that. This leaves the effect of an indictment, and it doesn't satisfy my suggestions on those two scores.

MR. SHISHKIN: Couldn't most of the material be preserved? In that last sentence you say it is unfortunate that such and such happens, and it is not made more vigorous. Couldn't we say that it is highly desirable that action be taken to assure more vigorous prosecutions, and put it in positive terms?

DR. CARR: That is right. The other question would be what to do about specific illustrations. You find a United States Attorney who refuses to abide by a Supreme Court ruling that is very recent and very clear-cut, so far as the majority stand is concerned. Do you think that ought to be mentioned as an illustration of an inadequate approach on the part of the United States Attorney to the problem, or should we drop illustrations of that kind?

MR. LUCKMAN: May I ask this, does the staff have data that would permit it to start on this section, as we have discussed in other cases, on the positive constructive note? If it should, I should say in preface that I don't quite agree that we should not sit in judgment. I am prepared to sign quickly the most damaging indictment of any department if it is truly deserved, based on the majority of their work. I am not prepared to sign a report which appears to indict them, based on isolated instances.

DR. CARR: That is what I am trying to pin down, how much of what is in here -- legitimate, illustrative material that leads toward recommendations; how much of it is a gratuitous indictment?

MR. LUCKMAN: It would depend on whether the staff has information so that you could start off constructively and say during the past eight years, or whatever it is, so many were handled, so many processed through, the record is good, and so forth.

DR. CARR: That wouldn't work. It would show the Department in a much worse light than we would want to show them in. That is why in effect it was indicated the first two of the three studies the staff tried to make were scrapped, because statistically it shows the Department in a dreadful light. They get 20,000 complaints and develop only a hundred cases, or something like that, and of the hun-

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dred cases they develop they take only 20 to court and win only five.

MR. LUCKMAN: Without the figures it will take what Dr. Graham said, or to deny it, whichever is the truth, but if his statement is the truth during the past several years the Civil Rights Section and/or the instruments they use in the field have done more to further the program of civil rights.

DR. GRAHAM: That is true in North and South Carolina.

MR. LUCKMAN: Establish that and then there can be no quarrel with the following statement that there are cases in which there are flagrant examples of this and that.

DR. CARR: We are all agreed. The thing is to decide on it in some detail. I don't want to take full responsibility for saying what stays in and what goes out.

MR. LUCKMAN: I wouldn't care what stayed in or went out, if the beginning effect gives the impression.

DR. CARR: I think I sense what the Committee wants.

MR. CAREY: That statement would read as follows: "The Department was established to carry out certain purposes."

That "The Civil Rights Section carried out to some degree the work it was established to carry out."

DR. CARR: But after eight years the time has come to evaluate it, and that there are inadequacies in the program and that steps ought to be taken to correct them.

MR. TOBIAS: The whole trouble, it seems to me, is with the approach. What you want is to establish what is adequate and what needs to be done, but if you approach it and put all the emphasis upon the present adequacies, you point them out when you state what is inadequate.

MR. ERNST: May I suggest on that level that it seems to me that that section really fits into two other sections, this particular division that we have got, No. 3, and I would take out of this the material about delays, which was substantially throughout here and tie it in as I take it. We intend to tie it in to the fact that they didn't have enough staff. If on the other hand it was delayed for some other motive, that they weren't interested in the problem and didn't have it really at heart, then my God let's go to Tom Clark or anybody in charge.

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MR. LUCKMAN: I agree, let's crucify them.

MR. ERNST: As to the problem of the local attorneys, that ties into our recommendations in a sense.

MR. WILSON: We will have a ten-minute recess.

(Whereupon, a short recess was taken.)

MR. WILSON: I think we can proceed.

MR. LUCKMAN: Mr. Chairman, I talked with Mr. Carr a while ago and he summed it up very nicely. I wonder if we are not at the point where we can leave it in his words? It seemed to me he had the essence in a few sentences. I understood it to mean that perhaps this had been slanted from a negative standpoint, and that he felt that the staff could rewrite it, putting emphasis there.

MR. WILSON: Mr. Luckman, I thought Mr. Carr made an excellent statement too, and I asked him a few moments ago and he agreed with me to this extent, that he has got somebody writing it up along those lines right now. Is that correct?

DR. CARR: Yes. There is no doubt at all about our ability to change the introductory note, the tenor of the thing, to one of constructive criticism. My own personal inclination would also be to keep some of the illustrations that show inadequacy and make certain that none of them is wholly gratuitous, thrown into criticize, and to be awfully certain about that.

DR. GRAHAM: I think we can all agree on that.

MR. ERNST: I would like to see what I think is the real condemnation of the function in here, and that is I think we ought to be perfectly frank in saying that whereas there are many local district attorneys, in tune with the protection of these rights, that where there aren't any, it seems to me that the Department must be realistic enough to know that these local attorneys are brought up in an environment which does not permit the same vitality as if they sent people down there from Washington, which ties in with our recommendation; and that the presumption should be not so strong as it is now, that action must be brought by the local attorneys. I go into that local attorney and think of him as the heart of the trouble.

MRS. ALEXANDER: On the other hand, you don't get the support from the local people.

MR. ERNST: You see what we are doing here is having the Federal Government go into an area to get a conviction against the mores of the area, and by and large I would have an outsider come in,

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or pick up somebody not in the Government locally.

MRS. ALEXANDER: That is in the recommendation.

DR. CARR: I would be inclined to do what Mr. Ernst suggests, that in the discussion here put in a little more on the hierarchy of the situation, how the United States Attorney fits in, his sensitivity to the local pressures, and how that perhaps calls for a greater use of special assistants.

MR. TOBIAS: The NAACP, while it sends in Thurgood Marshall and the rest of the staff, it has always found it necessary and advantageous from the point of view of getting the convictions to employ local attorneys.

MR. ROOSEVELT: It is not only advantageous but in some States it is required by the law.

DR. CARR: The Department has done two things. I know the story pretty well because it was part of my own investigation a couple of years ago. There are two kinds of special assistants, regular men in the Department and local attorneys who are hired for the case and designated as special assistants to the Attorney General. It is not a complete solution to the problem by any means. You create difficulties at the same time you solve others.

My own personal feeling is the Department should make far greater use of that particular device, the special assistant, in these particularly difficult civil rights cases. There is many a good lawyer who is terribly confused by the law of civil rights. He has no acquaintance with it, and any necessity for him to argue a case throws him for a loss.

MR. WILSON: Wouldn't that be a constructive thing to propose?

MR. ROOSEVELT: Let's proceed. I think we are in agreement.

MRS. ALEXANDER: Are we going to see this?

DR. CARR: That will raise problems. I think we will have to discuss it as to how much we can show you and how much you have to see.

MR. WILSON: All right. We will proceed to 42.

DR. CARR: I would suggest doing the same thing there. I think the section needs rewriting. We are somewhat inclined to revise our own judgment in the light of further investigation of the case files, although we think there is no doubt whatsoever that there are some case studies that can be presented to document less-than-adequate work by the F.B.I. I think, however, the formula might well be some-

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what the same, a little stronger introduction than you now have, giving the F.B.I. a pat on the back, so far as its over-all reputation for brilliancy in the investigating field, but then a passage that says that the civil rights field presents all sorts of unusual difficulties and problems where a specially trained investigatory body may be needed. That would lead toward your final recommendation that there is a need for an additional investigating body, more highly trained in the civil rights area, with greater knowledge of the sociological aspects of the problem, the psychology of dealing with members of minority groups and that sort of thing.

MR. LUCKMAN: If Mr. Carr would just write those words down as he said them, I think that is fine and much better from the Committee's standpoint than a sentence which says, "A number of cases filed disclose superficial or unintelligent work."

MR. WILSON: You have it recorded.

MR. ERNST: I would be in disagreement with the Committee's recommendation as presently drafted if it intended to suggest that the civil rights unit build up a staff of investigators of its own; in other words, a minor F.B.I. I would like to see us come out with the strongest possible language for the need of the F.B.I. to establish a separate unit of trained people on this front, and in my opinion I would go as far as to say it should take priority over kidnapping and maybe everything but spies. They have a separate group of people in monopoly cases, one on underground movements, and I think it is structurally just silly to suggest that there be two F.B.I.'s in this field because obviously we will not get for the unit that kind of a vast staff needed. I think that if the unit doesn't get its service from the F.B.I., then you have a position of reaction within the Government.

I would very much deplore the Committee's intimating that there be a separate F.B.I. under the Department for this purpose, but I would go the limit in saying that it is high time the F.B.I. established its own unit.

DR. CARR: I would go along with that, provided you leave it with some element of flexibility so that the Department itself in making recommendations to Congress could figure out just exactly how to locate this unit, whether it should be one hundred percent within the F.B.I., or whether it should overlap.

MR. ERNST: You are asking me to leave it to the Department to make the recommendation. I can't take that away from the Department.

DR. CARR: When you get to the point of putting down the exact location of these investigators, that is a technical point that this Committee doesn't need to decide.

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MR. ERNST: We are recommending a shift as it is.

DR. CARR: For example, I take it you are not going to go back on the establishment of regional offices.

MR. ERNST: The unit has regional offices, U. S. Attorneys, but I would not have them enter the police field.

DR. CARR: If you have regional offices you would certainly want very close working relations between the head of each regional office and the special investigator.

MR. ERNST: I would say that is necessary, liaison, but I think we have to urge the F.B.I. to establish a separate civil rights unit.

MRS. TILLY: One of the real weaknesses of the F.B.I. is they have no one trained to make community investigations. Mr. Hoover has sent speakers to three State meetings that I have had this summer, and in these discussions every time they would throw the responsibility of their failure on the community. And invariably some one would get up and say this very thing -- what we need for the F.B.I. to do is to come in and do something in spite of the community. They stayed about four months in Walton County and they said they found nothing. Walton County itself could have done that.

MR. WILSON: Without the training, too.

MRS. ALEXANDER: The staff points out in this report the reasons for that, that they depend upon the local police.

MRS. TILLY: That is true. Though they did not in Walton County.

MRS. ALEXANDER: But in many cases they do, because they have to use them in their other work. So you have to have a separate civil rights investigator who is not concerned with other cases.

MR. ROOSEVELT: Are you suggesting a separate civil rights section should not be under the F.B.I.?

MRS. ALEXANDER: I am very much concerned about it, because Mr. Hoover doesn't investigate until he gets a letter saying it should be investigated. By the time he gets the letter maybe the thing is cold.

DR. CARR: If you created a unit of 25 or more investigators whose training was in that field, and who were there for those cases, it would be pretty hard for the F.B.I. to deliberately refuse to use them for that purpose. It would probably impugn the motives of the F.B.I. beyond the point necessary.

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MRS. ALEXANDER: If it is for his own protection, does he have to wait until he gets the request?

DR. CARR: I think the creation of such a unit within the F.B.I. would go a long ways toward meeting some of the difficulties. It is not going to bring perfection. You are still going to have the terribly great difficulty of winning these cases before juries.

MR. ERNST: I hope you indicate that that certainly is as important as the monopoly unit or some other unit they have. It is high time.

MR. WILSON: Let's stress that.

MRS. ALEXANDER: Do you have any idea as to how these local field examiners who would have the status of Assistant United States Attorney would be protected in their non-political activities?

DR. CARR: I don't think you can write into the report anything that would protect them from political appointment or control. I think all you can do is state that it would be deplorable for them to become patronage appointees or anything like that.

MRS. ALEXANDER: Couldn't they be Civil Service employees if local field examiners? Wouldn't that give you some protection?

DR. CARR: It might create as many problems as it would solve. It would be difficult to bring in a brilliant worker who was available or something like that. How does the Government get its top-flight attorneys in the Department now? Do they all have Civil Service ratings?

MRS. ALEXANDER: No, these were field examiners.

MRS. WECHSLER: The lawyer level might have Civil Service status, but the area of choice would be more than just that of Civil Service.

DR. CARR: I think we had better stay out of that.

MR. LUCKMAN: Dr. Carr, would you plan to take out the heading on No. 4, page 42, in view of this discussion?

DR. CARR: Yes. I would change all these headings now to make them more general, not to slant the discussion in the heading.

MRS. TILLY: You wouldn't change 5, would you?

DR. CARR: No, I think 5 is all right, on inadequate personnel.

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MRS. ALEXANDER: I think No. 3 would be inadequate cooperation of local U. S. Attorneys, and that would solve your problem.

DR. CARR: Except that would suggest that all of the cooperation was inadequate.

MRS. ALEXANDER: Why not say "Adequacy"?

DR. CARR: Yes "Adequacy of the Cooperation with the United States Attorneys". Just raise the question there. Then the other four would be "Adequacy of the Investigating Work", or something like that.

MRS. ALEXANDER: Yes.

MR. WILSON: Are you through with 42?

MR. LUCKMAN: Its all right by me.

MRS. TILLY: Your list of illustrations under "Local Community", you didn't use Greenville, South Carolina, did you?

MR. TOBIAS: It is somewhere else.

MR. WILSON: Accordingly, we are on 43.

MR. LUCKMAN: Mr. Chairman, I might just suggest that on No. 6 there that we consider the same thing. In here we start out with the over-all indictment and then in the small sentence, "This is by no means always true"; I just think again maybe the cart is before the horse.

DR. CARR: To go back to that suggestion, there are several sentences along the way in the other sections that refer back to the same thing. I think they might all well be changed.

MR. ERNST: Is the purpose of this evident under 6, to come to a justifiable reason that there ought to be a division? Ought not it to be written that this is a little puny establishment, budget-wise and law-wise, and one of the ways to do it is to have a statute to come through and raise it to a division? As indicated elsewhere we are giving expanded functions. They will get more laws to operate under, more personnel and consequently ought to be a division.

MR. TOBIAS: It is in the recommendation.

MR. ERNST: This is to support the recommendation.

DR. GRAHAM: It is so moved, Mr. Chairman.

MR. WILSON: Is the motion seconded?

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MR. ERNST: I second the motion.

MR. WILSON: Is there any objection to the proposal of Dr. Graham?

(No response.)

MR. WILSON: If there is none, that is the way we will proceed.

MRS. ALEXANDER: You are going to strike it; is that right?

MR. ERNST: Yes.

DR. CARR: For your information, the quotation from Mr. Hoover at the top of 43, he asked that that be revised somewhat, and we revised it. I don't think the revision changes its usefulness or meaning at all. To read what we now put in, "We have cases involving civil rights where we have had no cooperation from local authorities. In one instance the sheriff said that he intended to take no action."

"The local law enforcement agency made a perfunctory inquiry. We worked in the case by ourselves."

MR. LUCKMAN: A wonderful plug.

MR. ERNST: He took out the generalization.

DR. CARR: His testimony before the committee was off the record, so we asked for his permission to use the several quotes that we have.

MR. WILSON: Are we ready to consider the problem of sanctions?

MR. LUCKMAN: Yes.

MR. WILSON: Is 43 all right?

MR. LUCKMAN: No comment from me.

DR. CARR: On 44 there are a couple of sentences out of line. I imagine you probably figured it all out. Three or four sentences in the paragraph "The failure of the Government to read, it lies in the efforts of the people to reserve", and so forth.

MR. ERNST: The next to the last paragraph you are going to revise to the effect, "financed by Federal grants-in-aid, in part or wholly".

DR. CARR: All right.

MR. ERNST: I would like to see somewhere in this paragraph, "This money is invariably spent under standards laid down by the

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Federal Government", so as to face the argument when you come to the other part.

MR. WILSON: Do you accept Mr. Ernst's provision there?

MR. ERNST: All I am saying is that the policy of the Federal Government for turning money over to the States, grants of any kind, is invariably, and we ought to say "invariably" conditioned on some standards. That is the fact. We just don't dish it out and say, "Do as you please with respect to it."

MR. SHISHKIN: Don't you want to say something about the standards?

MR. ERNST: It goes to the validity of the position with respect to the spending power on schools. It is no novel idea that standard be laid down there. I don't want to re-raise the educational question, but I don't see that this can be objectionable.

MR. CAREY: It does re-raise the educational question.

MR. ERNST: If it does, let's not debate it.

MR. ROOSEVELT: It lays a good basis for our position.

MR. CAREY: I was looking at it as to whether or not it is a statement of fact.

MR. ROOSEVELT: It is.

DR. GRAHAM: There is this difference: Based upon a comment made by Mr. Shishkin about midnight last night, he was asking me how did I reconcile accepting standards on discrimination as not Federal control, and saying that withholding on account of segregation was Federal control. I would like to make that very clear at this point. The case of what is defined as discrimination, that is now the law of the land, as interpreted by the United States Supreme Court, and is the policy of the States; the States in accepting the money do not have to change their constitutional laws.

In the case of accepting segregation, we all agree as an ultimate goal we want to eliminate segregation. I say it is Federal control, and not a slick argument, that when you require a State to change its constitution, change its laws, and have a popular referendum which will take to the polls about 20,000,000 people with the race issue as the only issue that will be in the hands of demagogues, and that is a form of Federal control.

MR. ROOSEVELT: I agree. I just want to say one thing so I will

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clear this up with Dr. Graham. I agree the way you state it now is certainly not a slick argument. It is a very intelligent argument and I think has a great deal of merit, but when you go and defend segregation or you defend discrimination, non-discrimination as opposed to segregation on the basis that honesty demands that you don't take away from the colored child and give it to the white child, I call that a little different from the argument you just made. Let's drop it.

DR. GRAHAM: It is an argument that has been accepted by the people in the South as valid.

MR. ROOSEVELT: I can understand why it would be.

MR. ERNST: I will withdraw my suggestion.

MR. WILSON: Let's go on. Is there anything else on 44? We are on page 45.

DR. CARR: On page 45 the staff recommends the removal of the whole paragraph, second from the bottom, about John Dewey and what John Dewey thinks. We wrote him a letter at the suggestion of a member of the Committee asking him what he thought about that now and we got back a very interesting letter. The gentleman apparently typed it out on his own typewriter, laboriously. He finally gets around to admitting that he would seriously question making the statement today.

MR. WILSON: Eliminate the paragraph?

MR. LUCKMAN: On 46, Mr. Chairman, I wonder if we mean what we say in the first sentence.

DR. CARR: What we are trying to do there is something that is close to the heart of most of you people, and that is tie in both approaches to the problem, the legislative approach and the educational approach. The legislative approach can in various ways get at prejudice by controlling, if not prejudice, the manifestations of prejudice; but on the other hand the educational approach to remove the root of prejudice will result in the disappearance or reduction of the number of civil rights violations.

MR. LUCKMAN: I personally believe in that. I believe in both. I am questioning the emphasis. I wouldn't have questioned it. If the first sentence weren't there at all, I wouldn't have made any remark.

MR. ROOSEVELT: What is the matter with it?

MR. LUCKMAN: It seemed to me that the emphasis is on legisla-

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tion, and I doubt that anyone here thinks that we can really legislate a point of view as far as prejudice is concerned. You have to have a framework within which to operate.

DR. CARR: Certainly we don't want to re-open that discussion, but I think all we are trying to say here is that through such a thing as FEPC, by controlling the manifestations of prejudice, you do begin to strike at prejudice itself, just as you can go at it the other way around.

MR. LUCKMAN: It is a matter of interpretation. I don't think it is serious at all, if the other members don't feel so.

MR. ROOSEVELT: I don't think the headlines will ever contain that sentence.

MR. WILSON: If there are no other questions on that we will go over to the recommendations.

DR. CARR: The first two pages, the question has been raised about them, whether they don't slow down the report, but we have got awfully good reaction on them from people who have read it in the White House and elsewhere.

MR. ERNST: I think they are remarkable and ought to go in. My only impression is at this moment they are ready for recommendations. We oughtn't to leave it out, or leave out anything that is there, but I certainly think if we come to those recommendations after the caption "Recommendations" it would be better.

DR. CARR: The physical organization and printing of the report I think is going to be remarkably clear. We are planning to run blank pages with nothing on them but these headings, and I think almost every reader is going to turn and take a look at the recommendations long before he has read all of the introductory material.

MR. ERNST: There is valuable evidence here that fits in earlier. For example, that striking material on page 48 where the table is, that goes under wage scales, doesn't it, families on relief, and so forth?

DR. CARR: I don't want to appear to keep arguing with you on this point, but in a sense the recapitulation is also made with this in mind, that if a summary is wanted, if papers like The New York Times, which customarily publish entire reports or sections of reports want to, they could begin here at this point and pick up from this point on. They would get a little philosophical background material, get into the recommendations and then following the recommendations are the rather brief summaries.

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MR. ERNST: I think that would be valuable, but I think it is inadequate because the voting and things of that kind are not stressed as much as these others. If it were a summary, they could refer to it. I make no motion on it.

DR. CARR: I certainly hope you won't ask us to rewrite it unless you feel strongly about it.

MR. ERNST: I don't. I would like to have seen it elsewhere in the report.

MR. ROOSEVELT: I don't see where it would fit elsewhere.

MR. ERNST: About this material on the Negro families on relief.

MR. ROOSEVELT: That is picking out parts of it.

MRS. ALEXANDER: I think it is well written.

MR. ERNST: They could have been fitted together, but it is too late, maybe.

MR. ROOSEVELT: I don't think anything is too late. Let's drop that phrase.

MR. LUCKMAN: The only time it would be too late is after we have signed our names to it.

MR. ROOSEVELT: Yes, we are going to have to live with this thing for 15 or 20 years.

DR. CARR: At the bottom of page 47 and the top of 48 there is proposed on one of these mimeographed memoranda a considerable shortening and condensing of this economic cycle thing. We got the impression from some people who read it that it sounded a little bit as though we thought this was the sole and exclusive cause of the business cycle, so we have tried to remove that. We also have a chart or pictograph or whatever you want to call it that presents the same notion. I think it is presented there so clearly that there couldn't be any confusion about our notions concerning the business cycle.

MR. LUCKMAN: In your shortening of that are you eliminating this quotation on 48?

DR. CARR: No. In fact one suggestion was that that was all we needed. It is an awfully good quote, coming from quite a responsible and reputable individual, and we would do well to keep it.

MR. CAREY: Was he speaking for the Chamber of Commerce when he said that?

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DR. CARR: Where did he make it?

MR. STEWART: Unfortunately we have never been able to locate his use of the quotes. We only have it quoted by somebody else, but I was told that it was Johnston speaking as an individual, it wasn't a statement of policy by the Chamber of Commerce.

MR. CAREY: Is there any way we can communicate with the Chamber of Commerce and ask them if they are sympathetic?

DR. CARR: I think it is a good statement.

MR. CAREY: I think it is an excellent statement.

MR. ROOSEVELT: Do you want to hook the Chamber of Commerce as well?

MR. CAREY: You can leave out Eric Johnston if you can include the United States Chamber of Commerce.

MRS. ALEXANDER: What is the reason for leaving out when chairman? I take it he was.

MR. ROOSEVELT: I think it is a nice inference to be drawn therefrom. Maybe we will get him denying it.

MRS. ALEXANDER: Take out the words "he was".

MR. WILSON: Yes.

DR. CARR: "when chairman".

MRS. ALEXANDER: Yes.

MR. LUCKMAN: He was president, not chairman.

MR. CAREY: "Eric Johnston, while serving his third term as president".

MR. LUCKMAN: "in defiance of the by-laws of the Chamber itself."

DR. GRAHAM: That is good.

MR. ROOSEVELT: "Mr. Carey, when operating as an important member of the President's Civil Rights Committee once said".

DR. CARR: That is right.

DR. DICKEY: "Physically abusing a defenseless Congressman".

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MR. WILSON: We will go to 49, if you have no other comment on that. Did you find anything to object to on 49?

(No response.)

MR. WILSON: No. 50.

DR. CARR: These galleys don't always show what we had in mind typographically. That "Mr. President" will be printed on a separate page in order to stand out.

MR. WILSON: That is at the top of page 50.

MR. LUCKMAN: We went by 49 pretty fast.

MR. WILSON: I asked if there was anything.

MR. LUCKMAN: Again, just a question of whether we weren't dragging in too much stuff. This "missionaries of prejudice," and the newspaper from Sweden. That left me cold, personally, but if it warms up the Committee I have no objection.

MRS. ALEXANDER: There is a more recent one that might make you warmer. It is a meeting, the American Baptist meeting we had.

MR. LUCKMAN: It seems we are putting in an awful lot of stuff. I am not objecting to the basic report.

DR. CARR: It might please The New York Times and persuade them to run our full report. I was really a little curious as to what The New York Times might do. I suppose the chances are greatly against printing the report, but they printed the Palestine Report and it ran to eight pages.

MR. WILSON: We are back on 49.

DR. DICKEY: I would like to make a suggestion to drop the last sentence on the page. I think that will clear up a little irrelevant sniping from certain foreign policy elements, just the last sentence. That is on page 49.

DR. CARR: I think that is a good suggestion.

DR. DICKEY: You get the whole point in the first sentence. "The way is not so secure." The other looks as if we could buy friends by changing our prejudices. That is the way it would be distorted. You get the whole thought and get it well in the first sentence I think.

MR. LUCKMAN: Yes.

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MR. CAREY: We might put it on a different basis if you indicated that should we be successful in carrying out the American heritage we will gain friends and place ourselves in the position of better assuming the moral leadership of the world.

DR. CARR: The notion itself is pretty well developed up at the top of page 49, about how we have fewer than half a million American Indians, though there are 30,000,000 in the Western Hemisphere. We number our citizens of oriental descent in hundreds of thousands; they number in hundreds of millions elsewhere. I think the point is pretty well made up there.

MR. LUCKMAN: Mr. Chairman, I am aware that the Committee has no reason to be interested in my personal welfare, but as I re-read that New York Times thing I get rather frozen instead of just cold. I think it is very confusing actually. We get into Sweden and Texas, and move around very fast there.

MR. SHISHKIN: Many are cold but few are frozen.

MR. LUCKMAN: Many are cold. Could we delete it?

MR. WILSON: All right. How many of you want to take it out? Let's have a show of hands.

MR. ROOSEVELT: I am impartial, but I would like to know why he wants to take it out.

MR. LUCKMAN: First, I think this section of the report is too long. It is dragged out. You read it through, and there is an awful lot of stuff in it.

Secondly, I think that the quote is one that you have to read several times to get the full import and significance, and I don't think we should presume on the readership of this report to the degree that they will read it or reread it to get the actual significance of the meaning.

MR. ERNST: Would you object if we put it in elsewhere in connection with material to which it is pertinent?

MR. LUCKMAN: On the second ground, I don't think it is particularly clear.

MRS. ALEXANDER: I think it is valuable here, because it immediately follows the question concerning the attitudes of the European nations and the fact that we have so many of these people, what we do here has repercussions all over the world.

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MR. ROOSEVELT: Don't you think Dean Acheson's quote takes care of that, "The existence of discrimination against minority groups in this country has an adverse effect upon our relations with other countries."?

MRS. ALEXANDER: But this is an exact illustration; that it isn't general, it can be said.

MR. ROOSEVELT: I think everybody understands that.

DR. CARR: It is 50-50 business. If you throw it out it wouldn't be missed.

DR. DICKEY: It is not the clearest editorial I ever read.

MR. WILSON: Let's have a show of hands. Those who favor keeping it in, will you show your hands? There is one in favor.

Those opposed?

I think we will have to take it out.

MR. ROOSEVELT: I abstain.

MR. WILSON: On page 50, we will proceed, unless there is some objection.

MR. ERNST: On that I have only two observations. One is that we want to be careful that we follow through in this section what I think we decided, that the police unit shall not be in the Department of Justice, tying it in with our recommendation of the F.B.I., and the other is the interrelationship between the President's committee which we are proposing and the work of the unit. My own guess is that the President's committee will not be able to do an awful lot other than sort of act as a spearhead.

MR. WILSON: That will be policy recommendations.

MR. ERNST: Yes. Therefore, it seems to me we can go much further than we have if we go through the report and pick it out and more or less classify those additional new fields where the Civil Rights Unit should enter and they have never done anything, not in general terms. It seems to me it is their duty to report to the President, instead of even the Budget office, those infractions of the administrative power which we would refer to in the report where various appointees of the President have a perfect power to stop discrimination and segregation and have done it.

It seems to me they should be the vigilant body reporting to

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their chief. If you go through and pick up some of the suggestions made for additional functioning, we ought to pin it right on to the Civil Rights Division in the future.

MR. WILSON: I think you have a good point there. That seems to tie it up.

DR. CARR: That specific suggestion you make is very good.

MR. WILSON: Does anybody object to that?

MRS. ALEXANDER: Mr. Carr, did you get any comment from the F.B.I. on your suggestion that there be a highly trained civil rights group of investigators?

DR. CARR: No, but I think they are quite willing. In a sense it is irrelevant, but in one of the discussions we had this week I got the impression that they would admit that it might be well to have a unit of highly trained investigators. I think that section ought to be changed. There are two or three places where the phrase, "the present complete dependence" could be changed.

MR. WILSON: Will you make a note of it?

Are there any other questions?

MR. LUCKMAN: There is one of interpretation in the paragraph starting "The Department of Justice", the second sentence, page 50, and the second sentence says: "The President's Committee is fearful that under this plan the courageous enforcement of civil rights in the field will not be reached." After I read that I was surprised to see that the Committee went on to approve such a plan.

MR. ROOSEVELT: Well, say, "if satisfactory measures are taken." In other words, if these local assistant district attorneys are not just political hacks and they are chosen for their ability in this field.

MR. LUCKMAN: It surprised me after the flat statement that the Committee thought that goal would not be reached that we went ahead and approved it.

MR. SHISHKIN: Could that be taken care of by saying, continuing the sentence, "could not be reached unless"?

MR. LUCKMAN: Yes, that would be quite different. If you were going to do it, you would not say, "would not be reached"; it would be "may not be reached", or it might be, "would not be reached unless".

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MR. WILSON: That is better.

MR. LUCKMAN: I think the two sentences would contradict each other.

DR. DICKEY: I have a practical suggestion to make, up there in the very fine closing address to the President. We use the phrase, "American heritage", throughout, and I think it is used quite accurately in most places, but the phrase which is used by most of the people that we want to reach in this beginning is, "the American way", and they just pour all sorts of things into that phrase, and I would just as soon give it a good interpretation. What I suggest to you here, and I would like to see the thing re-examined back in our headings, to say, "Your Committee has reviewed the American heritage. We often call it 'the American way'", and go right on. Nail down those who are disposed to reserve "the American way" for their particular brand of prejudice. Those people use those phrases. They don't know what "the American heritage" is.

DR. CARR: I think your point is well taken. I would certainly want to add what you say, but I would hesitate to reopen it because there is another phrase that is common to many of the most interested people, and that is, "the American creed", and we finally selected "the American heritage."

DR. DICKEY: I don't suggest dropping "American heritage."

DR. CARR: "The American way" is used to describe our system of private enterprise. I don't object to adding it here. I think I would be reluctant to see you go back to the first section and decide instead of calling it "The American heritage", to call it "The American way."

MRS. ALEXANDER: He says that is popularly known as "The American way."

DR. DICKEY: Just call it, "The American way"; put that in quotes. Then you will tie in a lot of these people that you want to feel well about this.

MR. WILSON: Does anyone object?

MR. SHISHKIN: I agree, but what worries me is that the way it stands in this, the economy of words gives the statement a terrific amount of punch, and if you put an insertion in it like that, it will weaken the opening sentence considerably. I don't agree with you.

DR. DICKEY: I don't have any strong feelings. I just have a hunch that you might catch a lot of fish.

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MRS. ALEXANDER: But you wouldn't catch them back here, but over here where we first started talking about it.

DR. DICKEY: That is what may be picked out and quoted in an awful lot of papers. I think that is really the utility of this paper. It would be quoted, and somebody thinks that civil rights has something to do with the American way. We will make a lot more progress.

DR. GRAHAM: There is some place it could be used without being made a parenthesis, somewhere in the context where you use the phrase "American heritage", it is used as "American way" in that particular sentence.

MRS. ALEXANDER: But Dr. Dickey says it will be picked out here and this will be quoted and they will lose it over there.

DR. DICKEY: Do you think that really breaks it up, "We often call it the American way"?

MR. SHISHKIN: Can you put it after that sentence, "These are the goals of what we often call the American way"?

DR. DICKEY: That would be all right.

DR. CARR: "These are the goals of what we often call 'the American way'".

DR. DICKEY: I think that makes it a little longer.

DR. CARR: One way it would be, "Your Committee has reviewed American heritage, we often call it 'the American way', and we have found in it again the great goals of human freedom and equality under just laws."

The other way it would be, "Your Committee has reviewed the American heritage and found in it again the great goals of human freedom and equality under just laws."

"These are the goals that we often call 'the American way.'"

DR. DICKEY: I prefer the former.

MR. MATTHEWS: I prefer it as it is. I don't think you improve it a bit.

MRS. ALEXANDER: I am with you.

DR. DICKEY: Forget it. It won't cost you anything.

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MR. WILSON: All right.

DR. GRAHAM: I am still making the suggestion that we take your suggestion somewhere else in the text, if it is appropriate, say "The American way".

MR. WILSON: All right. Are there any questions?

We are on 50. Are there any other questions on 50?

(No response.)

MR. WILSON: All right, No. 51.

DR. CARR: There is a minor change in a way. We are moving up the first paragraph under "4" so that it would become the first paragraph under "2". It more appropriately belongs there. It discusses the constitutional restrictions on the power of the Federal Government. That ought to come in as a justification or an explanation of the establishment by the States of real civil rights programs, rather than just the establishment within the States of Civil Rights Commissions to investigate and study.

MR. ERNST: May I suggest, on this whole field where we urge State action, I think we ought to somewhere put in something or address ourselves to the President, because not only are we recommending Federal action; we urge Truman to address the Governors of the States.

DR. CARR: How about doing it at the top of page 51? That is the first time you have any recommendation. Recall that the executive order included that, and we invite you to use your position as the nation's leader to encourage the States, or something like that.

MR. ERNST: That is right. There is an awful lot of this State stuff that he couldn't do if he wanted to.

MR. WILSON: Are we agreed on that?

MR. SHISHKIN: On your first suggestion, Bob, in the last sentence of the paragraph under "4" you anticipate "3" if you move it to "2", referring to the Commission on Federal Rights?

DR. CARR: I mean the first two sentences.

MR. SHISHKIN: That is all.

MR. ERNST: On page 51, have we made previous reference to the Chicago District Program, which is under 5? Coming here in the

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recommendation, I don't offhand recall prior reference.

MR. DURHAM: In the text we mentioned it at one point. We cited the progress of one of the police agencies.

DR. CARR: We are partly at fault there. It is a remarkable program. They have published an interesting volume. We have 20 copies to distribute to you people. We were mailing too much stuff. I will bring them over this afternoon if you would like to have them.

MR. ROOSEVELT: Yes, we would.

MR. WILSON: Are there any other questions on 51?

MR. SHISHKIN: I was wondering whether we need to refer to the Council of Advisors. It is under "3", the third paragraph, "Like the Council of Economic Advisors."

MR. ROOSEVELT: This Commission as we recommended is something that the President is going to appoint by executive order and probably will not be a paying commission; will it?

MRS. ALEXANDER: No.

DR. CARR: I think it would be fine if Congress would authorize it. It would give the thing greater standing. I think the thing needs to be left very flexible. This is one of those things that would have to be worked out. If we get it, it would come only after careful study.

We would like a good liaison between the legislative and executive branches on civil rights planning and reporting. That is why you recommend the creation of a joint House-Senate committee on civil rights.

MR. SHISHKIN: But it raises a lot of questions with regard to the representative character of the Commission and the way it operates, paid or unpaid.

DR. CARR: I think you can leave it out if you want to.

MR. SHISHKIN: Just the council's advisory reference.

DR. CARR: Yes. It is out unless somebody objects.

MR. WILSON: No objection to removing it?

(No response.)

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MR. WILSON: All right. The proposal is to start the paragraph with "A permanent Commission".

MRS. ALEXANDER: That is all right.

MR. WILSON: We will remove it.

MR. ERNST: I wonder if the Committee knows it is subscribing to Federal interference at anytime in the lawful activities interfered with by a local office in the city or state. That is under "4", the first paragraph. As I read it, "The right to be free from personal injury inflicted by public office or the right to engage in lawful activity without interference," and so forth, and I take it that means the Federal Government would be granted the power.

DR. CARR: I hold no great brief for that clause. It perhaps should be said here that this is where Subcommittee No. 1 was in very close touch with the Department of Justice and they submitted to us various drafts of bills designed to supplement Sections 51 and 52. The subcommittee spent a great deal of time going over them. At one time it was intrigued with a notion of a new bill that would spell out in detail every Federal right that has been recognized. The Department is apparently against that but feels it would be helpful to have a new law supplementing 52 that would specify three or four rights. This comes directly from what they submitted to us.

MR. ERNST: All I am raising is the question there, I will go along. Does the Committee know that what we are saying is that the Federal prosecutor will have the duty, if the law is passed, to listen to the complaint of any local community for interference by any local official of any lawful activity, which is practically all of life? It is something you can't resolve. You can compromise again, as we have on the State-Federal question, as we have through-out, or leave it out.

DR. CARR: Do you think it would be lost if it went out?

MRS. WECHSLER: I think it is too broad as it stands.

DR. CARR: Why don't we take out that whole clause "the right to engage in a lawful activity."

MRS. WECHSLER: They were getting at the free speech sort of situation. You have property and person there, and you don't have in those categories -- speech or assembly. That is what I think they were driving at.

MR. ERNST: That is right, if a public officer roughs me up, I go to the Federal District.

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MRS. WECHSLER: That would be true under section 52 now.

MR. ERNST: Then, you don't need it?

DR. CARR: Yes, you do, for this reason: They want a new law that would specify some of the rights so they can get around the difficulties that the Screws case creates, because No. 52 doesn't list any rights, then you have got the additional requirement that you have to prove wilful action on the part of the accused, that he consciously knew of the existence of the right and intended to deprive his victim of it.

MR. ERNST: The other construction would be to suggest the word "wilful" be taken out. The other thing I want to call your attention to is, do you really agree with what you are recommending?

MR. ROOSEVELT: Supposing in the State of Alabama, where it is illegal for Negroes and whites to meet together in a public hall, where the CIO has flaunted the law and the AVC has flaunted the law and gotten away with it; under this, that is unlawful activity.

MR. ERNST: I don't know.

MR. ROOSEVELT: The state law says it is unlawful, but the right of assembly certainly is a tradition there.

DR. CARR: You would first have to have litigation as to whether that was the lawful right.

DR. GRAHAM: I met in Birmingham.

MR. ROOSEVELT: It is only because the chief of the police doesn't enforce that specific ordinance there.

MR. CAREY: What is he trying to prove, that he is a law-abiding citizen? He has been violating the law all over the place.

MR. ROOSEVELT: What I am trying to ask you is for a specific application of what this says. Now, it is the right of lawful assembly that is at stake there. Is the municipal ordinance going to be called that?

DR. GRAHAM: It is municipal. A policeman tapped me on the shoulder and asked me to move across the aisle.

DR. CARR: You would have to litigate. The attitude of the Supreme Court in all these recent cases has been that the Federal Government can't use sanctions to punish officers unless they interfere with a right that has already been litigated and is recognized.

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This recommends that they be enumerated, but on this specific point, it says, "interference with lawful activity", and in any given case involving that, you would have to have litigation that established something as lawful activity.

MR. ERNST: Or it would be raised in the criminal prosecution against the public officer.

MRS. ALEXANDER: Do you have any objection, Mr. Roosevelt, to having that right?

MR. ROOSEVELT: No, I am in favor of it. I would like to see this, but I am just wondering whether everybody realizes what they are getting into.

DR. CARR: Why don't we leave this as something to be checked?

MR. ERNST: It is not a matter of checking against fact. It is a basic question.

DR. CARR: Let's resolve it one way or another; leave it out or try to reword it.

MRS. ALEXANDER: This is so essential.

MR. MATTHEWS: It is unless somebody makes a motion to take it out.

MR. ERNST: I don't want you to be faced with the statement that this is what you are recommending unless you know what we are recommending. I will sign this.

DR. CARR: You will sign it as it is on this point?

MR. ERNST: Yes.

DR. CARR: Any law passed as a result of these recommendations is going to be studied much beyond this.

MR. ERNST: I raised it in a casual way on top of the avoidance of it.

DR. CARR: The right to avoid an activity such as free speech.

MRS. WECHSLER: We are not writing the statute.

MR. CAREY: Why not leave it that way. How are we going to get this first draft on the "Freedom Train", if we don't move along?

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DR. DICKEY: Is that point disposed of, Mr. Chairman?

MR. WILSON: Do you understand it and agree to go ahead?

DR. DICKEY: I don't understand it.

MR. WILSON: Accept the advice of counsel.

DR. GRAHAM: These provisions, as I understand them, were recommended by the Civil Rights Section.

MRS. ALEXANDER: No. Nancy says that is not correct. The Civil Rights Section came over and told us what they needed.

MRS. WECHSLER: These were bills which they presented as drafts. The precise language we used, I don't think they would want us to say they stand or fall on.

MR. ERNST: Maybe what the Committee has a right to say is lawful activities in the fields expressed in this report. That is the fields that relate to discrimination, and so forth. There, if there is an interference, you have a right.

MR. SHISHKIN: I don't agree with that suggestion, because it seems to me that if the activity is lawful it is lawful without interference by public officer in any field.

MR. ROOSEVELT: But there are certain activities, lawful Federal activities, which are unlawful locally.

MR. SHISHKIN: I know.

MR. ROOSEVELT: I am in favor of this thing, just the way it stands. I don't want suddenly to have some of our friends in the Committee say, "Hey, the boys slipped this one over on us."

MR. MATTHEWS: If you boys who are in favor of it aren't careful you will talk it to death.

DR. DICKEY: I have another point, Mr. Chairman.

MR. WILSON: The next point, Mr. Dickey?

DR. DICKEY: No. 5, "Enactment by Congress of an anti-lynching Act."

I am afraid that I don't understand how the Act is going to cover private offenses on a person because of his race, color, creed or religion.

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DR. CARR: Incidentally, the description here is a paraphrasing of the most recent anti-lynch act, which many organizations have sort of accepted. Senator Morse and others introduced it, and the organizations have all got together and decided to back this one. We decided we should pick it up and use it pretty much as is. When you reach the area of trying to have a Federal lynching act that would reach private members of a mob, you have a problem, and there will have to be litigation, and whether it will stand up finally in the Supreme Court or not remains to be seen; but there are numerous arguments that can be used in support of that sort of a bill. It is by no means an open and shut thing.

DR. DICKEY: What is one of the arguments on a private person kicking the life out of somebody because he doesn't like him?

(No answer.)

DR. DICKEY: That is just exactly what is going to happen to me when somebody puts that question to me and as a member of the bar I am not very envious of being put in that position.

MRS. WECHSLER: The finding in the Case bill used to hang that on is the pattern of State inaction in this sort of situation. That is what they tried to do.

DR. CARR: By the Fourteenth Amendment that says no state shall deprive any person of life, liberty or property without due process of law.

MRS. WECHSLER: What they do is attempt to make a Congressional finding of a factual situation on which they base Federal action.

DR. DICKEY: I think I understand that approach, where the individual has been in the hands of the State, and I even attempted to develop the theory which no one liked for a rebuttal presumption where a person is delivered from the hands of the law officer. That is too strong. I don't believe there are many people who have worked on this thing seriously who will think that you will get anywhere making it a Federal crime, to commit murder because they show the motivation was that the individual didn't like him.

MRS. WECHSLER: There is another finding used as a basis and that of course is the United Nations Charter. Those are really the two. I am not saying that I think this is necessarily sound.

DR. CARR: Aren't you still tying this down to the definition of lynching, murder directed against somebody who is entitled to a trial by due process of law?

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MRS. WECHSLER: The Case bill goes way beyond that.

DR. DICKEY: Our words say that it is a Federal crime where private vengeance is inflicted upon a person because of race, creed, color or religion.

DR. CARR: Take it out if you want to.

DR. DICKEY: I just think this is where the spotlight is going to hit, not on the sort of thing that we were worrying about here a little a little while ago. We ought to know why we put it in.

DR. CARR: Of course, the last paragraph is a basis, but not too much perhaps.

MRS. ALEXANDER: Mr. Dickey, isn't this the very thing that the President said to us that he was interested in? The people couldn't understand why these lynchings took place and nothing was done about them.

DR. DICKEY: Why don't we tell him why?

DR. CARR: We have back here in the section on this other thing.

MRS. ALEXANDER: But he was saying that it was for us to find the formula for it to be done constitutionally. That is not the responsibility of this Committee. It is to recommend that some such way be found.

DR. DICKEY: Yes, but let's recommend the way.

MRS. ALEXANDER: Maybe we can say that it needs to be done and it can be done by constitutional lawyers who draw the bills that the President will submit. Would we leave out the recommendation that something be done about it by the Federal Government, to protect the rights of people, simply because we couldn't find a constitutional way?

DR. DICKEY: We are going beyond that. We say it must be made a Federal crime.

MRS. ALEXANDER: That is right.

DR. DICKEY: I am not sure that I am prepared to go that far.

MR. ROOSEVELT: What is the matter with recommending a constitutional amendment if that is necessary.

DR. DICKEY: That gets you right smack into the whole question

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that Mr. Ernst has been trying to get on the top of the table here.

MR. ROOSEVELT: That is all through the report. All these difficulties are basic because this report has not faced that issue and made a decision.

DR. CARR: I don't think it is quite true to say the report doesn't face that issue at all.

MR. ROOSEVELT: It hasn't made a basic decision. It is scared of it.

DR. DICKEY: I certainly gave as much thought as I could to figuring out a way you can get around that, and I just do not see it.

DR. CARR: I think this section is more detailed than it needs to be, and that that could be taken out.

MR. ERNST: Would you be satisfied if we didn't go so far as to a single individual and put it on the grounds of group action or conspiracy, so as not to bump head on with the States' function with relation to murder?

I wanted to ask John if that was the difficulty in his mind. A lot of people dropped off, you know, when they came to a single individual, but where there are two or more, then you have some philosophical basis for the solution. Frankly, you have an operating base, and a lot of people think that the single person theory ought to be dropped.

DR. DICKEY: That is why I originally attempted to work something out in my own mind along the line of a conspiracy that involved private persons and a public officer failing to do his duty and a presumption that if the person, private person, failed to get a man out of jail, the public officer had not done his duty. But that didn't hold any more water than some of the theories, and that didn't go to this question at all.

MRS. WECHSLER: I think the Case Bill frankly purports to use the treaty power, and since the Charter pledges the nations to act against discrimination that that would be a use of this power. It is a question of Do you want to invite this test of the treaty power?

DR. DICKEY: You know you will never get a treaty through that does anything of that sort.

MRS. WECHSLER: I suppose the theory is that the treaty is there and the Congress is now empowered to take national action on the basis of the treaty.

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DR. DICKEY: I would only have to say that this is one of the things I would have to wash out on, if we are called upon to state our positions, and I think each one of us owes it to his associates in this Committee to make clear where he is going to wash out when they begin to put the heat on him.

MR. TOBIAS: What was the issue on this?

DR. DICKEY: The second paragraph, 5, on page 52.

Apparently this recommendation is modeled after the provisions of the Case anti-lynching bill, and I said that I had not been able to develop for myself and I had not heard from the others even a tenuous or what I regarded as a reasonable tenuous theory that would support making private vengeance upon a person because of his race, color, creed, or religion a Federal crime, and that therefore although I am quite content to go along with the other things that I disagree with the majority on, I want to be quite clear that my individual responsibility for this is nil.

DR. GRAHAM: You are talking about a single person?

DR. DICKEY: No, I don't see the conspiracy thing with a group. If the individual has not been in custody or accused I don't, but if someone just walks up and laces the dickens out of someone, it is.

MR. ROOSEVELT: Or a group walks up and laces the dickens out of an individual.

MR. ERNST: There is no doubt about this, the Federal Government passed a statute providing for the use of the Federal courts to impose an injunction to prevent practices, not as extreme as being killed but the deprivation of various rights, and has used the Federal arm of the Government to that extent.

DR. DICKEY: Yes. They have Federal rights.

MR. ERNST: No, except insofar as they are rights derived out of the basic rights of free speech, free press, and all the rest of them.

We haven't gone so far in the Federal Government as to say a single person or that you can proceed against a single person. It must be a conspiracy of individuals under the single statute that I referred to.

DR. DICKEY: My only purpose was to call attention to this, because I served on the subcommittee which dealt with the lynching question and to make sure that all the members of the Committee who

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had not had the benefit of worrying about the constitutional problem know what we are doing in making that recommendation.

MR. ERNST: I am in great sympathy with your position. Would it help if we added a clause indicating that we do not pass on the constitutionality?

MR. LUCKMAN: Does this mean that if we approve this that if one person or ten combine together to form a group in Los Angeles in order to beat up a Jewish boy because he is Jewish, that that becomes a Federal crime?

DR. DICKEY: That is right, if it stands up, and regardless of whether the State steps in or not.

MR. LUCKMAN: There are really some grave implications in there.

MR. ERNST: There are two: (1) the constitutionality which we could protect ourselves on and (2) just the basic State-Federal problem.

DR. CARR: I think your discussion is unduly long here. I think probably it is a forceful recommendation, without this provision, and I don't think it is necessary to follow the Case bill all the way through unless you want to. This could come out without weakening the recommendation. It would never be missed, and it would remain still a very forceful recommendation.

MR. ERNST: The middle paragraph?

DR. CARR: Not the whole paragraph; if the act by a private person is directed against other persons who do stand accused formally or privately of having committed an offense, then I think you have got a stronger case.

MR. ERNST: And you will take out all private person material and limit it just to the public officials?

DR. CARR: No, leave out only that part of the private person business which would make it a Federal crime for them to mete out summary punishment upon a person because of his race, color, creed, or religion, whether charged with an offense or not. The usual definition of lynching refers to a person about to be charged with an offense who should be given a fair trial.

MR. ERNST: But you have private persons in the first part and you also have them in the second.

DR. CARR: The first is all right, acts by a private person,

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taking the law in their own hands, to mete out summary punishment upon an accused person. That is all right. Then, you could leave in "acts by public officers meting out summary punishment." Cut out the "either" and "or private persons."

MR. ROOSEVELT: You know this is an incredible discussion to me. I don't see how you can just sit here and make a point out of really whether the guy has been accused yet formally by a summons or a warrant, or whether that has been done. I think the fact that the guy is subjected to mass violent action or murder or beating up is important.

DR. CARR: That runs all through the law.

MR. ROOSEVELT: I know, and you are making a legal point. This report is not based on the legality of any of this stuff. It is based on the moral issues involved.

DR. CARR: It is more than a legal issue. It is moral, too. Ordinary murder is a crime, but, under our system of Government, we leave it to the State.

MR. ROOSEVELT: In the specific form of murder it is the result of the mores of the area, and now you are saying that we are going to perpetuate these mores of that area to the constitutional technical issues.

DR. CARR: No, that isn't the point. That is more than just that. Let me make this point, please.

MR. LUCKMAN: You have the Federal Government going into every part of the United States where there is any kind of argument between school boys. That becomes a Federal offense immediately. You would go into the Detroit race riots.

MR. ROOSEVELT: I am not at all sure that the Detroit race riots shouldn't come under Federal law. Maybe we do need to apply the national pattern here.

DR. CARR: They made an investigation of the Detroit case. They could have gone ahead.

MR. LUCKMAN: You have the Gary school problem where there are gang fights over this problem.

MR. ROOSEVELT: That is correct. That is one side. The State is handling that.

MR. LUCKMAN: This goes terribly far.

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DR. CARR: It isn't the technical-legal point only.

MR. ERNST: You say it goes far under Bob's suggestions of deletion?

MR. LUCKMAN: No.

MR. SHISHKIN: Let's finish that proposal for deletion.

DR. CARR: It is tied down only to those situations where you have murder directed against persons who have civil rights to a fair trial because he stands accused or is about to be accused, and there the moral issue calls for the Federal Government to concern itself with the protection of that right.

MR. ROOSEVELT: There again, you have cut down his civil right. Now, I think his civil right goes an awful lot further. For example, I think that the boy in Los Angeles, a Jewish boy, in a predominantly gentile school, does have a civil right not to be beaten up by four or five other kids, just on the basis that he is a Jewish boy. It happens in New York City all the time.

DR. CARR: If you call it a civil right, do you think the Federal Government should properly concern itself with that? You would need a tremendous Federal police force to start making investigations all over the country. Then, if you were going to prosecute cases of that kind, you would be transferring a good part of your assault and battery and murder cases to Federal jurisdiction.

MR. ROOSEVELT: Well, I would limit Federal activity to where the State doesn't, either under its own laws or is not entitled to act, or where it doesn't have enforcement of its own laws.

MR. TOBIAS: How did we come to the business of a detailed description of what anti-lynching law it should be?

DR. CARR: Subcommittee No. 1 looked into this in considerable detail. They never did get around to making a final decision on all these points, but it occurred to us finally in writing it up that we would do well to follow the Case bill, which all interested groups seem to have agreed upon and are backing.

MR. TOBIAS: Perhaps I am in error. Maybe I am thinking of the drafting of an FEPC bill, but I know at Hanover we agreed not to do even in a sketchy way the draft of the details of a bill, but to state that we believe in the necessity for anti-lynching legislation, so that we could back whatever bill is introduced in Congress.

MRS. ALEXANDER: No.

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DR. CARR: I think the Committee was not going to recommend any draft legislation, but it voted to spell out in some detail in laymen's language the content of bills. Of course, we have done that all along the line.

MR. TOBIAS: All right.

MR. LUCKMAN: Is there not also the question of whether this idea belongs under lynching at all, if in fact it goes beyond lynching? If it is under the subheading of lynching, should it not pertain to lynching itself, instead of dragging in this question which has somewhat confused me as to the Federal crimes that would be committed all over the United States in race riots?

MR. ERNST: Hasn't Bob eliminated that?

DR. CARR: I really think in eliminating it, it wouldn't be missed at all. It is a very strong recommendation for anti-lynching legislation, and if Congress decides to pass the Case bill including this, it wouldn't matter.

MRS. ALEXANDER: We are leaving out what the congressional committee has already recommended.

MR. TOBIAS: That is the thing that came up at Hanover. Why should we be placed in the position of recommending anything less than is already before the Congress?

MRS. ALEXANDER: That is what we are doing when we take this out, and we are also taking out the very thing that concerned the President most. These cases of murder in the South where the State refuses to take any action, whether they be murder of white or colored people is immaterial.

MR. SHISHKIN: If you eliminate the paragraph, you will have to put in lieu thereof a statement that lynching should be made a Federal offense.

DR. CARR: My proposal is not to eliminate the paragraph, only four words: "either", "or private persons".

MR. TOBIAS: We are liable to run into the difficulty of having the Representatives, the proponents of the Case bill in this instance and whatever the name of the Ives bill is on F.E.P.C., saying to us, "We are working on this. Do you recommend something here that is either more or less?" And we are brought into conflict with two groups. There are two bills definitely before Congress, one on F.E.P.C. and one on this. The question is, Why should we go into

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details that might bring us into conflict?

DR. CARR: I don't think we are out of line on either of them. I don't think there could be a major controversy develop between the backers of either of those bills and the backers of this report.

MRS. ALEXANDER: Not to a person familiar with the bill.

DR. CARR: If the Case bill comes up, this may be out.

MR. LUCKMAN: We can't be guided by what is presently before Congress, not in the light of what Congress does.

DR. CARR: It hasn't been reported out of the committee yet.

MRS. TILLY: And you just said that we recommend to Congress the recommendation of an anti-lynching act and not define it.

MR. TOBIAS: That is what we agreed on at Hanover.

MR. SHISHKIN: We agreed not to submit any draft legislation.

MR. ERNST: I make the motion that we eliminate those words, "either" and "or private persons", in the middle of paragraph No. 5.

MR. WILSON: "either", "or private persons", line 3, second paragraph. Is that motion seconded?

MR. LUCKMAN: I second the motion.

MR. WILSON: Are there any further remarks on it?

MRS. ALEXANDER: That is eliminating something that is in the Case bill; is that correct?

MR. ERNST: Yes.

MRS. ALEXANDER: All right.

DR. GRAHAM: Aren't there a lot of other things in the Case bill we aren't taking?

MR. SHISHKIN: Yes.

MR. WILSON: If there are no further remarks, all those in favor of eliminating those four words show their right hand. There are five in favor.

Those who do not favor the motion, show their right hand, please.

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There are five opposed.

MR. ERNST: Let's have another motion.

MRS. ALEXANDER: You should abide by that. Go ahead.

MR. ERNST: It would stand technically, but I think we can resolve it. I will call on the chairman to vote on it.

DR. CARR: We could shorten it.

MR. WILSON: Remove the word "either" and then the words "or private persons".

MR. ROOSEVELT: It would read, "action by public officials meting out summary punishment." This elimination would keep the Federal Government out of all private fights, based on race, creed, or color, and private lynchings, too.

DR. CARR: Unless the person being lynched is accused of crime.

MR. TOBIAS: No. I oppose that.

MR. ROOSEVELT: That makes it 6 to 5.

MR. MATTHEWS: You couldn't get it out, so that is in. That is that. What is the next thing in order.

MR. WILSON: It stands then.

DR. DICKEY: I think that is fair, that that should stand and it is probably wise tactically, but I do want a showing that there is a division on this matter.

MR. ERNST: On that one phase of the matter, not on the entire lynching proposal.

DR. DICKEY: That is right, that the coverage of the anti-lynching legislation with respect to private persons is a subject of revision.

MR. TOBIAS: That is exactly the reason I am really not in favor of a detailed statement, but a statement favoring anti-lynching legislation, because if you show division on that, then you prejudice the whole case.

MR. ROOSEVELT: I agree with you.

MR. SHISHKIN: I agree that there shouldn't be any showing of

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division. I think if we only say we are for an anti-lynching law, that we shouldn't even attempt to mention it. That would be completely meaningless.

MR. TOBIAS: Why would it be meaningless?

MR. SHISHKIN: I think that if the President's Committee on Civil Rights hasn't got enough after its months of study to say more than they are for an anti-lynching law without meeting the issues involved, I think the President's Committee ought to be given a spanking.

DR. CARR: I think Mr. Shishkin is right, that if you do nothing more than mention laws by name and say nothing about them, it is inappropriate.

MR. ROOSEVELT: If you would agree to let the report stand as it is and be satisfied that on the record of the minutes you have stated that you are worried about the inclusion of this private thing purely on constitutional grounds, and the question of States' rights --

DR. DICKEY: My worries go farther than the legal argument. I want to be clear about that, because if I were quarreling about the constitutional and legal arguments I would take my chances on it. I have very fundamental misgivings on the broad political question of taking a step which goes decidedly in the direction of turning over the police power responsibilities to the Federal Government from the States.

MR. TOBIAS: Then you oppose the anti-lynching law as we are thinking of it?

DR. DICKEY: No, we are talking about a pretty technical thing here as well as a big question. My misgiving is with respect to that aspect of the law which says that the infliction of private vengeance upon a person because of his race, color or creed must be a Federal crime. That is that any boy, as we have used the illustration, who was caught out in the street in New York City and punched by a bully because he doesn't like Jewish people or Negro people.

MR. SHISHKIN: We just took that out.

DR. CARR: No, they voted not to take it out.

DR. DICKEY: I think we are not wasting time, because if this Committee isn't clear about this one, I think the word "spanking" is quite too mild.

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DR. CARR: I am convinced it is a mistake to leave it in. I think some people still do not quite understand the rather minute technical point being discussed.

DR. DICKEY: I am for taking the chance on the Federal lynching act.

MR. CAREY: We are getting mixed up between whether or not it is a crime. I think it is a crime against humanity, a Federal crime, a State crime, a sin in every religion, and all that. Now we get mixed up in how you treat that violation. I don't think it is necessary to get down to this point of mixing up the point of enforcement of the law with this question of whether or not it is a crime. To me, it is a crime; it is a Federal crime, a world-wide crime, and everything, because it is wasted on the brotherhood of men. How do you deal with it? What kind of a law do you want? I think in the case of lynching you need a Federal law.

MR. ROOSEVELT: It is the definition of what is lynching, and John Dickey defines lynching partly on the basis of where State enforcement and Federal enforcement conflict. I don't think that has anything to do with it.

DR. CARR: I think you are misunderstanding him completely. He would go along with a lynching bill that goes this far, that any interference by public officers with a person accused of crime is lynching; any interference by a private person with a person accused of crime is lynching; any interference by public officers with persons not accused of crime but motivated by race, creed or color is a lynching; but not finally, interference by a private person with another person who is not accused of any crime, where the interference is motivated only by race or creed or color. That is stretching it beyond anything before known.

DR. DICKEY: I still feel it is not good tactics for this Committee in view of the representation on the Committee and the way the Committee feels on the subject, the position of the Case bill, and so forth, to attempt to find an easy formula on this thing. Apparently, the majority here feels strongly on this thing, and I am convinced myself this is going to be a central aspect of the Committee's work. There are a good many other things along in the report which each one of us has ridden along on, and we have been either good fellows or good losers, and so forth, and there are only two points in the report where a substantial division of opinion was present, where we were 5 and 6, or 7 and 6, or something like that, where it was clear that it would be dishonest to represent the Committee as having a consensus on the thing, where we were going to indicate there was a frank division.

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Even if this matter hadn't come up, I was going to propose this, and it having come up, I think it is fairest and the best way to take care of this situation, and if this can be accepted, I would withdraw a request for an indication that there is a substantial division on this issue.

I think that at the head of the recommendations or somewhere in the report at a prominent place a statement such as this should appear: "This report covers a broad field and many complex and controversial matters. It is not to be expected that every member of the Committee would personally put every statement just as it appears here. The report does represent a clear consensus of the Committee, except on those specific matters where a substantial division of views is stated to exist."

Now, I feel that I am sufficiently protected by the word "consensus".

MRS. TILLY: You used the word "substantial" though, when Dr. Graham and I were the two that didn't go all the way with the segregation.

DR. DICKEY: No, it was 6 to 5. I think, as a matter of fact, that you people need something like this in this report.

MR. LUCKMAN: But then you are going to indicate in two places then that specifically there was a substantial division of opinion.

DR. DICKEY: Yes, because I think in those cases it was not one or two being out of line.

MR. ROOSEVELT: Not lynching. This covers lynching.

DR. DICKEY: As far as I am concerned, I will withdraw my request.

MR. LUCKMAN: I don't think that adds up.

MR. ROOSEVELT: From a technical point of view, it is very important; if this Committee comes in with any division at all on the lynching thing, we might as well pull out and go home.

DR. DICKEY: I have tried to compromise my situation on this to go along.

DR. GRAHAM: I am on record for anti-lynching laws as far as that is concerned.

MRS. TILLY: I am, too.

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DR. CARR: While he feels it was a 6-to-5 vote, the issue was nothing major.

DR. DICKEY: I will not insist upon a division.

MR. MATTHEWS: I move the adoption of Mr. Dickey's proposal.

DR. DICKEY: I think everyone of us will need something of this sort to sign this report with good conscience.

MR. ROOSEVELT: I second it.

MR. WILSON: Will those in favor of the motion vote "aye"?

DR. DICKEY: "This report covers a broad field and many complex and controversial matters. It is not to be expected that every member of the Committee would personally put every statement just as it appears here. The report does represent a clear consensus of the Committee except on those specific matters where a substantial division of views is stated to exist."

There will only be two such matters, grants-in-aid for education and the Austin-O'Mahoney bill. I will withdraw my request for an indication of a division on the lynching matter and consider myself protected by the "clear consensus". In other words, "consensus" is not unanimous.

MR. CAREY: And you wouldn't have to have any of this clarifying business in the rest of the report?

MR. LUCKMAN: I will go along, but I think it is dishonest, a 6-to-5 vote, a consensus. If that isn't dishonest, I never heard of it.

MR. ROOSEVELT: It is on a technicality and I am not sure that it is 6 to 5, because the chairman hasn't expressed himself and Bishop Sherrill isn't here today.

MR. LUCKMAN: Of those who voted, it is 6 to 5.

MR. WILSON: I would vote to put in the words that Bob gave, or delete those.

MR. LUCKMAN: That ties it up, 6 to 6.

MR. WILSON: I am afraid of the mechanism you are providing. In principle, I am for it, but the mechanism I am afraid of. What I am afraid of is that you are bringing in cases requiring the Federal handling of cases which I think is completely impracticable.

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DR. CARR: Let's put it this way --

MR. LUCKMAN: The opponents of the Case bill have a good chance of defeating it because of this.

DR. CARR: You are magnifying it far too much. It is quite a minor point in the over-all character of the bill.

If Mr. Dickey's motion had already been adopted, might the vote on that issue have been somewhat different, or perhaps he wouldn't have even raised it. Doesn't that change the situation?

MR. ROOSEVELT: Yes, because Mr. Dickey then sided with us on this thing.

MR. ERNST: No, he keeps quiet.

MR. ROOSEVELT: Then, you, too, at least, abstain?

MR. ERNST: It wouldn't change my vote on the deletion at all, but I am ready to go along and forget.

DR. DICKEY: I am prepared to abstain on that.

With that statement I will abstain from voting on the other matter.

MR. ROOSEVELT: Then it is 6 to 4. Who else who voted against it would abstain?

MR. LUCKMAN: Let's try it the other way.

MRS. ALEXANDER: The motion was voted and passed.

DR. GRAHAM: We are going to make no point of the division.

DR. CARR: It is my honest opinion as your Executive Secretary, that this statement is very well worded and will protect you on many points of this kind, and this issue that has been discussed.

MR. MATTHEWS: When was this motion of mine passed? It hasn't been put to a vote.

MR. LUCKMAN: I objected to the word "consensus."

MR. ERNST: Why don't we get a vote on the motion, the motion to adopt the protective clause?

MR. WILSON: I have slipped. I thought we had already.

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Will all who favor Mr. Dickey's motion please raise their right hand?

There are eight.

MR. MATTHEWS: That was my motion, not Mr. Dickey's.

MR. CAREY: Are you going to call for the fellows who are voting against it?

MR. WILSON: We know how many are here.

Will those who oppose the motion show their right hand, please?

MR. CAREY: I would like to be reported as being opposed.

MR. WILSON: There are two; eight and two.

DR. DICKEY: I would like to ask Mr. Carey to explain why he is opposed to that.

MR. CAREY: I am perfectly willing, because I am not here as a person and I have nothing to defend in that regard. I am here as a member of this Committee, and I am not willing as a member of this Committee to evade responsibility by such a general statement. That tends to weaken the whole report.

DR. DICKEY: I am glad I asked you because I disagree with you completely on that.

MR. WILSON: The next question.

MRS. ALEXANDER: We will put in there the two instances.

DR. CARR: Not in the motion, they will stay where they are.

MR. WILSON: 53.

Do you have anything on 53?

MR. ERNST: I have one question.

MR. WILSON: There is one question raised about 53.

MR. ERNST: I raise the question as to the interpretation of No. 2 and No. 3 on 53. These are the Federal and State officials or Federal and State primaries, and I query whether the distinction you make in 3 to include State officials, State primaries, is sound as compared to the one in 2, where we are only representing as to

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the Federal primaries.

DR. CARR: These are both traced back directly to the Department of Justice, two laws they asked for and would like to have. Each is based on a somewhat different constitutional power. The first law would be based on Article I of the Constitution and would make use of the implied power that Congress has to protect Federal elections.

The second law would be based on the Fourteenth and Fifteenth Amendments and would be designed to protect the right to participate in both Federal and State elections against only that interference which is based on race, creed or color or other unreasonable classification.

MR. ERNST: I would prefer if we coupled them and said the first is justified by one amendment and the other the other. Here people will sit up and read and say, "Your caption on 2 has no reference to discriminatory actions of this kind, based on race, creed or color."

The Federal caption, you see, has no relation to that, which may be corrected by changing the caption or the content. I don't know which.

DR. CARR: That is correct as it stands, that Congress has power to protect Federal elections against any sort of interference.

MR. ERNST: And only the State elections based on discrimination.

DR. CARR: That is the power given by the Fourteenth and Fifteenth Amendments, on elections.

MR. ROOSEVELT: Haven't you omitted the word "creed"?

DR. CARR: It could be put in. The Fifteenth Amendment refers only to race, color or previous condition of servitude, -- creed could come in under the Fourteenth Amendment.

MR. ERNST: Unless there is a motion by somebody else, I want to go to No. 4.

MR. WILSON: Did we settle that? The question raised here, ladies and gentlemen, is whether we shall combine 2 and 3 on page 53. Mr. Ernst feels that it would be beneficial to bring them together under one heading.

MRS. ALEXANDER: What is your feeling, Dr. Carr?

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DR. CARR: I think it is largely a matter of organization here, that there are two possible statutes, and both I think are pretty clearly constitutional, and whether it is easier to explain the difference between them by having one recommendation and one explanatory note or two recommendations and two explanatory notes --

MRS. ALEXANDER: I move we leave it as it is.

DR. CARR: We might try to make it clearer in the explanatory note why there is another law that reads almost like the first law.

MR. WILSON: Does anyone else object then, if the explanatory note is made?

(No response.)

MR. ERNST: On No. 4, shouldn't we raise the question of local affairs as well as national affairs? Do you intend that statute only to permit the people of the district to have a voice in national affairs?

MR. SHISHKIN: Insert "local".

DR. CARR: We say, "Enactment by Congress of legislation establishing local self government."

MR. ERNST: Then down below, "a voice in national and local affairs."

DR. CARR: The explanatory note will do it.

MR. ERNST: Yes, that seemed to direct it only to national affairs.

MR. TOBIAS: In that second line of the explanatory note, you speak of inefficiency and confusion, which is doubtless true. The question is what municipal administration is efficient and lacking in confusion? You don't want to put it on that basis alone. They ought to vote because they have a right to vote. Washington isn't inefficient and bounding in confusion simply because the people do not vote. There are reasons that enter into it, for the same reasons that enter into places where they do vote.

DR. CARR: I think that is a good suggestion. It would be better to state that they should have a right to participate in local self government.

MR. TOBIAS: Even the people that want the ballot don't want you to tell them if they have been civil servants that they are inefficient.

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MR. LUCKMAN: I second the motion.

MR. WILSON: Are we going to have you all back after lunch? If so, can we come back at 2 o'clock or close to it as you can make it?

We will adjourn for lunch.

DR. CARR: We have several quite crucial issues apart from the report this afternoon. You people need to settle them.

(Whereupon, at 1:15 p.m., an adjournment was taken until 2:00 p.m. of the same day.)

AFTERNOON SESSION

2:30 p.m.

MR. WILSON: We are on page 53, and we are at Paragraph 5, granting of suffrage by the States.

Does anybody see anything else on that page?

MRS. TILLY: We had some Indians with us this summer in North Carolina who said they couldn't vote. I wish you would check that.

DR. CARR: We are in the process of checking this. It is one of the things that worries us slightly.

MRS. SADY: The Solicitor of the Indian Office said there were only two States, and he mentioned North Carolina as having recently changed.

DR. GRAHAM: I think they just voted on some issue.

MRS. ALEXANDER: Are the Indians in the Aleutian Islands citizens?

MRS. SADY: Yes, but they also belong to the Territory of Alaska, and none of the citizens of the Territory of Alaska can vote in national elections.

MR. ERNST: Mr. Chairman, I suggest that that be checked. It can't be solved here.

DR. CARR: We are checking it every way we know how.

MRS. ALEXANDER: Is this the only recommendation we have concerning Indians?

DR. DICKEY: We are going to have a recommendation concerning the whole Indian problem.

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MR. WILSON: Is paragraph 6 all right?

(No response.)

MR. WILSON: Is there anything else on page 53?

DR. DICKEY: Yes, Mr. Chairman, I am going to raise the somewhat dog-eared and unpopular suggestion that it is not our business to make a recommendation about this enactment of legislation in Guam and American Samoa. Very possibly a majority want to, but I still feel that I haven't investigated Guam and American Samoa, and other people have, and I am content to let them make their recommendations as to what ought to be done about those places. I have passed our statement of facts about the situation back earlier, thinking that was a reasonable concession to an honest difference of opinion as to our concern with these matters, but I personally would move, and would like to see a vote on the proposition, that American Samoa and Guam having been investigated by other authorities, and we not having given any personal attention to them other than the report of our very competent staff member on it, that we shouldn't take a position on it.

MRS. ALEXANDER: Dr. Dickey, were you present at the hearing on Guam and Samoa?

DR. DICKEY: No, I wasn't.

MR. SHISHKIN: I would like to say this. It occurs to me that all this recommends is the granting of citizenship privileges and civil rights and transfer from naval to civilian control. It doesn't go any farther than that.

MR. ERNST: It is Truman's proposal, isn't it?

Mr. Shishkin: Secondly, that the present status of these two islands is this: although they are still under naval control and supervision, the funds for operation of the entire administration have been made available through a subsidiary of the RFC whose appropriation has been eliminated, so that the Navy Department, in both islands today, is confronted with the thoroughly untenable task of trying to find ways and means of operating the facilities that are on those islands, which are necessary for their survival at those bases, without any Congressional appropriation for the funds used for them. So the whole thing is in a state of suspended animation.

DR. DICKEY: I think that may be quite true. I will be content with recording my belief that this is one of those matters I don't know anything about, and let it go at that.

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MR. CAREY: And refuse to learn? (Laughter)

DR. DICKEY: That is right.

MR. WILSON: There may be a few in the same box with you.

MR. LUCKMAN: Is there any possible quarrel with the Navy over this recommendation? Might the Navy want to retain administration? I am asking that in ignorance. I don't know anything about it.

MR. WILSON: I think not.

DR. CARR: The only quarrel might be on the timing. I think in the President's recommendation there is a clause "as soon as practicable."

MRS. SADY: "At the earliest practicable moment."

MR. SHISHKIN: The only question that the Navy has in mind is about the retention of martial law for the purpose of administration.

MRS. SADY: That is a report (handing document to Dr. Dickey) of the four Departments concerned - the Army, Navy, State, and the other one.

DR. DICKEY: I have seen that, and I have no doubt whatsoever but that they have made a magnificent report, but I don't think this Committee has made an investigation of those islands, and when I write a report on those islands I am going to insist on a trip there. (Laughter) I have never been in Guam and American Samoa.

MR. SHISHKIN: I agree with Dr. Dickey to the extent that I think I have been deprived of my civil right as a member of this Committee in not having a trip to those two islands.

MR. CAREY: I feel compelled by the reasoning of Dr. Dickey --

MRS. ALEXANDER: (Interposing) Carried to its logical end, we should have gone to all of these trouble spots in America.

DR. DICKEY: I have been to a good many of those.

MR. CAREY: But not as a minority.

DR. DICKEY: From here on out, as far as I am concerned, anywhere in the United States I am a minority, after I put my signature on this report.

MR. ERNST: Just to get it to a vote, I move approval of Paragraph No. 8.

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MR. ROOSEVELT: I second the motion.

MR. WILSON: Will those in favor of the motion raise their right hands? Seven for. It prevails.

MR. ERNST: On the next one, I would recommend that the provision in connection with the disclosure by affidavits as to whether people have advocated the overthrow of the Government or not, etc., be eliminated. I, for one, don't like this theory that you get people to sign statements that they are good people, because the only people who sign them willingly are the Fascists and Communists, in this sector. That is at the bottom of page 53 in connection with disclosure, "Finally, the revenue laws should require a special affidavit", and so on.

MRS. ALEXANDER: Read it all, please.

MR. ERNST: "Finally, the revenue laws should require a special affidavit from all profit-making corporations which attempt to influence public opinion. In it they should be required to state whether they have advocated the overthrow of the Government or the infringement of the civil rights of any group, or discrimination in employment, public services, or education, because of race, color, creed, and national origin; and whether they have advocated the elimination of such discrimination or the retention of the present form of the Government."

The people who are willing to sign it are the very groups you want to get after, and it is something like your loyalty provision.

MR. SHISHKIN: I agree with you.

MR. ERNST: I ask that it be eliminated.

DR. CARR: That is perfectly all right. What this intended, perhaps, was to make it possible to include profit-making agencies as against non-profit?

MR. ERNST: If it was, I should think this is the wrong way to try to do it, because the profit-making ones that are evil are going to sign that they are good boys.

MR. STEWART: We were trying to follow Mr. Ernst's mandate that this provision should include both the groups we don't like and the groups that we do.

DR. CARR: Do you think what is left is all right after that goes out?

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MR. ERNST: Yes.

DR. CARR: What are you eliminating?

MR. ERNST: Cutting out from "Finally", at the bottom of page 53, through "Government" on the 5th line of page 54.

MR. SHISHKIN: You eliminate all profit-making corporations.

MR. ERNST: I eliminate all the provisions that they shall file these declarations. There are a few references elsewhere to it. "...required to state whether they have advocated". My point is this. All I want to eliminate is the provision as to the filing of the affidavits, I don't care whether they are profit-making organizations or not, I think it is a silly device.

DR. CARR: There is no provision at all to have any profit-making agencies disclose --

MR. ROOSEVELT: (Interposing) Start in with "In it".

DR. CARR: The "affidavit" is in the sentence ahead of that.

MR. ERNST: You have to exclude the filing part of it and leave in the "profit-making" up above somewhere.

MRS. ALEXANDER: Would you state the words you want out, Mr. Ernst?

MR. ERNST: I can't exactly, because as Bob Carr just pointed out to me, the concept of the profit-making element is interspersed there, so we will have to rewrite it.

MR. STEWART: Take out "which claim to operate on a non-profit basis" and substitute, "groups and organizations, regardless of whether they are profit-making or non-profit-making."

MR. ROOSEVELT: "Nonprofit or otherwise".

MR. ERNST: All I want out is the concept of the filing of the affidavit.

DR. CARR: What statement do they file?

MR. ERNST: Financial statements, and so forth; but to ask a man to say that he is not in favor of the overthrow of the Government is silly.

MR. ROOSEVELT: There is a technical question here. If Gerald

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L. K. Smith, or say a Communist, signs this affidavit, that may be the only way we actually have of hooking him.

MR. ERNST: I don't want to get people by the affidavits they sign, one way or the other, as to their loyalties.

MR. ROOSEVELT: I thought that was one of your objectives.

MR. LUCKMAN: That is a perfectly logical personal opinion. But I am not sure we should agree with that.

MR. MATTHEWS: This, as it stands now, would require all newspapers to file affidavits.

MR. CAREY: All corporations who advertise in the newspapers for the purpose of influencing the public to use their particular products.

MR. LUCKMAN: I think that is good.

MR. ROOSEVELT: All they file is their financial statement. They don't sign any affidavits.

DR. CARR: How would it be if you say, "Finally, the revenue laws should require the filing of a statement from all profit-making corporations which attempt to influence public opinion, a statement disclosing" --

MR. ERNST: (Interposing) "Ownership and finances".

DR. CARR: All right.

MR. ERNST: That is satisfactory to me.

MR. WILSON: Would that meet the Committee's requirements?

MR. SHISHKIN: Is "ownership and finances" enough?

MR. ROOSEVELT: Suppose they file an unverified statement, a false statement? I think you have got to have --

MR. SHISHKIN: (Interposing) In addition to "ownership", don't you want the officers?

MR. ROOSEVELT: If you just say "statement", that doesn't mean anything.

MR. SHISHKIN: We don't want to go into details.

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MR. ROOSEVELT: You can pin down an affidavit to the finances and ownership. The only thing you are then eliminating is the affidavit that he is not a Communist.

MR. SHISHKIN: Or a Fascist.

MR. ERNST: If you want to elaborate it, you will have to say "directors and officers".

MR. SHISHKIN: In order to be realistic on this, I think we have to take cognizance of the fact that the present law, the Taft-Hartley Law, requires the filing of statements in connection with political activities of banks, corporations and unions, but not of associations.

MR. CAREY: And not individuals.

MR. ERNST: The only suggestion I made was that we don't go ahead with this silly process of getting people to sign affidavits --

MR. CAREY: And the NAM says they are not a pressure group, and they don't file under the Lobby Legislation, but everybody else does.

MRS. TILLY: The NAM are financing the hate sheets, the new ones that we have got in Georgia that have no name on them.

In the next paragraph, do we leave in "Congress ought also to amend the postal laws to require those who use the first-class mail for large-scale mailings" --

DR. CARR: (Interposing) Oh, yes, I would think so.

MRS. ALEXANDER: Did we get this other thing straight? Have we got the paragraph straight which Mr. Ernst made suggestions on?

MR. ERNST: I am satisfied with Bob Carr's idea.

DR. CARR: I have got, "Finally, the revenue laws should require all profit-making corporations to file a statement disclosing ownership, officers, and finances."

MR. ERNST: That will satisfy me.

MR. SHISHKIN: There is one point on page 53, in the heading of No. 1 under IV. You say: "The enactment by Congress and the State legislatures of legislation requiring all groups, which attempt to influence public opinion, to disclose the pertinent facts about themselves through systematic registration procedures". Does that cover the whole thing, or do we --

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DR. CARR: (Interposing) We were trying to word it broadly enough to give the idea in simple language, and pin it down fairly precisely. Whether we have or not, I don't know.

MR. SHISHKIN: O.K.

MR. WILSON: All right, your point, Mrs. Tilly.

MRS. TILLY: I think that is cleared up.

MR. WILSON: Is there anything else on page 53?

DR. DICKEY: How is that proposed to read now at the bottom of page 53 and over to page 54?

DR. CARR: "Finally, the revenue laws should require all profit-making corporations which attempt to influence public opinion to file a statement disclosing ownership, officers and finances."

DR. DICKEY: That is going to mean every corporation in the country, any corporation that maintains a public relations program.

MR. WILSON: They do now, don't they?

DR. DICKEY: I had understood most of them do.

MR. WILSON: I mean they do file.

DR. DICKEY: But not this sort of affidavit.

MR. LUCKMAN: We are taking out the "affidavit".

DR. CARR: The "affidavit" is out. They just file a statement.

DR. DICKEY: They are not brought under that category, this type of information.

MR. WILSON: No, but they file with the Government, with the Securities and Exchange Commission --

DR. DICKEY: (Interposing) Sure, but file the sources of financial contributions, disbursements, and purposes of the organization - is that what you want? Have we really given some thought to this?

DR. CARR: Would this be an annual statement, Morris?

DR. DICKEY: Who is going to examine these things?

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MR. ERNST: All I recommended, and I thought that was what was intended in the body of it, was that the returns now filed by the tax-exempt organizations that are now in the Treasury show this additional information. And beyond that, the staff came in with a recommendation as to all others who influence public opinion, that they file affidavits -- "all others" being profit-making, I take it -- would file affidavits; and now the suggestion is that instead of these affidavits, they file factual information.

DR. CARR: Do you want to take the whole thing out? We certainly aren't trying to extend this beyond what your intention was.

MR. ERNST: I am content with the non-profit-making groups. The point was made that some people, like Gerald L. K. Smith, operate as profit-making groups, and this was an attempt to try to see how we could get at Gerald L. K. Smith and the others who raise these fortunes to fight Mrs. Tilly and others.

MR. WILSON: Suppose we take it out.

MRS. TILLY: I wouldn't want it out.

MRS. ALEXANDER: She would be greatly handicapped.

MR. SHISHKIN: I am not very clear on the operation of this, Morris.

MR. ERNST: I am not, either - I mean on this phase of it.

MR. SHISHKIN: If Luckman and I are operating a non-profit business which may be in the realm of education, we would have to file all of this; and when this goes into effect, we find that the only way for us to really do a thorough job without having to submit to disclosure is to put ourselves on a profit-making basis, and so we immediately become profit-making.

X MR. ERNST: As a practical matter, you are getting your donations from people who give them for the purpose of taking the tax deductions.

I would like somebody else to carry the load. I make no great point of it. What I would really like is some Congressional hearings and discussions of how we can disclose who these guys are.

MR. SHISHKIN: If you give birth to it, you will have to nurse it.

MR. CAREY: But he puts it up and then tries to discourage it.

MRS. TILLY: A part of our fight in the South is this fight against the CIO and its organizational program, and to prevent that

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the South is filled with these hate sheets that are financed --

DR. GRAHAM: (Interposing) Anonymously?

MRS. TILLY: Yes. And you know very well when they come out, if you know the people that put them out, you know they could not finance it.

MR. ERNST: Of course, the large-scale millings, I take it, are covered elsewhere, and that cuts across both profit-making and non-profit-making.

MRS. TILLY: And this hate literature has been distributed and sold - two new pieces of literature now in Georgia, one in Augusta and one in Atlanta - on the streets by the Columbians; and when we get that, the South becomes -- it is done in our political campaigns, and the thing back of our political campaigns is to keep the status of farm tenancy and cheap labor, isn't it --

DR. GRAHAM: (Interposing) Yes.

MRS. TILLY: And this is a method that is used, and these hate sheets make the very poor people party to their own exploitation, because they are the people who are stirred up, and it is done to really hide the real issues.

DR. DICKEY: I am perfectly sure of that, Mrs. Tilly.

MRS. TILLY: But if people had to tell, if those sheets had to tell where that money was coming from --

DR. DICKEY: (Interposing) Don't you get that by requiring that the name and address of the individual appear on every sheet that is mailed?

MRS. ALEXANDER: They are not always mailed. She says they are sold on the streets.

MRS. TILLY: And in those mill communities there is money enough put in by whoever is publishing it, to have it distributed in every mill or house.

DR. DICKEY: My opinion would be that there are lots of evils that you can't correct by legislation, and that to tie this whole country up with another filing statement requirement to catch some handbill distributor on a corner --

MRS. TILLY: (Interposing) If it was just that, it would be a

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small matter, but when it affects a whole State election and puts over Bilbo and Talmadge on us, that is why it is just more than just distributing handbills.

MR. SHISHKIN: This relates to postal --

MRS. ALEXANDER: (Interposing) She says not always.

MR. SHISHKIN: This doesn't catch the distribution.

MR. ROOSEVELT: In the practical application of this, the little fellow on the corner selling dirty pictures won't be interfered with, but this will stop what Mrs. Tilly is talking about.

DR. DICKEY: That is what it won't stop.

MR. ROOSEVELT: It will give you and me an opportunity to go out and stop it, because we will see the public statements that these people have filed; and if they haven't filed them, bring an action in court.

MR. LUCKMAN: Even if it did, there is the point that John raised, namely, that in trying to solve one problem, you create an even larger problem which will bring forth tremendous criticism and adverse reaction.

MR. ERNST: I take it we are all agreed on the nonprofit groups, those that claim tax exemption. Couldn't we merely then say that the Treasury Department and Congress, or the Executive and Legislative Branches of the Government, should explore how far this theory of disclosure should be impressed upon those, particularly those who, under the guise of profit-making, are carrying on the bigotry campaigns?

DR. CARR: I think that would be fine.

DR. DICKEY: I think the rest of that recommendation ought to be made the subject of study, because when you recommend registration procedures of this sort to the nation --

MR. ERNST: (Interposing) You are talking about the postal stuff?

DR. DICKEY: No, the paragraph about disclosure.

MRS. TILLY: May I add one more thing to what you said. Those very hate sheets were responsible more or less for the Monroe lynchings, for most any of the disturbances we have, because those people are not reached by speech, they are reached by something of that kind. So it is more than just a matter of handing out sheets.

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DR. GRAHAM: How can you reach these people without having a drag net across the nation?

MR. ERNST: I am saying that as to those who claim tax exemptions, they are easy to reach. As to the profit-making individuals and groups, we recommend more consideration by Congress.

MR. ROOSEVELT: You are losing the practical application of this law. All we are doing is setting up the machinery for the Jews to watch the Ku Klux Klan; for the KKK to watch the Jews; and for somebody else to watch somebody else. And where they find they haven't complied with the law, you are permitting the individual citizen to start the wheels in action under this law to force compliance and exposure. I don't think that you are forcing a lot of good corporations who don't indulge in dirty tactics such as the NAM occasionally does. They won't be bothered, the law will never be brought up against them, so it won't be a dragnet.

I think that we are allowing a big bugaboo that won't ever exist, to warp our thinking on it.

DR. DICKEY: You have got to have some penalty in this thing, haven't you, for failure to register?

MR. ERNST: Failure to file.

DR. DICKEY: If I know anything about the business --

MR. ROOSEVELT: (Interposing) I would like the penalty to be that the court can issue a mandamus, or anything else, to direct compliance. Then when they fail to comply, they go to jail for contempt. You don't have to put a lot of penalties in there, a \$1000 fine, and so forth.

DR. CARR: I am a little bit worried about the looseness of what remains here. For example, it would mean, I take it, publicity for the income tax returns of all corporations. Is that presently the law?

MR. ERNST: Not under the proposal I make.

DR. CARR: But as it stands, automatically this would be doing --

DR. DICKEY: (Interposing) Only if they claim tax exemption.

DR. CARR: Unless we drop out "Finally, the revenue laws should require all profit-making corporations which attempt to influence public opinion to file a statement disclosing ownership, officers and finances" - unless these are open to the public, the recommendation has no meaning.

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MR. LUCKMAN: And there are thousands of corporations that are privately owned that don't now disclose that financial information, and there is no real reason why they should.

MR. ROOSEVELT: And yet the labor unions are required to

MR. MATTHEWS: I think that is a basic discrepancy, but it lies in the field of labor and not in the field of civil rights.

MR. CAREY: Now wait a minute --

MR. MATTHEWS: (Interposing) I just wanted to see if you were here.

MR. CAREY: On the question of the field of civil rights, the law as it now reads provides that workers can be denied the benefits of Federal Government machinery in the field of labor if any member has not received a financial report of the organization. That means that an employer, should he find any employee that has not received a financial report of the union, that that employer can have a case before the National Labor Relations Board thrown out.

I think Mrs. Tilly's point here is that at the present moment the contest in this area of public opinion is unequal, and this law as it now stands, the Taft-Hartley Law, creates further inequalities in this regard; and to equalize it, to bring in these groups that, out of the efforts of labor, funds are secured that are devoted to the cause of exploiting the civil liberties of the people, or at least denying their civil liberties in order to provide opportunities for further exploitation.

How we meet that, I don't know. We attempt to meet it on the basis of disclosure. We might say, instead of the way it has been suggested here, that we considered the question of affidavits, and we found that that is not an adequate way of determining whether or not there will be fulfillment of the American Creed, or whatever you call it.

I don't know, I think you are going to have to say "hate sheets" or call them by name, for what you are driving at.

MR. ERNST: This probably won't satisfy anybody. We stand where we are on the non-profit-making groups which are presently filing. "Since many enemies of civil rights would escape from disclosure by not claiming tax exemption, we suggest that the Executive and the Legislative Branches of the Government examine how adequate disclosure can be obtained in this other field," something of that kind, so we don't take a position on the profit-making groups. We make clear that the problem is the Gerald L. K. Smiths without naming them.

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MR. LUCKMAN: I move we accept that recommendation.

MR. ROOSEVELT: I second the motion.

MR. WILSON: Will those who favor the motion vote "aye"; contrary minded "no"; it is carried.

MR. SHISHKIN: I would like to state that I have a question about the efficacy of this postal regulation requiring that no mail be carried by the Post Office which doesn't bear the name and address of the sender, and my only question is whether or not there isn't going to develop, as a result of it, an awful lot of mail that will have marked on the envelope, "From the Desk of Morris L. Ernst", regardless of the contents.

MR. ERNST: I will take care of those guys. You mean using fake names?

MR. SHISHKIN: That is right.

MR. ERNST: You will have to rely on somebody coming in with a complaint to the Post Office and saying, "This is a phony hate sheet."

MR. LUCKMAN: I think I would like to see them do that. Wherever the incident arose where they were looking into it, they would go immediately to investigate to see if they did come from the desk of Morris; and finding they didn't, you have got several charges you could bring against them.

MR. SHISHKIN: Against whom?

MR. ROOSEVELT: That is a detective question.

DR. CARR: It is against the law, the Post Office Department enforces a thing like that the best it can. It takes a sample from time to time; or whenever, as a result of other investigations, it comes out that fictitious names have been used, it is established that it is against the law, and the usual sort of penalty could be provided. I agree with you it would by no means guarantee that immediately the authenticity of the return address on every piece of mail would be established.

MR. ROOSEVELT: The investigation would start immediately, knowing Morris' immediate reactions, because I would undoubtedly be a receiver, and I would call up Morris and say, "I see you are at it again", and he then would call up Mr. Goldman down at the Post Office, and away we would go.

MR. SHISHKIN: That will deprive me of the opportunity of writing

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Mrs. Tilly that love letter that I wanted to send under another cover.
(Laughter)

MR. ROOSEVELT: I think you are looking for Mrs. Tilly's support
versus the CIO. (Laughter)

MR. SHISHKIN: I am sure I won't get it.

MR. ERNST: Mr. Chairman, on No. 2 I have two comments. I don't
want to rehash the loyalty thing, but it seems to me that exactly
what we ask for here on due process, in the third paragraph - bill of
particulars, and so forth - should be identical to what we have said
in the report.

DR. CARR: We will fix that.

MR. ERNST: Beyond that, the very first sentence, I think you ought
to make clear, if I understand what you have in mind - and I would go
very far on it - something to the effect that we deplore the irrepar-
able harm that will be done to the Federal civil service, so you don't
try to leave the implication that there have been mass discharges al-
ready and that is the tendency of our Government.

DR. CARR: I think the wording can be improved, remove the implica-
tion --

MR. ERNST: (Interposing) That it is public hysteria rather than
the Government.

MR. LUCKMAN: Fine.

MR. WILSON: Anything else on page 54?

MR. LUCKMAN: Yes, Mr. Chairman, under the fair employment. Appar-
ently I missed some meeting at which I assume it was decided that we
would not indicate the sanctions under the fair employment practice
act. I wonder if I could be brought up to date on the reasoning for
that. It says here, "and legal sanctions", but I was under the impres-
sion we were going to indicate certain sanctions.

DR. CARR: No, the "power to receive complaints, hold hearings,
issue cease-and-desist orders and seek court aid in enforcing these
orders" - isn't that what you want?

MR. LUCKMAN: Where is that?

DR. CARR: Under "For employment:

"The enactment of a Federal fair-employment practice act * * *

* * * "The administration of the Act", and so on.

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MR. ROOSEVELT: Six paragraphs from the bottom.

DR. CARR: I think what you want is there.

MR. LUCKMAN: I have it. No fines?

DR. CARR: Well, yes, that is covered by implication. That is, if you issue a cease-and-desist order and it isn't obeyed, and you seek court aid in enforcing the order, that court aid would have to carry some sort of penalty.

MR. ERNST: It could be contempt.

MR. SHISHKIN: There isn't any direct penalty, is what he means.

DR. CARR: Isn't it clear that a court order to enforce a cease-and-desist order has to carry either a fine or a misdemeanor penalty?

MR. SHISHKIN: Or injunction.

DR. CARR: A contempt of court, which means a fine or even a prison term. You can spell it out if you want to.

MR. LUCKMAN: In all of the testimony of the subcommittee on this subject, we had no one appear before us except those who stressed the tremendous and vital need for making it clear to the employers that there was a financial penalty.

MR. ERNST: There was?

MR. LUCKMAN: Yes, everyone stressed it, particularly all those that had had experience with the New York Act. And only because they put so much stress on it, it seemed to me we might mention it.

I think there should be a uniform fine, we don't have to spell out whether it is \$1,000 or \$5,000.

DR. CARR: Your fine or prison term would have to come from the court. Your administrative agency doesn't have the power to impose fines.

MR. SHISHKIN: The theory of the Chavez Bill is enforceable in the courts and not by the Commission, with the exception of provisions which are really supporting provisions - for example, the posting of notices is required, and if that is not complied with, then there is a direct fine to be imposed for that.

MR. LUCKMAN: Fines or penalties, however you wish to term it, for lack of compliance with specific provisions of the law.

MR. ERNST: Instead of leaving it to the discretion of the court

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MR. ERNST: Instead of leaving it to the discretion of the court under the mere basis of contempt?

MR. LUCKMAN: Yes.

MR. SHISHKIN: That isn't possible under cease-and-desist orders.

MR. ERNST: What Mr. Luckman is proposing is that we recommend an FEPC that carries within the statute itself a definite fine.

DR. CARR: There is no real conflict here, is there?

MR. ERNST: Yes, because we are proposing that there be no definition in the statute as to the amount of the fine, but that it be left to the Judge in each case, on contempt, to either send you to jail or fine you, as he sees fit.

DR. CARR: What do you want?

MR. LUCKMAN: Can't you have both? Are they incompatible? You would have certain provisions that would be subject to specific fines. You would have other provisions which would be subject to court procedures--

MR. ERNST: (Interposing) Would you be satisfied if we said certain provisions of the statute might well be subject to fines, which would be incorporated in the statute?

MR. SHISHKIN: I want to clarify that, because I think there is some confusion in the discussion. The cease-and-desist procedure embodied in the FEPC approach to it is civil procedure. The imposition of direct fines in a proceeding against an employer on a criminal basis is found by all the proponents of the legislation not to be desirable. There are provisions such as, for example, false testimony, refusal to post notices - not the substantive provisions of the law itself, but interfering with the administration of the law - which are subject to fines in the proposed legislation, and should be, I think. And I wanted to make clear whether that latter part is the only part that you are talking about.

MR. LUCKMAN: The procedural end.

MR. ROOSEVELT: If you add at the end of that sentence, "and seek court aid in enforcing these orders through fines and imprisonment" --

DR. CARR: That is what you have just been saying is wrong.

MR. SHISHKIN: Yes. All I am saying is that --

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MR. ROOSEVELT: (Interposing) You are specifically saying the court has a right which it already has.

MR. LUCKMAN: Boris has it divided properly. There are procedural phases of the proposed law which are not substantive and not subject to court interpretation; you either comply or you don't. And in those, it was recommended to the subcommittee by everyone who discussed those points that there be fines.

Then in the substantive end, which is a matter of degree and interpretation or judgment as to whether or not you are complying with the proper treatment of Negroes or Jews or what have you, that is subject to court action with nothing else added.

MR. ERNST: Would you be happy to say, "and with provisions as to definite fines as to procedural items in the legislation"?

MR. LUCKMAN: Yes, I think that would cover it.

DR. CARR: What do you want to say?

MR. ERNST: And with the incorporation of definite fines in the legislation, as to procedural items?

MR. LUCKMAN: Yes, procedural provisions.

MR. WILSON: Is that satisfactory?

MR. LUCKMAN: Yes, I think that would take care of all the recommendations that we have.

MR. WILSON: Does the Committee subscribe to that?

MR. SHISHKIN: Can't you say "interference with the administration of the law"?

MRS. ALEXANDER: We are not going to draw the Act, it seems to me. We are just setting out some of the highlights.

MR. LUCKMAN: I think "procedural" will take care of it.

DR. CARR: I wonder whether it isn't adequate as it stands?

MRS. ALEXANDER: I think it is.

MR. LUCKMAN: If the Committee wishes to disregard the testimony, it is all right with me.

DR. CARR: I didn't mean that. I thought this was superfluous; that it was there by implication. But I guess it isn't.

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MR. SHISHKIN: My only thought is that somebody reading it the way it is now would think that fines are imposed for discrimination, which is not what we intend.

DR. CARR: It is of course true, on page 54, that the GPO failed to set some of these recommendations out in black type. There was no such intention on our part.

MR. CAREY: Before we go over to "For education", I would like to put into the record, for perhaps the benefit of the Secretary and the possibility in the future that a basis for unanimity of opinion on this subject might be found, if an effort is made to have that, after No. 3, "For education", a statement reading as follows:

"The enactment by the State legislatures of fair educational practice laws to abolish prejudices and bigotry by prohibiting discrimination in the administration of public and private educational institutions, including the admission and treatment of students, based on race, color, creed, or national origin."

MR. ERNST: This is for the consideration of the staff?

MR. CAREY: Yes.

DR. CARR: What do you mean by that?

MR. ROOSEVELT: Don't get sucked in here.

MR. CAREY: Don't let somebody take a few words out of context, especially if they are expressed in your presence. I said "in the event there is possibility of securing unanimity of opinion on this subject" --

DR. CARR: (Interposing) The possibility is right here at this moment.

MR. ROOSEVELT: Have you read this thing carefully, Morris?

MR. ERNST: Which?

MR. ROOSEVELT: This suggestion of Jim's.

MR. ERNST: That is an addition?

MR. ROOSEVELT: He is offering it as a replacement of what we arrived at last night, and it is a very interesting proposal. It might bridge one of the gaps; it won't bridge the Federal Air problem on segregation, it won't bridge the sanctions difficulty, but it might bridge the motivation difficulty.

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MR. DICKEY: I don't see how it can bridge it.

MR. CAREY: That is, if you want to make an effort to bridge it. I made that very clear.

DR. CARR: Don't look at me. It is you people who have to bridge the gap if it is possible. It is too late for me to start any wheels in motion to do that.

MR. DICKEY: I think the big division here is on the wisdom of legislation on the subject, and the people who want legislation directed at the private institutions want it, and those of us who don't want it think it would be disadvantageous and don't want it; and I am afraid that is the gap.

MR. ROOSEVELT: Let's continue.

MR. WILSON: Page 55 --

MRS. TILLY: (Interposing) I am still worried about the Committee recognizing that "educational institutions supported by churches, and frankly labeled as denominational, may well be exempted from the operation of a fair educational practice act". That isn't quite clear with me. I don't see why we exempt the church from something we think is a sin for anybody else. That isn't clear to me.

DR. GRAHAM: Mrs. Tilly has raised a point here.

MRS. ALEXANDER: Isn't it traditional that the church would not be interfered with in the right to educate and train its children, and it is one of the freedoms which we have guaranteed our people; and when we take it away from them, I would say that we are risking --

MRS. TILLY: (Interposing) Well, we guarantee it to the States, too, in State's Rights, but we have gone over it.

DR. GRAHAM: There is in the Bill of Rights, the first Ten Amendments, Mrs. Tilly, a requirement that there be separation of church and state, and here the State moves into the area of the church.

MRS. TILLY: All right.

(Off the record discussion)

DR. GRAHAM: Mrs. Tilly has raised the question as to why exempt the churches from this legislative provision, and for my part of the answer I said that we have a provision in the first ten amendments to the Constitution, called the Bill of Rights, which requires separation of church and state, and that provision is also in the bill of rights

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of all State constitutions.

MRS. TILLY: I will accept your explanation.

MR. LUCKMAN: May I ask the question, because I apparently wasn't present when this was decided upon -- is it to the advantage of the Committee to have this last paragraph in, assuming that we are all in accord with what Dr. Graham has said? Is it to our advantage to say that we exempt church institutions?

MR. ROOSEVELT: Mr. Chairman, actually the way I offered a substitution for that paragraph, in the first paragraph under 3, after the words "for public and private educational institutions", I put in, "with the exception of religious and denominational schools and those schools which are clearly private schools and seek no tax exemptions or other State aids." Then we go right ahead. And I pulled those two exemptions right out of the Austin-Mahoney Bill, which is the model bill on this subject.

MR. LUCKMAN: Dr. Graham, would you tell me what problem we would create if we eliminated this paragraph entirely?

DR. GRAHAM: I think myself that the Constitution already eliminates it.

MR. ROOSEVELT: Well, it will be interpreted as recommending the imposition of this legislation on church schools.

MR. LUCKMAN: You think that that will come about?

MR. ROOSEVELT: Very definitely.

MR. WILSON: I would be afraid of that too.

MR. ROOSEVELT: You have to specifically list it as an exception.

DR. DICKEY: Well, you do have situations, though, that are more complicated than the definition you gave. Take the law schools of institutions such as Boston College, where would that fall?

MR. ROOSEVELT: That is a good indication of what we tried to over-simplify.

DR. DICKEY: Those are not the minor cases; those are very major cases, as a matter of fact.

MR. ROOSEVELT: Of course that is not a straight religious school. The college might be but the law school is not; yet it is

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DR. DICKEY: There is no honest difference in function between those schools and the other schools, as far as what you are trying to get at is concerned. They have precisely the same function; they are not teaching religion; they are not practicing religion within the definition that President Graham gives.

MR. ROOSEVELT: The answer, then, would be the addition of a sentence that all professional schools would come under the law regardless of their ownership characteristics.

DR. DICKEY: I don't know what the answer is.

MR. LUCKMAN: I would almost be tempted to consider again the elimination of the paragraph and run the risk of an assumption on the part of some people.

MR. ROOSEVELT: It will be more than on the part of some people; it will be broadly interpreted that this Committee recommends religious schools of all character --

DR. DICKEY (Interposing): Another thing you are going to do which is already up in Massachusetts and it might as well be put on this record, you are going to sharpen the feeling between the religious colleges and the other colleges in a way that is going to be unfortunate.

MR. ROOSEVELT: I recognize that.

DR. DICKEY: I think the members of the Committee ought to know it too.

DR. DICKEY: The feeling between institutions such as Holy Cross, and B.C. and B.U. and Clark --

MR. LUCKMAN (Interposing): A long time ago someone asked me if we were going to differentiate in rule between those colleges in my fair city, and without knowing anything about it I said, "I don't see how we could; if they are the same type of colleges the same rules would have to apply."

MR. ROOSEVELT: They are not the same type of colleges. In the law schools perhaps they are.

MR. LUCKMAN: What is the difference between the law school of Boston College and the law school of --

MR. ROOSEVELT (Interposing): You just referred to the colleges.

MR. LUCKMAN: I shouldn't have.

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MR. ROOSEVELT: Were you asked the question as to colleges?

MR. LUCKMAN: No, as to law schools.

DR. GRAHAM: In some of the colleges there is a religious emphasis.

DR. DICKEY: Yes, but they are regarded as institutions for the general education of the populace.

MR. ROOSEVELT: To head this question up, I move that we adopt the exemptions as previously stated by me, in place of this paragraph. We have already voted on it, as a matter of fact, and I don't see how this discussion came up.

MRS. ALEXANDER: I don't either.

MRS. TILLY: Because I have been worried since we did.

MR. ROOSEVELT: Mrs. Tilly has stated that she has accepted the reasons set forth.

MRS. TILLY: No; I said I have got an answer.

MR. LUCKMAN: When did we vote on this?

MR. ROOSEVELT: Yesterday afternoon when you were out.

MR. ERNST: What is the motion, Mr. Chairman?

MR. WILSON: To proceed.

MRS. TILLY: I had asked for an explanation and --

DR. GRAHAM (Interposing): Five or six of us tried to give it.

MR. WILSON: Health Services, Paragraph 5 - any questions?
Public Service, Item 6.

MR. ERNST: On Item 6, Mr. Chairman, I want a point of clarification. Point 6, on page 55, the second non-capitalized part, which starts, "Legislation is needed". The next sentence reads, "There is evidence that some public officers are continuing to enforce segregation laws against interstate passengers." Are those federal or state officers?

DR. CARR: State.

MR. ERNST: I think we ought to make that clear.

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DR. CARR: All right.

MRS. ALEXANDER: Can we get the year of Morgan v. Virginia?

DR. CARR: The year has been given previously; do you want it repeated?

MRS. ALEXANDER: We would have to go back and find it unless you said "supra".

MR. WILSON: Is there anything else on Galley 55?

MR. ERNST: I have one suggestion that the Staff, when they read this over in final form make sure we haven't created a conflict of objects and functions of the Bureau of the Budget, the Permanent Commission, and the Civil Rights Section. Someone ought to read that carefully so we don't overlap and duplicate without knowing it.

MR. WILSON: Galley 56.

MR. LUCKMAN: Mr. Chairman, I want to talk about the last sentence in the Report. I am not sure I understand the import of that last paragraph. I would like to know what the Staff means.

DR. CARR: The intention is to call attention to the importance of testing the efficacy of educational techniques to overcome prejudice and that sort of thing, so as to avoid the possibility of boomerangs. There is developing quite an educational movement of testing educational techniques, pre-testing them, to discover whether the result of the thing will be beneficial or not. For example, I understand that this movie that is now circulating, Cross-Fire, was elaborately pre-tested to determine whether it might boomerang rather than produce what it was intended to do.

MR. ERNST: There were two different opinions of two Jewish groups used; one said to suppress the picture and the other said it was great.

MR. STEWART: The reason for the disagreement is that there was no pre-test and that is what is going to resolve the disagreement between the two of them.

DR. CARR: We don't, of course, mean censorship, but it is this, that some of the efforts that are sometimes made are well-intentioned but may not have been pre-tested sufficiently to indicate their efficacy. There are ways and means of pre-testing techniques and of making more certain that the program is a scientific one.

MR. SHISHKIN: Couldn't we say that the adequacy of materials

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should be tested and studied, or something of that sort - just a brief sentence.

MR. TOBIAS: Furthermore, I don't think you want a paragraph like that to close the Report, anyhow.

MR. WILSON: It isn't the closing paragraph, we have got another one.

DR. GRAHAM: Let's not close on the note of pre-testing techniques.

DR. LUCKMAN: You could actually consider leaving it out because it is the Permanent Committee that is going to handle this, we are not going to --

MR. TOBIAS (Interposing): I agree with that.

DR. GRAHAM: You say that we have a peroration coming?

DR. CARR: Yes.

MR. WILSON: The question is whether we take this last paragraph out. Would you feel safer with it out than in?

MRS. ALEXANDER: I don't like "campaign efforts".

MR. LUCKMAN: It looks like a small thing; you are saying that the Permanent Commission should do a great educational job and all of a sudden you caution them that they had better pre-test their techniques.

MR. SHISHKIN: I move it be taken out.

MR. TOBIAS: I second the motion.

MR. WILSON: All those who favor the motion to delete the entire paragraph, say "aye"; contrary. It is out.

Now we have a proposed closing paragraph here; will you listen to it?

DR. CARR: Several people have suggested that the Report ought to close on a higher note. This, as I understand it, was written by Bishop Sherrill, and the proposal is to set it again in type on a separate page, in italics, sort of pairing it off with the italics page that opened this section in the salutation to the President.

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"As the Committee concludes this Report we would remind ourselves that the fundamental issues of our day are spiritual. The future of our nation rests upon the character, the vision, the high principles of our people, Democracy, brotherhood, human rights. These are practical expressions of the eternal worth of every child of God, with whose guidance and help we can move forward toward a nobler social order in which there will be equal opportunity for all."

MR. ROOSEVELT: That is very well written.

MR. WILSON: If there is no objection to that closing it will be adopted; hearing none it is adopted.

MRS. ALEXANDER: May I ask what Mr. Carr is going to do about the sections that have to do with the FBI and the Department of Justice?

MR. WILSON: We are coming to that; we are going to tell you that.

Now if we can finish up the agenda, because there are some other items, as well as those too --

MRS. ALEXANDER (Interposing): Before the members get away.

MR. WILSON: What time are they going?

MR. TOBIAS: I am going in a few minutes.

DR. CARR: We have several important items on the agenda.

MR. WILSON: Have we an hour more with everyone? If not, we will settle the question that Mrs. Alexander just raised.

DR. DICKEY: At least an hour.

DR. CARR: The next thing is the graphic program, and let me say very briefly and quickly what the story is there. We have been working for several months on a program of graphic material to include in the Report. We finally obtained the services for nearly two months of a graphics expert from the Library of Congress, and we have prepared a number of pictographs and charts and that sort of thing to go into the Report, which we would like to submit to you, and I think you have got to approve their inclusion. Shall we take them up one by one? Do you think that is the best way of proceeding?

MR. LUCKMAN: Why not describe them?

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DR. CARR: These are photostats of the original drawings. This is labeled, "Five Essential Rights". That will now become "Four Essential Rights." We have the right to be safe and secure under just laws - with a photograph of the Supreme Court and the transcription or inscription there, "Equal Justice Under Law" --

MR. ROOSEVELT: Is there any need of having this recorded?

MR. WILSON: I don't believe so.

(Discussion off the record)

MR. WILSON: We have given Mr. Carr and the Staff a great number of changes that we have asked for, and it seems to me that the Committee ought to seriously consider the next step in the perusal of this material, whether you are satisfied with the changes that have been made, although admittedly we are getting very close to the deadline on it, and certainly even if we meet again there would not be an opportunity for a complete revamping of the report but probably only the picking up of any minor errors or changes that may be necessary. The proposal is that we get together again before the Report is wrapped up and signed up, and my suggestion would be, after talking with a number as to the possibility of when they could get together, that we meet a week from tomorrow, next Sunday, by which time we hope that the new draft of the Report will be available, for a final look-see.

MR. ERNST: Showing only the changes, I take it?

MR. WILSON: That is right.

MR. ERNST: And not reopening anything.

MR. WILSON: Right.

DR. CARR: I am not sure that we can have it printed by a week from tomorrow.

MR. TOBIAS: I can't be here then.

MR. ROOSEVELT: And neither can I.

MR. WILSON: Do you want to do it the Sunday following?

DR. CARR: That is too late.

MR. LUCKMAN: Might I just offer, while we are considering that proposal, an alternate thought. I am not making this as a proposal but it seems to me that in our deliberations today and yesterday we have all made ourselves clear as to our views, and we have come to some substantial compromises, as we knew we would have to do, and I

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wonder now if the most practical method of completing this work wouldn't be the finalization by a smaller group; the executive committee, for example, comes to my mind.

MR. ERNST: To see that these votes, as taken, are carried out?

MR. LUCKMAN: Yes. Everything is in the record. We could not only meet a week from Sunday but we could meet on 42 Sundays thereafter, and argue about "the" or "of" as the case may be, and I, for one, am quite willing to put my responsibility in the hands of the Executive Committee or any other proper small committee. I say "small" because the best committee is one, but I presume we can't do that in this case.

MR. WILSON: Well, the Executive Committee, as I understand it, is Dr. Dickey and Mr. Roosevelt. Mr. Roosevelt has already said that he can't come Sunday, assuming now that it is ready on Sunday. If it isn't ready on Sunday presumably it would be ready when?

DR. CARR: Tuesday or Wednesday of the following week. It is hard to estimate. Of course the more I think about it the more I am now overwhelmed by the size of the revision task that confronts us. I think we can turn out our revision in two or three days and get it back to the Government Printing Office and have them re-set the type.

MR. WILSON: Assuming it will take 10 days or 12 days I suppose that is all the more reason, not knowing when we could bring the whole committee together, for following Mr. Luckman's suggestion.

MR. ROOSEVELT: I can come down any time but next week-end.

MR. WILSON: Are you willing to turn this job over to your Executive Committee to give this final look-see to the Report?

MR. ROOSEVELT: I suggest we appoint, while we are here, an alternate in case any member of the Executive Committee cannot be present.

MR. CAREY: I move that the Executive Committee have the authority to proceed, and also the authority to select an alternate in the event that is necessary.

MR. WILSON: With the power to augment the committee.

MR. CAREY: Yes.

MR. ERNST: I second the motion.

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MRS. ALEXANDER: In every matter on which we differed, with one exception we took a vote, but we took no vote on questions concerning the Department of Justice and the FBI, so that the Staff hardly knows which way the majority of us wants to go. I don't think it is clearly defined. Do you feel you are straight on that, Mr. Carr?

DR. CARR: I feel reasonably straight about it.

MR. LUCKMAN: There I might say, Mrs. Alexander, and I was on one side very definitely, that again I think the record of the expression of everybody's opinion will be available to the Executive Committee and I am willing to put my vote in their hands on the matter. I think, furthermore, we are all protected by Dr. Dickey's suggestion which was approved and put in as part of the Report, that as individuals we might have expressed this or that a little differently.

MR. TOBIAS: Does that carry with it the use of this graphic material?

MR. WILSON: That is a question that I will admit to you, as a member of the Executive Committee, I rather dislike taking the responsibility for, but I do think we might avail ourselves of whatever time there is to get expressions of opinion from those of you who can stay after we have concluded the formal part of the agenda.

MR. ERNST: Couldn't you give everybody copies and have them send a memorandum in to you as to each chart?

DR. CARR: The results would be confusing. They have got to cut plates and make plans where to put them in, so the time element is also essential.

MR. WILSON: We can go over them and see those as to which there is unanimity of opinion.

MR. LUCKMAN: There is a motion before the House on the Report itself.

MR. WILSON: The motion, as I understand it, made by Mr. Luckman and duly seconded by Mr. Ernst, is that the final look-see at this Report be undertaken by the Executive Committee, the Chairman to have the authority to appoint a substitute for any member of the Committee who, by reason of illness or otherwise, is unable to attend, and to augment the Committee for the purpose if it seems necessary. Is that your motion?

MR. LUCKMAN: Yes.

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MR. WILSON: All in favor will vote "aye"; contrary minded. It is unanimous - thank you.

DR. CARR: Now there are several other matters. The Committee, I think, ought to include an acknowledgements page. We have got some data that ought to go in as to witnesses heard and organizations which helped, the usual sort of thing that is written.

MR. ROOSEVELT: We certainly should list all the members of the Staff who performed so nobly.

MR. TOBIAS: There is just one thing about listing organizations - and I may be entirely wrong - but there are a number of organizations that didn't get a chance to appear or that were not particularly encouraged to appear, who may resent it. I mean we may get into something there that we don't need to get into by listing only certain ones.

MR. WILSON: Do you want to make it a general acknowledgement, that the Committee expresses its thanks to the large number of organizations and individuals who contributed so nobly to this purpose - and let it go at that?

MR. MATTHEWS: I think that is all you can do.

MR. ROOSEVELT: Except that I think the Staff should be specifically named.

MR. WILSON: Yes. Would that be satisfactory and meet the bill in your judgment? If there is no objection, we will do that.

MRS. TILLY: I don't think there should be any possibility whatsoever of the Staff being excluded.

MR. LUCKMAN: Their full names and addresses should be included.

DR. CARR: We have been passing around a copy of a cover and title page to the Report, with which we are rather pleased. We think it has some zip and yet a great deal of dignity. We have been negotiating for some time with the Government Printing Office. We interviewed the White House people sometime back and got from them a clear indication that they would like the first edition to be a straight Government document. We finally arranged with the Printing Office to print the first edition. The size has not been determined, the maximum would be 25,000 and it may run below that. Our studies this summer on distribution have certainly indicated that it is entirely conceivable that the committee can get rid of several hundred thousand copies, but the decision seemed to be that it would be wise to wait and see what form a second edition should take,

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whether the Government Printing Office should bring out a cheaper edition, whether arrangements might be made with some private publisher to publish the thing, or what. We talked originally with the Government Printing Office about making a first edition of say 200,000 copies, but we ran into trouble in two respects. It was going to cost a good deal of money, and the White House balked; and in the second place we found it would be necessary to make a very considerable sacrifice in the physical appearance of the Report; to print 200,000 copies in anything like a manageable period of time would mean a very cheap quality of paper, relatively poor printing as far as appearance goes, and that sort of thing, and again we referred the matter back to the White House and found them of the opinion that the first edition ought to be reasonably attractive in format, and that it would be wiser to proceed in this fashion with a somewhat smaller first edition, and then let the matter of mass distribution be determined at a somewhat later date.

MR. WILSON: I can tell you, from the experience I had with the UMC Report that I wished many times we had adopted this policy of getting a better first edition. We did get a second printing and there we had the usual fifteen-cent document that the Printing Office turns out. It seems to me that if we could insure a first edition of 25,000 something like this, we would be a great deal better off and it would have much more appeal than the ordinary Government Printing Office Report where the cover is practically the same as the printed sheet. I think we would be a lot better off with this.

MR. LUCKMAN: Can we get that?

DR. CARR: Yes, and more than that they will give us a thousand copies bound in cloth, stamped in gold, and 200 copies with the name of the owner of the book printed on it in gold - so we should all get nice bound copies.

MR. WILSON: And I presume a leather-bound copy for the President. We did that with the other one and I don't see why we should not have that also with this Report.

DR. CARR: We have been working hard on a distribution list. One man has devoted his entire time now for nearly two months on the distribution of the Report, and among other things we are counting heavily on you people to help in the distribution. There are all sorts of things you can do but one very definite thing is to submit to us, in each instance we would hope, a long list of names of people that you would like the Report sent to, and when I say a "long" list, if you have the time and facilities to send in a list of a couple of hundred or more names we would be glad to add them.

(Discussion off the record)

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DR. CARR: There are two other items here. One I don't know about. We are leaving things in such a way that there is a question whether it is worth while discussing it although I think probably it is still not too early to begin thinking about the time of the meeting to submit the Report to the President. We have been aiming all along at something in the neighborhood of October 1st, and I have ascertained at the White House that that general neighborhood will be all right with them, that the President is to be in town at that time. Do you want to wait, or would this be a good time to find out from the members what their wishes are in the matter?

MR. WILSON: Once this Report is printed, the sooner we get it in the President's hands and get it to the press the better off we will be, because otherwise you will wake up some morning with a nice leak.

MR. ERNST: Can't we leave that to the Committee?

MR. WILSON: Can I have your permission to arrange the date after we see how we make out in the next ten days, arrange a date as soon after October 1st as possible?

MR. TOBIAS: Right.

MR. WILSON: We ought to make it just as early as we can, and I presume we would all go to the White House and present it to the gentlemen with our compliments. That would be the procedure.

MR. SHISHKIN: I am leaving on the 4th.

MR. WILSON: We will try to make it before the 4th, then, if we possibly can. Of course he will have something to say about that.

DR. CARR: No. 7 on the agenda is a not inconsequential item.

MR. WILSON: Are you familiar with 7 - Consideration of the Post-Publication efforts to Implement the Report.

MR. ERNST: I think that is frightfully important. I think that sphere of activity should be in the hands of a small committee and it has to be in conjunction with the President's wishes to some extent. I have in mind, and I have talked to some of the radio network people, that it is not impossible that they would put a program of 13 - 15-minute periods. I have spoken to Simon Schuster and Harpers just to see if there would be any interest in a private publication such as they did with the Marshall Report, which I think in many ways is better than the distribution through the Government Printing Office, and doesn't interfere with it, and I think if you appoint a special committee for that, or the old committee, if there was one, they can do a great job on this.

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MR. LUCKMAN: There wasn't a committee.

MR. WILSON: All right. I would like to appoint a committee of Mr. Luckman and Mr. Ernst and Mr. Carey, if that will meet with your approval.

MR. TOBIAS: I second the motion.

MR. LUCKMAN: Is this for the implementation?

MR. WILSON: Yes.

MR. LUCKMAN: I would like to mention one problem, only because it will be an immediate one. Implementation is tied up with the news value of the Report. If thousands of copies are mailed out without any coordination between those who are assigned the responsibility for implementation, and the Staff, there won't be very much implementation of the kind that we want; it will be implementation that comes from happenstance.

MR. WILSON: Maybe there is a tie-in --

MR. LUCKMAN: (Interposing) I make that point because Bob was talking, and naturally so, this is not in criticism at all, about sending in lists of people to whom the Report should be mailed. If we mail out thousands of copies and it reaches the press or radio they will do what they please without any guidance from this group.

MR. TOBIAS: Whatever we do in that connection will be in the nature of a recommendation to the President, won't it?

* MR. LUCKMAN: No. The President gave us clearance to do anything we wanted to with this Report.

MR. ERNST: Do I understand you to mean that most of these committees, state and federal, that I have been connected with, have called in some smart newspaper men for example pretty nearly at this stage of the game, to get up the publicity.

DR. CARR: The White House has a pretty standard procedure in the case of the receipt of all such reports.

MR. WILSON: That was No. 9 on my list, but I agree with Charlie, I think it is inevitably tied right together. It seems to me that the day we go to the President and present this Report jointly to him, that that afternoon with his blessing, if not his permission, we should hold a press party in Washington at which time we should have boiled down certain documents that we have in the report, and present that to the Press. That should be the day, and that precedes the wide dissemination of these copies.

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MR. LUCKMAN: That is what I was talking about.

MR. WILSON: It seems to me that if we did use that device we would get completely ahead of the mailing of these reports. Would that be satisfactory to you?

MR. LUCKMAN: That is exactly what I had in mind.

MR. WILSON: And I thought when we went to the President we could tell him definitely what our plan was, and we could have the press party set up for later in the day at some suitable place. I thought if we could do it, and I think we can, get permission to do it right over there in the wing that we used a number of times, it would give us a very good springboard for this press party.

MR. LUCKMAN: May I make this one suggestion, or I would like to ask you as a matter of fact: Is it your understanding that at the White House the President himself would release his own personal comment upon that report?

MR. WILSON: Yes, I think he will do that separately anyway, Charlie, but I was hoping we could, in setting up this meeting with him - that he presumably might have a copy that he could glance at in advance, and he might have Niles get us a statement which we would incorporate in the material that we gave to the press, in addition to anything he might do. I thought we could arrange that and I think it would be helpful to our press conference.

DR. CARR: Mr. Stewart here has a bit of information that he wanted to add.

MR. STEWART: Simply that on the actual release of the Report all arrangements must be made through Charlie Ross at the White House, and the actual preparation of the release of course they would like very much to do. I am sure we would approve it.

MR. ERNST: They will very often allow the Committee to call in the personnel of the Times or the Tribune.

MR. WILSON: I think you are absolutely right, but the reason I said we would do it in the White House was that we could tie it together, and Mr. Luckman, with all the devices that his great ability along these lines would provide, we could use and get it over. I am not positive of this but I am counting, frankly, on maybe our having the President there at that press party to give the thing his blessing. I can't promise that, of course, but I think we are going to get it.

MR. TOBIAS: I think, Mr. Chairman, that the President is going to do whatever you and the Executive Committee want done about this, but

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in the last analysis the initiative is his.

MR. WILSON: Absolutely, it is his report; I think you are absolutely right. But Mr. Luckman and I, when we went to see him, found him in a favorable frame of mind about this, and I think he will be very cooperative in whatever way will give this the greatest springboard to the people. Whether this is it, I don't know.

MRS. ALEXANDER: Do you think it is possible that on the day the press has its conference we could also have arrangements so that the radio could have a statement that it would make?

MR. WILSON: That would be a good idea.

DR. CARR: You get your reports printed and distributed to the press and radio, and give them three or four days, and give them an official release date, and have your press conference, but they have had time to absorb the thing and prepare their articles.

MR. MATTHEWS: I don't think that would be a good plan. We had the release of our report on Communist Infiltration in the United States over at the Chamber of Commerce by a committee of which I was chairman. We had a press conference in the board room and had 75 reporters over there. We didn't give them a thing before they came over and we made the front page of every paper from Coast to Coast.

MR. WILSON: Was there no interval there, Mr. Matthews?

MR. MATTHEWS: None whatever. When they went in they were given the report and they asked a lot of questions, and it made news.

MR. TOBIAS: You had a subject that would make the front page.

MR. MATTHEWS: This will, more so, coming from the White House. I think that the President or the Chairman of the Committee ought to distribute the Report and then subject himself to questions by the reporters. Then you will get news, otherwise you won't.

MR. WILSON: Mr. Matthews, the only thing I question about your statement there is that on the UMC report - and I hope you will pardon my constant reference to it but it is fresh in my mind - but we gave an interval of four days; we answered all their questions exactly as you said; they took four days and then on the fourth day every paper across the country blazed out with it. Nobody broke it before - I shouldn't say "nobody" as there were a couple of radio commentators, smart alecs, who did, but it was nothing serious. They all observed that four day lull and then they broke it in practically every paper.

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MR. ROOSEVELT: Mr. Chairman, may I suggest that the committee that you have appointed, and the Executive Committee, through you coordinate their activities and that we don't try to settle this public relations matter now.

MR. WILSON: We are very satisfied, but this is your report.

MR. ROOSEVELT: I don't feel qualified to discuss the problem now.

DR. CARR: There is an additional matter, and that is that the White House has a fairly standard procedure which they more or less may insist on.

MR. ROOSEVELT: That is why I think that through Mr. Wilson the public relations committee will cooperate with the White House.

MRS. ALEXANDER: Before we conclude may I, on behalf of this Committee, express the pleasure that it has been working with you and to state that we feel we have had a chairman who has been not only deeply interested but sympathetic with all of our viewpoints.

MR. WILSON: You are very kind. (Applause)

DR. CARR: I have two items I would like to bring up. I hope this doesn't start a discussion. One is - what is the status of these pictographs; who is going to decide?

MR. WILSON: We are going to get right at them as I understand it.

DR. CARR: Let me make my other statement before some people leave. You people have said a lot of very kind things about the Staff and I want to tell you that we truly appreciate them. We have worked hard, and your thanks and your appreciation touches us deeply. But I also want to say that we have enjoyed working with you. In some ways this two-day session has not been an easy one. We have felt rather deeply and argued rather vigorously about some things. As I say, I am rather appalled at what now confronts us. Of one thing I am sure, that what comes out of this revision is going to be very much better than what was submitted to you; and I, as head of the Staff, do appreciate the thought and the time and effort that you people have put into this during these two days and for the eight-month period that this Committee has been alive. I doubt if there has ever, in recent times, been another Committee of this type where the members have kept as closely in touch with such a broad and difficult subject as you people have, and I am very grateful to you, indeed.

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MR. WILSON: We are very grateful to you and the Staff, Bob, and I purposely hadn't expressed our appreciation because it is my hope that we will get together with the President before the Staff is broken up, and indeed I hope we may get together for a little jollification, with all the Staff present, before we break up as a Committee. I think the Staff has done a magnificent job, and I certainly thank them all sincerely for the wonderful job they did for us.

Now we are adjourned except for this extra-curricular job that some of us will tackle, but anybody who has to catch a train or plane may feel free to go without interrupting the party.

DR. DICKEY: Before you enter on that this is, I believe, of sufficient importance to mention. I just checked with Mr. Matthews on this little statement which we all agreed to this morning as to the basic position of the Committee. I have been helped here by the Staff in getting the dictionary definition of the word "consensus" to make sure that we knew what we were about here. I just submitted it to Mr. Matthews and asked him what he thought in checking with me, and it looked to me as if it would be more accurate to say that the report does represent a "general" consensus rather than a "clear" consensus.

MR. ERNST: I second the motion.

DR. DICKEY: This is a question of being quite accurate.

MR. WILSON: If there is no objection the motion will prevail and it will be "general" consensus.

DR. CARR: One other problem. We are faced with quite a serious issue and I hesitate to mention it for fear my motives will be misunderstood - but I think it would probably be wise to leave the galleys behind. If there are fifteen galleys circulating around the country, and ultimately one of them showed up some place and somebody compared that with the final report, it might be unfortunate.

MR. ROOSEVELT: I have already contracted with P.M. and the New York Post to sell mine. (Laughter)

DR. DICKEY: Mine is in the mail. (Laughter)

(A portion of the Committee continued in session to review the pictographs, which portion of the session was not reported.)