NOMINATION OF NEWELL BROWN, OF NEW HAMPSHIRE, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, U. S. DEPARTMENT OF LABOR

HEARINGS

BEFORE THE

SUBCOMMITTEE ON LABOR

OF THE

COMMITTEE ON LABOR AND PUBLIC WELFARE

UNITED STATES SENATE

EIGHTY-FOURTH CONGRESS

FIRST SESSION

ON

NOMINATION OF NEWELL BROWN, OF NEW HAMPSHIRE, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, UNITED STATES DEPARTMENT OF LABOR

JULY 26 AND 27, 1955

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CONTENTS

NOMINATION OF NEWELL BROWN, OF NEW HAMPSHIRE, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, UNITED STATES DEPARTMENT OF LABOR

TUESDAY, JULY 26, 1955

UNITED STATES SENATE,
SUBCOMMITTEE ON LABOR
OF THE COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D. C.

The subcommittee met pursuant to call at 10 a. m. in room P–63, United States Capitol, Senator Paul H. Douglas (chairman), presiding.

Present: Members of the subcommittee, Senators Douglas (chairman), Neely, Smith, and Goldwater.

Present: Members of the committee, Senators Lehman, Purtell, and Allott.

Also present: Stewart E. McClure, staff director; Roy E. James, minority staff director; John S. Forsythe, general counsel; Frank V. Cantwell and Michael J. Bernstein, professional staff members; and Grover C. Smith, chief clerk.

Senator DOUGLAS. The meeting will come to order.

We have met this morning to consider the nomination of Mr. Newell Brown for the post of Administrator of the Wage and Hour and Public Contracts Divisions of the United States Department of Labor, and I am very glad to see our colleagues, Senator Bridges and Senator Cotton here. We are happy to see the Senators from the State of New Hampshire present today and we will appreciate any statements you have to make.

STATEMENT OF HON. STYLES BRIDGES, A UNITED STATES SENATOR FROM THE STATE OF NEW HAMPSHIRE

Senator BRIDGES. Mr. Chairman and members of the committee, Senator Cotton, my colleague from New Hampshire, and I are very happy to come here today with Newell Brown, who is before you for hearing this morning on his confirmation.

Mr. Brown comes from an old New Hampshire family. He is a young man, relatively speaking, of good character, a man who is a conscientious worker in whatever he undertakes and who has done a very competent job in the last 5 years as Employment Administrator or Director of the Division of Employment Security for the State of New Hampshire; and Senator Cotton and myself in coming here with him want to present him to your committee and you, Mr. Chairman, and we hope that you will give him as we know you will, fair, and we hope, favorable consideration.

Thank you very much.

Senator Cotton.

STATEMENT OF HON. NORRIS COTTON, A UNITED STATES SENATOR FROM THE STATE OF NEW HAMPSHIRE

Senator COTTON. Mr. Chairman, I have nothing to add to the statement of my senior colleague, Senator Bridges.

I have known Mr. Brown many years and can say to you that you can listen to whatever he has to say with complete confidence in his integrity and honesty; and as far as I am concerned, I want to make it clear that I endorse his candidacy.

Senator SMITH. Mr. Chairman, I would like to ask Senator Bridges a question.

Do you happen to know where Mr. Brown received his undergraduate education?

Senator BRIDGES. I would rather that Mr. Brown answer personal questions of that nature himself. He came from a New England college but knowing he came from Princeton I think the candidate can answer, himself.

Senator SMITH. All right.

Senator DOUGLAS. Representative Bass is present and we will hear from him at this time before Mr. Brown makes his statement.

STATEMENT BY HON. PERKINS BASS, REPRESENTATIVE FROM THE STATE OF NEW HAMPSHIRE

Mr. BASS. Mr. Chairman and members of the committee, I want to say first of all that I certainly appreciate the opportunity of coming here and speaking briefly to you on behalf of Newell Brown who is an old friend of mine and whom I have known for many, many years.

I would like to say at this point that apparently as most of you are aware I am a Dartmouth man, but I do not hold too much against the fact that he is a Princeton man—although sometimes we have arguments on that score.

Senator SMITH. I am glad to hear your tolerance on that.

Mr. BASS. Mr. Chairman and members of the committee, I feel very strongly that Mr. Brown has all the qualifications for this job that he now seeks and upon which you are called upon to act. He has been, as you no doubt know, for the past few years, director of the Division of Employment Security for the State of New Hampshire. This has enabled him to acquire a wide background of experience and knowledge in the very field covering the job that he now seeks. But I want to stress, secondly, another point, which I can speak of without hesitation, and that is this:

Mr. Brown has a high character and reputation for honesty and integrity that is without question in our State of New Hampshire. I know this because I have known him particularly well since 1945 when we both returned from the military service to New Hampshire to pursue our respective careers in that State. He has performed his job competently, and all those in New Hampshire who are at all impartial will back up what I have to say, and what is so important to my mind, in connection with this job: It is to have a man who is fair and independent and impartial, a man who is neither leaning towards labor or management, but will steer a middle course, a fellow who also

will administer the provisions of the Fair Labor Standards Act sympathetically, who is not hostile to the act, and I know that Mr. Brown is not from my own conversations with him on this subject.

And so I say to you, I respectfully urge that you consider acting affirmatively on Mr. Brown's confirmation. He has all the qualifications for the job, in my humble opinion. Not only does he have the background and experience, but more important he is impartial and fair and independent, which is so important I feel in selecting a man for this important job down here in Washington.

And I may say in closing that if he is confirmed, and I sincerely hope he will be, that he is the type of young man who should be encouraged to continue his service in the public service. His coming down here to Washington will be Washington's gain, but it will be our loss up in New Hampshire.

I want to say again that I appreciate the opportunity of coming here and speaking briefly before this committee.

Senator DOUGLAS. Thank you very much, Congressman Bass.

I also have a letter from Governor Lane Dwinell endorsing Mr. Brown which I will make a part of the record at this point, and I will also make a part of the record a letter which Senator Bridges addressed to Senator Lister Hill on July 18, 1955, enclosing a letter from Arthur E. Bean, Comptroller, the State of New Hampshire, dated June 17.

Thank you very much.

Mr. BASS. Thank you, Senator.

(The letter of Governor Lane Dwinell, the State of New Hampshire, referred to above by Senator Douglas, is as follows:)

STATE OF NEW HAMPSHIRE,
Concord, July 22, 1955.

Senator PAUL H. DOUGLAS,
Chairman, Subcommittee on Labor
United States Senate, Washington, D. C.

DEAR SENATOR DOUGLAS: It is my understanding that Mr. Newell Brown, presently director of employment security for the State of New Hampshire, will be under consideration by your committee for confirmation as Federal Wage and Hour Administrator.

While I would regret losing the services of this capable administrator and public servant, I hope that he will have favorable consideration by your subcommittee. In my opinion, Mr. Brown is well qualified for the post to which he has been nominated. He has shown himself to be a fine, conscientious, and efficient executive of the department which he now heads in our State.

Sincerely,

LANE DWINELL.

(The correspondence above referred to by Senator Douglas from Senator Bridges to Senator Hill dated July 18, 1955, from Comptroller Arthur E. Bean of New Hampshire to Senator Bridges dated June 17, 1955, and an attached telegram dated June 14, 1955, to be incorporated in conjunction with the testimony offered by Mr. Newell Brown, is as follows:)

UNITED STATES SENATE,
CONFERENCE OF THE MINORITY,
July 18, 1955.

Hon. LISTER HILL,
Chairman, Senate Committee on Labor and Public Welfare,
Senate Office Building, Washington, D. C.

DEAR MR. CHAIRMAN: The nomination of Mr. Newell Brown of Concord, N. H., as Administrator of the Wage and Hour Division of the Department of Labor, has been before your committee for some time now awaiting a hearing.

Since this nomination was suggested, charges have been made against Mr. Brown by labor-union officials and others. One of these, I am informed, referred to his alleged illegal handling of division of employment security funds, prior to a secret audit in 1953, when he was, as he still is, the director of employment security in New Hampshire.

Seeking to clarify this situation, I sent a wire on June 14, 1955, to Hon. Arthur E. Bean, comptroller for the State of New Hampshire, outlining the charge and asking him to furnish me a report on his knowledge of it, inasmuch as he is responsible for audits of this type in our State. It has been received and I am enclosing copies of both my telegram and his reply for the inspection and consideration of the Senate Committee on Labor and Public Welfare.

May I also ask that they be made a part of the records of the hearing that I hope will be held on Mr. Brown's nomination prior to adjournment.

Sincerely yours,

STYLES BRIDGES.

JUNE 14, 1955.

ARTHUR BEAN,
Comptroller, State of New Hampshire,
State House, Concord, N. H.

In connection with his nomination as Federal Wage and Hour Administrator, Newell Brown has been charged with the illegal handling of division of employment security contingent funds prior to secret audit in 1953. Press reports appear to be a basis for this charge. Will appreciate your furnishing me details on this so that Senate Committee on Labor and Public Welfare considering Brown nomination can be fully informed. As matters now stand no evidence available to refute these charges.

STYLES BRIDGES,
United States Senator.

STATE OF NEW HAMPSHIRE,
DEPARTMENT OF ADMINISTRATION AND CONTROL,
DIVISION OF BUDGET AND CONTROL,
State House, Concord, June 17, 1955.

Hon. STYLES BRIDGES,
Senate Office Building,
Washington, D. C.

DEAR SENATOR BRIDGES: In answer to your request for information regarding Newell Brown, with particular reference to his handling of division of employment security contingent fund. I must refer back to the year 1951 when Mr. Brown, early in his new duties as director of employment security, requested of this office that an audit be made of his division. Due to shortage of personnel it was not possible for us to make this audit until the spring of 1953. The audit found everything in good order. A question arose as to the method of processing payments from the contingent fund. In order to clear up this question a ruling was requested from the attorney general's office. The attorney general rules that expenditures made from the contingent fund should be processed through the comptroller's office. Upon receipt of this ruling Mr. Brown immediately brought his procedures into conformity with the ruling and has abided by it in his handling of this fund ever since. In the fall of 1953 this office requested Mr. Brown to get Governor and council approval of certain proposed expenditures and they were so approved.

Newspaper stories appearing at the time inferred that we had made a secret audit, that there was the possibility of action being taken to deprive the division of the contingent fund and that there was evidence of improper or questionable use of the fund.

Our answer to these is we never have made a secret audit; to our knowledge the question of taking away the contingent fund was never brought up; we did not find anything improper or questionable in expenditures that had been made. Our only question was one of how these expenditures should be processed and approved under the law.

We could not and cannot find in the situation anything to reflect in any way on Mr. Brown's integrity, ethics, and good faith as a public official.

Very truly yours,

ARTHUR E. BEAN, *Comptroller.*

Senator DOUGLAS. Mr. Brown, will you now tell us something about yourself, your training, education, and so forth.

STATEMENT OF NEWELL BROWN, DIRECTOR, DIVISION OF EMPLOYMENT SECURITY FOR THE STATE OF NEW HAMPSHIRE, CANDIDATE FOR THE POST OF ADMINISTRATOR OF THE WAGE AND HOUR AND PUBLIC CONTRACTS DIVISIONS OF THE UNITED STATES DEPARTMENT OF LABOR

Mr. BROWN. I was born in Berlin, N. H. in 1917. I am 38 years of age now. I was educated in the Berlin public schools through the freshman year of high school and then went to Phillips Academy at Andover, Mass. for 4 years and then to Princeton University for 4 years and graduated from there in the class of 1939. After that I went to work in Trenton, N. J. as a reporter on the Trenton Times and was there about a year when I went into the service on December 1, 1940. I got out of the service in the spring of 1946. Thereafter I was editor and publisher of a weekly newspaper at Franklin, N. H., for 3 years, and sold that publication, the Journal-Transcript, to go to work as secretary to Governor Sherman Adams, and was with him for 10 months. I resigned that job to become managing editor of a new daily paper in Dover, N. H., and that paper folded up due to lack of financing, and at that time I was appointed to my current job in August 1950. I am married and have been married since November 1951 and and have five children. My home is at Concord, N. H., and outside of work history my interests have been more or less concentrated in the good government field, as chairman of the Concord Good Government Committee, as an active member of the State taxpayers' federation, of which I am a former vice president and now treasurer, and as a proponent of the city management form of government both in Franklin and in Concord.

I have been active in my professional field while a newspaperman in the Weekly Publishers Association, and as you know I have been an active member of the Interstate Conference of Employment Security Agenices, and for the past year and a half have served as chairman of its legislative committee. Beyond that, I have been engaged in the usual things that you do in a moderate size community: the Red Cross and various organizations of one kind or another, the Community Chest, the things that we all do. My athletic interests are associated with my home State, principally skiing.

Senator DOUGLAS. We have received a number of letters in your behalf, Mr. Brown, one from George Fecteau, national director of the United Shoe Workers of America, CIO, which we will make a part of the record.

We also have a letter in your behalf from Mr. Arthur Connor, representative and former president of the New Hampshire State Federation of Labor, and a letter from Orrin Brewer, president of the A. C. Lawrence Leather Workers Union, Local No. 2, of Winchester, N. H.;

A telegram in your behalf from Mr. Emile Simard, business agent of the New Hampshire Shoe Workers' Union of Manchester; and a letter from Clifford H. Miller, chairman of the Unemployment Com-

pensation Committee of the New Hampshire Manufacturers' Association, in your behalf.

Those will all be made part of the record.

(The five documents above referred to are incorporated as follows: A paper entitled "Biographical Information, Newell Brown," while not a part of the record, containing information heretofore given in the record by Mr. Brown, follows:)

BIOGRAPHICAL INFORMATION, NEWELL BROWN

Born: June 1917, Berlin, N. H.; son of W. Robinson and Hildreth Brown; 1 of 5 children.

Schooling: Berlin public schools; Phillips Academy, Andover, Mass. (4 years); Princeton University, A. B., 1939.

Work history: Reporter, Trenton Times newspapers, Trenton, N. J., 1939–40; editor and publisher, Franklin (N. H.) Journal-Transcript, weekly, 1946–49; secretary to Governor Sherman Adams 1949–50; managing editor, Strafford Star (Dover, N. H.), afternon daily, 1950; director, division of employment security (New Hampshire) August 1950 to date.

War record: Entered Army December 1, 1940; honorable discharge as lieutenant colonel March 1946.

Married: Alice Dodge Osborn, November 1, 1941; 5 children: girls age 12, 10 and 2; boys 8 and 9.

Home: 8 Park Ridge, Concord, N. H.; phone: Capitol 5–6852.

Other background; Former V. P. and now treasurer of New Hampshire Taxpayers' Federation; chairman, Concord Good Government Committee; chairman, legislative committee, Interstate Conference of Employment Security Agencies; former vice president, New Hampshire Weekly Publishers Association.

From time to time active in and director of various local and State civic organizations and charity institutions.

Sports: Various on amateur basis, particularly skiing.

MAY 18, 1955.

HON. NORRIS COTTON,
Senator, State of New Hampshire,
Senate Building, Washington, D. C.

DEAR SENATOR: This letter is in reference to Mr. Newell Brown's appointment as Administrator of the Wage and Hour Division of the United States Department of Labor.

As national director of the United Shoe Workers of America, CIO for the States of Maine, New Hampshire and Vermont, representing a membership of 8,000 shoe workers in New Hampshire, and as representative of CIO on the Governor's Advisory Council for Unemployment Compensation in New Hampshire, may I call the following facts to your attention.

Since the shoe industry is the largest industry in New Hampshire, employment-wise, and the wage and hour law vitally affects all shoe workers, it is not only necessary to provide a higher minimum wage, but it is equally important that all other provisions of the wage and hour law be fairly and impartially enforced if we hope to encourage a decent standard of living and eliminate the cutthroat competition that present exists in our industry.

Mr. Brown, while director of the Division of Employment Security in New Hampshire, has, in my opinion, done an excellent job in administrating affairs of that department. Although at times some representatives of labor and of management were not always satisfied with his decisions, I am quite sure that none can say that he did not conform with the law, therefore, we should not lose sight of the fact that Mr. Brown's duties were to administer the law, not to make it.

I believe that a study of the New Hampshire unemployment compensation law will show that during the time Mr. Brown has been its director the law has been improved and liberalized until today it is one of the best in the country.

On several occasions Mr. Brown and I have discussed the intent and purpose of the wage and hour law and I am convinced that he is well aware of the need of a higher minimum wage and an effective administration of same throughout the country in order to protect working men and women everywhere, and also to protect New England against other areas that are presently taking advantage of low minimum wages in order to lure away many of our industries.

In my opinion, if Mr. Newell Brown's appointment, as Administrator of the Wage and Hour Division is confirmed, he will make an able, efficient, energetic, and unbiased administrator and I believe the interests of New England and the country as a whole will be well served.

With best personal wishes, I remain

Sincerely yours,

GEORGE FECTEAU,
National Director, United Shoe Workers of America, CIO.

NASHUA, N. H., *March 18, 1955.*

Hon. STYLES BRIDGES,
United States Senator,
Senate Office Building,
Washington, D. C.

DEAR STYLES: I understand a lot of opposition is being worked up to Newell Brown's appointment as Wage and Hours Administrator on the grounds that he is antilabor. I wanted you to know that I don't go along with this idea at all, and I think Newell would handle the job well.

As you know I've been active in the A. F. of L. in New Hampshire for about 20 years. I was president of the State Federation of Labor for 6 years and was the A. F. of L. legislative agent for a number of years. I had a lot to do with setting up the State labor-management unemployment compensation advisory council in 1947 and have been the A. F. of L. representative on the council since then. I was also on the interim commission of workmen's compensation in 1947 and a member of the last constitutional convention. So I have some background in organized labor up here.

I've worked with Newell for 4½ years as a member of the advisory council, of the division appeals panel, and representing my union before the division of employment security. As far as I'm concerned he's done a very good job as an administrator. I've never known him to take a position that wasn't well backed by the law and what the courts have said. He's been strictly fair in his dealings with labor, nothing under the table. When things worked out unfairly for labor, he's been quick to take any steps that could be taken to straighten them out. I won't say I've always agreed with his rulings. In fact, we've had some pretty strong arguments. But I happen to know management hasn't always agreed with him either and he's had some battles with them. But he plays it straight all the way. I know he'll give me a fair deal if I have a good case and that I can't move him if I haven't, and management knows the same thing.

It's for these reasons I think he'd do well on the Washington job if it's anything like the one up here. You can use this letter any way you want to. I just want to be sure someone who knows the whole story answers all this antilabor talk about Newell.

Regards,

ARTHUR CONNOR,
President and Business Agent.

A. C. LAWRENCE LEATHER WORKERS UNION LOCAL NO. 2,
Winchester, N. H., March 21, 1955.

Senator H. STYLES BRIDGES,
Senate Office Building,
Washington, D. C.

DEAR SENATOR BRIDGES: On behalf of myself and my organization we would like to convey to you our position relative to the nomination of Newell Brown, for Wage and Hour Administrator.

Personally I have been a labor representative on the appeals tribunal, division of employment security, State of New Hampshire, since 1949, and a labor representative on the advisory council for the past 2 years. As such I feel that I have acquired an intimate working knowledge of Newell Brown and have found him to be a very competent administrator.

We feel that his administration of the New Hampshire unemployment law has been fair and impartial to both, management and labor, and I am sure he is held in the highest esteem, by a large majority of both in the State.

As you probably know New Hampshire's law is rated among the top of the list in comparison to the other States, on unemployment benefits, this is in substan-

tial part due to the efforts of Mr. Brown who has consistently worked for a better law.

We sincerely urge Newell Brown's confirmation by the Senate and feel that the Federal Government is indeed fortunate to acquire a man of such proven ability, honesty, and integrity.

Very truly yours,

ORRIN BREWER, *President.*

A. C. LAWRENCE LEATHER WORKERS, UNION LOCAL NO. 2,
Winchester, N. H., March 21, 1955.

Senator NORRIS COTTON,
Senate Office Building,
Washington, D. C.

DEAR SENATOR COTTON: On behalf of myself and my organization we would like to set forth to you our position relative to the nomination of Newell Brown, for Wage and Hour Administrator, with the thought in mind that this may convey to the people in Washington how we who know him best feel about Mr. Brown.

Personally I have been a labor representative on the appeals tribunal, division of employment security, State of New Hampshire since 1949, and a labor representative on the advisory council for the past 2 years, serving in the above positions I feel that I have acquired an intimate working knowledge of Newell Brown, and have found him to be a very capable executive in his administration of the New Hampshire unemployment law.

We feel that his decisions have been fair and impartial to both management and labor, and I am sure he is held in the highest respect by a large majority of both in the State.

The New Hampshire unemployment law is rated among the top of the list in comparison to the other States, including the benefit rate, paid to claimants, this is largely to the credit of Mr. Brown who has consistently worked for a better law.

In conclusion may I say that I feel that the Federal Government is indeed fortunate in acquiring a man of such proven ability, honesty and integrity.

Very truly yours,

ORRIN BREWER, *President.*

[Telegram]

APRIL 20, 1955.

TO SENATORS BRIDGES AND COTTON:

I want to go on record in favor of the nomination of Newell Brown as Wage and Hour Administrator. Mr. Brown has been able, fair, and public-spirited administrator in New Hampshire and has served both the public and labor on a high level. Workers in this State owe him much for his splendid cooperation with unions in the handling of unemployment compensation cases. He has my respect and my support on any appointment where he will deal with the problems of workmen.

EMILE SIMARD, *Business Agent,*
New Hampshire Shoe Workers' Union of Manchester.

APRIL 18, 1955.

Hon. JAMES MITCHELL,
Secretary of Labor of the United States,
Washington, D. C.

DEAR SIR: I believe it is high time that the public is afforded another view of Newell Brown than that which we have gained from radio and press since publication of his nomination to the post of Administrator of the Labor Department's Wage-Hour Division.

In the interest of fair play, and to provide another view, I should like to go on record in his behalf.

As chairman of the Unemployment Compensation Committee of the New Hampshire Manufacturers' Association, my opportunities for observation of the man have been frequent and revealing. I am convinced of his personal integrity; impressed by his capacity for fair and impartial judgment, his administrative ability, and the unswerving character of his convictions.

I trust that others of his association will feel the necessity laid upon them to see that justice is done Mr. Brown.

Although New Hampshire will lose greatly by his departure from the Employment Security Agency, the Nation will gain by his presence at Washington, and I believe our interest ought to be in the securing of the greatest good to the greatest number.

Very truly yours,

CLIFFORD H. MILLER.

AMERICAN MEDICAL ASSOCIATION,
Washington, D. C., July 26, 1955.

Hon. LISTER HILL, *Chairman,*
Senate Committee on Labor and Public Welfare,
United States Capitol, Washington, D. C.

DEAR SENATOR HILL: The American Medical Association is anxious to be notified in the event public hearings are scheduled by your committee or any subcommittee on the following bills:

S. 2405 (Smith) Federal Advisory Council of Health
S. 2484 (McCarthy) Federal Advisory Council of Health
S. 2408 (Smith) National Library of Medicine
S. 2482 (McCarthy) National Library of Medicine
S. 2481 (McCarthy) Hoover Commission Hospital Legislation
S. 2483 (McCarthy) Hoover Commission Veterans' Legislation

Sincerely yours,

F. E. WILSON, M. D., *Director.*

Mr. BROWN. May I comment on those three first names that you mentioned, sir?

Senator DOUGLAS. Yes.

Mr. BROWN. Those three gentlemen—one representing the CIO, one the AFL, and one, independent unions—are the members of my Unemployment Compensation Advisory Council. They sit with me around the table anywhere from 4 to 16 times a year working with me in developing the law involved, the administration, and so on.

Senator DOUGLAS. Mr. Brown, as you probably know, we have been holding hearings for 3 days on the question of the importation of Canadian labor as woodsmen for the logging and lumbering industry in New Hampshire and Maine. I was not able to be at the hearing of that matter yesterday because I had another hearing over which I had to preside. But on Thursday and Friday of last week testimony was presented by union representatives charging that both in Maine and New Hampshire permits had been granted for the importation of Canadian bonded labor to work in the woods of New Hampshire and Maine at wage scales below the prevailing rates for native labor, and that if the wage scale—these gentlemen charged—were fixed at a higher point, it would have been possible to have obtained native woodsmen. I wrote you saying that this was coming up and giving you your choice to testify at the hearing yesterday or the hearing today, and I think you quite properly indicated that you would prefer to do it today, and I wondered what statement you wanted to make in reply to that charge.

Mr. BROWN. Mr. Chairman, I have a very brief statement here on that point, which I have made brief due to the fact that there already have been 3 days of testimony here which has cleared up the air, and I would like to make that statement, and then, if agreeable to the committee, to answer any specific questions that seem to be outstanding.

I have had an opportunity to review all the transcribed testimony on Senate Resolution 98, although not the material admitted for the

record and not transcribed. There are perhaps one dozen errors in the testimony of labor representatives that were not specifically corrected in later testimony so far as I know, but only one seems to me to be of sufficient moment to warrant mention now.

I refer to the allegation that the piece rate on pulp wood cutting dropped from $7.50 a cord to $6 a cord, over the past 3 years, I believe it was. I can find nothing in the figures I have to substantiate such an allegation. There have been some decreases between 6 month bonding periods but the overall trend has generally been upwards within the last 4 years, so far as the New Hampshire wage rate findings are concerned.

Senator DOUGLAS. Are you speaking of cord rates?

Mr. BROWN. Cord rates, yes, which we identify. We don't set them, we identify them.

Other than this the errors are not of major consequence in my view and I will not therefore take the committee's time to review them unless requested.

For the rest it seems to me that a fairly clear picture emerges from the testimony and I will confine myself to a very brief review of my part in the business.

As Director of the Employment Security Division in New Hampshire I have three functions to perform on behalf of and with responsibility to the Bureau of Employment Security of the Department of Labor, which in turn is responsible to the Attorney General for the final program. First, I am responsible for finding whether or not domestic labor is available in a given instance where a request for import is entered. Second, finding or identifying what wage rates are not substantially less favorable than those prevailing for domestic labor in the same occupations in the particular area. Third, the fact-finding and reporting to those responsible in connection with any complaints that are made to me as to miscarriage of the intent of the law or the procedures.

In all three categories my agency has taken the initiative in effecting important improvements in the past 2 years. Up until 2 years ago it had just run along and I had not devoted my particular attention to this aspect of my job. At that point I got interested and as a result of that we ran a pilot study in the Berlin office and, as I say, in all three of these facets we made some improvements, which I think are admitted by anybody who knows the story. Those changes and improvements tried out in New Hampshire in regard to checking available labor supply have now been adopted by the neighboring States of Maine and Vermont. As to the other two facets I don't know exactly what their procedures are. I would be glad to give this committee the details of what has been done, how we go about it, but I believe the ground was well covered yesterday.

In any case the New Hampshire methods and findings in this respect have never been criticized or amended by those to whom we are responsible and there I refer to the Bureau of Employment Security and the Department of Labor. Our procedures appear to conform with the letter of the law as it stands as nearly as seems possible to us under existing circumstances at this time, and they seem to be producing reasonable results so far as the spirit and intent of the law is concerned. However, I am not claiming perfection in any of these respects, simply

a sincere and what appears to be a generally successful effort at this time to approach perfection. On the subject of improvements we welcomed suggestions for improvement in the past and we will certainly welcome them in the future. And I might say that if this resolution does not pass I hope that the reaction and certainly this will not be the case in New Hampshire if I am still there, will not be to feel that we have been entirely exonerated and there is nothing further to do. There is considerably more to be done.

And now I would be glad to answer any questions.

Senator DOUGLAS. As I say I was not present at the hearing on Canadian-bonded labor yesterday and know nothing about the representations which you say were made as to the cord rates. I believe you said they represented that the rates were cut from $7.50 a cord to $6 a cord and on that point, as I understand it, they allege that your office had approved these lower rates at which rate native labor would not work. Now, do I understand you to say that is not so?

Mr. BROWN. I can find nothing in the figures that I have to support that. Perhaps I might explain what we do and I have here a compilation of figures going back to 1951 which the committee might like to look at. My job, as I indicated, is identifying and finding rather than setting rates. I would say in the first instance that if in fact the cord rate had dropped in our identification process from $7.50 to $6 in the period mentioned, that would not be a reflection in my part of the picture. I am not there to pass judgment on whether the rate is good, bad or indifferent or what causes an increase or decrease in rates. My business is simply to identify what rates prevail. Now, the method that we use in identifying these prevailing rates is this:

We get from employers, most employers of woods workers, during a 6 months period, a listing on a monthly and semiannual basis of the wages they are actually paying their workers, both Canadian and American. At the end of those 6-month periods we get those figures together and see how many workers in a given category are paid a certain wage. We get a spread. It may be a large one; it may be a small one; it may be insignificant. We get that spread. We knock off the exceptional rates, top and bottom, and what remains constitutes the rate range that we identify.

Now, if during a given period wages have gone up, that historical identification process is going to produce a higher range. If for any reason during that preceding 6 months period there has been depressed conditions in the woods, then we come out in the lower finding. We are fact finding rather than anyone making an arbitrary or discretionary determination.

Senator DOUGLAS. As I understand it, while the trade in general is unionized and while some of the jobs in the woods are unionized, the cutting and sawing jobs are not unionized, is that correct?

Mr. BROWN. That is my understanding.

Senator ALLOTT. Might I inquire what the Senator said?

Senator DOUGLAS. I asked Mr. Brown if my understanding was correct that while the pulp men were unionized and certain of the more skilled jobs or the more mechanical jobs of the woodsmen were unionized, that the cutting and sawing jobs were not unionized, and as I heard him reply, it was that my understanding was correct.

Mr. BROWN. That is correct to my knowledge.

Senator DOUGLAS. Now then, how do you fix rates for cutting and sawing? You say you find a rate. How do you find a rate for cutting and sawing?

Mr. BROWN. Well, in accordance with the methods I just outlined, say we have 20 jobbers or 20 employers of woodsmen during a given 6 months period. Each of them sends us a report of what he paid to those on his payroll for work during that period. From that historical information we determine how much was paid to certain numbers of workers. Let us say, for the sake of argument, that we find an employer of 2 choppers paid $6, an employer of 10 choppers paid $6.50, an employer of 100 choppers paid $7, an employer of 10 choppers paid $7.50, and an employer of 2 choppers paid $8. We knock off the $8 and the $6 and we would call the prevailing rate $6.50 to $7.50. We knock off the extremes, in other words, and the balance constitutes the finding as to the prevailing rate.

Senator DOUGLAS. You say what you do is to take actual rates. When the applications come in to you from the employers for the importation of workers, do they state on that application the wage rate which they intend to pay?

Mr. BROWN. Yes, sir, they do, and they are, under our new procedures, required to come to our local office and consult with our local office manager. He takes their order and among the things that he checks it for is the range. The range has already been determined; he has that on the other side of his desk. If an employer proposed to pay less for a given skill than we have already established as being within the prevailing bracket then we will not accept the order until he raises it.

Senator DOUGLAS. Is that a practice that has gone on for some time or is it a recent practice?

Mr. BROWN. That practice has been standard for years.

Senator DOUGLAS. Suppose you find a range between $6.50 and $7.50 and then the employer comes in and says he will pay $6.50. Would you accept the $6.50 wage?

Mr. BROWN. Yes, sir, we would.

Senator DOUGLAS. So that you could get a downward movement through the employer naming the rate which he intended to pay, the lowest rate of which has been paid for the major groups of workers?

Mr. BROWN. That's correct; that is possible.

Senator DOUGLAS. And then if you approve of it, of course you turn it over to the Immigration Service and they consult the State Federation of Labor?

Mr. BROWN. We consult them directly on the local level.

Senator DOUGLAS. I see. And then you make your decision as to whether or not you approve, and then you pass it to the Immigration Service?

Mr. BROWN. Yes, sir. I may add to that that such an employer must come to us a full two weeks before he intends to import to give us that period of time to locate labor for him.

Senator DOUGLAS. As a matter of fact, isn't it true that the Brown Co. is virtually the recruiting agent both for itself and its jobbers in Canada?

Mr. BROWN. I have no personal knowledge of that. That was the statement of the Brown Company representative.

Senator DOUGLAS. Yes, they virtually stated that, that they recruited not only for themselves but for their own jobbers.

Mr. BROWN. As I understand, Mr. Herr testified on that.

Senator DOUGLAS. I noticed that your name is Brown. Are you connected with the Brown Co. at all?

Mr. BROWN. Yes, sir. My father was 1 of 4 brothers that ran it up to about 1934. He has retired since.

Senator DOUGLAS. Do you have any present connection with the company?

Mr. BROWN. None whatsoever.

Senator DOUGLAS. Do you own stock in the company?

Mr. BROWN. I own 12 shares of $14 stock, sir. I don't know where I got it.

Senator DOUGLAS. There was a letter in the record the first day of the hearings, which I have asked for but which doesn't seem to be here, on the basis of which it was alleged that you fixed the rate in order to attract at least some American labor, the implication being that it was a rate scale which would not get a labor force composed entirely of American labor but, would result in a dilution of imported and American labor. It was a letter by Mr. Philip Smyth. Are you acquainted with that letter?

Mr. BROWN. I have a copy of it here. I am acquainted with it.

Senator ALLOTT. Could we see a copy of that for the benefit of the record?

Senator DOUGLAS. I have asked for it and it was submitted for the record. I am trying to get it identified. Apparently a copy of it was admitted and sent to the transcriber. Do you have a copy?

Mr. BROWN. I think I do, sir. Just a second. It may take me a moment. I would concede the point.

Yes, I have it here, I think, sir, a letter of Mr. Philip Smyth dated January 28. In the second paragraph, the first two sentences, I say that Maine handles the wage-rate certification on about the same basis that we do. Specifically, the bottom rate which they quote on any job is a rate which is high enough to get at least some American labor.

(The letter referred to follows:)

DIVISION OF EMPLOYMENT SECURITY,
Concord, N. H., January 28, 1954.

Mr. PHILIP SMYTH,
Berlin, N H.

DEAR BABE: Mrs. Wilder and I discussed the questions you raised with Mr. Arthur Gernes, regional director of the Bureau of Employment Security and the next man up the line from us so far as our Federal connections are concerned, Wednesday.

He tells us that Maine handles its wage rate certification on about the same basis that we do. Specifically, the bottom rate they quote on any job is a rate which is high enough to get at least some American labor. He shares with me extreme reluctance to get in any kind of a wage setting deal, but both of us feel that the present system isn't entirely satisfactory for some of the reasons you outlined. If some sort of a wage setting board could be set up by area or for the whole border country, a big step toward getting the matter straightened out would be taken. I suppose, however, that no such board could come into existence until labor in this field was organized and strong enough to demand from management the setting up of such a board. I take it from the Berlin Reporter's story that you are already taking steps to do some substantial organizing in that field.

In regard to the switch at Sturtevant Pond from a cord rate to an hourly rate, as I told you we have no jurisdiction since it is located in Maine. However, I

am informed that this is not an unusual practice, that is, a jobber putting men on a cord rate through the thin stuff and holding a carrot in front of them in the form of a better "chance." Then, when they get to the good cutting, he switches over to an hourly rate.

You said that you intended to discuss this situation with the Brown Co. at an early date and would let me know how they explained the change. I should be very interested to know what they have to say about it.

The matter of bonded Canadians being switched from one job to another after they get to this side is primarily a matter of policing, as I think you agree. So far as I know, none of the agencies interested in the problem presently have the staff necessary to do a real policing job. About all we can do is take prompt and strict action when we learn about a violation. This we will continue to do to the extent we are able and also to the extent immigration cooperates. In a recent case, immigration chose to believe the employer's story and thereby knock the props out from under what we thought was a good solid violation case.

As to the annual meeting of woods employers which we mentioned I am informed that it does not deal with wage rates. Its primary concern is with overall and particular quotas of bonded men to be authorized in the coming year.

I am glad you stopped by and I think we think alike about a good many of the problems. But my hands are tied in regard to effecting cures in most instances. I do say this, however, blasting the division and individuals in it in the press, unless it is manifest they are delinquent in their duties and are not properly performing within the limitation placed upon them, isn't likely to speed solution. I think we can get further by sitting down and talking over the problem between ourselves. I will agree that there are occasions when public servants are doing less than they should, or not doing things properly and need prodding. I don't think in this instance, however, that that sort of prodding is going to do anything but make a lot of people unhappy.

Please keep in touch with developments and I shall certainly do everything I can to give you a hand.

Sincerely yours,

NEWELL BROWN.

Senator DOUGLAS. I guess that is the sense of it. Now, the implication is that it is a rate which is high enough to get some American labor but not high enough to get all American labor, and the complaint of the union is that if the rate were higher you could get sufficient native woodsmen from the North Woods?

Mr. BROWN. Well, my comment is, Mr. Chairman, that I don't think that my directive is to find a rate which is high enough to get American woodsmen, but my directive is to get a rate not substantially less favorable to the individual than that prevailing for domestics in the area.

Senator DOUGLAS. There is also a provision, a Federal provision which delegated to the Attorney General the authority that you should only through the State departments of labor import bonded labor if there is not sufficient domestic labor available; and of course the question of whether or not there is sufficient domestic labor available depends in large part on the wage rate offered, that is, there would be more labor available at $7.50 than at $6.

What have you found about the amount of domestic labor available for the woods in New Hampshire itself?

Mr. BROWN. We have found that historically there has not been and there is not today sufficient American labor available for woods work at the price they are being paid.

Senator DOUGLAS. You have your own employment offices, your State department employment offices?

Mr. BROWN. I do; yes, sir.

Senator DOUGLAS. And do they report woodsmen seeking work there?

Mr. BROWN. They do, sir.

Senator DOUGLAS. Well, what labor can they utilize?

Mr. BROWN. They utilize all available labor except out of season, sir. I had an opportunity to check the active files, that is, of individuals who were seeking work as of June 15. There were six woodsmen listed as being active applicants for work.

Senator DOUGLAS. And not having work at the moment?

Mr. BROWN. So far as we know, but we don't know, because the figures do not mean there are six unemployed woodsmen. One of them may be over age, several of them may be only interested in daywork to a place where they can commute and there may be no job available in that particular area; some may have decided to go fishing or go down in Boston for a ball game.

Senator DOUGLAS. So you say there are only six woodsmen seeking work in your employment offices?

Mr. BROWN. As of June 15.

Senator DOUGLAS. How many woodsmen were there in other public employment offices during the same period; do you know?

Mr. BROWN. None to my knowledge. Berlin is our only office that is considerably concerned with this problem. Occasionally over on the Connecticut River we have some jobbers over there, but it is not a matter that is in real issue here, I don't think.

Senator DOUGLAS. Did you have quite a number of unemployed workers in southern New Hampshire last year?

Mr. BROWN. We did have.

Senator GOLDWATER. I asked some questions, Mr. Chairman, concerning the matter of Canadian and American workers in New Hampshire, when you were detained yesterday, and the testimony that was elicited might fit in here. I asked Mr. Gernes who came with Robert C. Goodwin, director of the Bureau of Employment Security, Department of Labor, some questions and in answer to a question that I asked in trying to arrive at what relationship existed between the number of Canadian workers and the total workers, Mr. Gernes told me that as of June, at the end of June of this year, there were 450 Canadians working in the woods in New Hampshire.

Mr. BROWN. That is correct.

Senator GOLDWATER. Which compares to 5,528 in the State of Maine, 321 in Vermont, and 143 in New York.

I just wanted to offer that, Mr. Chairman, because it seemed the question came up at the moment.

Senator DOUGLAS. Would you find that the unemployed worker of southern New Hampshire was competent and willing to move into the woods of northern New Hampshire?

Mr. BROWN. No, sir. I might add to that, as I recollect the testimony of the labor representatives, they are agreed that the unemployed in New Hampshire are primarily manufacturing employees, textile employees and shoe workers, which for years has been their way of life, and they are simply not interested in going to the north woods to work.

Senator DOUGLAS. But some of them come from the north woods?

Mr. BROWN. Many of them came down the river valleys, of course. But actually a year or two ago extensive recruitment efforts were made, that is, active recruitment as opposed to just notifying the offices on it, and we were markedly unsuccessful.

Senator DOUGLAS. I think I have taken all the time I should on this.

Senator Smith, do you have any questions?

Senator SMITH. I gather from what you told us this morning that the question of fixing rates is based on procedures which have been in effect for a long time, and your predecessor as well as yourself have used those, is that correct?

Mr. BROWN. No, that is not correct, sir. Prior to 2 years ago our findings as to these rates were based on what the employer submitted on his order blanks. We simply took the order blanks for the coming season and found on the basis of what the employer wanted to pay. It struck me that that permitted employer collusion toward reducing the rate. I conceived of the idea of getting the historic figure, a figure based on what actually had been paid, subject to modification if compelling reason could be shown by either party why it should not apply to the coming period, so that my present method of wage finding is at variance with what happened prior to that time.

Senator SMITH. Would you base that on factual material that you got and on a study of wages in the area?

Mr. BROWN. Yes, sir.

Senator SMITH. You have no power other than to just arbitrarily fix the applicable rate. Does this affect whether you can bring the Canadians over?

Mr. BROWN. No, I am simply factfinding, and this is my best method of finding the facts, although it may be subject to interpretation.

Senator DOUGLAS. Senator Neely?

Senator NEELY. No questions.

Senator DOUGLAS. Senator Goldwater.

Senator GOLDWATER. Mr. Brown, you are acquainted with the law, I am sure, Public Law 414, section 214 (c). I would like to read this into the record at this time because I think it is pretty important to the whole hearing. It is on the question of importation.

> The question of importing any alien as a nonimmigrant under section 101 (a) (15) (H) in any specific case or specific cases shall be determined by the Attorney General, after consultation with appropriate agencies of the Government, upon petition of the importing employer. Such petition shall be made and approved before the visa is granted. The petition shall be in such form and contain such information as the Attorney General shall prescribe. The approval of such a petition shall not, of itself, be construed as establishing that the alien is a nonimmigrant.

I read that because I want to ask you a question that would be covered by that. All of the actions that go into allowing an alien to come in from Canada to work in the woods is covered either by law or by regulation, is that correct?

Mr. BROWN. To the best of my knowledge, they are covered by regulations and the law. However, I think they can be implemented by detailed polices which are what we at the end of the fingers, so to speak, work on, rather than the basic law.

Senator GOLDWATER. Now, the determination of the rate is the duty that is ascribed to you by the regulation, is that correct?

Mr. BROWN. I would rather use the word "factfinding"; I find the rates.

Senator GOLDWATER. You gather the facts concerning the prevailing wage?

Mr. BROWN. Yes.

Senator GOLDWATER. And submit those facts to the Employment Security Division?

Mr. BROWN. No, my findings go to the Bureau, the regional office of the Bureau of Employment Security. We use them when they are accepted. We use these in consulting with employers but approval or disapproval or amendment of them would come from the Labor Department's Bureau of Employment Security.

Senator GOLDWATER. So you don't have the final determination of what the prevailing rate shall be?

Mr. BROWN. No. The Attorney General is finally responsible. As a practical matter he accepts the Labor Department's findings.

Senator GOLDWATER. And, as stated, New Hampshire has no minimum-wage law; these workers come under the Federal minimum-wage law?

Mr. BROWN. Those who are employed in camps of 12 or over; yes, sir. New Hampshire has no minimum-wage law applied to them in any case.

Senator GOLDWATER. Now, Mr. Brown, in determining the prevailing rates of wages in the area, do the union rates prevail in this determination?

Mr. BROWN. No, sir; I can think of no category where they are prevailing. They are, however, sufficiently significant in certain categories so that they constitute part of the finding, part of the finding that we make. Very frequently the union scale constitutes the top end of the range.

Senator GOLDWATER. Now, the other day at the hearings here the remark was made and testimony was given to the effect that these workers were not paid overtime for work over a 40-hour week. Is it not true that the regulation requires that overtime be paid?

Mr. BROWN. To the best of my knowledge, yes. That, however, is not a responsibility of my agency in this program other than to report any evidence that comes to our attention that there is a violation. As you know, however, the 40 hours is not uniformly applicable to the woods. I believe river driving operations and several other operations are specifically seasonal, and I believe a 54 hour limit exists. I am not sure of those figures but I know there are some exceptions.

Senator GOLDWATER. The remark was made in testimony the other day that such was the case and I asked a question yesterday of Mr. Page who was one of the witness for the Immigration and Naturalization Service, and I asked the question of Mr. Dyer of the regional office of the Immigration and Naturalization Service, and the question was whether or not they received complaints from these Canadian workers concerning the nonpayment of overtime. I asked specifically:

If you had complaints that a Canadian worker was not paid overtime for work over a 40-hour week, would you look into that?

The answer was:

This would be within our province. All specific complains, sir, are investigated.

I asked:

Have you had occasion to investigate any complaints such as those?

Mr. Rawitz asked Mr. Dyer to answer that.

Now, during the course of the answering, I want to bring out the fact that Mr. Page said:

> If I were to make an estimate and it would be purely an estimate from the past, those complaints might average only 6 a year or something along that line; a very small number.

That six doesn't apply to New Hampshire, does it?

Mr. BROWN. I have no figure. I would say in New Hampshire we get approximately six a year.

Senator GOLDWATER. I think this man was speaking from the Regional Office. Mr. Rawits is chief special inquiry officer. Is that the regional office?

Mr. BROWN. I believe so; I am not certain of that.

Senator GOLDWATER. Now, Mr. Brown, it has been suggested here time and again during the last 3 days that you are the sole reason for whatever difficulties the unions might have, that they are between you and the prevailing wages, or you and the fact that no all of those people are members of the unions up there. Is it not true that the law and regulations that apply to recruitment of labor controls what you do. You quoted part of that law but I want to quote the whole part of it. I will quote part 604 (1), Policies of the United States Employment Service, paragraph K. It says part of your duties or the duties of the employment service is—

> To recruit no workers for employment if the wages, hours, and other conditions of work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

And that, you indicated, was your doctrine and you followed it?

Mr. BROWN. Yes, to the best of my ability.

Senator GOLDWATER. You are bound by regulation to the United States Government to do that, are you not?

Mr. BROWN. The United States Employment Service, yes, sir.

Senator GOLDWATER. So even if you wanted to set up what some might call a low prevailing wage you would be prevented from doing it and if you attempted to do it you would without doubt be caught either by the unions or by the Federal service, is that correct?

Mr. BROWN. That is correct, the Federal service would be the one, and a union complaint would presumably start the ball rolling.

Senator GOLDWATER. I asked a question yesterday during the course of testimony if the unions were notified of the vacancies that existed in the woods, and I was told, if I remember correctly, that they are not notified by the State officers any longer as a required policy, but they are notified by the regional officers. Do you notify the unions when you know there are vacancies existing in the woods?

Mr. BROWN. Yes, sir, we do in New Hampshire. I think it may vary in other States. I have here a memorandum of October 6th, 1954, to all local office managers, the subject of which is consultation with labor organizations before processing importation employees under Public Law 414, which was followed by supplements on February 1st, 1955 and again on March 2, 1955, and I mention this merely to show that we keep after that and each local office has the job of letting local labor people know when jobs are open on a continual basis, asking if they have men and we also ask the local labor people to refer anybody they hear about to our officers so we can have the application on file for use as openings develop.

Senator DOUGLAS. The chairman of the full committee sent general invitations to all members of the full committee to attend this hearing, and I believe you know that you have all been privileged to ask questions whether or not you are members of the subcommittee.

Senator Lehman, do you have any questions?

Senator LEHMAN. I have no questions at all.

Senator DOUGLAS. Senator Purtell, do you have any questions you want to ask of Mr. Brown?

Senator PURTELL. Do I understand we can ask questions though we be of the full committee and not of the subcommittee?

Senator DOUGLAS. You do have the right.

Senator PURTELL. Following up what Senator Goldwater asked you, Mr. Brown, do I understand that the United States Department of Labor rather than your agencies is responsible to the Attorney General in the matter that we were talking about, that the Department officials could if they wished overrule or modify anything you did?

Mr. BROWN. That's correct, sir.

Senator PURTELL. There is one other thing, and I regret very much, Mr. Chairman, that I was not able to be at the hearing earlier, so I apologize for any duplication that I might cause, but I was wondering if we have read into the record some of these letters that have been addressed to Senator Cotton or to Senator Bridges.

Senator DOUGLAS. They have been put into the record. They have not been formally read into the record.

Senator PURTELL. There are one or two paragraphs that I would like to have in the record at this time, even at the expense of duplication. I notice that we have a letter addressed here to the Honorable Morris Cotton, Senator from the State of New Hampshire from Mr. George Facteau, national director, United Shoe Workers of America, CIO, who has to say among other things that:

> Mr. Brown, while director of the division of employment security in New Hampshire, has, in my opinion, done an excellent job in administrating affairs of that department. Although at times some representatives of labor and of management were not always satisfied with his decisions, I am quite sure that none can say that he did not conform with the law, therefore, we should not lose sight of the fact that Mr. Brown's duties were to administer the law, not to make it.

And he says also:

> In my opinion, if Mr. Newell Brown's appointment as Administrator of the Wage and Hour Division is confirmed, he will make an able, efficient, energetic, and unbiased administrator and I believe the interests of New England and the country as a whole will be well served.

And that was the letter from the national director of the United Shoe Workers of America, CIO.

I notice another letter that I would like to refer to and that is of the president and business manager of the State Federation of Labor in New Hampshire, who says:

> As you know I have been active in the AFL in New Hampshire for about 20 years. I was president of the State Federation of Labor for 6 years and was AFL legislative agent for a number of years * * *

And he says this:

> I've worked with Newell for four and a half years as a member of the Advisory Council of the Division Appeals Panel, and representing my union before the

Division of Employment Security. As far as I am concerned he has done a very good job as an administrator. I have never known him to take a position that wasn't well backed by the law and what the courts have said.

And he adds:

It is for these reasons I think he would do well on the Washington job if it's anything like the one up here.

I would like to refer briefly to another letter which I understand is included in the record which is dated March 21, 1955, from Orrin Brewer, president of the A. C. Lawrence Leather Workers Union, Local No. 2, in which he says along with other things:

We feel that his administration of the New Hampshire unemployment law has been fair and impartial to both management and labor and I am sure that he is held in the highest esteem by a large majority of both in the State.

And we have a similar letter from Emile Simard, business agent of the New Hampshire Shoe Workers Union of Manchester, or which is rather a telegram that I want to go into the record. It reads:

I want to go on record in favor of the nomination of Newell Brown as Wage and Hour Administrator. Mr. Brown has been able, fair, and public spirited administrator in New Hampshire and has served both the public and labor on a high level. Workers in this State owe him much for his splendid cooperation with unions in the handling of unemployment compensation cases. He has my respect and my support on any appointment where he will deal with the problems of workmen.

There is just one more, gentlemen, that I have not yet referred to, a letter from Clifford H. Miller to the Honorable James Mitchell, Secretary of Labor, in which he says:

As chairman of the Unemployment Compensation Committee of the New Hampshire Manufacturers' Association, my opportunities for observation of the man have been frequent and revealing. I am convinced of his personal integrity, impressed by his capacity for fair and impartial judgment, his administrative ability, and the unswerving character of his convictions.

I quote these letters because I think they are important. We have both management and labor that have worked with you, Mr. Brown, and both are actively interested in seeing that you are affirmed by the Senate.

Senator DOUGLAS. Senator Allott?

Senator ALLOTT. I have just a couple of questions at this time.

First of all, Mr. Brown, you are an employee of the State of New Hampshire?

Mr. BROWN. That's correct, sir.

Senator ALLOTT. By whose authority do you hold your appointment?

Mr. BROWN. The Governor of New Hampshire, sir.

Senator ALLOTT. And how long have you held that job?

Mr. BROWN. About a few days short of 5 years.

Senator ALLOTT. Referring to your testimony with respect to the findings as differentiated or as it differs from the findings as to wages, the distinguished chairman of this committee brought out that that might immediately result in some down movement or depressing effect upon wages. It could also result in an up-movement, could it not, by the same token?

Mr. BROWN. It could, sir.

Senator ALLOTT. You stated that you were a grandson, I believe, of one of the original founders of the Brown Co.?

Mr. BROWN. Grandson of the original founder, and my father was in the business.

Senator ALLOTT. Is your father now living?

Mr. BROWN. He is, sir.

Senator ALLOTT. But retired and has been retired since 1934, I believe you said?

Mr. BROWN. I think since 1942; I am not sure.

Senator ALLOTT. Do you now have or have you recently held any position with the Brown Co.?

Mr. BROWN. No, sir; I never have, nor do I now.

Senator ALLOTT. You said that you own stock of the value of $12 a share, about 15 shares?

Mr. BROWN. I think it is 12 shares and I think it is $14 a share, but it might have gone up recently.

It pays no dividend. I would be glad to part with them, Senator.

Senator ALLOTT. Well, that would be a value somewhere between $160 and $180, is that correct?

Mr. BROWN. Yes, sir.

Senator ALLOTT. What are the dividends from those stocks at the present time?

Mr. BROWN. There are none as of this time I have never received any.

Senator ALLOTT. You are not an officer or director of the Brown Co.?

Mr. BROWN. I am not, sir.

Senator ALLOTT. Does your wife own any stock in this company?

Mr. BROWN. Not to the best of my knowledge.

Senator ALLOTT. Does this stock which you own in any sense represent a control of that company?

Mr. BROWN. No, sir. I think the company's assets are 50 millions or upwards.

Senator ALLOTT. That is all.

Senator DOUGLAS. Senator Neely and Senator Lehman, do either of you wish to ask any questions?

Senator NEELY. Mr. Brown, was it Governor Sherman Adams who appointed you?

Mr. BROWN. Yes, sir.

Senator NEELY. Does he recommend you for the appointment under consideration?

Mr. BROWN. To the best of my knowledge, Secretary Mitchell is responsible for this nomination, sir.

Senator NEELY. Did you enter the Army as a private or an officer?

Mr. BROWN. I was a second lieutenant of Field Artillery. I had an ROTC commission from Princeton.

Senator NEELY. How did you get your commission as an officer?

Mr. BROWN. I was commissioned a second lieutenant.

Senator NEELY. What, if any, actual military experience had you had before you received your commission from the Government?

Mr. BROWN. I was an ROTC graduate. I got my commission from college; I took the ROTC course in college and received a second lieutenant's commission on graduation.

Senator NEELY. What military service or experience had you had before you received the commission?

Mr. BROWN. Only what I was taught in 4 years at college, sir.

Senator NEELY. Were you a cadet for 4 years in college?

Mr. BROWN. Yes, sir, it was part of my curriculum.

Senator NEELY. What were you in the cadet corps, a private?

Mr. BROWN. Nothing very distinguished. I went through the course and got my commission. I didn't command a unit or anything of that kind.

Senator DOUGLAS. Senator Lehman, any questions?

Senator LEHMAN. I am not a member of the subcommittee, but I would like to ask you, Mr. Brown, do you personally support an increase in the Federal minimum wage?

Mr. BROWN. My job as Administrator, sir, I would think, would be to administer the law as the Congress passed it regardless of my personal views on the subject. I would be glad to express my views if you would like to have them.

Senator LEHMAN. I would be very glad to have them, if you would.

Mr. BROWN. I do believe in an increase and as long ago as 1953 I so expressed myself to Mr. Fecteau whose letter you have there endorsing me, and I think you will find also in his letter that he says he has talked to me about it and finds my views on the subject entirely acceptable to him as a CIO leader.

Would it be better for me to say, Senator, yes, I definitely believe in an increase if that was your question, sir.

Senator LEHMAN. Can you tell us to what extent you feel that the minimum wage should be increased?

Mr. BROWN. No, sir, I don't know enough about it to have formed any opinion on that.

Senator LEHMAN. May I ask you whether you feel that the Fair Labor Standards Act should be amended so as to increase coverage under the law?

Mr. BROWN. Again I am not sufficiently a student to have an opinion that I could argue successfully about.

Senator LEHMAN. You have no views on that subject?

Mr. BROWN. I have no firm opinion; no, sir.

Senator LEHMAN. You made reference to the fact that your duties would be that of administering the law, but isn't it a fact that in addition to administering the law, there is a considerable degree of discretionary powers lodged in this position?

Mr. BROWN. That is correct, sir.

Senator LEHMAN. The Administrator, as I understand it, decides upon the extent of enforcement, the manner in which enforcement is to be pursued. Is that not a fact?

Mr. BROWN. Within the limitation of the funds available; yes, sir.

Senator LEHMAN. And doesn't the Administrator also make certain definitions under the law such as to "area of production," and as to administrative and executive positions, and so forth?

Mr. BROWN. As I understand it; yes, sir.

Senator LEHMAN. So it is not entirely an administrative position?

Mr. BROWN. No, sir.

Senator LEHMAN. There is a considerable degree of discretion that must be exercised?

Mr. BROWN. Yes, sir.

Senator LEHMAN. Thank you very much.

Senator DOUGLAS. I just want to ask one final question of Mr. Brown.

In the administration of this act which involves the lowest paid workers in this country——

Senator ALLOTT. I didn't get that.

Senator DOUGLAS. Does the Senator from Colorado hear my question?

Senator ALLOTT. Mr. Chairman, I must say this into the record. I am not trying to be discourteous, sir, but there isn't any point in my attending this hearing unless I can hear the questions and the answers. I hope you will take it that I am not trying to be discourteous, nor am I trying to needle anyone, but it is a fact that the accoustics are such that I can't hear the chairman.

Senator DOUGLAS. In the administration of this act, involving as it does the lowest paid wage earners of the country, it is necessary to have sympathy as well as a cool mind.

Now, Mr. Brown, do you think that you can honestly and conscientiously say that you would administer this act with sympathy and with understanding, with an attempt to help the low-paid wage earners of the country?

Mr. BROWN. Yes, sir.

Senator DOUGLAS. Thank you.

Senator SMITH. I have a question. Mr. Brown, I notice in your record that you went on duty December 1, 1940?

Mr. BROWN. Yes, sir.

Senator SMITH. That was one year before war was declared?

Mr. BROWN. Yes, sir; I volunteered.

Senator SMITH. You volunteered?

Mr. BROWN. Yes, sir.

Senator PURTELL. Mr. Chairman, I have a few questions, if I may ask them, sir.

Mr. Brown, the question was asked where you acquired this necessary experience to hold the job of lieutenant colonel. How long did you serve in the Armed Forces, Mr. Brown?

Mr. BROWN. Five and one-quarter years.

Senator PURTELL. You started in as a second lieutenant and in 5¼ years reached the rank of lieutenant colonel?

Mr. BROWN. Yes.

Senator PURTELL. Mr. Brown, where did you serve in the Armed Forces?

Mr. BROWN. I served in this country for about 3½, nearly 4 years, and the balance of the time was in Burma with the Office of Strategic Services as commander of native troops behind the Jap lines.

Senator PURTELL. Would you mind telling us in view of the fact that the question has already been asked what decorations have been awarded to you by your Government for the services you rendered to this country as an officer in the Army?

Mr. BROWN. Well, only two of consequence, sir, the Legion of Merit, and I was a member of a unit which received the President's Distinguished Unit Citation.

Senator PURTELL. Thank you.

Senator DOUGLAS. The Legion of Merit is a very good decoration.

Senator NEELY. Had I known that he had received that decoration, my questions relative to the manner in which he obtained his commission would not have been asked.

Senator SMITH. One question. Senator Bridges said that you were of good, old New Hampshire stock, but I have been advised that your great grandfather was Gen. John Gordon on General Lee's staff in the Civil War, and also that General Gordon was later Governor of Georgia.

Am I correct in that?

Mr. BROWN. Yes, sir.

Senator SMITH. And then later that he was Senator from Georgia and he was one of those that our distinguished Senator Walter George knew well of. And of course he is historically a great figure, am I correct?

Mr. BROWN. Yes, sir.

Senator NEELY. Gen. John B. Gordon was the author of the famous address entitled, "The Last Days of the Confederacy."

Senator DOUGLAS. Are there any further questions of Mr. Brown?

Mr. Brown, that is all for the time being, but if you have any statements to make after the other witnesses have presented their statements, you may do so.

Mr. BROWN. I would like very much to have that opportunity, sir.

Senator GOLDWATER. May the record show at this time that I would specifically like to reserve the right to ask more questions of Mr. Brown later in the hearing.

Senator DOUGLAS. The next witness is Mr. Cruikshank, representing the American Federation of Labor, accompanied by Mr. Andrew J. Biemiller and Mr. Walter Mason, members of the national legislative committee, American Federation of Labor.

STATEMENT BY NELSON CRUIKSHANK, DIRECTOR, SOCIAL INSURANCE ACTIVITIES, AMERICAN FEDERATION OF LABOR, ACCOMPANIED BY ANDREW J. BIEMILLER AND WALTER MASON, MEMBERS OF THE NATIONAL LEGISLATIVE COMMITTEE, AFL

Mr. CRUIKSHANK. Mr. Chairman and members of the committee, my name is Nelson H. Cruikshank and I am director of social insurance activities of the American Federation of Labor, having my offices at the AFL Building, 901 Massachusetts Avenue, NW., Washington, D. C.

I am accompanied by my colleagues, Mr. Andrew J. Biemiller and Mr. Walter Mason, members of the legislative committee.

We appreciate the opportunity that you have afforded us to present the views of the American Federation of Labor with respect to the matter before you, the nomination of Mr. Newell Brown of New Hampshire as Administrator of the Wage and Hour and Public Contracts Divisions of the United States Department of Labor.

First, with your permission, I should like to read into the record at this time the letter from Mr. George Meany, president of the American Federation of Labor, addressed to Hon. James Mitchell, Secretary of Labor, under date of March 28.

Although we can attach a copy for the record, I would prefer reading this letter into the record if I may.

Senator DOUGLAS. If you prefer it.

Mr. CRUIKSHANK. Thank you. The letter from Mr. Meany to the Secretary of Labor reads.

(And Mr. Cruikshank read the letter dated March 28, 1955 from George Meany, President, American Federation of Labor to Hon. James P. Mitchell, Secretary of Labor, United States Department of Labor, Washington 25, D. C., into the record, as follows:)

DEAR MR. SECRETARY: The American Federation of Labor is deeply interested in the effective administration of the laws designed to raise wage standards of American workers. In this connection, we feel strongly that those appointed to positions carrying responsibility for administering these laws should be persons who are qualified by experience and training in the field, and who also have demonstrated a sympathetic understanding of the social purposes such laws were designed to accomplish.

It is my considered opinion that the nomination of Mr. Newell Brown, presently director of the Division of Employment Security, State of New Hampshire, for the post of Administrator of the Wage and Hour and Public Contracts Divisions within the United States Department of Labor, is not consistent with these principles. Nothing in Mr. Brown's background or experience, in my view, qualifies him for a post of responsibility in administering laws designed for the protection of working people.

I submit that Mr. Brown's activities as an officer of the Interstate Conference of Employment Security Agencies constitute evidence of his lack of fitness for the responsibilities of Administrator of the Wage and Hour and Public Contracts Divisions in your Department.

We have repeatedly presented to you, Mr. Secretary, the basis of our complaint against the Interstate Conference of Employment Security Agencies. We have held that while there is a thoroughly legitimate place for a professional organization of State administrators charged with responsibility of administering State employment security programs, we do not feel that it is appropriate for this organization as such to engage in lobbying activities with Members of Congress. We particularly feel that it is highly inappropriate that the travel, salary, and subsistence expenses of State officers, while engaged in such lobbying activities, should be paid out of grants of Federal funds administered by your Department. On occasion you, yourself, have expressed concern with this problem.

At its meeting last November, your tripartite Federal Advisory Council, after several hours' thorough discussion of the questionable activities of this organization, with only 2 of the 27 members present dissenting, voted that your Department should examine the activities—particularly the legislative or lobbying activities—of the interstate conference. In the course of this discussion, the activities of Mr. Brown, who was the chairman of the legislative committee of the interstate conference during the preceding year, were specifically referred to. More than 3 months have passed since this examination was asked for by your Advisory Council. Representatives of the American Federation of Labor, inquiring as to the progress of this examination, have on numerous recent occasions been told that it is still in process. Despite the fact that the organization with which Mr. Brown has been so actively identified is currently under investigation by your Department, we see him now nominated for a position of great responsibility within the Department of Labor.

Mr. Brown's activities as chairman of the legislative committee of the Interstate Conference, by his own account, identify him with the interests of reactionary employer groups with respect to certain labor legislation. You will recall that during the 83d Congress, the American Federation of Labor was in general agreement with the proposals advanced by your Department and the administration in the field of unemployment compensation legislation. We supported certain provisions of the Reed bill (H. R. 5173) which you supported, and opposed others. Your Department and the American Federation of Labor were in agreement with the Under Secretary of the Treasury regarding certain provisions relating to basic principles of Government administration having to do with the distribution of administrative funds and our representatives, appearing before committees of both the House and Senate, incorporated the record of these areas of agreement in their statements. Not so Mr. Brown. In a memorandum dated March 16, 1954, addressed to all State administrators in his capacity as chairman of the legislative committee of the Interstate Conference of Employment Security Agencies, Mr. Brown reported on the progress of the hearings on the Reed bill (H. R. 5173) before the Senate Finance Committee, listing the representatives of the Interstate Conference, including himself with the representatives of a num-

ber of employer organizations in opposition to the positions taken with respect to this measure, not only by representatives of organized labor, but by the Assistant Secretary of Labor, Mr. Rocco Siciliano.

In addition, we have been concerned with the manner in which Mr. Brown has exercised the authority of his present position. One of his responsibilities has been to certify when no American workers are available to fill positions in the New Hampshire woods at prevailing rates of pay. This certification is required before the Immigration and Naturalization Service can authorize a logging company to import Canadian workers.

We have had a number of complaints from officials of our affiliated organizations in New Hampshire to the effect that Mr. Brown has exercised this authority in a manner that tended to depress wages for this work in the area. This contention seems to be supported by the fact that according to United States Department of Labor statistics wages for workers in New Hampshire logging camps have declined 7 to 8 percent during the past year, the sharpest drop of any State and contrary to the trends that prevail in practically all other States where substantial logging operations are carried on. We question whether such a drop in wages would have occurred unless the activities of Mr. Brown had operated to bring in an excessive number of Canadian workers and thus depress the level of prevailing wages. We are concerned that this point of view, if carried over to Federal operations under the Fair Labor Standards Act and the Walsh-Healey Act, would have serious adverse effects on wage standards of American workers and competitive conditions in American industry.

I am sending a copy of this letter to each member of the Senate Committee on Labor and Public Welfare, to which Mr. Brown's nomination has been referred, in the belief that as the members of this committee examine Mr. Brown's background and record, they will conclude that he does not possess the qualifications required of the responsible position of Administrator of the Wage and Hour and Public Contracts Divisions of your Department, and that his nomination for this post was ill-advised.

Sincerely yours,

GEORGE MEANY,
President, American Federation of Labor.

In that letter, Mr. Chairman, there is reference to some of the complaints that have come into President Meany and in view of the fact that certain statements by some people holding an office in local labor unions in New Hampshire was introduced in the record, I should like to introduce for the record some of the telegrams to which Mr. Meany referred in this letter. There is one addressed to Mr. Meany from the American Federation of State, County and Municipal Employees, Local 1444, Berlin, N. H., dated March 15, 1955, which reads:

Local No. 1444, American Federation of State, County and Municipal Employees, Berlin, N. H., want to protest the appointment of Newell Brown to the position of Director of Wages and Hours Division. Mr. Brown's record in New Hampshire is not one that our members can support. Our membership protest this appointment, and urge you to fight the Senate confirmation.

ROGER J. MARTIN, *President,*
ROLAND J. COLLINS, *Secretary.*

There is another from the United Brotherhood, Local 75, of the International Brotherhood of Pulp, Sulphite and Paper Workers, dated March 16, 1955:

Our United Brotherhood Local 75, IBPSBMW, AFL, with 3,000 members want to register an emphatic protest against the confirmation of Newell Brown as Director of Wages and Hours Division. The attitude of Mr. Brown towards organized labor is not helpful or constructive on the contary his thinking and actions have been very detrimental to the working people in New Hampshire.

GEORGE ANDERSON, *President.*

These are all addressed to Mr. George Meany. This one is also dated March 16, 1955 and is from Groveton, N. H.

Local 61 opposes Newell Brown as director of Wages and Hours Division.

RICHARD CURRIER,
President, Local 61, International Brotherhood Pulp Sulphite and Paper Mill Workers.

And there is one sent March 15 from Mr. Aime Nadeau which says:

As president of the United North Eastern Woods Workers Local 809, IBPSPMW, AFL, I want to say that Newell Brown is no man to enforce labor laws his record in New Hampshire is notoriously antilabor. His sympathies are all promanagement to the extent that he cannot fairly and impartially administer wage and hour regulations. We emphatically protest his confirmation and request you to oppose him strenuously.

Incidentally, Mr. Chairman, none of these people are employed as Mr. Brown's agents. I don't know about the other members from some non-affiliated independent unions whose statements were read into the record a while ago but I believe Mr. Connors, of the AFL, whose letter was put into the record, is an employee of Mr. Brown's agencies. Mr. Botelho of New Hampshire is here and will be able to clear that matter up, and I do know that none of these people are on the payroll of the agencies which Mr. Brown administers.

Chairman DOUGLAS. We might as well have that immediately. I believe Mr. Botelho is here.

STATEMENT ON A LIMITED MATTER BY MICHAEL BOTELHO, ASSISTANT TO NEW ENGLAND REGIONAL DIRECTOR, TEXTILE WORKERS UNION OF AMERICA, CIO

Mr. BOTELHO. By name is Michael Botelho. I am the past president of the New Hampshire State CIO and also past regional director to the New Hampshire and Vermont organizations. I listened with interest here to the recommendations made by certain labor leaders in New Hampshire, and on the direct question from the chairman of this committee to Mr. Brown he advised this committee that some of those men were on his unemployment advisory council. That is true, but he neglected to advise you that all of those men with the exception of Mr. Simard were members of the appeals tribunal and they are paid a per diem wage in New Hampshire of $15 a day to hear unemployment cases representing labor. The assignments given these men come under the jurisdiction of Mr. Brown. He has the power to assign or not to assign these men to hearings, as we will bring out later in the testimony, so it appears to me that that testimony could be easily prejudiced by these people. Two of those men, Fecteau and Simard, comprised a part of my committee that appeared before the Governor of that State when we made a complaint about the interpretation and administration of the law by Newell Brown and they were of a similar opinion as I was at that time that the administrator of the law, Newell Brown, was administering that law unfairly and not to the best interests of the workers in that State.

I intend to go into that when I have an opportunity to testify here this morning.

(Mr. Cruikshank then continued with his statement, as follows):

Mr. CRUIKSHANK. In addition, Mr. Chairman, that conforms with the information that I had from New Hampshire. Also it is a matter of record that the executive board of the New Hampshire State Federation of Labor has opposed the appointment of Mr. Brown.

In taking the position that he took in the letter that I read, President Meany took into account the duties and responsibilities of the post of Administrator of the Wage and Hour and Public Contracts Divisions, and the requirements in terms of experience and personal qualities of the individual responsible for discharging its important duties.

As this committee knows, the responsibilities devolving upon the Administrator under the terms of the Fair Labor Standards Act and the Public Contracts Act are such that the manner and spirit in which they are discharged have far reaching effects upon the welfare of the wage earners of America, and upon the operation of our economy. Permit me to review briefly what some of these responsibilities are as they relate to the qualifications of any individual to be appointed to the position under consideration.

First, in the Fair Labor Standards Act of 1938, as amended, the Congress declared that the—

> existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce.

The act then continues to state it to be the policy of Congress—

> to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power.

The Administrator is responsible for placing these policies in effect and to that purpose is given wide discretionary powers. Among these are the following:

1. Appointing special industry wage committees for Puerto Rico and the Virgin Islands and after reviewing committee recommendations, establishing minimum rates for industries in these island possessions (sec. 5, 6 (c), and 8).

2. Promulgating orders "regulating, restricting or prohibiting industrial homework" (sec. 11 (d)).

3. The issuing of regulations establishing "the method and procedure for ascertaining and promulgating minimum piece rates" (sec. 6 (a)).

4. Defining a "bona fide profit-sharing plan or trust or bona fide thrift or savings plan" for use in determining the regular rate of pay (sec. 7 (d) 3).

5. Defining "talent fees" for use in determining the regular rate of ay (sec. 7 (d) 3).

6. Issuing regulations governing the employment of "learners, apprentices, and messengers" at wages lower than the applicable minimum wage (sec. 14).

7. Defining "area of production" as applied to agricultural products to determine coverage of the law (sec. 7 (c) and sec. 13 (a) 10).

8. Determining industries "of a seasonal nature" which are entitled to an overtime exemption provided in the law (sec. 7 (b) 3).

9. Defining a "bona fide executive administrative, professional, or local retailing capacity or in the capacity of outside salesman" all of which are entitled to an exemption under the law (sec. 13 (a) 1).

In addition, the Administrator is now responsible for handling the administration and enforcement of the Walsh-Healey Public Contracts Act. Here he has the responsibility to act on behalf of the Secretary of Labor in the determination of prevailing minimum wages for industries whose products are regularly purchased by the Federal Government. These duties include the collection of wage information and its evaluation, definition of the industry, the calling of public hearings, and the determination of a specific minimum wage to be recommended on the basis of analysis of the record, the hearing, and all available pertinent wage data. These wide areas where his individual judgment must be exercised represent the very heart of any realistic wage determination.

In the discharge of these duties he must act in a quasi-judicial capacity, making decisions that affect the lives and working conditions of all employees engaged in the performance of Government contracts under the Walsh-Healey Act. Therefore, it is essential that the person who occupies the position be possessed of judicial temperament and an extraordinary sense of fairness and detachment from representation of any particular interests.

In the writing of these statutes, permitting such a wide area of discretion on the part of the Administrator, the Congress simply recognized that in our complex, dynamic industrial economy it was impossible to spell out every detail of regulation in the acts themselves. It also recognized the necessity for reliance upon public officials of unquestionable integrity and devotion to the public interest, and capable at all times of resisting the pressures of special interest groups. These are indeed high standards for public office, and while we recognize that no human individual has yet attained perfection, we are grateful that we live under a system that has produced many men and women who, through long years of public service, have come close to fulfilling these demanding requirements. I am sure there is no question in the mind of any member of this committee that the responsibility of the position in question requires the highest degree of objectivity, personal integrity, and sensitiveness to the proprieties of public office.

In arriving at our considered opinion that the present nominee does not measure up to the requirements of the responsible post for which he is now being considered we had only the record of his performance in his present position of director of the division of employment security in the State of New Hampshire as a guide. This record indicates serious question as to whether the nominee possesses the maturity of judgment and the objectivity requisite to the exercise of the discretions granted the Administrator of a wage and hour law.

For example, as President Meany points out in his letter to Secretary Mitchell, one of the responsibilities of the nominee in his present position is to make the findings on which to certify to the Immigration and Naturalization Service when no American workers are available to fill positions in the New Hampshire woods at prevailing rates of pay. The prevailing rate of pay provision is the very heart of this determination: presumably there would always be a shortage of such

workers at 50 cents an hour, just as there would presumably be an excess of applications for jobs at $3 or $4 an hour. The oversupply or undersupply of workers in any such situation is therefore obviously meaningless, except as it applies to a given wage rate. You can readily see, of course, also, that the formula tends to work in reverse. If the certifications for the importation of foreign workers is based on a lower wage rate the additional workers brought in at that level tend to push the rate downward. Representatives of our unions whose members are employed in these and related activities charge that Mr. Brown has indeed exercised his authority in a manner to do precisely that.

The record of actual wages paid in the 9 States in which significant logging activities are carried out would seem to bear out this contention. Here is the record of changes in earnings of loggers in these States from the first quarter of 1954, and from the second quarter of 1953 to the corresponding quarter of 1954, as shown by data of the United States Department of Labor.

The change from 1953 to 1954 is reflected in the following table:

	1st quarter	2d quarter		1st quarter	2d quarter
	Percent	*Percent*		*Percent*	*Percent*
Arkansas	+5.0	−4.1	Maine	+0.4	−3.6
South Carolina	+4.5	−5.0	Oregon	−.7	+1.7
Florida	+3.2	+1.5	Washington	−2.3	−1.7
Georgia	+2.2	+2.7	New Hampshire	−7.0	−8.3
Louisiana	+1.4	+.8			

Taking the first quarter it is seen that the most market low in earnings of loggers was a 7.0 decrease for the State of New Hampshire; and taking the second quarter of comparable years you will find some lowering of wages in some of the States but the most market lowering was 8.3 decrease in wages again in the State of New Hampshire.

Senator DOUGLAS. Are those weekly or hourly workers involved?

Mr. CRUIKSHANK. These are the total earnings, as I understand it, from the original table, and they are weekly earnings.

Senator DOUGLAS. Weekly earnings?

Senator GOLDWATER. They are weekly, Mr. Chairman. I have the chart in front of me.

Mr. CRUIKSHANK. Now, a matter of interest to us, incidentally, here, is that Mr. Sherman Adams was connected—and I am not sure but what he still is connected—with the Parker Young Pulp & Paper Company of Lincoln, N. H., and on his employment experience record Mr. Brown showed his close connection with Mr. Sherman Adams when he was Governor of New Hampshire; and also for a period in 1947 if I am correctly informed Mr. Sherman Adams served as an employee of a pulpwood association whose job was to secure the supplies of labor and to see that foreign workers were recruited and that foreign workers were made available in the woods of New Hampshire.

Senator NEELY. What is the name of that association?

Mr. CRUIKSHANK. The American Pulp Supply Association, I believe, sir. I can find that and get you the correct name.

(Mr. Cruikshank subsequently identified the organization as the American Pulpwood Association.)

Senator GOLDWATER. What was the name of the company that you say Mr. Adams was connected with, you mentioned a specific name?

Mr. CRUIKSHANK. The Parker Young Pulp & Paper Company of Lincoln, N. H.

Senator GOLDWATER. And later an employee of what?

Mr. CRUIKSHANK. The Pulp Supply Association. I will have to look that up. Do you wish me to do it now. It will take a moment.

Senator GOLDWATER. There is one more statement that you made and I would like to have this corroborated for the record, that their purpose was to employ or to get the Canadian workers to work in this country, but you made that as a direct statement, that that was the purpose of that corporation. Now, can you prove it?

Mr. CRUIKSHANK. No, sir; I don't believe I did, sir.

Senator GOLDWATER. Mr. Chairman, I suggest that it be stricken from the record.

Mr. CRUIKSHANK. My statement was that Mr. Sherman Adams' duties in 1947 included those of procuring woodsmen to employ in New Hampshire, in the New Hampshire woods, as employees of the pulp and wood companies there and that in that connection he was active in securing the importation of Canadian woodsmen.

Senator GOLDWATER. Then you retract the statement that the Pulp Supply Association which you named had as their purpose the obtaining of Canadian labor?

Mr. CRUIKSHANK. If I made that statement it was unintentional.

Senator GOLDWATER. The reason I am making a point of it is that a specific question was asked the Government agencies yesterday on that matter and it was said that was mainly done by agencies but not any company itself, as to this importation of Canadian labor, and I didn't want it in the record if it wasn't so and I know you wouldn't want it in either that there was an association whose total purpose was to get Canadian labor to come in, because I think if there is such an association, that would be something that hasn't yet been brought before us.

Mr. CRUIKSHANK. If I made that statement, sir, I will withdraw it because it was not intentional, because I have no knowledge to that effect.

It appears from this record that the application of Mr. Brown's idea of the prevailing wage leads to a sharp decline in the earnings of New Hampshire logging workers. We are deeply disturbed by the prospect of an administrator of the Public Contracts Division adopting this approach to the prevailing wage determinations called for under the Walsh-Healey Act, as it would have seriously detrimental effects on the wage standards of American workers if applied on a national scale.

Turning now to the requirements of this position that relate to the standards of integrity and character, we again have to rely only on the record of performance on the part of the nominee in his present position. In order properly to appraise this record we have to keep before us certain important facts about the nature of the position and the methods of financing the program, which he now directs in the State of New Hampshire, which are not generally known to the public, but which have a vital bearing on the points at issue.

The first of these is that the entire costs—aside from certain minor operations that are paid for out of a relatively small contingency

fund—of the administration of the program of employment security, including unemployment insurance and the employment services in the State of New Hampshire, as in all other States, are borne by grants to the State from the Federal Government. The expenses of his office, his salary and all personal services, his per diem payments in lieu of expenses while in travel status, communications, including postage, and transportation expenses are all paid from grants by the Federal Government coming out of annual appropriations passed by Congress.

Senator ALLOTT. What do you mean by personal services?

Mr. CRUIKSHANK. That is the term used by the employers of personnel.

Senator ALLOTT. I don't care who uses it. I think we have a right in such a matter as this to have a correct word and a fair word used. Neither the Federal Government nor the State of New Hampshire employ him in any personal services outside of his duties as the administrator in New Hampshire.

Mr. CRUIKSHANK. I am using the term exactly as it is used in the budget of all Federal agencies, sir. The budgets of all Federal agencies include the item of personal services.

Senator ALLOTT. That is not what it was intended to convey here.

Mr. CRUIKSHANK. It is used as it is used in the budgetary sense and how it is used in all budgetary items.

Senator LEHMAN. So far as the State of New York is concerned the words "personal services" are uniformly employed and it covers just exactly what Mr. Cruikshank has described. It appears in every budget, both of the State and of the lesser units of government.

Mr. CRUIKSHANK. To continue: Bearing in mind this fact, I submit that the declaration of congressional policy set forth in the first paragraph of the section entitled "Lobbying With Appropriated Moneys" of the Federal law is pertinent. The paragraph referred to reads as follows:

TITLE 18, SECTION 1913

LOBBYING WITH APPROPRIATED MONEYS

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business * * * (June 25, 1948, ch. 645, par. 1, 62 Stat. 792, eff. Sept. 1, 1948).

Senator DOUGLAS. That was passed by the 80th Congress?

Mr. CRUIKSHANK. The 80th Congress, that's right; it was a codification act that was passed. It comes originally from a law passed in 1919.

It appears that the intent of Congress to prevent the expenditure of Federal money to influence legislation is perfectly clear.

Senator ALLOTT. Mr. Chairman, may I interrupt again. Mr. Cruikshank, why did you only quote part of that statuatory statement?

Mr. CRUIKSHANK. I made it clear, sir, that I was quoting from the first paragraph of the section and I confined my quotation to that paragraph because in my judgment that paragraph was the declaration of the intent. If you should like me to read the second paragraph I should be glad to do so.

Senator ALLOTT. I will read it. The second paragraph of section 1913, United States Code, title 18, Crimes and Criminal Procedure, says:

> Whoever, being an officer or employee of the United States or of any department or agency thereof, violates or attempts to violate this section, shall be fined not more than $500 or imprisoned not more than 1 year, or both; and after notice and hearing by the superior officer vested with the power of removing him, shall be removed from office or employment.

And I think that completes the section of the statute, does it not, sir?

Mr. CRUIKSHANK. I believe it does, sir.

It was our thought, the pertinent point here was the intent of Congress to control the expenditures of Federal moneys and as it relates to the question now with which I am now directing my statement, the integrity and character of Mr. Brown and his sensitivity to matters related thereto. It would seem that the intent of Congress would be more pertinent than the part that determines whether a man goes to jail or is fined.

Senator ALLOTT. You are attacking then his integrity and character?

Mr. CRUIKSHANK. I am, surely.

Senator ALLOTT. But on this particular matter, he is not a Federal employee, is he?

Mr. CRUIKSHANK. He is not a Federal employee and therefore the penalty clause of this act attaches only to a Federal employee. My point is, sir, if you will permit me to make it clear—may I make my point clear?

Senator ALLOTT. I want to ask my questions.

Senator DOUGLAS. I would say that the witness has a right to reply.

Senator ALLOTT. He has a right to reply; he has no right to make speeches, Mr. Chairman.

Senator DOUGLAS. I think he is only finishing an answer to your question.

Mr. CRUIKSHANK. The point I want to make I can make in one sentence so I will keep it short. The point that I am making is that this indicates to us that in view of this policy governing the expenditure of public money as declared by Congress, that Mr. Brown in carrying on the activities which I will refer to later in my statement was insensitive to the high standards of performance in public office which this policy of Congress establishes.

Senator ALLOTT. I don't want to stand on a technicality but I think that the Congress, and this committee in particular, has a right to have, and in fairness they should be given the full statute without any deletions when it is presented to them.

Senator DOUGLAS. The second paragraph has also been made part of the record. If it has not been made part of the record in its entirety, it will be at this point.

Mr. CRUIKSHANKN. May I make this point, Mr. Chairman, that the policy as established by the Department of Labor governing its activ-

ity which has been sent to all State agencies lays this down as a policy of the Department of Labor; the statement of intent controlling the expenditures of appropriated funds have been sent to all State administrators by the Department of Labor as their policy expressing it as their view, the intent of Congress controlling the expenditure of public funds.

Senator DOUGLAS. Any other questions, Senator Allott?

Senator ALLOTT. Not at the moment, no.

Senator NEELY. Mr. Cruikshank, I presume that there is some connection between what you have just pointed out and the letter of Mr. Meany which you read, particularly that portion which appears as the third paragraph on page 2, in which Mr. Meany complains that Mr. Brown's activities identify him with the interests of reactionary employer groups with respect to certain labor legislation. It says:

> You will recall that during the 83d Congress, the American Federation of Labor was in general agreement with the proposals advanced by your Department and the administration in the field of unemployment-compensation legislation. We supported certain provisions of the Reed bill (H. R. 5173) which you supported, and opposed others. Your Department and the American Federation of Labor were in agreement with the Under Secretary of the Treasury regarding certain provisions relating to basic principles of Government administration having to do with the distribution of administrative funds and our representatives, appearing before committees of both the House and Senate, incorporated the record of these areas of agreement in their statements. No so Mr. Brown. In a memorandum dated March 16, 1954, addressed to all of the Interstate Conference of Employment Security Agencies, Mr. Brown reported on the progress of the hearings on the Reed bill (H. R. 5173) before the Senate Finance Committee, listing the representatives of the Interstate Conference—

and so forth.

Was it your purpose to associate the policy of the Labor Department to which you referred with Mr. Meany's observations just read?

Mr. CRUIKSHANK. Yes, sir; I am coming to that, Senator Neely.

It appears that the intent of Congress to prevent the expenditure of Federal money to influence legislation is perfectly clear. Moreover, it is difficult to see how anyone could take exception to this sound principle of government. While we, along with most other Americans, would not wish in any way to curtail the freedom of citizens to make known their views to their representatives in the Congress, we also are in hearty agreement with the principles set forth in this act—namely, that attempts to influence Members of Congress should not be carried on at the taxpayers' expense—and which are, as we see it, thoroughly consistent with the best traditions of our democratic Government.

In contrast to the unequivocal declaration of principle set forth in the act above cited, I should like at this time to place in the record the full text of a memorandum addressed to all State administrators jointly by Mr. Henry E. Kendall and Mr. Brown in his capacity as chairman of the legislative committee of the Interstate Conference of Employment Security Agencies. This memorandum, you will note, includes several pages of argument for the passage of a particular piece of legislation.

I will hand this memorandum to the clerk for incorporation into the record.

(The 4-page memorandum referred to, entitled on page 1, "Employment Security Administrative Financing Act, Hearings before

the Committee on Finance, United States Senate, Second Session, on H. R. 5173, March 9 and 10, 1954," is as follows:)

EMPLOYMENT SECURITY ADMINISTRATIVE FINANCING ACT

(Hearings before the Committee on Finance, United States Senate, second session, on H. R. 5173, March 9 and 10, 1954, pp. 165–168, inclusive)

INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES,

November 5, 1953.

To: State administrators.
From: Henry E. Kendall, president, and Newell Brown, chairman, legislative committee.
Subject: Reed bill.

Passage of the Reed bill (H. R. 5173) constitutes the most important legislative objective of the interstate conference in the coming year. Such is the opposition that concerted and immediate action by all the bill's supporters is essential to assure its passage. This memo is designed to assist you in giving the bill effective and timely backing and is prompted by decisions reached at the recent annual meeting of the conference.

Your immediate consideration and action are most important.

The Congress opens in early January—the opposition is active today.

CONTENTS

I. BILL'S HISTORY AND CURRENT STATUS

The past.—The bill's principles have been prime conference objectives since 1948 when the Lynch bill, containing 1 of the 2 main features was introduced but never acted on. In the 81st Congress, H. R. 4133 (Mills) contained them but was never voted on. Last winter, 82d Congress, a somewhat modified version, in twin bills, H. R. 3530, 3531 (Mason-Mills) were introduced. Extended and heated hearings took place during the spring. The bills were further modified without sacrifice of basic principle. A resultant "clean" bill, H. R. 5173 (Reed) came out of the House Ways and Means Committee. This was passed by the House 294 to 91 in July, just before Congress adjourned.

The present.—The Reed bill has been referred to the Senate Finance Committee in the 2d session of the 82d Congress which opens in early January. It does not have to pass the House again unless the Senate amends it. Extended hearings are probable at the behest of the bill's opponents. Subsequent steps presumably include committee recommendation, Senate vote, and Presidential action.

II. NATURE OF OPPOSITION

The significant opposition today and yesterday wants amendments to, rather than outright killing of, the bill, but the proposed amendments (see paragraphs E and F below) would largely emasculate the bill. This opposition is composed of—

The Labor Department.
The Treasury Department.
The Bureau of the Budget.
The White House—concurring passively in the joint position of the above-mentioned three departments.
Some groups of organized labor.

III. NATURE OF SUPPORT

Few supporters agree with the bill in every detail, but all are agreed now on the compromise represented by the Reed bill as it stands. Supporters include—

The interstate conference—most States actively, only one inactive opposition.

Local, State, and National trade associations throughout the country.

House of Representatives, over 3 to 1.

Many State governors actively interested, in addition to State administrators.

NOTE.—The United States Department of Commerce is presently studying the bill carefully for the first time. What position it will take, if any, in the Cabinet and/or before Congress is not known at this time.

IV. BILL'S PROVISIONS AND ARGUMENTS PRO AND CON

A. *Earmarking.*—Beginning immediately, money collected by the Federal Government under the Federal Unemployment Tax Act and not spent for current employment security activity would be held for other employment security uses, rather than being spent for other Federal Government costs as in the past.

(1) Conference believes this to be not only equitable but long overdue.

(2) Opposition generally agreed on principle—may be a further issue on the mechanics. However, Reed bill in present form precisely follows Treasury Department's recommendation with respect to mechanics. Outside chance, in spite of all present indications to the contrary, that broad issue of earmarking, per se, may be raised.

(3) Rebuttal—if necessary. This is a special tax raised for a special purpose. It is inequitable to use proceeds of such a tax for general revenue purposes.

B. *Federal reserve fund.*—This excess between collections and disubrsements each year would go initially into an unemploymnt trust fund.

(1) (2) (3)—All agreed.

C. *$200,000,000.*—All excesses would go to this trust fund until it reached $200 million, a matter of 3 years or so on the basis of present excess collection experience.

(1) Conference recommended $50 million, but comprised on $200 million.

(2) Opposition agreed at $200 million, started at $300 million.

(3) Rebuttal, none.

D. *Redistribution.*—Any excess not needed in the future to maintain trust fund at $200 million, once it reaches that figure, would be redistributed to the States in the ratio that the covered wages in each bear to total wages covered by all unemployment compensation laws.

(1) Conference agreed.

(2) Opposition agreed, although originally some opponents wanted no redistribution of any kind. So far as this objection is related to the Federal cash budget situation, amendments already made have presumably met it. They may again raise this issue or question the prorating formula, however.

(3) Rebuttal: If redistribution in itself becomes an issue, answers are the obvious uselessness of a huge accumulating reserve held in Washington; and the propriety of a redistribution which would have the net effect of varying employer tax rates not only in accord with local benefit needs but also needs for administrative money.

E. *State use of redistributed funds.*—Such funds would be placed in each State unemployment compensation reserve fund for use in paying benefits and would remain there permanently unless and until the State's legislature, by specific legislation, granted the State agency a specific amount for a specific administrative purpose. Not more than the amount of redistributed money accumulated in the past 5 years by a State might be so used for administrative purposes.

(1) Conference:

Believes such money should be used primarily for benefit payments,

But

Believes States have long needed more administrative latitude, a latitude which would be possible where some of such money can be used for administrative expenses. The current tight purse-string control by a Federal department by definition and charter prolabor over State operations which must tread the middle ground between labor and management is improper.

Further, the money was initially collected for administration, not benefit payments.

(2) Opposition adamantly opposes use for administration but will probably go along if restricted to use only for benefit purposes.

The Federal Government appropriates for employment security administration, and raises the necessary money through FUTA. It should have entire control over expenditures. Bill proposal waters down this control.

States might use irresponsibly the power to use some money for administration.

State latitude would upset present budgetary procedure, aimed at equity among States.

(3) Rebuttal: In other programs States have some discretion in administrative use of money raised by Federal Government. What is proposed isn't exceptional. As to sanctity of Federal control where it appropriates, the House (the appropriating branch and not one to give up its legitimate prerogatives lightly) is on record over 3 to 1 as favoring Reed bill, including proviso for administrative use of this money.

Congress cannot claim to be all-wise as regards present and prospective detailed administration and benefit needs in each State. State legislatures, close to the scene, are better judges.

Lack of faith in State discretion is one of the hallmarks of all centralist thinkers: In any case, labor and management both have strong interests on both sides of the question of using some redistributed money for administration. Decisions would not be made lightly.

Current budgetary procedures and controls go far beyond the manifest or implicit intent of the present law. The business of spending something beyond what is granted for proper and efficient administration does not constitute upsetting procedures, or overriding congressional and Labor Department intent.

F. *Use of $200 million.*—Money would be available to States whose benefit funds get into trouble according to specific criteria, on a non-interest-bearing loan basis, providing the needy State has an average contribution rate of 2.7 at the time of its request for a loan.

(1) Conference agrees.

(2) Opponents reluctantly accept principle of repayment having preferred outright grants. Opposition now concentrating on weakening the repayable feature of advances.

(3) Rebuttal. Only through providing for certain repayment of advances can the full responsibility of the States to finance their benefits be maintained and the integrity of the State systems be preserved.

NOTE.—The administration may urge an amendment which would include in the possible uses of this fund withdrawals to cover any minus balance between FUTA receipts and appropriations. While the conference has taken no position officially on this, presumably it would oppose it as inequitable, considering 15 years during which the Federal Government has kept the plus balances, and the improbability of the contingency in the foreseeable future.

G. *Repayment of loan.*—A State receiving a loan would have to repay from its benefit fund within 2 years. If it failed to do so, repayment would be forced through the procedure of the Federal Government collecting more than 0.3 percent from FUTA—covered employers in ensuing years: 0.45 percent, 0.60 percent, 0.75 percent, etc. The difference between this gradually increasing rate (assessed regardless of the State's own contribution rates) and the usual rate of 0.3 percent would be used to liquidate the loan.

(1) Conference believes:

A loan without definite, enforceable repayment proviso is no loan at all in effect.

That such proviso is essential since all States, through their interest in redistribution funds, are adversely affected by withdrawals from the Federal reserve.

That anything short of a strictly repayable loan plan can promote Federal standards through pressure from Washington on debtor States.

That only through a businesslike loan program can there by any assurance that a troubled State will make its maximum effort to get its law, administration, and economy back on a sound, solvent basis.

(2) Opponents, most of whom originally favored outright grants, now want loans repayable when the State gets ready to pay, measured by a given fund solvency criterion. They argue:

Forced repayment before State is ready could aggravate the conditions which produced the need in the first place.

Such a proviso would not be in keeping with Federal policies of lending assistance in shoring up weak local economies.

States can be trusted (in this case) to make maximum effort to get out of the hole; and if they can't be trusted, proviso could be made to forbid benefit increases and to exercise other Federal controls to prevent irresponsibility until State has paid up.

(3) Rebuttal: While forced repayment could aggravate or stretch our economic depression, if depression persists sooner or later the answer must be com-

plete local economic overhaul. Continued Federal unemployment compensation handouts (at the expense of all other States) is no permanent solution and would simply postpone for a time the day of necessary economic overhaul. If a State stays in trouble more than 2 years, something more than UC pump priming is needed. Only one State appears worried by the forced repayment possibility.

Federal handouts over an indefinite period do not constitute a sound business-like means of assisting troubled States.

Unlike the case of administrative use of redistribution money, in this case there are few or no internal State forces working for sound planning. In fact, both labor and management would have positive inducements to stay in a debtor status, once there. Belt tightening by both would be essential to simply getting out of trouble. If, in addition, a loan had to be repaid when the system was again solvent, further and protracted belt tightening would be required. As long as the loan didn't have to be repaid and more could be had without definite repayment strings, why cut benefit rates and raise contribution rates, etc. In this sense the loan without definite repayment proviso would be worse than a grant.

As for the Federal Government forcing a State to tighten its belt, this involves additional Federal invasion of States' rights in this field and is a step toward federalization. Further, putting a ceiling on a State's benefit formula could well aggravate or prolong the economic situation which brought on insolvency in the first place.

V. SUGGESTED ACTION BY STATES

A. Become acquainted with the problem. The legislative committee will be glad to answer any questions not covered above.

B. As soon as possible and within the next month and a half, contact both of your Senators and any others you may be able to, directly or, often better through those whose opinion would be valued by them. See that they are clearly aware of the problem and of your views and the views of all in your State who support the bill.

C. As opportunity offers in the next 6 months, make contact as above with your State representatives, against the possibility that a Presidential veto may face the House.

Time is important. Please act now.

VI. SENATE FINANCE COMMITTEE

Eugene D. Millikin, chairman, Colorado

Hugh Butler, Nebraska	Walter F. George, Georgia
Edward Martin, Pennsylvania	Harry Flood Byrd, Virginia
John J. Williams, Delaware	Edwin C. Johnson, Colorado
Ralph E. Flanders, Vermont	Clyde R. Hoey, North Carolina
George W. Malone, Nevada	Robert S. Kerr, Oklahoma
Frank Carlson, Kansas	J. Allen Frear, Jr., Delaware
Wallace F. Bennett, Utah	Russell B. Long, Louisiana

Before I come to the concluding paragraphs I would like to point out the purpose of this memorandum as stated and quote from it. It is dated November 5, 1953, and gives as its subject the Reed bill. It goes on to say:

Passage of the Reed bill (H. R. 5173) constitutes the most important legislative objective of the interstate conference in the coming year. Such is the opposition that concerted, and immediate action by all the bill's supporters is essential to assure its passage. This memo is designed to assist you in giving the bill effective and timely backing and is prompted by decisions reached at the recent annual meeting of the conference.

Then it lists a table of contents with six points and point 2 is the nature of opposition. On page 2 under point 2, Nature of Opposition, I quote:

The significant opposition today and yesterday wants amendments to, rather than outright killing of the bill, but the proposed amendments (see pars. E and F below) would largely emasculate the bill. This opposition is composed of: the Labor Department; the Treasury Department; the Bureau of the Budget; the White House—concurring passively in the joint position of the above-mentioned three departments; some groups of organized labor.

Note that Mr. Brown is sending out a memo asking for legislative action encouraging people to lobby, listing those against whom he is lobbying: The Labor Department, the Treasury Department, the Bureau of the Budget, and the White House.

Senator DOUGLAS. Of course, it is not wrong to lobby against proposals of the Treasury and Labor Department?

Mr. CRUIKSHANK. As I will come to, we contend also that the moneys was grant money appropriated by Congress for the administration of State unemployment compensation acts.

Senator GOLDWATER. Do you recall whether that bill passed the Senate?

Mr. CRUIKSHANK. It did; yes, sir.

Senator GOLDWATER. By what vote, do you recall?

Mr. CRUIKSHANK. Very small opposition.

Senator GOLDWATER. 78 to 3?

Mr. CRUIKSHANK. That could be, but it was a very small opposition.

Senator GOLDWATER. And also passed the House by an overwhelming majority?

Mr. CRUIKSHANK. There were amendments though so that much of our opposition was withdrawn. So we were not opposed to a great deal of the bill by the time it finally passed. This memorandum was submitted against the amendments, you will note, and you will note that the memorandum was directed not only against the bill but against the amendments supported by the White House and the Treasury.

But to get to the main point, the two concluding paragraphs of the memorandum are, and I am quoting:

> B. As soon as possible and within the next month and a half, contact both of your Senators and any others you may be able to, directly or, often better through those whose opinion would be valued by them. See that they are clearly aware of the problem and of your views and the views of all in your State who support the bill.
>
> C. As opportunity offers in the next 6 months, make contact as above with your State representatives, against the possibility that a Presidential veto may face the House.
>
> Time is important. Please act now.

That is on the last page.

It is very interesting also that when the representatives of the Interstate Conference of Employment Security Agencies appeared and testified against this bill they testified as representing the instruments of the States. Now, bear in mind that our contention here is that here is an organization whose activities are paid for out of grants of appropriated funds. One, Mr. Bernard Teets of the State of Colorado testified among others in support of this bill. We assumed that Mr. Teets was representing the point of view of his State. We assumed also that these other administrators were representing the point of view of their States and did not know until the report was issued just last month that that was not the case in discussing the Reed bill, the very bill that was generally supported by the Kestnbaum committee, but on page 201 of the report of the Commission on Intergovernmental Relations there is a footnote, and as you all realize a footnote is a method of conveying some important information. This is the bill which the Interstate Conference, particularly Mr. Teets of Colorado, said he was supporting on behalf of his State, but in connection with that there is a footnote on that page of the Commission on Intergovernmental Relations known as the Kestnbaum Commission:

Governors Driscoll and Thornton do not concur in the philosophy underlying the Reed Act.

"We oppose the Reed Act for the following reasons: (1) It continues two levels of government in the operation of a single governmental business; (2) it creates a dedicated tax; (3) by its assurance that the reserve will be used to help States out of their difficulties, irrespective of how improvident they may have been, it invites irresponsible action by the States; (4) it compels full expenditures of the tax irrespective of the need; (5) since the tax is now dedicated there is less likelihood of diligent scrutiny of expenditures since no savings or tax reductions may be achieved.

"The Reed Act should be repealed. While its purpose is concededly good, the precedent that it establishes is bad."

It seems to me that that is a matter of great interest, as to whom these State employees purport to speak on behalf of their States and sales and expenses were paid out of funds appropriated by Congress. Whom were they actually representing in this lobbying activity if not Governors Thornton and Driscoll, or the opinions of them among others.

To return to my statement, these concluding paragraphs are followed by a list of the names of the Senators on the committee which at the time was considering the legislation in question, leaving no doubt in the minds of the recipients of the memorandum as to whom they should work on.

The lobbying prohibition referred to above makes a proper exception for communicating with Members of Congress "on the request of any member." But this memorandum urges State Administrators to take the initiative in alerting Members of Congress to what is described as "the problem" and in seeing that Members of Congress are made aware of the views of "all who support the bill." I need not labor the point that this is a clear case of lobbying and our information is to the effect that the entire cost of preparing this memorandum and mailing it to the States was borne out of grant money appropriated by Congress for the administration of State unemployment compensation acts. We respectfully submit that at the very least this indicates a lack of sensitiveness to the requirements of a position of public trust.

Senator DOUGLAS. Do you have material to prove that point, that the cost was borne out of grant money as you state?

Mr. CRUIKSHANK. All of the costs of the Interstate Conference of Employment Security Agencies are borne out of appropriated funds and there is considerably in the record on that in the recent appropriations, and the House Appropriations Committee has asked for a full report on this which I understand has not been submitted for the current year. It is not available to us, but all of the costs for salaries. I avoid the reference to personal services. All of the costs for salaries and per diem expense, travel.

Senator DOUGLAS. Mailing costs?

Mr. CRUIKSHANK. Mailing costs, yes, sir, of the Interstate Conference, are paid out of appropriated funds.

Senator DOUGLAS. Has this practice been followed for a good many years?

Mr. CRUIKSHANK. In the affairs of the interstate conference?

Senator DOUGLAS. Yes.

Mr. CRUIKSHANK. Yes, sir; it has. We have objected in previous years. The Labor Department has disallowed certain expenditures in both the Labor Department and the Federal Security Agency, and

on a number of occasions the Federal Security Agency, before the Reorganization Act of 1949 I believe, transferred funds to the Department of Labor and in auditing the expenses the Department of Labor disallowed a number of telegrams and letters that were destined to influence Congress.

Senator DOUGLAS. The point I am trying to make is this: Wouldn't it be possible for one man going into this post to sort of accept the practices that have been followed before, not questioning them very much?

Mr. CRUIKSHANK. That is possible, but this is the first instance that I know of where a flagrant encouragement and an inciting to a definite lobbying activity of this kind was a matter of record.

Senator DOUGLAS. I remember the debate of 1945, 1946, and the Interstate Conference was very active in opposition to that bill then. I agree with you and I think it is a bad practice. The point I was trying to make is, if that has become firmly embedded in the practices of the committee, might it not be possible for a young man who is appointed to this post to fall into line with what has been done before, not questioning it too closely?

Mr. CRUIKSHANK. Well, it would be possible, yes, sir; but it would seem to me that if he just fell into line without questioning, without examining such practices, that it would in fact support our contention that he was not very sensitive to the highest demands of public office. Now, a number of State administrators have indicated a sensitiveness to this, and I know that at the meetings of the interstate conference a number of very outstanding State administrators have questioned this activity and a number of them have written letters to the president of the interstate conference during the last year stating, "We ought to go out of this lobbying," and they have talked to me about it, and now I will go into this a little further in the next paragraph.

The matter of expenditure of Federal funds by State administrators in lobbying activities on several occasions has been brought to the attention of the Secretary of Labor. The Federal Advisory Council of the Department of Labor, composed of labor, management, and the general public, at its last regular meeting in November 1954, passed by a vote of 25 to 2 a motion requesting the Secretary of Labor to look into this matter. In the discussion of this motion, which took place before there was any mention of Mr. Brown for the post of Wage and Hour Administrator, his questionable activities in the expenditure of public funds were specifically referred to. Surely, this committee will wish to have cleared up the questions specifically raised about this nominee by this responsible body of citizens before recommending to the Senate of the United States that he be confirmed in the position of Administrator of the Wage and Hour and Public Contracts Divisions.

Senator GOLDWATER. Do you have documents to submit to the record that will prove that statement, that statement as to his questionable activities in expenditures of public funds which were specifically referred to?

Mr. CRUIKSHANK. I am a member of the committee; I was there. If the committee wishes I will go under oath, and I will submit that.

Senator GOLDWATER. That satisfies me.

Mr. CRUIKSHANK. The minutes of the committee, however, would be available to this committee, I am sure, the minutes or the verbatim transcript of that discussion on November 15.

Senator GOLDWATER. Do you recall who brought this question up?

Mr. CRUIKSHANK. Yes, sir, the question was brought up by a member of the Council, the president of the Metal Trades Department of the American Federation of Labor, Mr. Brownlow.

Senator GOLDWATER. And were there any other people who brought it up besides him?

Mr. CRUIKSHANK. He brought it up and there was some considerable discussion. I offered a motion to bring the discussion to a conclusion, asking for an inquiry. The discussion had gone on for a number of hours, and I offered a motion suggesting that the Secretary of Labor look into the matter and bring in a later report.

Senator GOLDWATER. How many employer members were there?

Mr. CRUIKSHANK. The constituency of the Council at that time was I believe 10 employer members, 10 employee members, and 15 public members. There were 27 there, indicating that there were some employer members there at the time.

Senator DOUGLAS. I assume that there have been other meetings of the Federal Advisory Council since then. Did the Department of Labor make any report of its disposition of this matter?

Mr. CRUIKSHANK. They did, sir; they made a report which was received by the Council, and I am just not sure of my position here. We have an understanding in the Council, sir, that we don't make any public actions before the Secretary of Labor has had a chance to make them, and I think that I just don't like to violate that unless, at the same time, I think it is a matter of information which your committee ought to have.

Senator DOUGLAS. I think the committee can send a telegram to the Secretary of Labor asking that he inform this committee about the results of this.

(The report referred to was subsequently furnished by the Secretary of Labor as follows:)

REPORT TO FEDERAL ADVISORY COUNCIL CONCERNING INTERSTATE CONFERENCE OF EMPLOYMENT SECURITY AGENCIES

The Federal Advisory Council at its November 1954 meeting adopted the following resolution:

"That the Department of Labor be requested to initiate a study into the total expenditures for travel in performance of various committees of the Interstate Conference of Employment Security Agencies during the past year, particularly in connection with legislative activity and make a report to the members of this committee."

The discussion at the November meeting indicated that the Council was interested in interstate conference travel to Washington, both in connection with regular committee activities of the conference and in connection with legislative activity.

During 1954 the interstate conference has had a national executive committee composed of the president, the immediate past president, and 13 State administrators, 1 from each of the former regions of the Bureau of Employment Security; a legislative committee of 11 members; and 13 program, fiscal, and technical committees. The committees are listed in exhibit 1.

In connection with the committee activities of the conference, the Council should know that the Bureau uses this machinery as a device for securing State

consultation on various program matters, usually while the program activity is in the planning stage. Interstate conference committees are not the only medium used by the Bureau for consultation with the States. The Bureau calls a number of regional and, when the occasion demands, national meetings of State officials to discuss both operating and program problems.

In addition to committee meetings, the interstate conference held a national conference in 1954 as it does each year. This past year, the meeting was held in New Orleans. The total travel cost of the conference's annual meeting and the 27 scheduled committee meetings held during 1954 was $56,214.29. A detailed listing of these meetings including the length of the meeting and the number of State representatives present is attached as exhibit 2. Minutes and reports of each of these meetings have not been made a part of this document because they are too voluminous. They are, however, available for review by any member of the Council who is interested in examining them.

In addition to the scheduled meetings of the conference, there were 17 nonscheduled trips to Washington by State administrators during 1954.

State administrators are not required to secure prior approval from the Bureau for out-of-State travel. State personnel other than the administrators are required to secure out-of-State travel approval from the Bureau in advance. The total travel cost of these 17 trips to Washington was $1,760.83. Attached as exhibit 3 is a listing of these trips, together with the statement of the purpose of the trip as reported by the State agency.

A summary of the findings resulting from this study indicates clearly that one phase of Interstate Conference activity is in connection with Federal legislation. The conference has an executive committee and a legislative committee both of which have studied proposed Federal legislation and taken policy positions in connection therewith. State administrators have come to Washington to testify before congressional committees. State administrators have also visited Senators and Congressmen when they are in Washington at the time of scheduled meetings of the conference and when they have come to Washington when there is no scheduled meeting in session.

Existing policy concerning the use of granted funds for legislative activities of the State administrators has been in effect since the early days of the program. The policy which has been followed by the Federal agency concerned with the administration of employment security over the last many years is one which prohibits the use of granted funds for lobbying as such, but permits the use of granted funds for State administrators to furnish information or views directly to their own Congressman or to appropriaate committees of the Congress if there is any indication that such information or views are desired.

The Bureau would be glad to have the advice and recommendations of the council both with respect to any phase of the study or with respect to the policy questions involved.

EXHIBIT 1. *1954 Interstate Conference Committees*

Administrative grants
Benefit financing studies and policy
Employment service programs and operations
Farm placement
Fraud prevention and detection
Interstate benefit payments
Legislative
Manpwer mobilization policy
Research and reporting
Small communities
Special administrative financing
Unemployment compensation programs and operations
Veterans
Intergovernmental relations

EXHIBIT 2.—*Report of meetings held under the auspices of the Interstate Conference of Employment Security Agencies, Jan. 1 through Dec. 31, 1954*

Type of meeting	Place of meeting	Date of meeting	Length of meeting (days)	Number of State representatives present	Travel and per diem cost
Annual meeting	New Orleans, La	Oct. 11–14	4	143	[1] $30,362.50
Regional executive committees:					
Region I.	Boston, Mass	Dec. 8	1	5	113.24
National Executive Committee:					
First meeting	Washington, D. C	Mar. 1–3	3	16	2,676.70
Second meeting	do	June 21–23	3	14	2,007.36
Third meeting	New Orleans, La	Oct. 8–9	2	13	[1]
Fourth meeting	Washington, D. C	Nov. 30–Dec. 2	3	15	2,677.98
Special activities [2]					494.28
Total					7,856.32
Standing and special committees:					
Administrative grants	Washington, D. C	May 17–18	2	9	1,381.43
Special committee on supplemental.	do	Jan. 20–22	3	4	397.99
Subcommittee on revised budgeting.	do	Feb. 18–19	2	3	611.45
Benefit financing studies and policy.	do	Mar. 30–Apr. 1	3	4	594.73
Employment service programs and operations:					
First meeting	do	May 12–14	3	6	775.71
Second meeting	do	July 21–23	3	5	698.72
Farm placement	do	June 29–July 1	3	7	1,361.71
Fraud prevention and detection:					
First meeting	do	May 5–7	3	4	649.27
Second meeting	do	Sept. 8–9	2	3	397.41
Intergovernmental relations	do	Jan. 14	1	4	129.48
Interstate benefit payments	do	May 26–28	3	12	2,035.42
Subcommittee on wage combining.	do	July 19–21	3	3	373.76
Legislative	do	Apr. 26–28	3	11	1,803.10
Special activities [3]					254.05
Program for annual meeting	New Orleans, La	Mar. 15	1	2	36.90
Research and reporting:					
First meeting	Washington, D. C	Jan. 19–21	3	5	799.36
Second meeting	do	July 13–15	3	5	722.68
Services to small communities.	do	June 17–18	2	6	1,127.10
Unemployment compensation.					
Programs and operations:					
First meeting	do	Apr. 14–16	3	4	543.28
Second meeting	do	July 27–28	2	5	597.73
Special administrative financing.	do	Nov. 15	1	8	902.86
Veterans:					
First meeting	do	Mar. 1–3	3	5	768.75
Second meeting	New Orleans, La	Oct. 10	1	5	[1] 218.51
Special activities [4]					701.13
Total					17,882.53
Grand total					56,214.59

[1] Costs of attendance at national executive committee meeting, Oct. 8–9, and costs of attendance of 4 members at meeting of veterans' committee, Oct. 10, included in amounts shown for annual meeting.

[2] Consisted of attendance of representative of Interstate Conference at 2 meetings of Federal Advisory Council and travel by a special committee of 1 to meet with interested groups concerning the interstate maritime reciprocal arrangement.

[3] Consisted of travel of 1 member to Washington, D. C., on committee business.

[4] Consisted of travel of 1 committee member to attend national convention of DAV and AMVETS and 1 committee member to attend meeting of National Economic Commission and national convention of the American Legion.

EXHIBIT 3.—*Report of nonscheduled travel to Washington for interstate conference purposes or for reasons connected with Federal legislation, Jan. 1 through Dec. 31, 1954*

State	Purpose of trip	Dates	Number of State representatives present	Travel and per diem costs
Alabama	Confer with BES and Members of Congress on Federal legislation.	Feb. 9–12	1	$108.75
California	Budgetary conference with BES; also conferences with congressional representatives re administrative problems but no additional travel.	Apr. 10–12	1	446.31
Colorado	Appear before Senate Finance Committee.	Mar. 7–11	1	237.40
Florida	Testify before Senate Finance Committee at request of secretary of that committee.	Mar. 8–13	1	164.82
Georgia	Attended meeting of Committee on Veterans' Affairs and stayed over for Senate Finance Committee hearings and to confer with Department and State officials on various matters.	Feb. 28 to Mar. 11	1	[1] 120.60
New Hampshire	Proposed changes in Reed bill	Apr. 12–14	1	106.04
	Reed bill hearings	Mar. 8–11	1	116.48
	Met with interstate conference members, legislative committee counsel and possibly Finance Committee re progress and amendments to Reed bill.	Apr. 13–14	1	91.09
	House hearings on H. R. 6539, 6537, 7054, 8585, and 8857 as directed by legislative committee.	June 8–9	1	72.63
	Reported to conference executive committee meeting.	June 21–22	1	96.96
	Conferred on appropriation legislation. Senate hearings on 8857, not held finally. Consulted with Bureau and Senator Bridges on supplemental appropriation legislation.	July 12	1	77.82
North Carolina	Preparation for Senate Finance Committee hearings.	Mar. 8–11	1	86.80
	Proposed Senate Finance Committee changes in H. R. 5173.	Apr. 13–14	1	41.94
Rhode Island	Congressional hearings on reinsurance	Mar. 9–11	1	30.00
	Conference with Secretary of Labor on reinsurance legislation.	Apr. 27–29	1	35.00
Virginia	Meeting with members of interstate conference re appearance before congressional committee on H. R. 5713.	Mar. 10–11	1	14.60
	Meeting with members of legislative committee re amendments to H. R. 5713.	Apr. 14	1	19.63
Total for nonscheduled meetings.				1,760.83
Grand total				57,476.86

[1] Stayover.

Senator GOLDWATER. Mr. Brown, was the motion that you prepared to this gathering specifically directed to the question of Mr. Brown or was it specifically directed at the whole question?

Mr. CRUIKSHANK. To the whole question, sir.

Senator GOLDWATER. Do you feel that it is proper to suggest to this committee that the questions specifically raised about Mr. Brown be considered when they were not specifically raised?

Mr. CRUIKSHANK. This is precisely what happened, Senator: The question was raised about the conference as such and its activities and expenditures for lobbying purposes. In the course of the discussion

the reference was made to Mr. Brown and his lobbying activities, as it was termed at the time.

Senator GOLDWATER. Was he the only one that was mentioned?

Mr. CRUIKSHANK. No, I don't think so, but he was drawn in because he was chairman of the Legislative Committee during the particular meeting in question. This was prior to his nomination. It was only natural that when you investigate the organization for lobbying activity that the chairman of the Legislative Committee would be prominent in the discussion, and much of the discussion related to the activities of the committee without mentioning any names.

Senator GOLDWATER. The reason I raise that point is that you use the words "specifically referred to" in a sentence which is followed by "specifically raised about this nominee," and I can't help but feel that it might be your intention to suggest to us that these questions were raised concerning Mr. Brown.

Mr. CRUIKSHANK. Indirectly they were.

Senator GOLDWATER. Would it be nearer the truth to say that they were indirectly raised by others?

Mr. CRUIKSHANK. That is quite right, but our contention is that a question was raised about the lobbying activities of an organization. That wording was changed incidentally in the motion. I myself acceded to taking out "lobbying activities" because it was kind of a judgment word and it was called legislative activities in the actual motion that was passed. At the request of an employee member I changed it because I agreed it was prejudging the issue. We were sure of our grounds but not sure that we were asking for an inquiry, and so consistent with that I was willing to erase the word "lobbying" and refer to legislative activity.

Now, Mr. Brown was chairman of the Legislative Committee and consequently the investigation of legislative activity of the Interstate Conference would to a very definite degree be inescapably an investigation of Mr. Brown's activities.

Senator GOLDWATER. But your motion that you put to the group assembled was directed at the activity not to Mr. Brown specifically?

Mr. CRUIKSHANK. That's right.

Senator GOLDWATER. What you want the Department of Labor to clear up or a congressional committee to clear up is not Mr. Brown's character or Mr. Brown's personal habits of honesty, but you want to have cleared up whether or not this committee can account in the way that it has historically acted; is that not true?

Mr. CRUIKSHANK. No, sir, that was not the intention of my motion.

Senator GOLDWATER. Was your motion directed then to the question of the honesty of Mr. Brown?

Mr. CRUIKSHANK. My motion was intended to question the legitimacy of the activities of an organization with which Mr. Brown was prominently identified.

Senator GOLDWATER. What you hoped then to get cleared up was whether or not it was proper and legal, and whether or not it was so even before Mr. Brown was ever connected with it, and we won't use the word "lobbying," we will say how they represented themselves legislative-wise. That is what you wanted to have cleared up?

Mr. CRUIKSHANK. Yes, sir.

Senator GOLDWATER. So when you suggest that "the questions specifically raised about this nominee," you actually don't mean that, do

you; you actually mean that we should wait until the decision comes down on your motion as to whether this practice—which I say is historic, it is a practice, it has been done for years—whether it is proper or improper in the eyes of the Department of Labor, and not whether what Mr. Brown did was proper or improper?

Mr. CRUIKSHANK. Well, the inquiry of the Department of Labor was only inferentially concerned with what Mr. Brown did. You see, the sequence of this, Senator, was that we called for this inquiry. We had known that this had been going on for a long time but also knew that it was getting worse.

Senator GOLDWATER. Did you call for it last year?

Mr. CRUIKSHANK. Yes, in November.

Senator GOLDWATER. Did you call for it in the year of 1953?

Mr. CRUIKSHANK. Not from the advisory council but from the Secretary of Labor on a number of occasions.

Senator GOLDWATER. When did you first call for this inquiry?

Mr. CRUIKSHANK. Well, we have raised the issue repeatedly over a period of years.

Senator GOLDWATER. Would you say, 3, 4 years, 5 years?

Mr. CRUIKSHANK. I think the first time that I asked the Secretary of Labor about such activities was probably back in 1947, 1948.

Senator GOLDWATER. Then your interest is one that dates back a long time.

Mr. CRUIKSHANK. But it has gotten a lot worse.

Senator GOLDWATER. Your interest then is one of clearing up the practice, which you are entitled to, but your interest then is not primarily in Mr. Brown, in his connection with this. Your interest as expressed over a period of 6 or 7 years is concerned with the practice.

Now, let's say Mr. Smith had been in Mr. Brown's place. Your interest would have been the same; would it not?

Mr. CRUIKSHANK. Yes, sir, as far as the Interstate Conference is concerned; yes, sir.

Senator GOLDWATER. No matter who occupied that position which either Brown occupied or was about to occupy, your interest would have continued until you had that question answered?

Mr. CRUIKSHANK. That's right.

Senator GOLDWATER. So Mr. Brown doesn't really enter into this picture?

Mr. CRUIKSHANK. I don't think that follows, sir.

Senator GOLDWATER. Other than a possible motivating force so that I would suggest if a man that we will call Mr. X had been there, then it would be Mr. X who happened to be the chairman.

What I am getting at is I don't think you would want this statement in there the way that I am sure members of this committee will interpret it, because while you have raised a question about Mr. Brown's honor, I don't believe that you raised a question about Mr. Brown's honor in this request to the Department of Labor to clear up this practice that you have been very active in trying to get up for a period of years.

Mr. CRUIKSHANK. No, sir, I don't believe, if I understand you correctly, that that quite reflects our view. Of course Mr. Brown's name was not before the Senate in November 1954, but we were asking, we were continuing to press, if I may say so, harder and harder on this matter of people being paid out of Federal funds to carry on

a lobbying activity. We had talked to the Secretary of Labor about it a number of times; he had expressed concern about it himself; and then finally I decided, after conferring with President Meany and some of the other of our officers and the other representatives of the AFL on the council, decided to bring it up and make it an issue before the council and eventually to the Secretary of Labor. We discussed our position with respect to certain questions on the agenda that was coming up, and so on, and Mr. Brownlow prior to the opening of that meeting in November said that he felt that the time had come to press this matter of the interstate conference, and he brought it up at the meeting. It came up because of the interests of the AFL and the interest of Mr. Meany as head of the organization; it came up because of a resolution that had passed the St. Louis convention of the American Federation of Labor in 1953 directed against the activities of this organization.

Now, Mr. Brown was a prominent official of that organization and in the course of the discussions Mr. Brown's activities were brought in by kind of way of illustration. "This is the kind of thing we mean," there were some people saying, and that no investigation was required, that this was all right. They asked "Wasn't it O. K.?" We said, "Of course, it is, but that's not what we are talking about," and the reference was made to this very memorandum which I have placed in your record this morning. Now, of course, after that was made and after the meetings of the council, again we talked to the Secretary of Labor about this and again we cited and we placed before the Secretary of Labor our complaint about Mr. Brown, who just then happened to be the chairman of the legislative committee; and the name of that committee, incidentally, is a misnomer.

Senator ALLOTT. How long has Mr. Brown been chairman of the legislative committee, do you know?

Mr. CRUIKSHANK. I think he served for that one term, and if I am correctly informed he is chairman now.

Senator ALLOTT. How long would one term be about?

Mr. CRUIKSHANK. About a year.

Senator ALLOTT. What year did he start serving?

Mr. CRUIKSHANK. The year of 1954, 1953–1954. I think their convention is usually in September.

Senator PURTELL. Mr. Chairman, may I ask a question.

When did you start to object to this practice of a State administrator and what you call lobbying activities; was that prior to 1954?

Mr. CRUIKSHANK. Yes, sir.

Senator PURTELL. Was it much prior to Mr. Brown becoming an official of that organization?

Mr. CRUIKSHANK. Yes, sir.

Senator PURTELL. Would the removal of Mr. Brown at this present moment from an executive position with the State administration immediately cause you to remove your opposition to this practice?

Mr. CRUIKSHANK. No, sir.

Senator PURTELL. So you are really objecting to a practice engaged in before Mr. Brown became an official, and the practice that you are objecting to is on the part of the State administrative group, is that correct, rather than any individual?

Mr. CRUIKSHANK. No, I am objecting to both the individual and the organization doing it, and Mr. Brown has been the most prominent of the individuals engaging in it.

Senator PURTELL. The removal of Mr. Brown would not in any way change your attitude toward this, would it?

Mr. CRUIKSHANK. No, sir.

Senator PURTELL. So I am correct then in saying that you are objecting to the practice engaged in by the State administrators and their acts or those of their operating officials?

Mr. CRUIKSHANK. That's right, yes, sir, and I am glad to have those questions asked, because it leads right up to this: Here was an organization with which Mr. Brown was prominently identified by a vote of the tripartite advisory council, a statutory council, one of the few councils going back to 1943. Then an inquiry was asked of these activities including the activities of course of their legislative chairman. While that inquiry was in progress the name of the person whose activities were under investigation was nominated for this important post and the inquiry isn't completed as yet.

Senator PURTELL. The fact of the matter is that you objected to this practice long before Mr. Brown was an official of that conference?

Mr. CRUIKSHANK. That is correct.

Senator PURTELL. But you objected to the practice engaged in by the State administrators, is that correct?

Mr. CRUIKSHANK. To that and since not all administrators do it there is the objection that a man being sensitive to the highest requirements of public office does not engage in the practice, but Mr. Brown not only engages in it, but defends it as being perfectly all right.

Senator DOUGLAS. The chairman observes that the hour of 12:25 has arrived and he has a pressing engagement at 12:30. I would suggest that we terminate the cross-examination at this point. I would like to have a meeting this afternoon but we have a conference committee meeting on the Fair Labor Standards Act at 4 o'clock and there is legislation coming on the floor which members have an interest in. I therefore would suggest that we reconvene tomorrow morning at 10 o'clock, that we adjourn now until 10 o'clock in the morning.

Is there any objection to that?

STATEMENT OF JOHN EDELMAN, WASHINGTON REPRESENTATIVE, TEXTILE WORKERS UNION OF AMERICA, CIO, ACCOMPANIED BY OTHER WITNESSES

Mr. EDELMAN. It is impossible for these witnesses to be present tomorrow morning. They have firsthand information and both of them have absolutely tight schedules and cannot make it, Mr. Chairman.

Senator DOUGLAS. Then we will have to have a meeting at 7 o'clock tonight, I think.

Senator PURTELL. Mr. Chairman, I certainly think that we should accommodate the witnesses but I don't think that we should give sole consideration to the witnesses. We, too, have some duties, Mr. Chairman, to perform, and such a meeting would inconvenience me to the point that I can't attend because of other business.

Senator DOUGLAS. The chairman would be greatly inconvenienced also but would be willing to waive his inconvenience in this instance if the witnesses find themselves in such a situation as has been indicated.

Senator SMITH. How much time do the witnesses want, Mr. Edelman?

Mr. EDELMAN. We think we have a vital aspect to present to the committee and I should think at least an hour would be required for our presentation.

Senator DOUGLAS. Unless there are further objections we will adjourn the meeting until 7 o'clock this evening, and Mr. Cruikshank, we will then hear the final paragraphs of your statement tomorrow morning and have cross-examination.

Mr. CRUIKSHANK. Yes, sir.

Senator DOUGLAS. We will meet tonight at 7 o'clock in this room and then we will meet further tomorrow morning at 10 o'clock.

(Whereupon at 12:25 p. m., Tuesday, July 26, 1955, the subcommittee adjourned, to meet next at 7 p. m. of the same date, and to reconvene the next day at 10 a. m. in the same place.)

NOMINATION OF NEWELL BROWN, OF NEW HAMPSHIRE, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, UNITED STATES DEPARTMENT OF LABOR

TUESDAY, JULY 26, 1955

UNITED STATES SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D. C.

The subcommittee met at 7 p. m., in room P–63, United States Capitol, Senator Paul H. Douglas, chairman, presiding.

Present: Members of the subcommittee, Senators Douglas (chairman) and Goldwater.

Present: Member of the committee, Senator Allott.

Also present: Stewart E. McClure, staff director; Roy E. James, minority staff director; John S. Forsythe, general counsel; Frank V. Cantwell and Michael J. Bernstein, professional staff members; and Grover C. Smith, chief clerk.

Senator DOUGLAS. The committee will come to order.

The Chair apologizes for being late. The trolleys are not operating, and one steps somewhat slower at 7 o'clock at night than he does at 7 o'clock in the morning.

Mr. Edelman, you are the Washington representative of the Textile Workers Union of America, CIO, and you are accompanied by Mr. Michael Botelho, assistant New England director, and vice president, Textile Workers Union of America, CIO, and Mr. Thomas Pitarys, president, New Hampshire Industrial Union Council, CIO.

Mr. EDELMAN. May I state for the record, Mr. Chairman, Michael Botelho, on my left, was at the time which we are covering in our testimony the chairman of the New Hampshire Industrial Union Council, and the director for the Textile Workers Union in New Hampshire and Vermont.

Mr. Pitarys at the present time has succeeded to both of these same offices.

Senator DOUGLAS. I have a letter from Walter P. Reuther, president of the CIO, under date of April 4, 1955, to Hon. James P. Mitchell, protesting against the nomination of Mr. Brown which I will make a part of the record at this point.

(The information is as follows:)

CONGRESS OF INDUSTRIAL ORGANIZATIONS,
Washington, D. C., April 4, 1955.

Hon. JAMES P. MITCHELL,
Secretary of Labor,
Washington 25, D. C.

DEAR MR. SECRETARY: President George Meany of the American Federation of Labor has sent me a copy of his letter to you, dated March 28, protesting Newell Brown's nomination as Administrator of the Wage and Hour and Public Contracts Division of the Department of Labor.

I wish to associate the Congress of Industrial Organizations and myself with the position taken on this matter by the American Federation of Labor.

My attention was called to this particular matter 2 or 3 weeks ago by the Textile Workers Union of America, CIO, whose officers and members had had considerable dealings with Mr. Brown over the years, while he served as head of the New Hampshire Division of Employment Secur.ty.

The textile workers have cited to me specific cases where Mr. Brown, in his capacity as executive of the New Hampshire Employment Security Agency, ruled that any employer, if covered by the Fair Labor Standards Act, need offer a wage of only 75 cents per hour to a job applicant, irrespective of his otner skills or previous earning record. Workers who refused to start at the 75-cent rate were ruled ineligible for unemployment insurance, in outright violation of the spirit of the law which makes it clear that no unemployed person should be forced to accept a job at substandard pay. I was shocked to find that such a position could be deliberately taken by a State official who was later named to a key Federal position.

I must point out also that I had been made aware some time ago of Mr. Brown's activities as legislative chairman of the Interstate Conference of Employment Security Agencies. Mr. Leonard Lesser of the United Automobile Workers' social security staff, who serves on the Federal Advisory Council to the Bureau of Employment Security, and Mrs. Katherine Ellickson of the CIO staff have kept me informed on the activities of the interstate conference in connection with our consistent efforts to obtain badly needed improvements in unemployment benefits in the various State legislatures. As you will recall, witnesses, speaking both for the UAW and the CIO itself, have on several occasions testified before congressional committees calling attention to the improprieties, if not downright iregularities, in the lobbying activities of the interstate conference.

I most emphatically associate myself with very restrained and closely reasoned criticisms offered by persons representing the CIO and AFL unions of the methods used by these State administrators in using Federal funds (in whole or in part) to subsidize legislative activities designed to deprive unemployed workers of sorely needed benefits.

There appears to be ample evidence that Newell Brown's general attitudes toward basic social legislation, such as is embodied in our unemployment insurance laws, the Fair Labor Standards Act, the Public Contracts Act, et cetera, are essentially hostile and unsympathetic. I cannot come to any other conclusion but that a person with this background and outlook could not administer the Wage and Hour Act (and companion statutes) with the conviction which an effective executive must have if he is to succeed in a difficult job of this kind.

You must be well aware, Mr. Secretary, that today only a minor segment of the membership of our labor unions is personally concerned with the administration of the Fair Labor Standards Act. By that, I simply mean that, through the advances made by collective bargaining, the great majority of unionized workers can and do police their own places of employment so effectively that they require very little assistance from government agencies to prevent violations of provisions of the law relating to minimum wage, overtime, child labor, et cetera.

It is among unorganized workers that the principal violations of the wage and hour statutes occur. From the standpoint of our self-interest as workers enjoying the benefits of contractural relations, et cetera, trade unionists are, of course, concerned to see to it that the nonunion employee actually gets whatever meager protection the law now affords. If gross violations occur in nonunion plants, the standards in unionized areas could be menaced. In general, however, organized labor is not primarily asking for capable and sincere administration of the minimum wage and maximum hours laws because our own standards would be jeopardized by lax and inept enforcement. Basically, our interest in this field is the protection of those groups of our underprivileged fellow work-

ers who are the least able to help themselves against economic exploitation. In this respect our interest is manifestly the public interest also.

It is our earnest hope and recommendation that, upon further examination of the problem and further reflection, you will recommend to the President that he withdraw Mr. Newell Brown's nomination as Administrator of the Wage and Hour bureau.

Sincerely yours,

WALTER P. REUTHER, *President.*

Senator DOUGLAS. Will you proceed, Mr. Edelman.

STATEMENT OF JOHN EDELMAN, WASHINGTON REPRESENTATIVE, TEXTILE WORKERS UNION OF AMERICA, CIO

Mr. EDELMAN. Mr. Chairman, I will just make a very brief introductory statement, and I will ask Mr. Botelho and Mr. Pitarys to pick up the brief narrative, and we will try to make it as compact and logical as we can so that we will not take up any more time than absolutely necessary.

Senator DOUGLAS. May I say this: That you are entitled to take as much time as necessary to develop the point. That will be true of each and every witness here, and also of Mr. Brown.

Mr. EDELMAN. Thank you, sir.

In identifying ourselves as witnesses in this hearing, we refer to our individual affiliations merely to indicate that we speak on this subject matter on the basis of direct personal experience. We wish it to be understood, however, that our testimony on this occasion is offered also on behalf of the national CIO. Walter P. Reuther, president of national CIO, has taken a position opposing the confirmation of Newell Brown; indeed, on April 4, 1955, Mr. Reuther wrote President Eisenhower urging that the nomination of Mr. Brown be withdrawn.

As the chairman indicated, Mr. Reuther has gone on record in opposition to this nomination, and a letter to that effect has been filed for the purpose of the record.

We wish to identify ourselves with and emphatically endorse both on behalf of national CIO and our own union, the able and comprehensive testimony offered in respect to this matter by the witnesses representing the American Federation of Labor.

The testimony which we shall offer here deals mainly with one concrete situation that arose in New Hampshire in 1952 and has resulted in the firming up of a present and continuing public policy of the State of New Hampshire.

Mr. Newell Brown as director of employment security of the State of New Hampshire was and is responsible for this policy. The contention we make is that a public official who holds such views and conducts such an administration should be barred from employment by the Federal Government, and especially from a key position such as Administrator of the Wage and Hour Division of the United States Department of Labor.

The situation we shall discuss arose as a result of closing down of the Nashua Manufacturing Co. by Textron, Inc. The spotlight of national publicity was thrown on this case at the time, early in 1952. The late Senator Charles W. Tobey of New Hampshire conducted an investigation of this notable instance of economic piracy.

Actually, the Tobey hearings on the Nashua Manufacturing case were in 1948.

Senator DOUGLAS. That is what I thought, not 1952.

Mr. EDELMAN. 1948.

Textron carried on a limited operation in the old Nashua Manufacturing plant until late 1951, Mr. Pitarys informs me, and then closed down the plant absolutely.

Senator GOLDWATER. Nashua was closed down in 1948?

Mr. EDELMAN. No, the Nashua Manufacturing Co. sold out to Textron, or Textron actually assumed or took over Nashua Manufacturing in 1948, and Textron operated the old plant on a limited basis for some 3 years after that.

Senator GOLDWATER. Then when was the plastic plant opened?

Mr. EDELMAN. Mr. Pitarys will answer that question.

Mr. PITARYS. Between 1949 and 1950.

Senator GOLDWATER. Between 1949 and 1950?

Mr. PITARYS. Yes.

Mr. EDELMAN. Why don't you pick up at that point, Mr. Pitarys?

Mr. PITARYS. When Textron liquidated their operations in Nashua there were approximately fourteen or fifteen hundred employees out of work. Some of those employees were able to obtain employment in Manchester or Lowell, some went as far as Pittsfield and North Adams, Mass.

Senator DOUGLAS. Manchester, Lawrence, and Lowell were contracting textile centers also, were they not?

Mr. PITARYS. Yes, sir.

Senator GOLDWATER. Excuse me just a moment. I just want to get this original transaction straight.

Textron took over Nashua mills in 1948. Did they discharge everybody that worked for Nashua?

Mr. PITARYS. No. Let me try and bring out the entire situation since Nashua Manufacturing sold out, or Textron took over Nashua Manufacturing.

Senator GOLDWATER. How many people worked in the Nashua plant in total?

Mr. PITARYS. Originally, there were as many as forty-five to forty-eight hundred people. That is at its peak. Then in 1946 and 1947 there were approximately 3,000 employees, and Textron came into control of the company.

Senator ALLOTT. In 1946?

Mr. PITARYS. 1948.

Then around August of that year, the hearings before Senator Tobey were held in Nashua, when Textron announced that they would liquidate the entire operations. But as a result of the hearing Textron agreed to continue operations until such time as their profits would drop. Then in 1950——

Senator DOUGLAS. They diminished the work force, didn't they, from 3,000 down——

Mr. PITARYS. Down to about 1,500. The first announcement Textron was going to liquidate its entire operations was just prior to Korea, in 1950. However, in face of the Korean situation they decided to continue operations. The final announcement that they were going to completely liquidate, the Nashua division of Textron, Inc., came about July of 1951, with the understanding that they would terminate the

operation on a gradual basis, which would take until the end of 1951. Final operations of Textron, Inc., at Nashua, did cease about December 1951.

Senator GOLDWATER. At that time, then, 1,500 people were out of jobs?

Mr. PITARYS. Yes, sir.

Senator GOLDWATER. Because Textron closed down Nashua?

Mr. PITARYS. That is correct.

Senator GOLDWATER. Thank you.

Mr. PITARYS. In the early spring of 1952 I was approached by a number of our members who had formerly worked for Textron and was informed that they were disqualified from receiving unemployment compensation benefits. When I inquired from them as to the reasons for such disqualification I was told that it was for the reason of refusing to accept employment at the Nashua Plastics Co.

I immediately publicized the fact that we were interested in knowing how many of our employees were disqualified for refusing to accept employment at Nashua Plastics Co. I called a special meeting, at which time approximately 65 or 70 employees appeared and testified that they were also disqualified for the same reason.

I immediately turned the entire situation over to the then State director for the Textile Workers Union of America, Mr. Botelho, and he took it from that point on. Before Mr. Botello testifies I would like to bring out, or make some remarks here as the president of the State CIO in New Hampshire. I would like to take exception to Mr. Fecteau's letter——

Senator ALLOTT. Mr. Who's letters?

Mr. PITARYS. Mr. Fecteau's letter to Senator Cotton. At this point I would like to say that Mr. Fecteau had no permission whatsoever from the State CIO to make any statements whatsoever regarding this nomination.

Senator GOLDWATER. What would constitute proper authority for the national director of United Shoe Workers of America to comment on a candidate for this office, or any office?

Mr. PITARYS. I am not questioning his title as shoe director. I am merely trying to clear up the reference in the second paragraph of his letter that states that "as a national director of the United Shoe Workers," and so forth, and I am not questioning that. I am questioning where it states "and as representative of the CIO on the Governor's Advisory Council for Unemployment Compensation in New Hampshire, may I call the following facts to your attention," and so forth.

I just want to make it clear here for the record that the CIO, the State CIO, did not give Mr. Fecteau any permission whatsoever to use its name in making any statements of this sort.

Senator GOLDWATER. Is he representative of the CIO and the governor's advisory council?

Mr. PITARYS. He is a representative; that is right.

Senator GOLDWATER. Of the CIO?

Mr. PITARYS. That is right.

Senator GOLDWATER. Does he need any authority? He is telling the truth.

Mr. PITARYS. He needs authority to represent the CIO in any statement, sir, on legislative matters involving the State CIO.

Senator GOLDWATER. If we were to ask him here what his job was, and he said he represented the CIO, and the governors advisory council, he would have to ask permission for that?

Mr. PITARYS. No, sir. I don't mean it in that sense. I merely am saying that he had no right to try to involve the CIO in this statement on Mr. Brown. My interpretation of his statement here is that he wants to create the impression that CIO is Mr. Brown. I am sorry that he is not here so that we could clarify the situation. His letter tends to leave a thought in some of the people's minds that probably the CIO gave him authority to use the title in making the statement.

Senator GOLDWATER. I didn't realize that was the case. I am glad to find that out.

I might say, though, as a matter of interest to you, that I would be far more impressed by the fact that this man is a national director of the United Shoe Workers of America than I would be by the fact that he represents the CIO or any other union on the governors advisory council.

I am glad you cleared that point up.

Mr. EDELMAN. Is it not a fact, Mr. Pitarys, that at a formal meeting of the State council, it was unanimously agreed to take the position to oppose this nomination and included in making that decision were the representatives of the shoe workers local unions in New Hampshire?

Mr. PITARYS. Mr. Chairman, I was just coming around to that.

On February 8, 1955——

Senator ALLOTT. May I ask a question before you go to that? Do you mean to say that the democratic processes do not prevail in the CIO, and a man who occupies that position cannot speak for himself or for the people whom he represents?

Mr. BOTELHO. Could I answer you, Mr. Allott?

Senator ALLOTT. No, I want his answer.

Mr. PITARYS. First of all, I might say the democratic processes do exist in the CIO in the State of New Hampshire. I am not here trying to say that he is not allowed to make any statement from a personal viewpoint, or mak any personal statements, but any statements that come from the CIO must be with authority.

Senator ALLOTT. Must come from Washington; is that right?

Mr. PITARYS. No, sir; must come from the executive council of the New Hampshire State CIO.

Senator GOLDWATER. Is this man as national director of the United Shoe Workers of America, CIO, prevented from expressing this kind of opinion over the title that I have just read?

Mr. PITARYS. Over the title that you have just read, we have no disagreement whatsoever.

Senator GOLDWATER. Let us say that his union, the men that he represents, asked him to do this. Would be still be prevented from doing it?

Mr. PITARYS. That I cannot answer. You will have to ask the president of his international union.

Mr. BOTELHO. Could I, Mr. Chairman, try to clarify some of the intricacies of running a union, for the edification of the gentlemen up front?

First of all, we pride ourselves in running a very democratic organization. If every other semblance of society was as democratic

in its day-to-day dealings with its membership as the labor movement is in America we would have a good America.

Secondly, the point that Mr. Pitarys is trying to make is a point that no endorsement of Newell Brown was forthcoming from any local union affiliated with the CIO in New Hampshire. The inference that Mr. Fecteau may try to create here is that as a representative of the CIO he might be speaking for CIO, so he is trying to clear that point up.

The second point of the 8,000 workers, he says he represents is a body represented by each of the international unions affiliated with the CIO in New Hampshire, aside from the action taken by that body, there has been no action by any local union documented. This is a legislative matter. When he says here that he represents 8,000, he is stating a fact that he represents 8,000 people, but he is not stating the fact that in representing these 8,000 people he is directed by them to come here and tell you that they applaud the endorsement of Newell Brown for this appointment made by the president.

Senator ALLOTT. How many people are in the CIO?

Mr. BOTELHO. In New Hampshire?

Senator ALLOTT. Altogether.

Mr. BOTELHO. Approximately four to five million.

Senator ALLOTT. Are you directed by them to come here and take this position?

Mr. BOTELHO. I am here, sir, as a free agent directed by no one in the CIO.

Senator AILLOTT. Then you are in substantially the same position that Mr. Fecteau was in?

Mr. BOTELHO. I am here as a representative of CIO testifying as to why I believe it would be detrimental to the best interests of people we represent to have this gentleman——

Senator ALLOTT. Has the point of view you represent here been voted upon by the 4 or 5 million people in CIO?

Senator DOUGLAS. When you said four or five million, that was in answer to the Senator's question about the number in the national organization; was it not? You represent New Hampshire?

Mr. BOTELHO. He said nationally, and I answered him nationally. The CIO in New Hampshire has taken action.

Senator ALLOTT. Will you answer my question, please?

Mr. BOTELHO. I am trying to answer it for you.

The CIO in New Hampshire had—where Newell Brown comes from, from New Hampshire, where they have had an opportunity to see this man work, better so than the people in Colorado, for that matter.

Senator GOLDWATER. Better than the people from Washington, I might say.

Mr. BOTELHO. Better than the people from Washington. These people have seen this man work, have seen him make decisions, and they know that this man from their experience is not a man that they believe should fit into this job as Administrator of Wages and Hours.

Senator ALLOTT. Were you born in New Hampshire?

Mr. BOTELHO. No. I was born in Massachusetts.

Senator ALLOTT. How much time did you spend in New Hampshire?

Mr. BOTELHO. Six years.

Senator ALLOTT. Sent there to organize?

Mr. BOTELHO. To organize and administer union contracts for my union.

Senator ALLOTT. I must say this in defense of my own State, that we are just as qualified to pass on this as you are.

Mr. BOTELHO. We won't quarrel about it.

Senator GOLDWATER. I would like to pursue one question that Senator Allott asked. I am still not quite clear in my mind as to what weight Mr. Fecteau's letter should carry with me. You say that you are here as a free agent.

Mr. BOTELHO. I say I am here. He asked a question "Are you directed here by the CIO in Washington?" I said I was not directed here by the CIO in Washington. I am here as a free agent, representing my union in this matter.

Senator GOLDWATER. You represent just yourself, then?

Mr. BOTELHO. I represent the Textile Workers Union of America in this matter, but I was not told "You have got to go there." That is what I meant.

Senator GOLDWATER. Did they take a vote on this or in their democratic processes did they decide and direct you to come down to Washington and testify against this appointment?

Mr. BOTELHO. It has been determined that we should testify against this appointment.

Senator GOLDWATER. Was that done by vote?

Mr. BOTELHO. It was done by vote in New Hampshire, and we happened to be the major union of all affiliated unions of the council in New Hampshire, who are serving our members here today.

Senator GOLDWATER. You don't come as a free agent. You come representing your union, and you testified to the fact that you represent the CIO of New Hampshire?

Mr. BOTELHO. I come here representing that branch of the CIO, the Textile Workers Union of America, an affiliate of the CIO. It is the largest affiliate of the CIO in the State of New Hampshire.

Senator GOLDWATER. Suppose Mr. George Fecteau, instead of having sent us a letter, came here and testified as you are testifying, and stated that he represents the United Shoe Workers of America, CIO, in New Hampshire, would he not be in pretty much the same position that you are in?

Mr. BOTELHO. With this exception: The CIO, which is the council comprised of all of the international affiliates, including the shoe workers, have taken action on this matter by vote, and they have recorded themselves unanimously against this appointment.

Senator DOUGLAS. So we can clear this matter up on questioning, did the Textile Workers Union, CIO, in the State of New Hampshire, through any representative body, pass a resolution opposed to the nomination of Mr. Brown?

Mr. PITARYS. Mr. Chairman, the Textile Workers Union, as such, did not take any action on this particular issue. They take all their actions through the machinery of the State CIO.

Senator DOUGLAS. I see. Then did the State CIO of New Hampshire, represented through its executive committee or its delegate body, take any action?

Mr. PITARYS. Yes, sir. On February 8 of this year, as I started to say earlier, they voted unanimously to take a position in opposition to the nomination.

Senator DOUGLAS. How many were present at that meeting?

Mr. PITARYS. The entire executive council, consisting of 21 members.

Senator DOUGLAS. Were the shoe workers represented in that council?

Mr. PITARYS. On that council there are 4 members representing shoes, 5 members representing steel, 5 members representing textiles, 1 from the furniture, Amalgamated Clothing, 3; electrical workers, 1, and newspaper guild, 2, and it was a unanimous vote.

Furthermore, Mr. Chairman, the motion was made by a member from the amalgamated union, and it was seconded by a member from the shoe union.

Senator GOLDWATER. Is Mr. Fecteau a member of that council?

Mr. PITARYS. He is not, sir.

Senator GOLDWATER. Then in effect what you are saying is that a 24-man council of the CIO decided for all of its members, Mr. Fecteau's statement notwithstanding, that all members of the CIO in New Hampshire are against Mr. Brown's appointment?

Mr. PITARYS. Well, I don't think that it is fair to put it that way.

Senator GOLDWATER. You just put it that way. I am just repeating.

Mr. PITARYS. If I may, Mr. Chairman, for this reason: That 96 Senators enact laws for the entire country. Some do not like the laws, but the majority of the entire country has to go by them. It is the same thing with the union. The majority of the governing body decides and it is a policy that is typical of other democratic bodies. We do not hit someone on the head and say "Whether you like it or not, you are going to go along."

Senator DOUGLAS. Let us see if I can clarify the situation by another question: You do not dispute the right of Mr. Fecteau as an individual to write such a letter endorsing Mr. Brown?

Mr. PITARYS. I do not, sir.

Senator DOUGLAS. You do not object to his mentioning the fact that he is a director of the Shoe Workers Union?

Mr. PITARYS. I do not.

Senator DOUGLAS. You simply do not want to have the impression conveyed by his letter if it were conveyed that in so writing he represented the official opinion of the CIO in the State of New Hampshire?

Mr. PITARYS. Definitely.

Senator GOLDWATER. Then, Mr. Fecteau in effect was in complete error in writing this letter?

Mr. PITARYS. From this personal point of view, it wasn't complete.

Senator GOLDWATER. Using the title, national director of the Shoe Workers of America, CIO, and saying that he represents 8,000 shoe workers in New Hampshire, he was in complete error in doing that? Am I correct in that?

Mr. PITARYS. Again, it is from what point of view you wish to look at it.

Senator GOLDWATER. I am trying to find out whether Mr. Fecteau, as a member of the CIO, and a rather substantial member, from his title, has any right as the national director of the United Shoe Workers of America, CIO, to write to a committee of the United States Senate and recommend the appointment of a man?

Mr. PITARYS. It is wrong if he does not get official permission to use the name of any organization. Whatever it may be whether CIO, Shoe Workers, or what have you.

Senator GOLDWATER. Then he is wrong in writing this letter.

Mr. PITARYS. I don't know if he got permission from his international union, sir. I can't answer that question.

Senator GOLDWATER. If he has permission from his international union, he would be within his rights to write such a letter?

Mr. PITARYS. Yes, sir.

Senator GOLDWATER. Then I think it is rather important that we determine whether or not he had that permission from his international union, because, frankly, I am very favorably impressed by a letter like this; also by letters from members of the American Federation of Labor in New Hampshire, and, frankly, when I saw this I was a little hard put to decide just why the CIO in New Hampshire, representing this many men, would be for a man, yet you gentlemen, representing as you do other workers in the CIO in New Hampshire, would be against him, particularly when your brother union, the American Federation of Labor, has likewise offered endorsements for this man?

Senator DOUGLAS. Does the record show that the American Federation of Labor offered endorsement of Mr. Connor?

Senator GOLDWATER. There is local No. 2 of the Lawrence Letter Workers.

Mr. BOTELHO. That is an independent union.

Senator GOLDWATER. It is a union and very shortly you gentlemen are going to be associated with them, so the policies are likely to be the same.

Mr. BOTELHO. Not with that group.

Senator GOLDWATER. You are not going in with that group?

Mr. BOTELHO. Not with that group.

Senator GOLDWATER. I was just reading through these, and telegrams from the Shoe Workers Union of Manchester.

Mr. BOTELHO. That is an independent union.

Senator GOLDWATER. That is all that I have, Mr. Chairman. Thank you for answering that last question, because that is the point I think we should clear up. This carries, as you can understand, a lot of weight when it comes over the signature of a man representing that many workers.

Senator ALLOTT. Could I ask this question, and I quote from the letter:

> As National Director of the United Shoe Workers of America, CIO, for the States of Maine, New Hampshire, and Vermont, representing the membership of 8,000 shoe workers in New Hampshire, and as representative of CIO and the Governors advisory council for unemployment compensation in New Hampshire, may I call the following facts to your attention.

Is there any distortion of the truth in that statement? Is that statement true?

Mr. BOTELHO. Mr. Pitarys?

Mr. PITARYS. Is it true or false, is that what you are asking me, sir?

Senator ALLOTT. I want to ask you if the statement he made in his letter is true.

Mr. PITARYS. The second paragraph or the entire letter?

Senator ALLOTT. The second paragraph.

Mr. PITARYS. Certainly it is true.

Senator DOUGLAS. The chairman will comment that he once studied a book on words by Barrett Wendell in which he commented that words have two sets of meanings; words denote a certain thing specifically, and then words have a more general application, and connoted other things. But I take it this gentleman says a connotation of these words is somewhat different from denotation, if I may put the situation in that light, quoting an impeccable Harvard professor as an authority.

Mr. EDELMAN. I question not his right but the propriety.

Senator DOUGLAS. In this country we should be free to receive petitions from individuals on the basis of their individual judgments.

Mr. EDELMAN. I agree. It is causing confusion. Mr. Botelho will pick up.

Mr. BOTELHO. It is now quarter to 8.

Senator DOUGLAS. You take lots of time.

Mr. BOTELHO. We thought we would present our case here tonight, and we have a 10 o'clock train to make, the Federal, back to Boston, to New England, and I would like to be on it, very frankly, because we have some problems to take care of tomorrow.

Mr. Pitarys talked here today about a problem that developed in Nashua involving the division of employment security, the director, Newell Brown, and our union.

Senator ALLOTT. May I inquire, and I am not seeking to heckle you, are you going on with the statement now?

Mr. BOTELHO. I am going to take it from here.

Senator ALLOTT. You are on page 2 of the statement?

Mr. BOTELHO. No. We are departing from the statement. We are going to talk now, in an attempt to expedite this testimony.

Mr. Edelman spoke about one problem that developed. Well, I know of two that I think are germane to this question as to whether or not Newell Brown has the necessary qualifications to administer a law impartially.

The first problem that developed between that division and one of its decisions and our union developed in the famous Dorr Weaver case, in Claremont, N. H. This happened in 1951, around April 11 of that year.

Senator DOUGLAS. Was Mr. Brown the director?

Mr. BOTELHO. Mr. Brown was the director.

I have before me correspondence and newspaper clippings between various individuals—Newell Brown, the Honorable Sherman Adams, who was then Governor of the State, the general president of my union, Emil Rieve, and communications from me as regional director of the TWUA, CIO, at that time.

I would like to introduce these statements as exhibits, but we would have to have them reproduced. I didn't contemplate using them, very frankly, until I heard what I heard here this morning, and it caused me to take this out and go through it, and I think it would be of some value tto this committee in determining the type of thinking that this man is capable of doing.

Senator DOUGLAS. Are you requesting that these be made a part of the record?

Mr. BOTELHO. Yes. I am wondering whether we have to have them reproduced?

Senator DOUGLAS. No. They can be made a part of the record in their original form. They will be later returned to you.

Mr. BOTELHO. They will be returned to me, fine. I will be willing to present them as exhibits from 1 to 14.

Senator ALLOTT. Mr. Chairman, I might call attention of the committee to this fact, that I don't have any objection to anything being made a part of the record which is pertinent, but one of the fundamental rules in any kind of evidence is that when anybody offers anything you shall have the right to cross-examine them on that.

Senator DOUGLAS. That is right.

Mr. BOTELHO. I can return, Mr. Chairman, at a later date.

Senator ALLOTT. Without having an opportunity to examine them—and I am still willing to let them go into the record—but I think we should examine the exhibits.

Senator DOUGLAS. They will go into the record with the understanding copies will be available to members of the committee.

Mr. BOTELHO. If there is any necessity for my returning to Washington to be cross-examined on that, I can avail myself of that opportunity to be present before you gentlemen again. The reason, very frankly, why I am presenting them this way is because there is so much material to be read and it will take up so much time that I think it would be expedient all around if we did submit it for the record, and you would have an opportunity to study it at your leisure. We will then enter these exhibits into the record.

(The information is as follows):

MARCH 17, 1952.

Hon. SHERMAN ADAMS,
Governor of New Hampshire,
State House, Concord, N. H.

DEAR SIR: A matter of very serious importance involving members of our organization who are presently unemployed due to the shut down of the Textron, Inc., in Nashua and your division of the employment security has been brought to my attention by our regional representative, Mr. Thomas Pitarys.

Mr. Pitarys has advised me that the director for employment security, Mr. Newell Brown, has directed the Division of Employment Security representative in Nashua, Mr. Earl Mellon, to disqualify any and all unemployed textile people who refused referrals of employment at the Nashua Plastics Co., Inc., of Nashua, N. H.

It is my understanding, from our regional representative, Mr. Pitarys, that these people who were laid off from the Textron, Inc., are looking for work throughout the State of New Hampshire and Massachusetts that is in line with the type of work they have been accustomed to doing for the past number of years.

These same people have been able to maintain an earnings level as textile workers anywhere from $1.18 to $1.85 per hour depending upon the type of work they did and the skills they have acquired through the years.

Although it is generally agreed that there is a decided recession in the textile industry at this time, these people are looking for work with the continued hope that the textile mills will soon go into increased productivity and thereby absorbing them as skilled employees in the textile industry.

The rates of pay offered by the Nashua Plastics Co., Inc., start at 75 cents per hour and end in the vicinity of $1 per hour. Certainly this could not be considered suitable employment for workers who have earned wages far and beyond this rate of pay.

It is very discouraging for those of us in the labor movement to learn that the division of employment security, through its director, is lending itself as an agency for the encouragement of employment to temporarily unemployed workers in industries that are paying substandard wages.

Such decisive action on the part of the division of employment security in the bringing about referring unemployed workers for employment in industries pay-

ing substandard wages could only lead to a breakdown in the economic security of the workers involved and the community as a whole.

It is, therefore, because of these serious implications that I am requesting a conference with you, your representatives in the Division of Employment Security and a representative group from CIO for the purposes of discussing this matter with the hope of reaching a suitable conclusion.

Would you be kind enough to grant us the audience as requested above?

Very truly yours,

M. MICHAEL BOTELHO,
Director, Textile Workers Union of America, CIO.

STATE OF NEW HAMPSHIRE,
Concord, April 1, 1952.

MICHAEL BOTELHO,
Regional Director, Textile Workers Union of America,
Nashua, N. H.

DEAR MR. BOTELHO: I have been informed that the division of employment security, in order to meet your convenience, has postponed hearings on your appeal from decisions relating to former employees of Textron, Inc.

This postponement means that there will be time before these hearings begin for the discussion requested in your letter of March 17. While such a conference cannot take the place of a legally constituted appeal board, it might be helpful to talk over the principles underlying the decisions which have so far been made by officials of the division of employment security.

In any such discussion, I shall rely on the interpretations of the Attorney General's office on any question of law where actions on my part are concerned, and I have asked the Attorney General to be present personally. The New Hampshire State Federation of Labor has also been asked to be represented, and we expect that Mr. Shea, president of the federation, and other of its officers will be present.

I suggest Wednesday, April 9, at 9:30 a. m. in the council chamber here as the time and place for such a discussion. It would be helpful in planning such a meeting if you could tell me how many representatives from the CIO we should provide for.

Sincerely yours,

SHERMAN ADAMS.

THE STATE OF NEW HAMPSHIRE,
DEPARTMENT OF LABOR,
DIVISION OF EMPLOYMENT SECURITY,
Concord, N. H., April 10, 1952.

Mr. B. MICHAEL BOTELHO,
State Director, New Hampshire and Vermont Textile
Workers Union of America, CIO, Nashua, N. H.

DEAR MIKE: Following up yesterday's hearing, I am today writing George Fecteau, as a member of the unemployment compensation advisory council, stating my interest in any suggestions labor may have as to revisions of the suitability provisions of the statute.

In connection with my letter to George, I should like to note what I think has been manifest since I took over this division, that I have a sincere and active interest in any revision in the law, or in the administration of this division in general, which has as its objective greater justice to the several parties concerned. The division's legal section currently has before it for preliminary study and later discussion with the advisory committee at least a dozen possible modifications of the law suggested by myself and other members of the staff. Yesterday's discussion was of value in directing our attention to an additional area.

In regard to alleged discourtesy or other impropriety on the part of the staff of the Nashua office of this division, I must, you will agree, have something more specific before I can go beyond the general instructions and admonitions in this regard which have been and will continue to be a major part of the administrative policy of the division. I believe your reaction would be similar to the above if I or anyone else said to you: "Someone in your organization mishandled this or that situation." An administrator, no matter how anxious to correct a situation, can't get enough of a grip on a charge like that to do very much.

I was glad that you invited a number of other labor leaders to yesterday's meeting. You and I agred to disagree on this specific issue sometime ago but I believe yesterday's fairly thorough airing of our differences in a matter, which has become a cause célèbre, before the Governor and labor leadership of the State, may well have constructive results.

I am sending a copy of this letter to other participants in yesterday's hearing.

Sincerely,

NEWELL BROWN.

STATE OF NEW HAMPSHIRE,
Concord, April 14, 1952.

Mr. M. MICHAEL BOTELHO,
Director, Textile Workers Union of America—CIO
Nashua, N. H.

DEAR MR. BOTELHO: Your comments, and those of your colleagues who attended Wednesday's meeting, were of considerable interest to me. It undoubtedly served a good purpose to have these matters brought to public attention. Let me say that I am as concerned as you are for the proper administration of the statutes, both with reference to the application of the law and the administration of it by the employees of the Unemployment Compensation Division.

I have no doubt that you will agree that there are no legal grounds for the intervention of this office in the Textron-Plastics case so-called. This applies as well to any given specific case, but does not diminish in any way the interest which the State must maintain at all times in the manner by which the division applies the law in general and the standards of conduct of the employees in the division's local offices.

Following our conference, I discussed this whole matter with Mr. Brown at some length. He will be in touch with you and Mr. Fecteau in the near future with special reference to following up the various suggestions which were made at the meeting about revising the provisions of the statute dealing with suitability of employment. Certainly we agree upon the principle of so phrasing the statute as to result in the maximum equity to all people concerned as well as the necessary flexibility. We agree, as well, that the law should be so framed as to provide for the least practical administrative discretion in interpreting the meaning of the act. Mr. Brown, I am sure, agrees with all of these points.

I believe the conference served a useful purpose. Please keep in touch with me on developments effecting your people as well as any other matters of general interest to them.

Sincerely yours,

SHERMAN ADAMS,
Governor.

AUGUST 18, 1952.

Mr. NEWELL BROWN,
Director, Division of Employment Security,
Concord, N. H.

DEAR NEWELL: I am enclosing copy of the letter which Mr. Botelho asked me to take up at the next advisory meeting. As there is no meeting of the council scheduled for the immediate future, I am forwarding a copy of Mr. Botelho's letter to you so that you may be advised of its contents in case you should find it advisable to make a labor oppointment to the appeals tribunal in the Laconia area.

You will note from the letter that Frederick Colby, Local 4524, United Steel Workers of America, CIO, Laconia, is recommended to you for appointment to the appeals tribunal by the State CIO Council and I too, as a member of the State advisory council, recommend the appointment of Mr. Colby.

I understand, on or about the 14th of this month, you were in Laconia and interviewed Mr. Colby and others regarding appointment to the appeals tribunal. This of course was before you were aware of the recommendations contained in this letter. However, now that you have received the recommendation of the State council and myself, I sincerely hope that you will give Mr. Frederick Colby every consideration and will see your way clear to appoint him as a member of the tribunal in the Laconia area.

With best wishes, I remain

Very truly yours,

GEORGE FECTEAU,
Member, State Advisory Council.

TEXTILE WORKERS UNION OF AMERICA,
Nashua, N. H., July 16, 1952.

MR. GEORGE FECTEAU,
Regional Director, United Shoe Workers of America, CIO,
Manchester, N. H.

DEAR GEORGE: At the last meeting of the executive council of the New Hampshire State Industrial Union Council, the question came up pertaining to the right of Edward Bentley from Claremont to continue to serve as an appeals tribunal member representing CIO.

It was brought out further, at the council meeting, that Mr. Bentley no longer works in the State of New Hampshire, and was not a member in good standing of any CIO union.

In view of the foregoing, it was agreed that a recommendation should be made to Newell Brown that his name be dropped from the list of CIO representatives serving on the appeals board.

It was further recommended that the name of Frederick Colby, 75 Garfield Street, Laconia, N. H., a member of local 4524, United Steel Workers of America, CIO, be submitted to the director of the division of employment security, to replace Mr. Bentley on the appeals tribunal. Brother Colby is chairman of the safety committee of that local union in Laconia.

We would appreciate your presenting to Mr. Brown, the name of Mr. Colby, for consideration at your next meeting of the advisory board.

Fraternally yours,

M. MICHAEL BOTELHO, *State Director.*

AUGUST 19, 1952.

MR. EDWARD LAVALLEE,
Lakeport, N. H.

DEAR BROTHER LAVALLEE: Enclosed you will find copy of my letter to Mr. Newell Brown which is self-explanatory.

After talking to you yesterday I talked to Mr. Brown and told him that the State council, local 4524, and myself were solidly in back of Brother Colby's appointment and urged him to carry out our wishes.

Later I reached Brother Tom Bresnahan at his home in Concord and he informed me that he was not interested in being appointed to the tribunal if it meant depriving Brother Colby of the appointment and he agreed to call Mr. Newell Brown and tell him that he was definitely not interested.

I believe that the insistence on our part that Brother Colby be appointed and the action taken by Tom Bresnahan should clinch the appointment for Brother Colby.

Fraternally yours,

GEORGE FECTEAU,
Territorial Representative,
United Shoe Workers of America, CIO.

THE STATE OF NEW HAMPSHIRE,
DEPARTMENT OF LABOR,
DIVISION OF EMPLOYMENT SECURITY,
Concord, N. H., November 7, 1952.

MR. M. MICHAEL BOTELHO,
State Director, New Hampshire and Vermont Regional Office,
Textile Workers Union of America, Nashua, N. H.

DEAR MIKE: George Fecteau and I discussed a letter I wrote him in September in reply to an earlier letter of his which passed on your thinking about several matters. We came to the conclusion that it would be better for me to write you directly about these matters. In reference to Mr. Bentley, he was dropped from the panel during the summer due to a change in his situation. It has recently come to my attention that the situation of Mr. Benoit has also changed and I have already written him in connection with his separation from the panel.

I believe, as a result of the hearing before Governor Atherton, that you must now be acquainted with the situation so far as Mr. Colby, of Laconia, is concerned. I was unaware that the CIO council had nominated Mr. Colby when I talked with Mr. Breslin last summer. I was impressed with Mr. Breslin and all the information I was able to get concerning him indicated that he was fully quali-

fied to serve as a member of the board. However, contrary to certain stories I have heard since, I am not set on Mr. Breslin and have had no personal contact with him since the day I talked with him in Laconia and have put no pressure whatsoever on him to accept appointment to the panel. As to Mr. Colby, while I believe he is honest and conscientious, I cannot find that he has outstanding qualifications to serve on the appeal panel. This is my own impression and is confirmed unanimously by persons in Laconia in whose judgment I have confidence. Between the two, Mr. Breslin most certainly is the better man. At the time I talked with him, Mr. Breslin stated that he could not serve unless his service had the approval of the council and this was the only reservation he had. Obviously, now he wouldn't serve without clearcut permission from you.

As the situation now stands, I need 1 employer member and 1 employee member from the Laconia area. As between the two potential employee candidates whom I have contacted, Mr. Breslin is far and away the best fitted for the job. For that reason, I am unwilling to appoint Mr. Colby. On the other hand, Mr. Breslin has not had the endorsement of the council and presumably would not serve if asked. As you are aware, my statement at the love-feast session in Manchester last summer was to the effect that I would like to have the suggestions of the CIO council and other interested groups in connection with appointments to the appeal panel, but that I would not, and could not, under the law consider such suggestions as dictating my final choice. My thought in this matter is clear enough. Both you and I would be better served in the long run if we could agree on who the representatives from your organization on the panel should be. It was my further thought, expressed or implied, that the CIO council would suggest a number of names in connection with any particular vacancy, that I would select a member from among these names if possible, and if this did not prove possible, I would get in touch with the council again, informing them of my thinking and asking for further recommendations in the hope that sooner or later we could get together.

So far the council has recommended only one name for the Laconia vacancy. I cannot accept the suggestion for reasons outlined above. I am, therefore, requesting that the council make some further suggestions for a CIO steel worker representative from the Laconia area. I should like to have these suggestions before the end of this month. I should further like to know what the council thinks about Mr. Breslin, since he would be satisfactory to me. In the event the council decides not to make further recommendations, it is my intention to go ahead and make an appointment in that area in early December, presumably outside the CIO Steel Workers Union there, since I don't suppose any of its members would serve without the approval of the council.

Unless the council can produce some information to the contrary, it is my intention to relieve Mr. James Behan, who represents labor on the panel, in the Rochester-Dover-Portsmouth area. Almost from the time I took on this job, there has been criticism of him from a variety of sources. In brief, he appears to lack the judicial temperament essential to proper service on a tribunal. His intense interest in promoting the welfare of his constituents, while a great asset to him as a labor leader, is inappropriate when carried over into a sitting of the appeal board. I understand it is being said that I wished to relieve Mr. Behan because he dissents in a great many of the appeal board decisions. My records indicate that this is not the case. In the fiscal year ending July 1, 1952, he cast the lone dissenting vote in only 3 out of the 33 cases he heard. Others, including Mr. Benoit, Mr. Bergeron, and Mr. Cotting, have dissented more often percentagewise than Mr. Behan has, and yet I consider them satisfactory panel members. Of course, I could leave Mr. Behan on the panel but simply not ask him to sit. However, I am well aware that this would sooner or later lead to the charge that I was ignoring CIO textile workers in calling panel members to serve and it seems to me, in the light of my thinking in this matter, better to take clean-cut action.

With Mr. Behan and Mr. Benoit off the panel, I need at least 1 CIO textile worker and 1 CIO shoe worker to effect an approximate balance in the panel's membership. Therefore, in addition to suggestions for the Laconia area as outlined above, I should like to have the council's recommendations for 1 CIO textile worker and 1 CIO shoe worker for the Rochester-Dover-Portsmouth area. As with the Laconia situation, I should like to have these suggestions before December 1st and hope that you can give me at least three names in each case to look over.

Please give me a ring if the above leaves any unanswered questions in your mind. Please believe that I am anxious to work on a cooperative basis with your organization and will do everything within reason so far as my end of the deal is concerned.

Sincerely yours,

NEWELL BROWN.

JOB OFFICIAL RAPPED IN DORR MILL RULING

A charge of disqualifying people promiscuously and overextending his authority was leveled yesterday against John F. Tonkin of Newport, certifying officer in the Claremont office of the division of employment security of the State bureau of labor.

It is Mr. Tonkin who decides whether or not residents of this area are entitled to unemployment compensation.

The accusation was made by Michael Botelho of Manchester, State director of the Textile Workers Union of America (CIO) at an unemployment compensation hearing held in the court house before the appeal tribunal of the division of employment security.

WANT BENEFITS

The hearing concerned five former employes of the Dorr Woolen Co. of Guild. All are appealing a ruling that they are not entitled to jobless benefits because they allegedly declined to accept suitable employment.

The five are Ellen A. Wirtanen and August Jokinen of Newport, Hulda H. Lehtinen and Lempi Taipale of Guild, and Charles W. Hendrickson of Goshen.

All were laid off when an arbitrator allowed the Dorr management to require weavers to man 12 instead of 4 looms thus reducing the number of jobs available at the mill.

As work became available, the 5 were offered a chance to return to the mill, handling 12 looms. The company maintains that the jobs offered were suitable and were comparable to the former employer's original jobs on 4 looms, and that refusal of the jobs disqualified the 5 for jobless benefits.

But the former employes, represented by the TWAU, claim that because they were discharged early in January, they were not obliged to return to work at Dorr unless they were offered their old jobs under the old conditions. They say the employment offered was unsuitable and that they should therefore be able to collect unemployment insurance.

DISQUALIFIED PROMISCUOUSLY

After charging that all five had been disqualified promiscuously, Mr. Botelho referred specifically to Mrs. Taipale's case and said to Mr. Tonkin:

"I believe you overextended your authority in disqualifying her, and I will take it up with the director of unemployment in this State at my earliest convenience. By what right under the law did you disqualify Mrs. Taipale?"

"All of these cases had refused a weaving opportunity," Mr. Tonkin said. "Decisions on these cases were held up pending a decision on the earlier cases by the appeal tribunal. When the tribunal decided that the earlier cases were not entitled to compensation, a precedent was set: We had to treat everyone the same."

The earlier cases, heard several weeks ago, involved another group of Dorr employees. Circumstances were similar to those in the present cases except that the first group had not been discharged. The union says this is an essential circumstance; the company, that it is no consequence.

MR. TONKIN AT FAULT

According to Mr. Botelho, Mr. Tonkin was at fault because he disqualified Mrs. Taipale even though he had never directed her to take a job. Mr. Tonkin indicated that his office had been told that Mrs. Taipale received an offer to return to work and refused.

Said Mr. Botelho: "She had a right to refuse because she had been discharged and was a free agent. She was not bound by the arbitrator's decision.

"All these people were declared free agents by the company when they were discharged January 4 or 5, and therefore they were not obligated to accept

employment offered by the Dorr Co. if it was different from their prior employment."

The decision of the tribunal, of which Lawrence Henderson of Manchester is chairman will be announced as soon as it is reached.

THE STATE OF NEW HAMPSHIRE,
DEPARTMENT OF LABOR,
DIVISION OF EMPLOYMENT SECURITY,
Concord, N. H., May 11, 1951.

Mr. MICHAEL BOTELHO,
Director, Textile Workers Union of America, CIO,
Nashua, N. H.

DEAR MR. BOTELHO: I note in a recent edition of the Claremont Eagle that you have again criticized Mr. Tonkin of our Claremont office rather strongly. It appears to me that you may be under some misapprehension as to Mr. Tonkin's functions.

While it is true that responsibility for making initial decisions in the local offices is delegated to the certifying officers, of whom Mr. Tonkin is one, it is also true that they refer for advice and assistance to the legal and other sections of this office when they run into a case which is particularly complicated, and they are guided by the interpretations which we give them. In the Dorr Woolen case, Mr. Tonkin asked for advice and acted on the advice given him. His rulings, therefore, had the full support of this office.

Therefore, your criticism should be directed toward this office, as it should be in any case involving employees of this division. If some employee of your organization did something which I felt was wrong, I most certainly would not ball out the employee, publicly or privately. I would come directly to you with a complaint. This is the normal and proper way of handling such situations. I would hope in the future you would direct any complaints you may have about the operations of this division to me, rather than blast an employee who is acting, explicitly or implicitly, at my direction.

Sincerely yours,

NEWELL BROWN.

MAY 15, 1951.

Mr. NEWELL BROWN,
Director, Unemployment Commission,
Concord, N. H.

DEAR MR. BROWN: Your letter dated May 11, 1951, in reference to a newspaper story in the Claremont Eagle has been received by me on this date.

I might say at the outset that any criticism levelled at Mr. Tonkin by me was done so because it was my opinion, in accordance with my understanding of the law, as it is presently constituted, that Mr. Tonkin did overextend his authority when he ruled the termination Dorr weavers ineligible for unemployment compensation benefits.

When I interrogated Mr. Tonkin on the witness stand, I specifically asked him by what authority he made this disqualification decision. He indicated to me that no direction was given to him by any one connected by the division of employment security, and that his decision was based wholly on the fact that the first group of weavers were disqualified for their refusal to accept what in his interpretation was suitable employment by the Dorr Woolen Co.

In view of this declaration, it left me no alternative, but to charge him with overextending his authority within the framework of the law dealing with unemployment compensation.

I find it rather strange that after my first charges were made against him, which were reported fully by the Claremont Eagle that no letter of clarification on the position of interest that you might have had on this matter was forwarded to my office by you. Therefore, leading me to presume that Mr. Tonkin, at that time made the disqualifying decision without any advice from your office.

Your letter dated May 11, 1951, indicates to me that Mr. Tonkin was advised either by the legal department of your organization, or by you.

As you perhaps are well aware, I indicated in my original statement to the Clarement Eagle that the question dealing with Mr. Tonkin's authority was going to be taken up by me with you at my earliest convenience.

In view of the fact that you neglected to advise me of your position before receipt of the above mentioned letter, the responsibility for the continued criticism of Mr. Tonkin therefore rests solely with you, and now that you assume the full responsibility of directing Mr. Tonkin to make his disqualifying decision leaves me no alternative but to charge you with overextending your authority within the frame work of the unemployment compensation law.

In closing, might I add that the division of employment security functions within the frame work of State government as a public and not private institution, and it is therefore my feeling when any public servant, whether he be the certifying officer or the director in this case of the division of employment security, that their conduct insofar as the administration of the division of employment security is a matter for public, and not private scrutiny.

If there are certain phases of the present unemployment compensation law that do not meet with the approval of either the certifying officer or the director of the division of employment security, then those phases or sections of the law can only be changed through legislative process in Concord, and not by any individual connected with this division.

Duties of the certifying officers and the director of the employment security, as I understand, are to administer the law as they are presently constituted.

The six weavers from the Dorr Woolen Co. were discharged because of a work assignment change and who subsequently refused to accept employment as free agents, which in their opinion was employment not suitable to them.

The certifying officer and you, as the director of the division of employment security, did not base your disqualifying decision in accordance with the provisions outlined in the present unemployment compensation law, in the above instant case.

Very truly yours,

M. MICHAEL BOTELHO,
Director, TWUA-CIO.

THE STATE OF NEW HAMPSHIRE,
DEPARTMENT OF LABOR,
DIVISION OF EMPLOYMENT SECURITY,
Concord, N. H., May 17, 1951.

Mr. M. MICHAEL BOTELHO, *Director,*
Textile Workers Union of America,
Nashua, N. H.

DEAR MR. BOTELHO: Thank you for your letter of May 15.

It seems clear that you are misinformed about the provisions of the unemployment compensation law, about the responsibilities and authority it grants to certifying officers, about the facts in the case of the Dorr weavers and Mr. Tonkin, and about the proper and normal means of registering a complaint in a matter of this kind. I believe you also misunderstand my point in regard to personally taking responsibility for the correct and efficient administration of the unemployment compensation law. On my part, since I did not hear from you until I wrote you (after your second newspaper statement), I apparently misunderstood the statement in the first news story to the effect that you planned to get in touch with me in the Dorr case.

I should be glad to meet with you at your convenience to discuss these matters. The ground cannot be adequately covered in a letter.

In regard to that part of your letter of May 15 which makes the charge of overextention of authority, I will say that the charge is groundless, in general and in this particular instance. On behalf of this division the undersigned, Mr. Tonkin acted entirely in accordance with the law. Further, his record and the facts in this case, refute your newspaper statement that he also acted "promiscuously." For this reason, no corrective action is planned. If you would now like to lodge your complaint with my superiors, you should get in touch with Mr. Riley or Governor Adams. I have sent an answer to your newspaper statements to the Claremont Eagle and have written Mr. Rieve my views.

It is my hope that the upshot of this situation will be better understanding between us, understanding which will make it easier for both of us to do our jobs.

Sincerely yours,

NEWELL BROWN.

NEWPORT, N. H., *May 16, 1951.*

Dear MR. BOTELHO: Am sending you this clipping from tonight's Claremont Eagle in case no one else does. We also wish to remind you that at that first hearing in the Claremont courthouse when you asked him who had made that decision, he replied that he had and when asked if he had even read the arbitrators decision and he said he hadn't, that he had gotten all his information from reading the newspapers (articles that Mr. Dorr had released). We wanted to answer Mr. Brown's article but maybe you can do a better job of it or let us know if you want us to do it—we will do all we can for you. We know Mr. Tonkins is so angry at us but we don't mind, we are getting used to people becoming angry at us by now.

One more thing against Mr. Tonkins, he evidently mislaid Eino Wirtanens papers for an appeal as nothing has been heard from it. He has promised to look through his papers this week to see if he can find it.

We will all be watching the Eagle for an answer to "Mr. Brown's challenges."

Sincerely,

GLADYS GEORGE,
ELLEN WIRTANEN.

[May 10, 1955]

DORR EMPLOYEES WIN DECISION ON JOBLESS PAY

MANCHESTER, May 9.—Six former employees of the Dorr Woolen Co. of Guild are entitled to unemployment compensation benefits, the appeal tribunal of the division of employment security of the State bureau of labor has determined in a decision overruling John F. Tonkin of Newport, certifying officer in the Claremont office of the division.

The six are Ellen A. Wirtanen, August Jokinen, and Stanley Laski of Newport, Hulda H. Lehtinen and Lempi Taipale of Guild, and Charles W. Hendrickson of Goshen.

CHARGES SUBSTANTIATED

Michael Botelho of Manchester, State director of the Textile Workers Union of Amerîça (CIO), announcing the decision today, said he feels the ruling substantiates charges of his that Mr. Tonkin disqualified people promiscuously and overextended his authority" when he said the six were not entitled to jobless benefits.

The six lost their jobs when the workload at Dorr was increased.

Mr. Tonkin said they later refused suitable employment. The union, represented by Mr. Botelho, said they had a right to refuse the jobs later offered them because the jobs were unsuitable and because the six had been discharged by the company.

According to the tribunal, the six did not leave their jobs voluntarily, did not refuse suitable jobs and should therefore collect compensation.

Mr. Botelho also announced this morning that he has written Newell Brown, director of the unemployment compensation division, asking for a rehearing before the board for certain former Dorr employees previously ruled by the tribunal as unqualified for jobless benefits.

[May 15, 1955]

THE OPEN FORUM

BROWN CHALLENGES BOTELHO CHARGES

To the Editor:

Twice in recent weeks Mr. Michael Botelho, State Director of the Textile Workers Union of America, CIO, has made, and the Claremont Eagle has printed, public statements accusing Mr. John Tonkin, assistant manager and certifying officer of the Claremont office of this division, of wrongdoing in the performance of his official duties. The accusations concern certain of his decisions in connection with employees of the Dorr Woolen Co.

Mr. Botelho did not have his facts straight and his conclusions, in any case, are unwarranted. As a result grave injustice has been done to Mr. Tonkin. Equally important, these accusations, if they went unchallenged, could damage seri-

ously the existing spirit of cooperation and mutual respect between Mr. Tonkin (and other Claremont office personnel representing this division) and employees and employers of the area. The community has a major stake in this spirit, to the extent that harmonious local labor-management relations depend on it.

This situation is sufficiently serious, in my opinion, to warrant bringing it to the attention of Mr. Emil Rieve, general president of the Textile Workers Union, Mr. Botelho's superior. I am writing Mr. Rieve today.

The grounds on which I take strong exception to Mr. Botelho's assertions are these:

1. The cases in question were difficult and involved. Honest men could disagree. Mr. Tonkin, therefore, pursuant to long-standing instructions, not only gave them long thought in advance himself, but consulted with legal and other personnel at my headquarters, including the writer. He acted only after this consultation and with the full authority of the division behind him. It might be noted that to date the initial decisions have been affirmed in one set of cases and reversed in another by our appeals tribunal, which is indicative of the difficulty of the decisions.

2. The Claremont office's relations with local labor and management have been harmonious. It should be noted that Mr. Botelho spoke alone, without any indication of support from local labor leaders. A serious misapprehension about the local situation may have been derived from Mr. Botelho's remarks.

3. Mr. Tonkin's past record as a certifying officer compares favorably with that of our other certifying officers, in respect to careful consideration of each case on its merits, the proportion of his decisions reversed on appeals, the proportion of claimants disqualified, and so forth. Figures in proof of this are available.

4. Entirely aside from this particular case, it appears to me bad procedure, ill-advised and possibly an attempt to bring undue pressure, for a man to attack without warning and publicly the employee of an organization when he knows that basic responsibility rests with its boss. Mr. Tonkin could not defend himself because the reply, if any, must properly come from this office. The criticism therefore should be directed to me. Mr. Botelho did not and has not yet complained to me of Mr. Tonkin's performance, although you will note that in one article he states his intention of complaining to this office.

You are at liberty, and I urgently request you, to print in your paper all or a selection from the above, as soon as possible, in the interests of fair play for Mr. Tonkin, and of repairing the damage to local labor-management relations which may have been done by Mr. Botelho's unfounded assertions.

NEWELL BROWN,
Director, Division of Employment Security, Concord.

THE STATE OF NEW HAMPSHIRE,
DEPARTMENT OF LABOR,
DIVISION OF EMPLOYMENT SECURITY,
Concord, N. H., May 14, 1951.

Mr. EMIL RIEVE,
General President, Textile Workers Union of America, CIO,
New York 3, N. Y.

DEAR MR. RIEVE: I enclose two articles from the Claremont (N. H.) Daily Eagle in which Mr. Michael Botelho, State director, Textile Workers Union, has bitterly criticized Mr. John Tonkin, assistant manager and certifying officer of this division's Claremont office. Among Mr. Tonkin's functions is the rendering of initial decisions on local claims for compensation under the State unemployment compensation law.

Mr. Botelho did not have his facts straight and his conclusions are unwarranted, as will appear below. I am seriously concerned both because gross injustice has been done Mr. Tonkin, who works for me; and because Mr. Botelho's unfounded assertions, if allowed to stand, could jeopardize the presently harmonious relations between Mr. Tonkin (and other Claremont office personnel representing this division), and local labor and management. You are aware, of course, of the high importance of such relations.

I take strong exception to Mr. Botelho's assertions on several grounds:

1. The cases in question were difficult and involved. Honest men could disagree. Mr. Tonkin, therefore, pursuant to long-standing instructions, not only gave them long thought in advance himself, but consulted with legal and other personnel at my headquarters, including the writer. He acted only after this

consultation and with the full authority of the division behind him. It might be noted that to date the initial decisions have been affirmed in one set of cases and reversed in another by our appeals tribunal, which is indicative of the difficulty of the decisions.

2. The Claremont office's relations with local labor and management have been harmonious. It should be noted that Mr. Botelho spoke alone, without any indication of support from local labor leaders. A serious misapprehension about the local situation may have been derived from Mr. Botelho's remarks.

3. Mr. Tonkin's past record as a certifying officer compares favorably with that of our other certifying officers, in respect to careful consideration of each case on its merits, the proportion of his decisions reversed on appeals, the proportion of claimants disqualified, and so forth. Figures in proof of this are available.

4. Entirely aside from this particular case, it appears to me bad procedure, ill-advised and possibly an attempt to bring undue pressure, for a man to attack without warning and publicly the employee of an organization when he knows that basic responsibility rests with its boss. Mr. Tonkin could not defend himself because the reply, if any, must properly come from this office. The criticism therefore should be directed to me. Mr. Botelho did not and has not yet complained to me of Mr. Tonkin's performance, although you will note that in one article he states his intention of complaining to this office.

Because the Claremont area in general, labor and management there in particular, this division, Mr. Botelho and yourself have a real stake in continued cooperation and harmony there, I hope you will look into this matter and take such action as you deem advised.

Sincerely yours,

NEWELL BROWN.

TEXTILE WORKERS UNION OF AMERICA,
New York, N. Y., June 29, 1951.

Mr. NEWELL BROWN,
Division of Employment Security, Department of Labor, Concord, N. H.

DEAR MR. BROWN: Duties as a member of the Wage Stabilization Board in Washington and executive council sessions of our union have kept me from answering your letter of May 14 as quickly as I would have liked. Your communication was of such a nature as to warrant a careful study of the entire circumstances.

My understanding of the case of the weavers of Dorr Woolen Mills disqualified for unemployment compensation benefits is as follows: A workload increase was granted the employer in an arbitration case and as a result less weavers were needed. These weavers were then discharged and made application for unemployment compensation benefits. Sometime thereafter they were offered jobs by the Dorr management on the highly increased loom load awarded the company in the arbitration case.

At this point the testimony seems to diverge. Mr. Botelho, our State director, says that Mr. Tonkin stated under oath that he had made the decision that disqualified these people from their benefits. Others present at the hearing bear out Mr. Botelho. You claim that Mr. Tonkin made the decision only after consultation with you and with others in your department. The contention of both parties seems to have merit—Mr. Tonkin did make the final decision but not until clearing with you. In any event, he is the person who dealt directly with Mr. Botelho and whose name is evidently attached to the decision disqualifying these weavers.

It has been somewhat distressing to observe the difficulty of properly fixing the target for criticism in many public agencies. So involved are the procedures in many instances that the citizens protesting against this or that ruling finds his voice unheard. Mr. Botelho, as our State director, is certainly not exempt from any criticism for his actions simply because he works under the direction of this office. We welcome, in fact, the interest of others in the affairs of our union and Mr. Botelho enjoys no immunity. We feel that the fact that Mr. Tonkin is a subordinate to you should certainly not exempt him from direct questioning of his acts. There can be no doubt that honest differences may well have occured and that Mr. Tonkin may well have been acting in the best of faith. He still was the man who did make the decision and the man who had to defend it, both in a hearing and, as it happened, in the public press.

The fact that in the past relations of your Claremont office with management and labor have been good has no bearing on this case. Mr. Botelho referred to this particular case only, and properly represented the members of the union, by protesting Mr. Tonkin's decision on its merits. You refer to the fact that Mr. Botelho spoke alone, without indication of support from local leaders. This to me is unimportant since Mr. Botelho was not speaking for all of local labor but was acting directly as the representative of the Dorr Woolen Mill people only.

The basic point of your letter asks whether it is bad procedure, ill-advised or a possible attempt to bring undue pressure, to attack an employee of an organization in the manner Mr. Tonkin was attacked by Mr. Botelho. I must confess that I cannot fully appreciate the sensitivity of the Division of Employment Security or yourself in this matter. It should seem to me that any public official, or any official of any organization engaging in public matters, accepts criticism as a normal hazard of the job.

The matter of the disqualification of the Dorr Woolen weavers was of major interest only in Claremont—where the people lived, where the mill was located, and where the decision by Mr. Tonkin was made. It was a controversial decision and as such had definite news value. Mr. Botelho felt that Mr. Tonkin had gone beyond his legitimate functions. Mr. Botelho expressed himself and the local newspaper saw fit to print his expressions. You state that Mr. Tonkin could not reply under the rules of your Department but you were able to do so in his behalf. This then boils down to a matter of whether Mr. Botelho used good judgment in directly stating that Mr. Tonkin had done wrong or in informing you first that he thought Mr. Tonkin had done wrong. In either event you rapidly found out that Mr. Botelho thought Mr. Tonkin had acted unwisely in this case.

Frankly, I feel that Mr. Botelho's actions were such as to make your staff more aware of the need of exhaustively going into the background of cases growing out of labor-management differences of opinion.

I believe it to be a healthy thing to have a complete airing of these differences—out in the open and free of the restraint of closed conferences—right on the spot, which in this case happened to be Claremont, N. H. There the local individuals most concerned—the individuals with their need of unemployment compensation; the company with its desire for a better standing in the merit ratings; your office with its interest in serving the letter and spirit of the legislative acts under which it operates, and our union, serving as representative of the aggrieved; can demonstrate to the general public how we feel on these various differences that arise.

This union has no ill will toward any public servant doing his job as best he can. We do reserve the right, and this is a right reserved to all citizens, to speak our mind on the right or wrong embodied in the actions of the public servant. I feel, Mr. Brown, that that attitude will eventualy contribute greatly to a better understanding of your agencies' functions. A surface harmony, with hidden discords underneath, is far more dangerous to the well being of your joint relationship than this kind of a frank statement of points of view.

I would like to congratulate you on the clarity of your letter to me and of your sincere interest in the maintenance of the best possible relations of your department with our organization at all times. Believe me when I state that this interest parallels our own in all details.

I personaly am pleased to see that the head of an agency such as yours, with all the responsibilities of the job, is so aware of local problems that he can take time to inform us of a happening of interest to us. I sincerely appreciate your informing me of the point of view you hold regarding the action of Mr. Botelho and rest assured that our understanding of your procedures in enhanced thereby.

Sincerely yours,

EMIL RIEVE,
General President.

Mr. BOTELHO. If I may briefly describe the Dorr case.

Senator ALLOTT. You said included in there are newspaper articles?

Mr. BOTELHO. Yes. Included in there is a newspaper statement made to the Claremont Eagle by Newell Brown, and he wrote a letter to the paper, and also there was a story in that Claremont Eagle that prompted his writing of this letter, and this story was borne out at a hearing that we had, a public hearing that we had in Claremont, where

a newspaper reporter was present, and in my interrogation of the certifying officer, in that area. I asked specific questions as to why he disqualified these people from unemployment benefits, and he told me why. I asked him if the decision was made by him alone. He told me under oath that it was made by him alone, and when he told me that I told him in a public hearing that I thought that he overstepped his authority, and that he was imposing a penalty on these people not covered by the law.

There was a lot to do about this thing.

Senator DOUGLAS. I wonder if you could give us the gist of the case?

Mr. BOTELHO. The Dorr Weavers case had to do with the Dorr mills located in Newport, N. H. A company there under collective-bargaining agreement with our union wanted to increase the work assignment on weavers from four to twelve looms. The union did not agree with this change in assignment because it felt the change requested by the company was excessive. In fact, they wanted 16 looms and not 12. The arbitrator handed down a decision for 12 looms. This decision came down in January of 1951. Immediately upon receipt of this decision the company then sent out termination notices to its least senior weavers, 6 or 8 or 10 people, and told them because of this change they were no longer considered employees of the Dorr mills. This group were therefore terminated effective on a date, in January of 1951. These people then applied for unemployment compensation benefits. They were actively engaged in seeking employment in their trade.

Shortly, thereafter, a problem developed with the Dorr Co. There was a strike, an unauthorized strike.

Senator DOUGLAS. Authorized or unauthorized?

Mr. BOTELHO. Unauthorized.

As a result of that strike, new jobs were open at the Dorr mills for weavers. The Dorr mills then put in a request for weavers, with the division of employment security in the Claremont-Newport area. The referral officer sent the weavers who were there previously.

First, the Dorr sent them a letter asking them to come back to work. They felt that they didn't want to return to work at Dorr because the jobs they left no longer existed.

Senator ALLOTT. These were the people who had struck unauthorized?

Mr. BOTELHO. No. These were not the strikers. These were the people who were terminated in January. They got letters from Dorr to return to work after the strike was over. They felt that they did not want to return to work at this plant, because the job was no longer the job that existed prior to their termination. The Dorr Co. then informed Brown's representative, a Mr. Tonkin, in that area, that these people refused to return to work at this plant. Tonkin interrogated these people, and they told him they were looking for work as weavers, but wanted jobs similar to the jobs they were performing, instead of running 12 looms on what they call blends.

Senator GOLDWATER. These people were let out?

Mr. BOTELHO. Terminated.

Senator GOLDWATER. Had they been collecting unemployment insurance?

Mr. BOTELHO. Yes. They had collected 1 or 2 checks at the most. Mr. Tonkin then insisted that they go back to work in this plant.

They felt that they should be given the right, or permitted to continue to look for work they were accustomed to doing, namely, running woolen work on four looms.

The end result was that they were terminated.

Senator DOUGLAS. You mean their unemployment insurance benefits were terminated?

Mr. BOTELHO. Their unemployment insurance benefits were terminated.

They appealed and I came into the case by reason of the fact that I was the regional representative for the union.

Now, in the law in the State of New Hampshire, the question of what is suitable employment is left mainly to the discretion of the head of the division of employment security. He determines what suitable employment is in an area.

Senator DOUGLAS. Is that a provision that men are disqualified if they refuse to take struck work?

Mr. BOTELHO. There is a provision that they don't have to take struck work; yes; there is.

Senator DOUGLAS. That is a provision in most States.

Mr. BOTELHO. To my knowledge, there is; yes, sir; but he interprets what is considered suitable employment.

In this cross-exchange of letters, while Tonkin stated to me under oath——

Senator ALLOTT. Under oath?

Mr. BOTELHO. He stated to me under oath under cross-examination, before the appeals tribunal, that this decision that he made was made by him alone. You will find in the exchange of letters between Brown and me, and also in the letter that Brown sent to the Claremont Eagle, that the decision was not Tonkin's alone, but, rather, the decision emanated from Concord from his office in Concord, between him and his legal advisor in Concord.

Senator DOUGLAS. When you say Mr. Brown, you mean Mr. Brown's legal advisor made the decision?

Mr. BOTELHO. Mr. Brown's legal advisor in consultation with Mr. Brown, directed Mr. Tonkin; if Mr. Brown is telling the truth in the letters that he has written, directed Mr. Tonkin to make this decision, to disqualify these people for refusing to take that employment.

The end result of that case was that the appeals tribunal found that these people were correct in refusing to take that employment, and they ruled that Tonkin's decision be overturned and that they continue to collect unemployment benefits. That also will appear in this series of letters I have submitted.

Senator GOLDWATER. Would you let us see that particular letter that you referred to that puts the blame for this decision on Mr. Brown?

Mr. BOTELHO. There are a number of them.

Senator GOLDWATER. Would you kindly pick them out so we can see them?

Mr. BOTELHO. All right. I have got a letter here, "The Open Forum, Brown Challenges, Botelho Charges." This is signed by Newell Brown, director of division of employment security, and this article appeared on May 15, in the Claremont Eagle. He said here:

> The cases in question were difficult and involved. Honest men do disagree. Mr. Tonkin, therefore, pursuant to long-standing instructions, not only gave them long thought in advance, himself but consulted with legal and other personnel

at my headquarters, including the writer. He acted only after this consultation and with the full authority of the division head.

Senator DOUGLAS. When the final opinion was given overruling the division of unemployment security, was retroactive payment made?

Mr. BOTELHO. Absolutely, from the day of disqualification.

According to the tribunal—this is a release in the paper again:

According to the tribunal the six did not leave their jobs voluntarily, did not refuse suitable jobs, and should therefore collect unemployment compensation.

This was the decision of this panel. Between that hearing and this decision, Mr. Brown had gone to great pains and great length to try to defend the position taken by Mr. Tonkin and himself. He even went to the trouble of addressing a letter to the general president of my union, which I think will make very interesting reading to you gentlemen. I assume that you will read it at your leisure. Also the answer from the general president of my union to Mr. Brown.

That is the first time that we as a union locked with Mr. Brown over an interpretation of the law.

Senator ALLOTT. This was in what year?

Mr. BOTELHO. 1951.

Senator ALLOTT. When was he appointed to that office?

Mr. BOTELHO. He was appointed, I believe, in 1950. I believe it was in 1950. I am subject to correction on that, but I believe it was 1950.

Mr. PITARYS. August of 1950.

Mr. BOTELHO. I don't know when he was appointed. It was my understanding that he was appointed by the Commissioner of Labor. Mr. Brown said here this morning that he was appointed by the Governor of the State. It was my understanding that the Commissioner of Labor made the appointment at that time. They have since changed the law, but at that time it was under the jurisdiction of the Commissioner of Labor, in 1950. It has since been separated.

Senator GOLDWATER. Mr. Botelho, before you leave this case I want to pursue this letter in the "Open Forum" just a bit. This letter that is signed by Mr. Newell Brown in his capacity as director of the division of employment security, it says "Concord" after that. I didn't know there was a Concord in New Hampshire.

Mr. BOTELHO. That is the capital of the State.

Senator DOUGLAS. There was a famous story of a man who went out heading towards Concord, Mass., and wound up in Concord, N. H.

Senator GOLDWATER. He says here, "The cases in question were difficult and involved. Honest men could disagree. Mr. Tonkin, therefore, pursuant to long-standing instructions not only gave them long thought in advance, himself, but consulted with legal and other personnel at my headquarters, including the writer. He acted only after this consultation with the full authority of the division behind him. It might be noted that to date the initial decisions have been affirmed in one set of cases and reversed in another by our appeals tribunal, which is indicative of the difficulty of the decisions."

Mr. BOTELHO. That decision he refers to had nothing to do with the Dorr mills case. That was another case where they were all disqualified, and ultimately some of them were found to be eligible by reason of the fact that they didn't contribute to the strike.

Senator ALLOTT. While we are on this subject, may I ask you this question: This was appealed, and as I understand, and the decision was reversed.

Mr. BOTELHO. That is right.

Senator ALLOTT. Is it your concept that in our administration of justice, or otherwise in this country, that every judge who is reversed by a higher tribunal or every administrator who is reversed by a higher tribunal should be ousted from office?

Mr. BOTELHO. No; it isn't. But we think that the job that is being proposed for Mr. Brown is one of such a serious consequence to the labor movement as a whole that we are very frankly concerned with whether or not——

Senator ALLOTT. You——

Mr. BOTELHO. If I can be permitted to develop the point I am trying to make, I will show you two cases of magnitude. I don't know how many cases where he may have made the decisions at a lower level, not involving so many people, because they weren't brought to our attention for one reason or another. But here are two cases of magnitude where he had an opportunity to look at the law, and as the proper officer to administer that law, he made decisions that in our opinion were contrary to the best interests of the people. We illustrated our views in case No. 1, and now we will attempt to illustrate it in case No. 2, the famous Nashua Plastics case, that Mr. Pitarys talked about.

Senator GOLDWATER. Before we leave that subject and continuing with this letter appearing in the open forum, Mr. Brown says, and I quote:

> It should be noted that Mr. Botelho spoke alone, without any indication of support from local labor leaders.

Now we get back to that opening argument. Were you speaking alone?

Mr. BOTELHO. I will give you the answer. He assumed that I was speaking for myself. I was speaking for those people that were denied unemployment benefits, who were members of my union. They asked me to represent them, so I am not speaking as an individual. It is sufficient to note that not one labor leader in that whole Clairmont-Newport area said anything to the contrary.

Senator GOLDWATER. You were crying out against Mr. Tonkin, then, and not against Mr. Brown?

Mr. BOTELHO. At that time, yes, because I assumed that Mr. Tonkin was telling me the truth.

Senator GOLDWATER. You were crying out pretty much in the same manner then that Mr. Fécteau was crying out when he wrote us this letter.

Mr. BOTELHO. I beg to differ because I was there specifically representing six weavers who were denied unemployment benefits; I was fighting their case for them and in accordance with my interpretation of the law I cried out against Mr. Tonkin's administrative ruling and why I cried out against him is because he stated to me under oath, as the transcript will show, if you want to subpena the transcript.

Senator GOLDWATER. Is there one in existence?

Mr. BOTELHO. Yes.

Senator GOLDWATER. That was the other case.

Mr. BOTELHO. There is one in existence in every case.

Senator GOLDWATER. I thought you said the other one was burned.

Mr. BOTELHO. I am saying they have it. Our copies of the second case were burned. The reason why I have these files is because this was in Nashua, not in Manchester.

Senator GOLDWATER. This is one of the hearing before Governor Adams. I thought that was burned.

Mr. BOTELHO. The transcript that you may have heard about, a transcript dealing with the Nashua Plastics case. There were 2 days of hearings. I asked that the transcripts be sent to me. They sent me the first one, and they didn't send me the second one. The first one that we had was on file in our Manchester office. That was burned.

Senator GOLDWATER. Which one would have page 45 in it?

Mr. BOTELHO. I don't know. I assume that the one from Nashua must have run 300 pages or more.

Senator GOLDWATER. I was just interested because I heard that in that testimony, you said that the only thing the matter with Brown was that he stuck too close to the law.

Mr. BOTELHO. I beg your pardon. I never made any such statement.

Senator GOLDWATER. I just heard that.

Mr. BOTELHO. I was going to suggest here it would be very interesting for you gentlemen to read the entire transcript of the so-called Nashua Plastics case, because there is spread out in detail what caused us to run to Sherman Adams, who was then Governor of the State.

Senator GOLDWATER. I won't pursue that.

Mr. BOTELHO. You will find in the testimony given in that hearing by the head of the company that they sent job orders to the division of employment security, and the division of employment security was referring more workers than they had job orders for and then they were disqualifying these workers.

Senator GOLDWATER. In the course of your experience up there, did you ever hear any employers protest against the findings of either Mr. Tonkin or Mr. Brown or any of their officials?

Mr. BOTELHO. Any of the employers protest against the findings of Mr. Tonkins?

Senator GOLDWATER. Yes.

Mr. BOTELHO. I can't honestly say I have against Mr. Tonkin. Against Newell Brown, to my memory, I don't know of any. I have protested to him a number of times about decisions that were made.

Senator GOLDWATER. Would it be possible to get the records of formal protests that had been lodged by employers?

Mr. BOTELHO. I would assume that Mr. Brown could answer that question. I couldn't answer for Mr. Brown on that one.

Senator GOLDWATER. Because as you know these decisions have to be made by this employment service, or the division of employment security, and I think any one of us from any state can testify that some of those decisions, the employee doesn't like, and some decisions the employer doesn't like, and I just wanted to find out if New Hampshire was unique in that all of the decisions were agreed to by the employer. If it is, it is a very rare State.

Mr. BOTELHO. We have had our difficulties with Newell Brown, but I am not here to condemn him as a personality. I am here to de-

fend our right to protest his appointment to such an important job because I don't feel the best interests of the public would be served.

Senator GOLDWATER. We recognize you are right.

I would like to pursue this one more point because I think it will apply to the Nashua case, and will avoid repetition in the questioning.

Let me ask this question first: If a worker is denied unemployment compensation benefits because he refuses to accept a job to which the State unemployment office refers him, does that worker have a right to appeal beyond the appeal taken in these cases?

Mr. BOTELHO. Yes. He has a right to appeal to the tribunal. The tribunal can either reverse the decision of the certifying officer, or it can concur with his decision. Then comes the next question. He would say, "If we have a difference of opinion as to interpretation of law, why don't you then take us to court and test this?"

Senator GOLDWATER. Didn't——

Mr. BOTELHO. If I may, Senator. Every time a question arose between he and I on what constitutes suitable employment, he would set up an area. He would say to me, "Now, here is this area, Nashua, Hudson, Goffs Falls, Merrimack"—a whole farm belt, and in the middle is Nashua. He would say, "That is Nashua, and I determine that in this area there is no employment available for these people who are presently drawing unemployment checks and because there is no employment available in this particular area I have set up here. Because I deem it suitable employment, they must accept employment in a company paying 40, 30, to 50 cents an hour less than they were accustomed to earning, under penalty of disqualification for receiving benefits thereafter."

Senator GOLDWATER. I think it might be well here, because this is going to enter into it more, if we read into the record the laws of the state of New Hampshire pertaining to this. I find them in Revised Laws, Chapter 218, as amended, together with rules and regulations promulgated thereunder, and under the heading of "Disqualification for benefits," it says:

> An individual shall be disqualified for benefits—

then it lists A, B, C, which I will read:

> If the commissioner finds that he has failed without good cause, either to apply for available suitable work when so directed by the employment office, or the commissioner, or to accept suitable work when offered him, or to return to his customary self-employment, if any, when so directed by the commissioner, such disqualification shall continued for the week in which such failure occurs and for the three weeks which immediately follows such week, in addition to the waiting period.

Then there is an additional subparagraph:

> (1) In determining whether or not any work is suitable for an individual, the commissioner shall consider the degree of risk involved to his health, safety and morals, his physical fitness, and prior training, his experience and prior experience, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of available work from his residence.

That is the end of the quote.

Now, did these workers—and I am jumping the gun, but I am reading from the Textron case, as you didn't supply complete figures—but in the Textron case you used the figures that approximately 70

out of the 1,500 displaced textile workers were referred to jobs at the plastics plant.

Did these workers at the plastic plant to whom you referred and who didn't take those jobs, or did any of the workers in the case we have been discussing, appeal this decision any higher than the appeal which you mentioned?

Mr. BOTELHO. First of all, of the 70 that we represented, it was found that 33—I may be wrong by one—it was in the neighborhood of 30, between 30 and 35 of the 70 were found to have good cause by the tribunal panel for not taking employment in this plant. The good cause, however, was that there was something wrong. This business of fumes in the plant was a health danger to them and they had doctors' certificates. We had people there with certificate after certificate, bronchitis, pneumonia, and phlebitis, and everything else. So all the people who had legitimate certificates from doctors, that they had chronic ailments of some kind dealing with their breathing apparatus were found to be entitled to collect unemployment benefits by reason of the fact that there was a health hazard.

Senator GOLDWATER. Who made that decision?

Mr. BOTELHO. The panel did, the appeal tribunal panel. But it is sufficient to note also that these same people did protest to the referral officer, that they were not physically able to take these jobs, and in spite of that, they were still referred to that work.

Senator GOLDWATER. You represented six members of your union?

Mr. BOTELHO. No; I represented 70 in this case, 6 in the Dorr Weaver case, 70 in the plastics case.

Senator GOLDWATER. Let's get back to the other. We want to get to this one later on.

Out of the six, did they all appeal?

Mr. BOTELHO. Yes.

Senator GOLDWATER. How many appeals were upheld?

Mr. BOTELHO. All of them.

Senator GOLDWATER. All six were upheld?

Mr. BOTELHO. Yes. We are not talking about the terminated Dorr weavers.

Senator GOLDWATER. Have you ever had any occasion to appeal to the court on any of these decisions?

Mr. BOTELHO. No; we haven't.

Senator GOLDWATER. Don't you think when this comes to a matter of determining how a man should operate under a written law the courts are the place to decide it? If your objection to Mr. Brown is that he obeyed the law, and you admit that Mr. Brown is a personable man and you have known him a long time, and the testimony substantiates that—don't you think you might have been wrong in not going to court as he suggested?

Mr. BOTELHO. I had no reason to go to court in the case of the six weavers because we won.

Senator DOUGLAS. You won through administrative process?

Mr. BOTELHO. That is right. There was no need for our going to court.

Senator DOUGLAS. What happened in the case of plastics?

Mr. BOTELHO. In the case of plastics, rather than go to the courts we tried to appeal to the Governor, and tried to reason with him, to see

whether or not we couldn't get a reversal of a decision made by the administrator of the appeals tribunal. You see, he has the jurisdiction, he has the right to interpret and to make a ruling on what is suitable employment. Our fight with him was that he was making a ruling that was creating a hardship for our people and so we appealed to the Governor.

Senator GOLDWATER. In the course of a year, any year that you are acquainted with, how many such appeals would be made from a decision of Mr. Brown's office?

Mr. BOTELHO. Well, there are a considerable number.

Senator GOLDWATER. Would you say there were 350 or 100, 150?

Mr. BOTELHO. It is safe to say there would be over a hundred.

Senator GOLDWATER. And how many decisions would be involved in the course of a year?

Mr. BOTELHO. There would be a hundred decisions approximately. All appeals have decisions flowing from them.

Senator GOLDWATER. I am talking about decisions of Mr. Brown's office that would prompt these appeals; people who applied for unemployment compensation. Is there 500, 1,000, 5,000, 10,000?

Mr. BOTELHO. That all depends on what the labor market is, what the conditions are.

Senator GOLDWATER. In the course of a normal year in New Hampshire?

Mr. BOTELHO. There could be an unemployment load of 2,000, getting unemployment benefits at one time in the State of New Hampshire.

Senator GOLDWATER. A total in a year.

Mr. BOTELHO. There could be 2,000 on and off, average, around 2,000 in a year. It even could be higher.

Senator GOLDWATER. Can anybody here tell us——

Mr. BOTELHO. I think Mr. Brown would be better qualified to tell you that than I am.

Senator GOLDWATER. Do you know, Mr. Brown, how many people in any 1 average year apply for this unemployment compensation?

Mr. BROWN. Yes, sir. We have an average claims load of probably six to seven thousand, perhaps it runs as high as ten in a bad year, per week. We put out about 300,000 checks a year.

Senator GOLDWATER. 300,000 checks a year?

Mr. BROWN. We make about 25,000 nonmonetary determinations. That is where issues are raised on a given case, and of those 25,000, roughly 1,200 are appealed to the administrative step. Those appealed on the administrative step, on an average probably 10 to 12 go to court in the course of a year.

Senator GOLDWATER. You say there are about 25,000 cases in a year, individual cases?

Mr. BROWN. Individual cases where it is not a clear-cut layoff, where the man is paid almost automatically. There are about 25,000 of those.

Senator GOLDWATER. You state you would judge—I wouldn't hold you to that figure, because it could be up or down—about a hundred that appeal.

Mr. BROWN. No, sir, about 1,200.

Senator GOLDWATER. About 1,200 that appeal to the administrative setup.

Mr. BROWN. The 25,000 is an administrative first step, the 1,200 is an administrative second step. The remaining step is a court step.

Senator GOLDWATER. You say approximately how many go to court?

Mr. BROWN. About 12.

Senator GOLDWATER. Do you find that that percentage is fairly consistent with the percentages in other states?

Mr. BROWN. Very nearly, yes, sir, on a national average.

Senator GOLDWATER. I have no other questions.

Senator ALLOTT. May I ask him a question?

I want to go back to the 70 people that you represented. As I understand it, you finally succeeded in upholding 6 of the 70?

Mr. BOTELHO. No, between 30 and 35 of the 70. The six flow from the first case. That is the Dorr-Weaver case in Claicmont, N. H., in 1951.

Senator ALLOTT. Of these 70 people, you say that you had 30 or 35 in the Nashua case; that the tribunal upheld them?

Mr. BOTELHO. That is right.

Senator ALLOTT. That must have meant if you had 70, that there were 35 that they did not uphold.

Mr. BOTELHO. Approximately 35 or 37.

Senator ALLOTT. Were any of those cases carried to the courts?

Mr. BOTELHO. No, they weren't carried to the courts because the people involved in the matter felt that they couldn't bear the expense of court litigation. That is the reason why we didn't carry it to court. It would cost them money.

Senator ALLOTT. Doesn't the union take care of that?

Mr. BOTELHO. Not necessarily. These people were former members of our union and this was a service that we were giving them as former members of our union. They requested that we represent them because they couldn't afford a lawyer.

Senator ALLOTT. On these 35 then there was no appeal taken and there was an adverse decision from the tribunal in 35 of the 70 cases.

Mr. BOTELHO. The only thing that happened from that——

Senator ALLOTT. Is that true or not?

Mr. BOTELHO. Can I answer, if I may? This wasn't the end of that.

Senator ALLOTT. I am asking you a question.

Mr. BOTELHO. This wasn't the end of it. From that decision we went to the Governor and tried to appeal through the Governor to have some remedial action taken by him to correct the situation.

Senator DOUGLAS. The Chair would suggest that if we have finished with the Newport case involving 6 or 7, that we get a factual statement about the plastics case first and then ask questions about it. If the witness would describe the facts, or does he wish to make his statement a part of the record and then have cross-examination?

Mr. BOTELHO. Mr. Chairman, I would respectfully request, and I would urge upon this committee, that they subpena the transcript of the Nashua plastics case, of the two hearings that were held on that matter. There were 2 days of hearings, and I would suggest or request, respectfully request, that you subpena that testimony of transcript.

Senator DOUGLAS. The difficulty with that is this: There has been some delay in hearing this case—a considerable amount of delay—and as soon as the case was referred to this subcommittee I pledged myself to as speedy a hearing as possible and as speedy a decision. In justice to Mr. Brown, I do not want to put the case over beyond this session. I want to have a recommendation made at this session.

Senator ALLOTT. Mr. Chairman, may I proceed on this one point while we are on it? I think it will save time rather than going back to it.

Senator DOUGLAS. Which one is this?

Senator ALLOTT. On the Nashua case.

Senator DOUGLAS. I have suggested, he has not yet put a statement of facts on the Nashua case into the record. I would suggest that we get a factual statement on the Nashua case, and in connected fashion, and then that we ask questions upon it. Otherwise this transcript will sound like Alice in Wonderland.

Senator ALLOTT. I had understood in talking about the 70 he was talking about the Nashua case.

Senator DOUGLAS. That is correct. He has not yet read his factual account of how the men lost their jobs in the textile mill and were offered jobs in the plastic plant and the comparison of wages in the two plants, etc. If no one objects, I would ask the witness, either to have this statement filed and then subject himself to cross-examination, or make a factual statement.

Mr. EDELMAN. Mr. Chairman, may we have this statement filed in the record, with two minor corrections?

Senator DOUGLAS. Yes.

Mr. EDELMAN. On page 4, I have indicated in my copy, which I have given to the reporter, in the paragraph in the middle of the page:

> The result of this appeal was that about half of the individuals were ordered reinstated——

Senator ALLOTT. My copy says "five or six."

Mr. EDELMAN. That is incorrect, sir. I am very sorry that I made an incorrect statement. I am going to ask now that that be changed to "about half."

Senator ALLOTT. I am glad to get that because I asked my questions of the gentleman upon the basis of his own statement.

Mr. EDELMAN. That is on page 4.

Senator DOUGLAS. That will be done.

(The information referred to is as follows:)

TESTIMONY OPPOSING CONFIRMATION OF NEWELL BROWN TO LABOR SUBCOMMITTEE, SENATE COMMITTEE ON LABOR AND PUBLIC WELFARE, JULY 26, 1955, BY THOMAS PITARYS, PRESIDENT, NEW HAMPSHIRE INDUSTRIAL UNION COUNCIL-CIO; MICHAEL BOTELHO, FORMER PRESIDENT, NEW HAMPSHIRE INDUSTRIAL UNION COUNCIL-CIO (ALSO BOTH NEW HAMPSHIRE DIRECTORS, TEXTILE WORKERS UNION OF AMERICA-CIO); JOHN W. EDELMAN, WASHINGTON REPRESENTATIVE, TEXTILE WORKERS UNION OF AMERICA-CIO—ALL SPEAKING ON BEHALF OF THE CONGRESS OF INDUSTRIAL ORGANIZATIONS

In identifying ourselves as witnesses in this hearing we refer to our individual affiliations merely to indicate that we speak on this subject matter on the basis of direct personal experience. We wish it to be understood, however, that our testimony on this occasion is offered also on behalf of the National CIO. Walter P. Reuther, president of National CIO, has taken a position opposing the confirmation of Newell Brown; indeed on April 4, 1955, Mr. Reuther wrote President

Eisenhower urging that the nomination of Mr. Brown be withdrawn. (A copy of that letter is submitted for the record.)

We wish to identify ourselves with and emphatically endorse both on behalf of National CIO and our own union, the able and comprehensive testimony offered in respect to this matter by the witnesses representing the American Federation of Labor.

The testimony which we shall offer here deals mainly with one concrete situation that arose in New Hampshire in 1952 and has resulted in the firming up of a present and continuing public policy of the State of New Hampshire.

Mr. Newell Brown as director of employment security of the State of New Hampshire was and is responsible for this policy. The contention we make is that a public official who holds such views and conducts such an administration should be barred from employment by the Federal Government and especially from a key position such as Administrator of the Wage and Hour Division of the United States Department of Labor.

The situation we shall discuss arose as a result of closing down of the Nashua Manufacturing Co. by Textron, Inc. The spotlight of national publicity was thrown on this case at the time—early in 1952. The late Senator Charles W. Tobey of New Hampshire conducted an investigation of this notable instance of economic piracy.

But our today's story begins where that one ends. About 1,500 skilled textile workers were without jobs in the Nashua area. The average earnings of this group had been somwhat above the customary earnings of other textile employees. The weavers and sewers in this group had enjoyed earrings of from $1.35 to $1.70 and even as high as $1.80 per hour.

The problem was to find new jobs for this large group of unemployed.

The Development Commission of New Hampshire and local groups had embarked on a campaign to induce new industries to locate in the abandoned textile plant in Nashua.

One concern quickly opened a branch establishment (a plastics plant with headquarters at Leominster, Mass.). The starting wage in this new shop was 75 cents per hour. Average wages were very little higher.

The physical conditions in this shop were most unsanitary. Certain workers were required to operate power machines while standing in an inch of water. The stench from the chemicals became a nuisance in the city and affected both the health and morale of the employees. Several employees complained of skin eruptions and severe nausea.

Foremen treated the employees with disgraceful familiarity; the language used was often obscene and constantly vulgar. The average parent in Nashua felt this was no place for a decent girl or boy to work in.

Approximately 70 of the 1,500 displaced textile workers were referred to jobs at the plastics plant. Practically without exception they refused to accept such employment, on the grounds that this was not suitable as described in the law.

Previously it had been the policy in New Hampshire, as in other States, not to refer applicants to jobs where the rate of pay was very much below the average rate that the worker had been able to earn over a period of time; other factors, such as the skill of the individual and character of the employment were taken into account in determining a suitable job offer.

In this case, however, the local employment office immediately denied unemployment benefits to the individuals who had declined to work in the plastics plant. The policy was definitely enunciated by the State that any job which paid no less than the Federal minimum of 75 cents per hour was a valid job offer. Indeed, that is the rule in New Hampshire today. If an unemployed person rejects a job paying rates at or close to the statutory wage, he or she is cut off from benefits at once. The effect on the morale of the workers throughout our State has been widespread and harmful; the depressing effect of this policy on the economy of New Hampshire has been significant.

As an indication of how a policy of this type affects working people, let us cite this simple incident: We attempted in the past few days to persuade several of the men and women who had figured in this particular case back in 1952 to come to Washington with us to tell their stories firsthand. Those we contacted who are still employed have jobs of a sort in nonunion plants. They told us that they dared not expose themselves to publicity for fear of again being out of work. The injustice which they suffered in 1952 rankles deeply. They resent what has happened to them, but the fear which is prevalent in New Hampshire and other nearby States where textile plants have closed down or migrated has destroyed

the courage and blighted the outlook of thousands upon thousands of workers including men and women who have been stanch trade unionists most of their lives.

To return to the chronology of the case we are discussing; the individuals whose unemployment benefits had been revoked as a result of declining jobs in the plastics plant appealed the decision of the area director of employment security. A full-scale hearing was held on these appeals. The TWUA–CIO volunteered its services as advocate for this group. We regret to state that our copy of the transcript of that hearing was recently destroyed in a fire in the office building we rented in Manchester, N. H. The State officials we contacted for loan of another copy of that record could not find one for us.

The result of this appeal was that about half of the individuals were ordered reinstated to the unemployment rolls. The big majority were denied benefits. We cannot understand how the remaining were allowed benefits.

The issues involved were, of course, taken up with Mr. Newell Brown. He stood flatly, and indeed enthusiastically, on the policy that these grossly substandard wages and manifestly substandard conditions that figured in the plastics case constituted a valid job offer.

The three major labor groups in New Hampshire, the State Federation of Labor, Railway Labor and the State CIO, appealed this issue to then Governor, Mr. Sherman Adams. There was a full-scale conference in the Governor's office where every effort was made to show the Governor that Mr. Brown's policy as regards suitable employment should be reversed or superseded. We were not successful—the Brown policy stood and still prevails.

During that period and later, the officers of the CIO State Council in New Hampshire had frequent dealings with Newell Brown as director of employment security. We differed with him on several other vital issues, 1 or 2 of which, we believe, might be of concern to this committee. We shall go into those issues if time permits.

The point we feel we must emphasize, however, in these proceedings is this: In our contacts and discussion with Newell Brown it became evident to us that this gentleman, though affable and alert, has basic convictions and attitudes which, in our judgment, should certainly disqualify him for the position he has been named to. It is our observation and belief that Mr. Brown is fundamentally in disagreement with the assumptions or, if you will, the social ethics, which justify the enactment of legislation providing for minimum wages and maximum hours. Indeed, we have formed the conclusion that Mr. Brown rejects the basic principle which underlies our State-Federal insurance system.

Mr. Brown is, we agree, a fine chap. We like him socially. But the more we know him, the wider is our essential disagreement, both as to the nature of working people and the character of our economy. Essentially, Newell Brown feels that laws such as the Fair Labor Standards Act and the legislation which sets up our unemployment insurance are not really necessary and are actually a handicap which business must overcome. It is our view that the Congress of the United States agrees with us that such laws are essential, both from the standpoint of humanity and social justice, and have been practically demonstrated beyond all doubt to be as necessary and beneficial to the fair employer as to the average employee.

Moreover, we hold that the experience of New England, especially in the past several years, has shown a liberal and wholehearted administration of both types of legislation to be quite essential to the stability of the entire economy of that region.

We recommend and urge that the Congress reaffirm the public policy which has caused this body to adopt these statutes, minimum wages and unemployment insurance, by promptly rejecting the nomination of Newell Brown as Administrator of the Wage and Hour Division.

Senator DOUGLAS. Now, may I ask a question? I think the point involved here is whether there was available work in the industry in which these men were formerly employed. Then if there was not work available, how long should they be given before they were required to take work in other industries, even though it meant a lower wage?

Mr. BOTELHO. I would like to answer that, Mr. Chairman. You see, one of the reasons why I respectfully submitted to you that the

testimony be subpenaed is because you will find in there that these people who were being referred to the plastics had long histories of employment with Textron and with Nashua, the predecessor to Textron. None of them, through the entire history of the unemployment compensation law—none of them, up to the time of the shutdown of Textron, ever received one penny in unemployment benefits by reason of the fact that they were laid off or quit employment, and they were seeking other work.

They were laid off in November and December of 1951, and they were referred to work in the plastics, about 6 or 7 or 8 weeks after their layoff. Meanwhile, they were trying desperately to find work in their own occupation.

Senator ALLOTT. Mr. Chairman, he has referred repeatedly to this matter. I have before me Unemployment Compensation Division, Hearing on Appeal, Nashua, N. H., April 10, 1952, which I believe is the record he referred to, and I would like to have the gentleman identify it. This is half of it, I think.

Mr. BOTELHO. That is half of it.

Senator ALLOTT. Is that the record you want subpenaed?

Mr. BOTELHO. Yes. This is 1 day of hearings. There were two of these.

Senator DOUGLAS. Is this the hearing before Governor Adams?

Mr. BOTELHO. No. This is the hearing that I asked you to subpena the transcript on. This is only 1 of 2. There are two of them.

Senator ALLOTT. We don't have the second day, but we are perfectly willing to offer this, if the Chairman wants it, or if this gentleman wants it, either one.

Senator DOUGLAS. We appreciate that.

Mr. BOTELHO. I suggested that it be made available to the committee, so I have no objections.

Senator ALLOTT. You have been asking for it. I know you wouldn't object to it.

Mr. BOTELHO. I had a copy of that. That is the famous copy that I had that was burned, but the second part of that I was never able to get, for one reason or another. I requested it but it was never made available to me.

Senator DOUGLAS. Here is the point I would like to come back to: You say the unemployed men were given 8 weeks' benefits and they could not find work in the textile industry?

Mr. BOTELHO. Some were given less than that, Senator.

Senator DOUGLAS. Some were given less?

Mr. BOTELHO. Yes, sir.

Senator DOUGLAS. How many were given less and for how long?

Mr. BOTELHO. It will show in that transcript. To my memory, I know that many were given less, but how many I can't say at the moment, because this happened in 1952.

Senator DOUGLAS. They did not find work in the textile industry?

Mr. BOTELHO. They were unemployed and they were trying to locate themselves in their own occupations. Some of them, as Mr. Pitarys testified, went even out of the State looking for employment.

Senator DOUGLAS. And couldn't find it?

Mr. BOTELHO. And they couldn't find it.

Senator DOUGLAS. They drew unemployment compensation?

Mr. BOTELHO. That is right.

Senator DOUGLAS. After a period of time they were referred to work in the plastics factory at 75 cents an hour, which was very much less than what they had been receiving?

Mr. BOTELHO. They had earned a minimum of $1.18. That is the least that 1 of them earned, 1 person. The others were making over $1.50 to $1.70 an hour.

Senator DOUGLAS. Of course, this is one of the most difficult problems in the whole administration of unemployment insurance, namely, how long you will give it to them to compensate for work in their former employment, before you impose a test as to seeking other occupations. The New Hampshire law that Senator Goldwater introduced states on page 25 that—

> No work shall be deemed suitable and benefits shall not be denied under this chapter to any otherwise eligible individual for refusing to accept new work under any of the following conditions: (*a*) if the position offered is vacant due directly to a strike, lockout, or other labor dispute; (*b*) if the wages, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality.

And the question is whether this rate of 75 cents was less than the going rate in the plastics industry.

Mr. BOTELHO. No. I would like to develop another interesting aspect showing why we have apprehensions of Mr. Brown serving as a fair administrator of the wage and hour setup. He made a declaration to me in the presence of others, in the presence of the Governor of the State at that time, that in his opinion he would consider employment suitable where the wages being paid at least met the Federal requirements.

Senator DOUGLAS. Of 75 cents an hour?

Mr. BOTELHO. That is right, sir, and he then said to me——

Senator ALLOTT. Will you identify the time and place for this, please?

Mr. BOTELHO. Yes. This was said to me at the Governor's chamber——

Senator ALLOTT. So that he may testify properly to it at the proper time.

Mr. BOTELHO. This was said to me in the Governor's chamber at the hearing before the Governor and the attorney general of the State, before George Fecteau, before Emil Simard, and others, Brown said to me, "How can we get industry to come into New Hampshire if we can't assure them that there is a ready labor supply here for them?"

Senator DOUGLAS. Is this made part of the record?

Mr. BOTELHO. I will testify to this under oath, that he said this to me in the presence of the men that I told you. And I told him that I had no objections to luring industry into New Hampshire, provided, however, that they wouldn't use the Division of Employment Security as an instrumentality to force workers under penalty of losing their unemployment benefits to take jobs in those industries.

Senator DOUGLAS. Of course, the law does not say the work is unsuitable if wages are less than the minimum fixed by the Federal standard. But it says—

> If wages and other conditions of work are substantially less favorable to the individual than those prevailing for similar work in the locality.

So I would like to raise the question as to what the prevailing rate was for the plastics industry in that locality, if there was one plastics factory.

Mr. BOTELHO. There was only one plastics plant.

Senator GOLDWATER. The plastics plant started up after Nashua was closed?

Mr. BOTELHO. No. It started up prior to the complete closing of the Nashua Manufacturing Co.

Senator ALLOTT. It was a different geographical entity. It wasn't the same location?

Mr. BOTELHO. No.

Senator ALLOTT. The same buildings or anything like that.

Mr. BOTELHO. That is right. It located in the old Nashua building, when Textron consolidated Nashua into the Jackson Mills. Then this plant came into the old Nashua building.

Senator GOLDWATER. Who set that wage scale of 75 cents in the plastics plant?

Mr. BOTELHO. I can't answer that question.

Senator GOLDWATER. I think I can answer it for you. I imagine management set it. That is the minimum wage prescribed by the United States, and New Hampshire, as I understand it, does not have a minimum-wage law.

Mr. BOTELHO. They have a State minimum wage of 50 cents an hour, I think.

Senator GOLDWATER. Pardon me?

Mr. BOTELHO. They have a State minimum on intrastate commerce that doesn't involve interstate. You are correct.

Senator GOLDWATER. In other words, this 75 cents was set by management of a new industry just coming into New Hampshire?

Mr. BOTELHO. That is right.

Senator GOLDWATER. I will tell you that I don't agree that management was right. I think any management that would set a price that low ought to be looked into, but what I am getting to is if Mr. Brown was not violating the law when he said suitable employment in the plastics field would pay 75 cents an hour. The law pretty much ties him down to what he can and what he cannot do.

Do you think that Mr. Brown at any time was violating the law in taking the position that workers must accept the jobs to which they were referred, or lose unemployment compensation benefits?

Mr. BOTELHO. Well, let me answer that if I may.

Senator GOLDWATER. Was he breaking the law?

Mr. BOTELHO. No; he made the ruling. He made the ruling by law.

Senator GOLDWATER. Didn't he have to make that ruling?

Mr. BOTELHO. By law he has the authority. You see now why we are here, Mr. Goldwater?

Senator DOUGLAS. If I may interrupt, we will recess for 5 minutes.

(Short recess taken.)

Senator DOUGLAS. We will come to order again.

I wonder if the stenographer would read the question and the witness then reply. And Mr. Cruikshank wants, I believe to enter the fray.

Senator GOLDWATER. I asked a question.

Senator DOUGLAS. Would the stenographer read the question that Senator Goldwater asked?

(Question read.)

Senator GOLDWATER. The essence of the question was, did Mr. Brown break the law when he took the going wage in an industry which was also the minimum wage of the Federal Government, namely, 75 cents?

Mr. EDELMAN. Mr. Chairman, might I ask, a very knowledgeable person on this side of the table in matters of this kind—Mr. Cruikshank—to answer that question.

Senator DOUGLAS. I will rule that the witness can say that he is not a lawyer and doesn't want to go into it if he wishes, and then at an appropriate time I will recognize Mr. Cruikshank, but I don't think Mr. Cruikshank should immediately answer for the witness.

Senator GOLDWATER. I think it is fairly easy one to answer. I have no objections to Mr. Cruikshank saying yes or no to the question. I think a lot hinges on this. My line of questioning is trying to pin down just what these gentlement have against Mr. Brown, and I can't find anything in the testimony so far that indicates that Mr. Brown can be charged with malfeasance or anything else. That is why I was interested in an answer to this question.

Mr. CRUIKSHANK. Mr. Chairman, might I make a statement in the hope that it might clarify the situation that is before the committee?

Senator DOUGLAS. Yes, sir.

Mr. CRUIKSHANK. I will do so.

Senator DOUGLAS. With the understanding that you are not answering for the witness.

Mr. CRUIKSHANK. That is right; yes, sir.

Some minutes ago Senator Goldwater read the entire section that relates to suitable work, and there are two parts of this: In the first place, this is one of the requirements that is in the Federal law, which must, by the title of the Social Security Act and the Internal Revenue Act, be included in every State unemployment compensation law. Consequently, you find it included verbatim in all the State laws, including, of course, the New Hampshire laws. When it comes to suitable work determination there is considerable latitude for exercise of judgment on the part of the administrator.

There are two parts of it. The first is one you have been discussing for the last few months. When a worker who is drawing benefits or establishing a claim for eligibility for benefits is referred to work, he cannot decline suitable work and still continue to draw benefits. What is suitable? One, if the wages paid are substantially less than the wages paid for work in that industry, or like occupation in that area. However, the original lawmakers realized that that was not sufficient to establish suitability of work, for a reason quite similar, I take it, to the situation that has been described here in New Hampshire, although I am not familiar with that particular case. It would be possible for a single industry to come into an area and be the only industry offering like kind of work.

Therefore, the wage which they would set and pay would be the only wage applicable. No one could show that there were better wages being offered for similar work or for like industry in the area, if that were the only industry or only occupation of that kind in the area, so as an additional protection was introduced into the law, and that is the one which was read a few moments ago, but which has not come under discussion; that additional protection is that in determining the

suitability of work the administrator must take into account the conditions of work as they affect the health and morals of the worker, must take into account the help situation prevailing there and must take into account also the capacity of the worker and his previous skill and training and also his previous earnings, so that it prevents the probability of just a single industry coming in on its own record, establishing the basis.

It is on that account that you do not, for example, refer an unemployed violin player to digging a ditch. The work might be there, it might pay and all of the other conditions may be met, but you do not take into account his previous earnings and occupations.

While I am not familiar with the case, I gather from my knowledge of employment compensation, what the gentleman here was complaining of, was that in view of the fact that the lowest earnings that the workers in the textile industry had received were $1.18 an hour, and they ranged up to $1.75, or thereabouts; and declaring that 75 cents an hour was suitable work was a departure from the law on the part of the administrator in view of the fact that it did not take into account the previous training and previous working record of the worker.

I offer that in hope it will clarify the situation.

Senator DOUGLAS. Thank you very much.

Senator GOLDWATER. Let me ask that question. Mr. Cruikshank has indicated that it was at variance with the law. In this particular case—and we are on this particular case of the plastics plant—suppose the administrator said that the wages should have been $1. It couldn't have been because the plant itself was paying 75 cents, is that correct? I mean he couldn't have upset that particular pay scale.

Mr. CRUIKSHANK. No. He wouldn't have attempted to do that. It wouldn't have come within his jurisdiction or responsibility as an administrator. The way he gets into the determination of the wage is simply that when the employment service refers people to those jobs, they can turn it down and still be eligible for this unemployment compensation benefit on the grounds that it is not suitable, but I take it from what I have heard here today that the administrator in this case, when they did turn it down, said that their reason for turning it down was not valid, because it was suitable. He took into account that it was the only wage being paid in the plastics industry in the area, but as I understand these gentlemen are saying that he did not take into account the other provisions that are written in both the Federal and State statutes for determining what is a suitable job.

Senator DOUGLAS. The appropriate passage which Senator Goldwater read, but which should be read again is 4 (c) (1). I had read 4 (c) (2):

> In determining whether or not any work is suitable for an individual, the Commissioner shall consider the degree of risk involved to his health, safety and morals, his physical fitness, his experience and prior earnings, his length of unemployment, prospects for securing local work in his customary occupation and the distance of available work from his residence.

Senator GOLDWATER. I read that.

I have one more question and I will be quiet for a while. Was this plastic plant organized?

Mr. BOTELHO. Yes, it was.

Senator GOLDWATER. Who by?

Mr. BOTELHO. By the Playthings and Novelty Workers Union.

Senator GOLDWATER. Is that a member of the CIO?

Mr. BOTELHO. Yes it is an affiliate of the CIO.

Senator GOLDWATER. That is the easiest I ever heard of the CIO ever letting anybody off at a minimum wage. Wouldn't you say the union was at fault in not providing a better minimum wage?

Mr. BOTELHO. I spoke out very loudly on this thing on the record so that all could hear.

Senator GOLDWATER. Before I knew—and I found it out during the recess—before I knew that the CIO was involved in an organization effort there, I voiced my opinion at people who would pay 75 cents an hour. That still goes.

Mr. BOTELHO. I agree with you.

Senator GOLDWATER. I am glad you learned your lesson.

Mr. BOTELHO. I had nothing to do with it. Let me for the record inform you, sir, that the CIO is comprised of a lot of international unions and each is autonomous within its own right.

Senator GOLDWATER. Can each one speak for itself?

Mr. BOTELHO. They have their free agents to negotiate agreements covering people in their respective industries.

Now, very frankly, this matter was brought to the attention of the principals of that organization, as a result of this disclosure to us of the conditions in that plant. Since then I understand that there have been some remedial actions taken by that union.

Senator GOLDWATER. Each of these internationals can act for themselves then in matters like that?

Mr. BOTELHO. They negotiate their own contracts, yes. I am in textiles. I don't negotiate for auto any more than auto negotiates for me.

Senator GOLDWATER. Can they speak for themselves?

Mr. BOTELHO. They generally speak in concert on legislative matters through CIO.

Senator GOLDWATER. Generally?

Mr. BOTELHO. Yes.

Senator GOLDWATER. Once in a while it is all right?

Mr. BOTELHO. They go off the reservation like Senators do every once in a while.

Senator GOLDWATER. That is a privilege we have. We use it, I will admit.

Mr. BOTELHO. A lot of Republicans and Democrats don't see eye to eye on legislative matters. Still they are Democrats or Republicans.

Senator GOLDWATER. Mr. Fecteau was in his bounds then?

Mr. BOTELHO. Are we back to him again?

Senator GOLDWATER. We will never get off him. He is a delightful fellow, I assume.

Mr. BOTELHO. A wonderful man.

Senator ALLOTT. I would like to straighten up the record in a couple of instances, Mr. Chairman.

Mr. Botelho, you stated a while ago—and I believe I am quoting you correctly—that if a person was disqualified for suitable work refusal, and here is the quote, "the man fails to receive benefits thereafter," and I don't think you meant that.

Mr. BOTELHO. No.

Senator ALLOTT. That is what you said. I don't think you meant it.

Mr. BOTELHO. Of course I didn't. First of all, I don't agree with what—I don't agree at times with what determinations are made by Mr. Brown's office on suitable employment.

Senator ALLOTT. That isn't the case I am bringing up. The point of it is that he is not disqualified for payments thereafter. It is a 4-week period under this law that has just been read.

Mr. BOTELHO. Except in the case of Nashua plastics. People were disqualified, and then they were referred back again to Nashua Plastics, after their 4-week period was over, and they were disqualified again.

Senator ALLOTT. We have already gone through that, and that this was the CIO union that owned this place.

Mr. BOTELHO. That what?

Senator ALLOTT. It was the CIO union that owned this place.

Mr. BOTELHO. Owned it?

Senator ALLOTT. Organized it, this Textron deal, the plastics.

Mr. BOTELHO. Let's say there was a union allegedly representing workers in that plant at that time, and let it go at that.

Senator ALLOTT. All right.

Now, isn't it true that the word "suitable" as used is ultimately a question for the courts?

Mr. BOTELHO. No, sir. I beg to differ. It is not. The word "suitable" is determined at the administration level, and this rate and authority is vested in the head of the division of employment security. He makes that determination, and if he says——

Senator ALLOTT. I suggest, Mr. Botelho, that you listen to my question and just don't say "no" because I asked it.

I asked if it wasn't a fact that the determination of what is suitable employment must ultimately and finally be a decision of the courts, through an appeal to the tribunal and from there to the courts?

Mr. BOTELHO. I have had no experience in that regard, sir.

Senator ALLOTT. You have testified before about these procedures, and that the man had an appeal from Mr. Brown, in this instance, to the tribunal. You have also testified about causes that you took then to the tribunal.

Mr. BOTELHO. Yes.

Senator ALLOTT. You have testified also that there is an appeal beyond that to the courts.

Mr. BOTELHO. If you are not satisfied with the decision of the tribunal, you then can appeal to the courts. I said I have had no experience in that matter because I never took appeals beyond the panel.

Senator ALLOTT. On the question of what is suitable, that is ultimately a question for the courts.

Mr. EDELMAN. Might I say that organized labor feels very strongly, Mr. Senator, that if any significant number of cases have to be carried to the courts, as a matter of actual practice, that you have an administration which is not fulfilling the public policy, which seems to us Congress envisaged.

Senator ALLOTT. Now, sir, wait a minute.

Mr. EDELMAN. The assumption——

Senator DOUGLAS. Let's have order.

Senator ALLOTT. I was addressing a question to this gentleman, sir.

Mr. BOTELHO. What is your question again, Senator?

Senator ALLOTT. I will repeat my question, that the determination ultimately of what is suitable—we will go into this question which this other gentleman has raised in a few moments—the question of what is suitable is ultimately to be defined by the courts in accordance, I might say, with everything that is American in tradition.

Mr. BOTELHO. Can I answer that question, in my way?

Senator ALLOTT. You can answer it yes or no very easily.

Mr. BOTELHO. I don't want to answer yes or no. I would like to answer in my way.

Senator DOUGLAS. Truth is a complicated matter and I think you have that right.

Mr. BOTELHO. We are not in a court of law, we are honest men with an honest difference of opinion, and I think we should be permitted to exercise honest differences in our own way if we may.

Senator ALLOTT. Go ahead and answer it and I will ask you another one.

Mr. BOTELHO. May I answer now?

Senator ALLOTT. Yes.

Mr. BOTELHO. Any decision made in New Hampshire covering unemployment compensation by the division of unemployment insurance, either by its director, its attorneys, or its appeals tribunal, can ultimately be referred to the courts of that State, if the person so aggrieved desires to do so.

Now, the crux of the matter is that if you do move beyond the panel to the courts, then you become involved in costly litigation. No worker can afford that type of litigation. He has challenged us to the courts. We have told him that these people just don't have the money to go to the courts. That is why this law has not been tested. And even if it was, in my opinion, the only thing that could come out from it would be a decision by the courts that this man is empowered to make a ruling by law, and this was his ruling, and the power was vested in to him by law and it was his ruling and you can't appeal from that ruling. That is where the whole crux of this situation arises.

Senator ALLOTT. All right. You have answered my question, then, which is that in a given case, if the question is whether or not there is suitable employment, it goes on appeal from the administrator—not of the unemployment department, but the employment security department——

Mr. BOTELHO. That is the same man.

Senator ALLOTT. It is not unemployment but employment security if you want to be technical here, and it goes on an appeal from the tribunal to the courts, so it would be a court, which in the final analysis said whether this was suitable employment or not; is that right?

Mr. BOTELHO. If you took the case there, it would be a decision by the court.

Senator ALLOTT. Now, I will ask you this question, whether or not any court has ever decided with respect to Mr. Brown's decisions on these matters, that he has been wrong and reversed him?

Mr. BOTELHO. I can only answer from my own personal experience. I have never tested the decisions of Mr. Brown in the courts.

Senator ALLOTT. Now, did it ever occur to you, Mr. Botelho, that you might have the situation of a man who was trying to do his job honestly and who honestly desired an opinion of the court as a guide to what was suitable employment?

Mr. BOTELHO. I would say in this case that when Mr. Brown made the decision on suitable employment in the Nashua area, he made it with the full knowledge and belief that he was going to cause a forced recruitment of workers to the Nashua Plastics Co., under penalty or pain of losing their unemployment benefits, and he did it with that knowledge beforehand, and significant to note——

Senator ALLOTT. I would like to have you answer my question.

Mr. BOTELHO. I have answered it.

Senator ALLOTT. You can go on, but I would like to have you answer my question.

Mr. BOTELHO. Let me go on, if I may.

Senator ALLOTT. I would like to have you answer my question.

Mr. BOTELHO. I have answered it.

Senator DOUGLAS. Would the stenographer read the question?

(Senator Allott's question was read.)

Mr. BOTELHO. I answered that. Do you want to hear what I answered?

Senator ALLOTT. If you don't have a different answer, there is no point in reading the answer.

Mr. BOTELHO. I don't believe he was looking for an honest and sincere answer from the courts on this question.

Senator ALLOTT. In other words, you impugn his motives completely?

Mr. BOTELHO. By reason of his actions in the plastics case, as the testimony that you have before you in that transcript would certify.

Senator ALLOTT. May I have that newspaper article, please?

Mr. EDELMAN. I am trying to locate it.

Senator ALLOTT. I would like to read into the record a part of this letter, which Mr. Botelho has introduced, which has not been discussed, paragraph 4, and I quote——

Senator DOUGLAS. Is this the Newport matter?

Mr. BOTELHO. This is the Newport matter.

Senator ALLOTT. This doesn't show. They detached it.

Mr. BOTELHO. That letter was written by Mr. Brown dealing with the Dorr weavers, not the plastics matter.

Senator DOUGLAS. From the Claremont Eagle?

Mr. BOTELHO. Yes. We went by that an hour ago. Are we back to it again?

Senator ALLOTT. You were talking so fast I couldn't get in.

Entirely aside from this particular case, it appears to me that procedure ill advised and possibly an attempt to bring undue pressure for a man to attack without warning and publicly the employee of an organization when he knows that basic responsibility rests with its boss. Mr. Tonkin could not defend himself because the reply, if any, must properly come from this office. The criticism, therefore, should be directed to me. Mr. Botelho did not and has not yet complained to me of Mr. Tonkin's performance, although you will note that in one article he states his intention of complaining to this office.

Mr. BOTELHO. That reference he makes to a public assault——

Senator ALLOTT. There is no reference to a public assault.

Mr. BOTELHO. A public attack, or whatever it was on Mr. Tonkin, the reference that he makes there is to the statement that I made as a result of the testimony given by Mr. Tonkin under oath.

Senator ALLOTT. Is that letter true, that you had not complained to his office at the time that letter was written?

Mr. BOTELHO. I sent him a letter shortly after the hearing advising him that I was going to take the matter up with him, and it is in this sequence of letters that I am giving here as exhibits, for your edification. It is in this sequence of letters; the whole story is here, Senator.

Senator ALLOTT. Is that statement true, that you had not at the time that letter was written complained to his office?

Mr. BOTELHO. What date is the date of the letter?

Senator ALLOTT. You have it.

Mr. BOTELHO. What is the date of that clipping?

Senator ALLOTT. You have it there.

Senator GOLDWATER. It is on top of the sheet.

Mr. BOTELHO. I have it on another sheet.

I don't know what the date is that Newell Brown sent this letter to the paper.

Senator ALLOTT. Of your own recollection, Mr. Botelho, is that statement true or false?

Mr. BOTELHO. That I didn't discuss the matter with Brown? I had sent him a letter, subsequent to the hearing, requesting an audience with him to take up this matter. I did take this up with him subsequently, but he went ahead, and not only did he write this to the paper——

Senator ALLOTT. Wait a minute. If you say that then you are saying that the statement is false?

Mr. BOTELHO. What statement is that?

Senator ALLOTT. That he had in that letter.

Mr. BOTELHO. Let me see if I have a copy of the letter I sent.

I have it here somewher, if you will wait just a minute. I will quote you the date on my letter. He sent me a letter dated May 11, calling my attention to this article in the paper.

Senator ALLOTT. Calling your attention to the article in the paper?

Mr. BOTELHO. Yes.

Senator ALLOTT. What is the date of that article?

Mr. BOTELHO. May 11 is the date of the letter he sent me calling my attention to the article.

Senator ALLOTT. What is the date of the article?

Mr. BOTELHO. This letter is not dated. You would have to get it from him. He has the original.

Senator ALLOTT. You have a paper attached to that which gives the date.

Mr. BOTELHO. I had a paper attached to this that came from one of the workers in the area, and this letter appeared, I assume, the day before, and I can only assume that, based on the letter that I got. I got a letter here dated May 16, 1951, from Gladys George and S. Ellen Wertenan. They say here:

DEAR MR. BOTELHO: I am sending you this clipping from tonight's Claremont Eagle.

So this clipping was in the Claremont Eagle on May 16, 1951.

Senator ALLOTT. When was your letter written?

Mr. BOTELHO. My letter was written May 15, 1951.

Senator ALLOTT. So the statement is true that that appeared in the paper and you allowed a day for transmission through the mails and publishing, that statement is true that at the time it was written he had not received a complaint from you?

Mr. BOTELHO. He sent me a letter on May 11 calling my attention to this article in the paper. I answered him on May 15. On May 15, or the 14th, he must have sent this letter to the Claremont Eagle that appeared on May 16.

Senator DOUGLAS. So these letters crossed each other?

Mr. BOTELHO. They crossed each other in the mail.

Senator ALLOTT. May I see your letter, please.

Mr. BOTELHO. You may.

Senator DOUGLAS. While this exchange of correspondence is going on, the Chair would like to remark that the time is also moving. These gentlemen have to take a 10 o'clock train and while I don't wish to shut off anybody——

Mr. BOTELHO. I found out that is standard time. It is 11 o'clock daylight saving time.

Senator DOUGLAS. I would like to ask the gentlemen this question: Do they have more substantive material to introduce, or are they going to confine their testimony to these two cases?

Mr. EDELMAN. To these two cases.

Senator DOUGLAS. These two cases?

Mr. EDELMAN. Yes, sir.

Senator ALLOTT. So assuming that if it was published on May 16, his letter, of which he probably has a copy—do you have a copy of that letter?

Mr. BROWN. I don't think so. I didn't think this issue would ever come up, sir.

Senator ALLOTT. It would be in your office?

Mr. BROWN. I would have it at home; yes, sir.

Senator ALLOTT. His letter would have to have been dated prior to May 16 and it was true as stated in his letter that you had not taken it up with his office at the time his letter was written?

Mr. BOTELHO. If I may, Senator, if you will read the letter before that one, you will note it is dated May 11. He mailed it out to me May 11. I assume it took one day to get to me. I could probably be in Lebanon, N. H., on the 12th, or in Laconia, or up in the other end of New Hampshire on the 13th, so I sent him a reply that I believe was within a reasonable time. If everybody could answer their mail as expeditiously as I answered that letter I think we would have a good system in America. Sometimes I send letters and wait months for answers, especially when I write to an employer for a wage increase.

Senator DOUGLAS. I would invite you to come down to one of the senatorial offices to assist us with our correspondence.

Senator ALLOTT. I quote from his letter to you:

> I note in a recent edition of the Claremont Eagle that you have again criticized Mr. Tonkin of our Claremont office rather strongly. It appears to me that you may be under some misapprehension as to Mr. Tonkin's functions. While it is true that responsibility for making initial decisions in the local office is delegated to the certifying officers, of whom Mr. Tonkin is one, it is also true that they refer for advice and assistance to the legal and other sections of this office, when they run into a case which is particularly complicated, and they are guided by the interpretations which we give them. In the Door Woolen case

Mr. Tonkin asked for advice and acted on the advice given. His rulings, therefore, had the full support of this office—

and this is the letter that was written to you on May 11.

Then he wrote the subsequent letter to the Claremont Eagle, is it?

Mr. BOTELHO. Yes, the Claremont Eagle, and Emil Rieve at the same time.

Senator ALLOTT. To the Claremont Eagle and the statement—and this is the one thing I want to bring out—in his letter to them at the time he wrote it, and as confirmed by the date on your letter, he had not received in his office any complaint from you on this case?

Mr. BOTELHO. Do you think you are being fair with me at this point, Senator? May I ask that question?

Senator ALLOTT. I am asking you a fair question. I certainly am. I want you to be fair with Mr. Brown.

Mr. BOTELHO. I am trying to be fair. Any answer to Mr. Brown's letter of the 11th is dated the 15th. Around the 14th he sends a letter to the newspaper, and in that letter to the newspaper he states that I failed to answer him.

Senator ALLOTT. So his letter at the time it was written is true, that you had failed to file a complaint with him up to the time he had written his letter?

Mr. BOTELHO. Well, if you are going to assume that when you correspond with each other, being reasonable people, you allow certain times. I must agree that it was true, that I had not answered his letter at the time that he sent that letter.

Senator ALLOTT. I must say sometimes I don't get my letters answered promptly, either, but I think it is important that the record be made clear.

Mr. BOTELHO. I will concede that is a true statement by Mr. Brown. I say from Mr. Brown.

Senator ALLOTT. I would like to refer to the statement filed by you for the purpose of keeping the record straight, on page 4. You have corrected the second full paragraph of that to read:

> The result of this appeal was that one-half of the individuals were ordered reinstated to the unemployment rolls.

Now, I continue the quotation from the statement:

> The big majority were denied benefits.

Now, in the light of what you have testified here tonight that statement no longer is true?

Mr. BOTELHO. Well——

Mr. EDELMAN. The majority.

Mr. BOTELHO. The majority were denied benefits. It wasn't the big majority.

Senator ALLOTT. You said 35 were given them. That is not the big majority.

Mr. BOTELHO. This is to my best recollection at this time. There were approximately 70 cases. There could have been 68 or 72, but for the purposes of rounding the thing out we will say 70. Of that 70 approximately 30 to 35, or 30 to 33, were found to be eligible for employment security benefits, unemployment compensation.

Senator ALLOTT. And to take up the rest——

Mr. BOTELHO. The rest of them were denied benefits.

Senator ALLOTT. To take up the rest of the paragraph:

Why those few persons were allowed benefits and all the rest denied, we could not understand at the time, and can understand less now.

So that statement should come out, too.

Senator DOUGLAS. The chairman observes that they corrected this as entered and instead of saying 5 or 6 individuals were ordered reinstated, they corrected that to approximately 5. That would modify the sense of the two following sentences.

Senator ALLOTT. Well, I might say, Mr. Chairman——

Senator DOUGLAS. The correction has already been made.

Senator ALLOTT. I understand the correction has been made but they didn't correct this statement, which places a very great burden on Mr. Brown. They can't understand why all the rest were denied.

We could not understand at the time, and we cannot understand even less now.

I would think they would want to correct that portion of the statement.

Mr. BOTELHO. That portion of the statement should be stricken from the official testimony that was given here by Mr. Edelman, because it is an error, as we have testified.

Senator DOUGLAS. Perhaps you will substitute "We cannot understand how the remaining were allowed benefits."

Would you substitute that?

Mr. EDELMAN. Yes.

Senator ALLOTT. Isn't it true, Mr. Botelho, that your entire CIO was interested in the Textron case?

Mr. BOTELHO. The entire CIO?

Senator ALLOTT. Yes.

Mr. BOTELHO. All of the labor movement in New Hampshire was interested in the Textron case.

Senator ALLOTT. Why was it not carried up if all of the labor movement in New Hampshire was interested in it so that a decision could be obtained?

Mr. BOTELHO. We went as far as we thought we could go seeking a fair solution to the problem. When we exhausted that means, that avenue of seeking that solution, it was our best judgment at that time that—our interests would not be served any better to go further, for reason of the fact that (a) court litigation would be expensive. The people involved in this matter were reluctant to embark on that type of a program.

Senator ALLOTT. I think that is all I have at the moment. Mr. Chairman.

Senator DOUGLAS. Do you have anything, Senator Goldwater?

Senator GOLDWATER. No.

Senator DOUGLAS. I think I have no further questions to ask.

I take it that you feel that in the Nashua case Mr. Brown did not give sufficient weight to the previous earnings of the employees and should not have insisted as quickly as he did that they accept employment at 75 cents an hour in the plastics industry, but he should have given them more time to try to find work in their previous occupation?

Mr. BOTELHO. That was one facet of our complaint, that they weren't given sufficient time. These weren't people who were chronic unemployees. They were honestly trying to find work in their own occupations.

Our second complaint with him was that we thought that he did supersede the authority vested in him when he denied unemployment benefits to people who, upon going through the referral office of Nashua. These workers presented to that referral officer certificates from a doctor certifying that it would be injurious to the health of this worker to cause that worker to go to work in that plant, and in spite of that, the referral officer referred that worker, and the worker refused to go, and then was denied unemployment.

Senator DOUGLAS. Were such doctor's certificates presented to the employment officer?

Mr. BOTELHO. Yes. It is in the testimony, that they had presented certificates of disability to the referral officer in Nashua, and his answer to that was that he had instructions from Concord to disqualify everybody who refused to go to work in that plant.

Senator DOUGLAS. You charge that the plant was insanitary because of odor which caused skin eruptions and severe nausea, and also because there was water in the plant?

Mr. BOTELHO. The greatest health hazard there was the fumes. They worked with a lot of acid. You would be working in one room, and the acid fumes would seep through the doors into the other room, and it would make women sick, and people who had a respiratory ailment found that it was difficult to breathe, and it was borne out, and it is interesting to note in this case that an investigation was conducted as to the fumes, etc., by this tribunal, by the panel. They went into the plant. They made a tour of the plant, and they found that if you walked on the outside of the plant you got the fumes. There were complaints from the neighbors about the fumes that emitted from this plant into the area surrounding the Nashua plastics.

Senator DOUGLAS. The textile workers might be particularly susceptible to this because there is a high percentage of lung trouble with textile workers isn't there.

Mr. BOTELHO. There were some who had problems with their lungs, and so forth, and they were supersensitive, let me say, to this type of work.

Senator DOUGLAS. In the rulings which were made, on what ground were one-half granted benefits and on what grounds were the other half denied benefits?

Mr. BOTELHO. As far as I can ascertain, to the best of my recollection, the half that were granted benefits, that half was able to impress the panel with the fact that if they were referred to employment in this plant they would suffer injury to their personal being.

Senator DOUGLAS. It was a health hazard which served to give these people benefits?

Mr. BOTELHO. That is right. None of them were granted benefits by reason of the fact that this work would mean a loss in pay to them of 50 to 60 cents an hour. None of those people were granted benefits. All of those people were disqualified.

Senator DOUGLAS. Do you wish to make a statement, Mr. Pitarys?

Mr. PITARYS. Mr. Chairman, I would like to, if I may, add another point at this time.

At the particular time that these cases or these people were referred to the Nashua Plastics Co., another company was making preparations to—they had settled in Nashua an electronics plant, and they were

making preparations to hire at that time, it was stated, approximately 100 or 200 employees in their plant. It was a new type of business——

Senator DOUGLAS. Was this another plastics plant?

Mr. PITARYS. No; it was an electronics plant. These people did state to the certifying officer at the time that they were referred to plastics, that "Look, we have our applications at the electronics plant, known as the Sprague Electric Co. We understand the work there is more desirable, cleaner, and the rates are somewhat higher than plastics, and we are just waiting to be called."

It was a matter of a few weeks before some of them were promised that they would be called to work in the electronics company. But the certifying officer stated "Look, there is a job at Nashua Plastics. If you don't take it you will be disqualified," and did not give any consideration whatsoever of the fact that there were jobs in sight that were more agreeable, and paid a little higher wages than what the plastic company did. They were not given any sort of consideration, but, rather, were disqualified immediately.

Senator ALLOTT. Mr. Pitarys, in that connection, assuming that the work was suitable—and I understand your position in this particular case—but assuming that the work was suitable, is there anything in the law which permits the administrator to place these people on unemployment compensation for an indefinite period until work develops? It isn't my interpretation of the law that there is any such thing in there, and I would like to know what you think about it.

Mr. PITARYS. My interpretation of the law doesn't say that specifically it should be 5 or 6 weeks, or 3 weeks, but, rather, in the interpretation of suitability you must also take into consideration the factor of wages, too.

Senator ALLOTT. I don't think you understood my question, and I will try to make it clear.

I understand what your position is with respect to suitability in this particular case, so let us eliminate that phase of it.

Is there anything in the law that you know of, assuming the suitability of the employment and the availability of suitable employment, that would permit the administrator to continue to pay people unemployment compensation for an indefinite period until work which they thought they had in the offing showed up, assuming that there was suitable employment?

Mr. PITARYS. To my knowledge, there is no definite time given, I agree with you.

Senator ALLOTT. And he would in fact, if there were suitable employment, under any interpretation you put on it, be violating the law by placing these people on the unemployment rolls of insurance, would he not?

Mr. PITARYS. And there was suitable—let us see if I understand you correctly. If there were suitable employment?

Senator ALLOTT. Yes.

Mr. PITARYS. Again, what is suitable?

Senator ALLOTT. We are not going to argue about that.

Senator DOUGLAS. That is the whole point.

Mr. PITARYS. Assuming that there was suitable employment; is that right?

Senator ALLOTT. Yes.

Mr. PITARYS. Would the administrator violate the law by continuing to pay them unemployment benefits?

Senator ALLOTT. Yes.

Mr. PITARYS. I would say yes.

Senator ALLOTT. So that if the interpretation here was, in his office, that it was suitable, then he would have been violating the law to continue them on the unemployment rolls?

Mr. PITARYS. I would not say his interpretation as to suitability was concerned, because in this case we say that his interpretation was not suitable.

Senator ALLOTT. But somebody has to determine that.

Mr. PITARYS. Yes.

Senator ALLOTT. And if he assumes his responsibilities as administrator, and determines it as suitable, then it would be unlawful for him to continue these people on the rolls?

Mr. PITARYS. We felt, and it was proven as a result of the appeals tribunal reversing the 30 or 35, in rough numbers, reversing his interpretation of the suitability, that the interpretation of suitability made by Mr. Brown was not a correct one.

Senator ALLOTT. I understand that. We have been talking about it for two hours and a half. I merely wanted to make it clear that an administrator has responsibilities other than determining suitability, and if he has in mind, or has in fact exercised the judgment which is required of him under the law to determine—and it is a very difficult thing, as the chairman has suggested, to determine what is suitable employment—if he has in his own mind determined that suitable employment is available, which is a collection of facts and experience, then he would be violating the law if he continued the unemployment insurance; that is the point I want to make.

Mr. PITARYS. Again, sir, we must bear in mind that he didn't interpret suitability only once in a manner that we felt was wrong. This was a second time that we felt that he did, by his interpretation, penalize the workers that wanted to continue to collect unemployment benefits. These workers did seek unemployment benefits because they were lazy and wished to avoid looking for employment. There were people who never did collect unemployment in their working experience, as long as the act or the law was in effect. These people were honest. They were thrown out of jobs through no fault of their own, and were being penalized by such an interpretation. That is how we felt, and how we feel that Mr. Brown, although being a swell guy, is not able and cannot administer the laws in a manner that should be fair, not only to the employer, but also to the employees, too.

Senator ALLOTT. I understand your point of view, but I merely want to repeat what I have said, that if he has determined that suitable employment is available—and I don't think you will disagree with this as the law—he then would be violating the law and violating his oath if he paid unemployment insurance.

Mr. BOTELHO. Could I answer that?

He wouldn't be violating the law. He could make another ruling the next day that employment is not suitable and, therefore, they are entitled to benefits. He can change his rulings from day to day by law. He can say today Nashua Plastics is suitable employment, and tomorrow wake up with a stomach ache and say it is not and no

one can stop him from saying it because he has the power vested in him by the statute to say that.

Senator ALLOTT. Yes; but my statement still stands, and your statement does not change it.

Senator DOUGLAS. Are there any other questions or comments?

If not, the hearing is adjourned until 10 o'clock tomorrow morning.

Mr. EDELMAN. We thank the chairman very much for giving us this opportunity to be heard.

(Whereupon at 9:30 p. m., the committee adjourned.)

NOMINATION OF NEWELL BROWN, OF NEW HAMPSHIRE, TO BE ADMINISTRATOR OF THE WAGE AND HOUR DIVISION, UNITED STATES DEPARTMENT OF LABOR

WEDNESDAY, JULY 27, 1955

UNITED STATES SENATE,
SUBCOMMITTEE ON LABOR OF THE
COMMITTEE ON LABOR AND PUBLIC WELFARE,
Washington, D. C.

The subcommittee met at 10 a. m. in room P–63, United States Capitol, Senator Paul H. Douglas, chairman, presiding.

Present: Members of the subcommittee: Senators Douglas, Neely, Smith, and Goldwater.

Present: Members of the committee: Senators Lehman, Purtell, and Allott.

Also present: Stewart E. McClure, Staff Director; Roy E. James, Minority Staff Director; John S. Forsythe, General Counsel; Frank V. Cantwell and Michael J. Bernstein, Professional Staff Members; and Grover C. Smith, Chief Clerk.

Senator DOUGLAS. The meeting will come to order. Since the meeting yesterday, we have received from the Department of Labor the report of the Federal Advisory Council concerning the Interstate Conference of Employment Security Agencies, which I will make a part of the record at the appropriate point in the testimony of Mr. Cruikshank yesterday. It is a mere statement of fact; not a recommendation on policy. It concludes by saying:

> The Bureau would be glad to have the advice and recommendations of the Council both with respect to any phase of the study or with respect to the policy questions involved.

(The report referred to appears at p. 42.)

It does not state whether the Federal Advisory Council took any action. Mr. Cruikshank, would it be appropriate for me to ask whether any action was taken, so that if action was taken, I could request the Secretary of Labor to inform us what it was?

Mr. CRUIKSHANK. You are asking me?

Senator DOUGLAS. Yes.

Mr. CRUIKSHANK. Yes, sir. There was an action with respect to this report.

Senator DOUGLAS. I will direct the staff to send a telegram to the Secretary of Labor requesting him to inform us what action, if any, he has taken.

The staff director, Mr. McClure, yesterday addressed a telegram to Hon. James B. Mitchell, Secretary of Labor, United States Department of Labor, Washington, D. C.

Senator Douglas asks me to request that you please inform the Subcommittee on Labor of the action taken by the Advisory Council at the recent meeting at Marquette with respect to the report on the activities of the Interstate Conference of Employment Security Agencies which was requested by the Council at its November 1954 meeting, and to submit a copy of this report to the subcommittee for consideration in connection with the current hearings on the nomination of Newell Brown.

STEWART E. MCCLURE,
Staff Director, Committee on Labor and Public Welfare.

Senator DOUGLAS. I would think the Secretary of Labor's reply is not fully responsive to the request and question addressed to him. He merely forwarded a copy of the report with no statement of any action taken. I now direct the staff to send a telegram immediately to the Secretary saying we don't regard that the filing of the report is responsive to the question, and we request that we be immediately furnished with a copy or statement of the action taken by the advisory council.

(The additional material referred to subsequently arrived by messenger and appears in p. 113.)

Senator DOUGLAS. Mr. Cruikshank, when you finished testifying yesterday morning, you were down to—you were two-thirds of the way down on page 5 of your statement.

Do you wish to continue from there, or is there additional material which you want to put in?

FURTHER STATEMENT OF NELSON H. CRUIKSHANK, DIRECTOR OF SOCIAL INSURANCE ACTIVITIES, AMERICAN FEDERATION OF LABOR

Mr. CRUIKSHANK. Mr. Chairman, just as I was finished yesterday, we were on this question of the inquiry into the lobbying activities—perhaps I should say alleged lobbying activities—of the Interstate Conference of Employment Security Agencies, and I would, with your permission, like to just bring in some more of the current happenings on that.

It relates also to this matter of the action of the advisory council which you are asking the Secretary for. Now, the Appropriations Subcommittee in the House—the subcommittee that handles the appropriations for the Departments of Labor, Health, Education and Welfare, and related agencies—inserted by unanimous action, I believe, of the entire subcommittee, and adopted by the entire Appropriations Committee in their report this paragraph, and I quote:

In the early days of this program—

relating to the Bureau of Employment Security program, Unemployment Compensation—

In the early days of this program, the State agency heads created an organization known as the Interstate Conference of Employment Security Agencies. Costs incident to this organization's activities are financed from this appropriation.

The purposes of the organization are basically to facilitate the exchange of information, bring about better interstate understanding and cooperation and to make it easier for the States to collaborate with the Federal officials on common problems.

The committee has no quarrel with these purposes. However, the committee's attention is from time to time called to alleged lobbying and other activi-

ties, the travel and other incidental costs of which could not properly be charged to this or any other Federal appropriation.

The committee hopes that the Department will do more than has been evident in the recent past to protect this appropriation from such improper use. It is requested that the Department furnish the committee by May 30, 1955, with a statement for each State showing each trip to a point outside the State made during the calendar year 1954 by any State official except for official conferences called by the Bureau of Employment Security, the expenses of which were charged to funds from this appropriation. That statement should show the out-of-State point or points to which the travel was performed, the date of departure and return, the total amount changed to these funds for expenses incurred during the trip, and a brief statement regarding the purpose or purposes of the trip.

The committee requests that hereafter such a statement be submitted by January 1 of each year covering the immediately preceding calendar year.

That ends the quotation from the report of the Appropriations Committee of the House, and we feel that when these reports are available and made public—if they are to be made public—we will be able to get at the facts more definitely than we have been able to before.

We have been forced to rely on the reports given to us by various State agencies and by what we see in other publications, and the references we see to the lobbying activities of these organizations—of the Interstate Conference of Employment Security Agencies.

Now, among those other sources of our information, curiously enough, is one known as the Unemployment Benefit Advisors, Inc. The Unemployment Advisors is, its news letter advises, a nonprofit, nonstock corporation, and it lists Mr. George T. Fond as president, and a Mr. Stanley Rector as legislative director.

Their headquarters are in suite 506, Hotel Washington, Washington 4, D. C. Now, the last time that this organization filed its returns under the Lobbying Act, and its contributions, in detail, was in 1953, and it also included an accounting of returns or contributions for the fourth quarter of 1952, and these are quarterly returns. They list—if you wish, I will put this entire thing in the record.

Senator DOUGLAS. We would appreciate it if you would.

Mr. CRUIKSHANK. But they list such contributions for the quarter as the Pittsburgh Plate Glass Co., Pittsburgh, $1,000; Union Bag & Paper Co., New York, $500; General Electric Co., Schenectady, $2,000; Union Carbide & Carbon, New York City, $2,000; and a total for the quarter of such contributions of over $500 of $30,000.

Senator SMITH. I am not quite clear what those contributions are for.

Mr. CRUIKSHANK. They are the contributions listed under the Lobbying Act for this organization, known as the Unemployment Benefit Advisors.

Senator SMITH. What connection has Mr. Brown got with that?

Mr. CRUIKSHANK. I will try to establish that, sir.

Senator SMITH. This is irrelevant unless you can establish that fact. That should be established first. We are getting a lot of fishing expedition here to see if we can't find something. I want you to connect Mr. Brown with your charges, and I also want to have you connect Mr. Brown with the charges of lack of integrity which you made yesterday.

Mr. CRUIKSHANK. My point will take only a moment to develop, sir, and it is that this organization, which is openly and avowedly

an employer lobbying organization set up to lobby for certain employer interests as they relate to unemployment compensation and its administration.

Now, the tie-in is with the Interstate Conference of Employment Security Agencies, of which Mr. Brown is an official.

Senator SMITH. What is the tie-in?

Mr. CRUIKSHANK. The tie-in is: Yesterday I raised the question with respect to one of Mr. Brown's colleagues who was joining him in the activity of lobbying for the Reed bill, who the record now almost accidentally discloses was not speaking for the States—specifically two States, New Jersey and Colorado—represented went on record as opposing the position that he took while allegedly speaking for the states.

Now, my point is that there is reason to believe that these State representatives were not speaking for the States or States' interests primarily, but speaking for Mr. Rector and his contributors. Now, my reason for believing that is the reports that Mr. Rector, himself, distributes to his contributors in his newsletter, which is one of the many Washington newsletters.

Now, here in his newsletter, for example, of April 5, 1955, he reports on the work that the State officials have done in support of certain legislation in which he is interested, and he says this to his clients, the contributors, among them those whom I have listed, and I quote:

> Incidentally, only a few in the business community seem to be aware of these efforts—

that is, these legislative efforts indulged in by Mr. Brown and his colleagues—

> seem to be aware of these efforts on the part of State administrators, and these few seem to take the view that the State administrators are doing what they are paid to do when they act to preserve the existing State systems.
>
> Precious little, if any, recognition of a "job well done" has been extended to the State administrators by management, let alone support.

Now, that ends the quote.

Senator ALLOTT. That is true, isn't it?

Mr. CRUIKSHANK. I don't know whether it is true or not. I am saying that it is—I am saying that it is very revealing, Senator, that a person who is a lobbyist, a registered lobbyist, for an employers' organization—and with that, we have no quarrel.

Mr. Rector has just as many right to be influencing legislation, if he can, as I have, and when he lists his business contributors, that is exactly the same as the American Federation of Labor does under the Lobbying Act when we list the support, but he does not have the right to use the State——

Senator ALLOTT. Never mind that. Do you have anything which connects Mr. Brown with this?

Mr. CRUIKSHANK. I have Mr. Rector's letters, which are appealing, on the face of it, appealing to the employers of the State to say a job well done. Now, that——

Senator ALLOTT. And in your opinion that letter is a damnation of Mr. Brown.

Mr. CRUIKSHANK. I haven't said so, sir.

I have said it raises the question of whether Mr. Brown, in his activities of the legislative agent, or the chairman of the legislative

committee, which is a misnomer, in fact, the legislation acting committee of the Interstate Conference of Employment Security Agencies, financed out of Federal funds, is not in his capacity as that organization, a party to becoming the lobbying arm of an employer organization, and I think this supports that.

Senator DOUGLAS. May I ask a question to clear up a point? Virtually all the States now have merit rating systems, isn't that correct?

Mr. CRUIKSHANK. They all do; yes, sir.

Senator DOUGLAS. So that the smaller the amount of benefits paid by a State, the greater will be the refunds to an employer, and the smaller his net contributions?

Mr. CRUIKSHANK. Yes, sir.

Senator DOUGLAS. So that, therefore, it is to the interest of employer groups that benefits should be kept down, isn't that true?

Mr. CRUIKSHANK. That is correct; yes, sir.

Senator DOUGLAS. And they, therefore, tend to favor, with some exceptions, of course, that system of benefits and that distribution of powers between the Federal and State Government which will reduce benefits or at least prevent benefits from being increased?

Mr. CRUIKSHANK. That is quite right; yes, sir.

Senator DOUGLAS. And to the degree that the activities of the Interstate Conference of Employment Security Agencies favors methods and legislation which will either reduce benefits or prevent benefits from being increased, to that degree, the interest of the employer must coincide with the activities of the employment security agencies; is that true?

Mr. CRUIKSHANK. That is correct; yes, sir.

Now, in a number of references, there are in the files of this letter called the advisor, a number of references to the very close working relationship between the Interstate Conference of Employment Security Agencies, of which Mr. Brown is the chairman of the legislative committee, and the employer lobbying group.

For example, in the letter of July 14, 1954, the heading is "State Administrators' Bill, H. R. 5173, Goes to the White House," and the opening paragraph is, and I quote:

> At long last, after 4 years, the bill sponsored by the Conference of State Employment Security Agencies has cleared the Congress.

I left out only the reference to the bill number. Now, here again is evidence, or at least an indication—and I think it is evidence—that there is the very close cooperation between the employer lobbying group and the interstate conference and Mr. Brown's legislative committee.

That was what Mr. Meany was referring to in his letter in the reference to the interstate conference committee being the very close tie with them and the employer group.

We have, as a matter of policy, in the American Federation of Labor, taken the position that we cannot work with this organization or participate in its conferences and functions until they clear themselves of this charge of being the front organization for the employer lobbying group, and Mr. Brown has, himself, when he was the chairman of the host State—which I think the director in the host State for the annual conference of this group is the program director—anyway, himself, he asked us to participate in the program up there, and it was

explained to him personally and directly why we could not in good conscience participate in it until they severed that tie with the employer group.

Mr. Brown defended the relationship with Mr. Rector at that time to us.

Senator DOUGLAS. In what way?

Mr. CRUIKSHANK. Well, saying that there was just a common agreement in purpose and it was perfectly all right, as he understood it, for them to work closely with Mr. Rector. It was just a happenstance that they happened to agree on policy.

Senator SMITH. Mr. Cruikshank, one statement you made I have had checked since you made it. You suggested that Mr. Driscoll, who is a very close friend of mine, was Governor of New Jersey at the time he participated in the Kestnbaum report—it was after he stopped being Governor, and his participation in that report was not as representative of the people of New Jersey at all.

Mr. CRUIKSHANK. What I meant to say, Senator, which is more important—and I am glad to have this chance to correct it—that my understanding is that Mr. Driscoll was Governor of the State of New Jersey at the time the Reed bill was up, and the lobbying activities and this interstate conference was purporting to speak for the States, including Mr. Driscoll.

Senator SMITH. I think the Reed bill was up in 1954, and Governor Driscoll was not Governor in 1954. His term ran out at the end of 1953, and Governor Meyner came in in 1954.

So I think you are mixed up on that. I will be very glad to have it confirmed further if it will help you. I just don't want my former Governor, who was a very close friend of mine——

Mr. CRUIKSHANK. Sir, the Reed bill, at the time the lobbying activity was carried on, was in 1953, in March, April, and May and June of 1953. That was the time the interstate conference purported to speak for the States, including New Jersey, in support of the Reed bill, at the time Mr. Driscoll was Governor of New Jersey, who now records himself as having neither then nor now been in support of the Reed bill.

Now, I am not impugning Mr. Driscoll. I think the only importance to this——

Senator SMITH. I just wanted to get this straight.

Mr. CRUIKSHANK. I am glad to get it straight. I think it adds emphasis to our point. The only thing I am raising here is that a group of State administrators are purporting to speak for all of the States when actually they are not speaking for the States, and furthermore, there is reason to believe that they are speaking for the employer lobby.

Senator ALLOTT. May I make this statement here? I don't doubt the statement you read, but I doubt very seriously if what you read yesterday represents a true situation with respect to the State of Colorado. I might as well at this time, despite your own personal statement, make this statement about Mr. Teets, whom you gratuitously sideswiped yesterday in your comments.

Mr. Bernard Teets is the director of the Employment Security Department of the State of Colorado. I have known Mr. Teets for 31 years, intimately. I know of nothing in his record anywhere at any time which would reflect upon it, either as an administrator in

his present job. I know of nothing—having lived in the State and in his city—nor have I ever heard anything which would reflect either upon his abilities as an administrator or as a gentleman.

Now, I feel that I cannot do less at this time than to make this statement. I make it, Mr. Cruikshank, knowing full well that during this entire period that I have known him, Mr. Teets has been a member of the opposite political party. I want the record to show that I do not let your remarks with respect to Mr. Teets go unchallenged. I do challenge the fact that when the report was filed, that Governor Thornton was Governor, and I am not sure that he ever opposed the Reed bill.

During that period I was Lieutenant Governor. I never knew, or never heard at any time—although I worked in very close—an unusually close relationship with the Governor—of any conflict between the points of view of the Governor and of the administrator on this subject.

Mr. CRUIKSHANK. Mr. Chairman, we are not looking into the character of Mr. Teets. Mr. Teets——

Senator ALLOTT. No. We are not looking into Mr. Teets' record, but you took a very gratuitous sideswipe at Mr. Teets yesterday. I would be very remiss in my duties to my State and in my duties as a Senator if I did not make the statement that I just made.

Mr. CRUIKSHANK. Mr. Chairman, as I recall, I only raised the question as to whom Mr. Teets was representing. If that is a gratuitous sideswipe, that is an interpretation to which the Senator is perfectly entitled.

Senator ALLOTT. That is not the statement you made. Now, I would like to quote to you from the hearings before the subcommittee of the Committee on Appropriations of the House of Representatives in the Eighty-First Congress, and I am going to read this verbatim.

Mr. Fogarty is the chairman—and I think he still is—of the House subcommittee having jurisdiction over the interstate conference.

Mr. FOGARTY. Mr. Loysen, will you describe for the committee the purpose of the interstate conference?

Mr. LOYSEN. I will be very glad to.

When the Federal Social Security Act was first effective, and a few States were in it in 1937, the first problem that came up in the State-by-State system was the one for establishing some kind of rule which would settle questions of jurisdiction, who had the tax on employment that moved over State lines, or in the case of firms located in one State with employing activities in many other States.

So a few of the State people got together and I think also a representative of the Federal Government was meeting with them, for the purpose of discussing a uniform definition of employment which would expand the usual concept and for tax purposes enable the States to all agree on who had jurisdiction in a defined type of case.

It was the beginning of the interstate conference. In the years that immediately followed, the problem came up how to deal with claims which moved from State to State. There was a great deal of migration of labor, and the question came up as to whether individuals would lose their rights to benefits if they did not remain in the States where they had earned their wages.

That was the year 1938, I think.

A conference constitution was adopted and all of the States needed to participate in this thing, and all of the States were asked to come in and join this unofficial membership organization.

A set of rules was devised for the conduct of their business and the election of officers. The purpose of the conference has been mainly to have the facility for the States to deal with the Federal Government on questions of Federal-State relationships.

These relationships occur at all points along the line involving the administration of State laws. There have been occurrences in the past when also the opinions of the States needed to be solidified on questions of program and policy, and through this organization, the States, instead of each one having to deal directly with the Federal agency, have been able to resolve their differences and deal with them through the organization at one time and to make the dealings effective.

That is the main purpose of the conference, to facilitate the Federal-State relationships in the States dealing with the Federal Government, and vice versa.

Mr. FOGARTY. Have you taken any action on pending legislation?

Mr. LOYSEN. We have considered Federal legislation all through the years when bills have been presented where the interests of the States have been involved, and we have, through the conference facility, endeavored to marshal the opinions of the States and interpret those opinions to the Congress wherever called for.

Mr. FOGARTY. You mean in testifying before the various legislative committees for or against a particular bill?

Mr. LOYSEN. That is right. We have been requested on numerous occasions to appear before congressional committees to interpret the States's point of view with respect to legislation which is Federal in nature.

This quotation which I have just concluded commenced on page 891, and now I quote from page 893 on a statement made by Mr. Loysen.

The secretary of this conference, and his staff, are financed as they are Federal employees who are connected with the Federal Security Agency. The employees of the Bureau of Employment Security, are assigned to the interstate conference to do conference work, and to handle the day-to-day relationships between the conference and the officers of the Federal Security Agency.

So this record, which goes back to 1950, shows that there was before the committee of this Congress at that time a full statement not only of the reasons but the activities of the interstate conference. Is that not true, Mr. Cruikshank?

Mr. CRUIKSHANK. That is your opinion of it, sir. My opinion is that it is not a full statement.

Senator ALLOTT. All right.

Mr. CRUIKSHANK. It is a statement, sir, on the part of Mr. Loysen of certain activities for which this group was ostensibly founded, and with that, we have no quarrel.

As recently as last week, Secretary-Treasurer Schnitzler, of the American Federation of Labor, upon being invited to speak to the next meeting in St. Louis of the Interstate Conference of Employment Security Agencies, went on record again, as did President Meany, in April 1953, to Mr. Brown, as we have in our resolution again and again, stating that we have no quarrel with the professional organization organized to improve the administration of State employment security programs.

Senator ALLOTT. That is just a matter of opinion, Mr. Cruikshank; that is not a judgment, nor is it a decree of court.

Now, I call your attention——

Mr. CRUIKSHANK. No one said it was, sir.

Senator ALLOTT. Well, it was given in such a manner that I was led to believe that it was, and that the Treasurer's pronouncements were final judgment.

I call your attention to Labor's Federal Security appropriation bill for 1950. These hearings were before the subcommittee of the Committee on Appropriations of the United States Senate. This was printed in 1949. It is the bill for 1950, and is found on page 520. I quote again a statement filed by Mr. Loysen, and I am not going to read it in its entirety, because it is several pages long, but I quote the first paragraph in his statement on page 520:

> An organization of the States to deal with matters of mutual interest arising out of the operations of the Federal-State employment security program was a natural development resulting from the passage of the Social Security Act of 1935, and the enactment of State unemployment compensation laws in the next 2 years.
>
> Problems concerning the establishment of State organizations for the administration of the new program, as well as problems of coordination inherent in a Federal-State system arose immediately, and the States recognized the need for the exchange of ideas, discussion of administrative questions, and general agreement concerning the development of procedures.

I want, for the record, to offer this whole thing, Mr. Chairman, and then I will quote just one sentence from page 524.

> However, it became apparent early in the development of the program that some machinery was needed to present State viewpoints collectively to these various interest groups, when represented in their national organization.

There again, as early as 5 or 6 years ago, there was a calling attention of the Congress to the activities of the conference.

Now, I would like also at this time to call the committee's attention to the report of State employment security agencies on out-of-State travel performed by State officials for the calendar year 1954, requested by the House Committee on Appropriations in Report No. 228 on H. R. 5046. I quote the letter which I think should be read into the record of the Department of Labor dated March 22, 1955.

In Report No. 228 on the Department of Labor and Health, Education, and Welfare and related agencies, appropriation bill 1956, to accompany H. R. 5046, the House Committee on Appropriations made the following statement:

> In the early days of this program, the State agency heads created an organization known as the Interstate Conference of Employment Security Agencies. Costs incident to this organization's activities were financed from this appropriation. The purposes of the organization are basically to facilitate the exchange of information, bring about better interstate understanding and cooperation, and to make it easier for the States to collaborate with Federal officials on common problems.
>
> The committee has no quarrel with these purposes. However, the committee's attention is from time to time called to alleged lobbying and other activities, the travel and other incidental costs which could not properly be charged to this or any other Federal appropriation.
>
> The committee hopes that the Department will do more than has been evidenced in the recent past to protect this appropriation from such improper use. It is requested that the Department furnish the committee, by May 30, 1955, with a statement for each State showing each trip to a point outside the State made during the calendar year during 1954 by any State official except for the official conferences called by the Bureau of Employment Security, the expenses of which were charged to funds for the appropriation.
>
> This statement should show the out-of-State point or points to which travel was performed, the date of departure or return, the total amount charged to these funds for expenses incurred during the trip, and a brief statement regarding the purpose or purposes of the trip. The committee requests that hereafter, such a statement be submitted by January 31 of each year covering the immediately preceding calendar year.

Then, on page 41, I offer into the record the report of those trips as reported and as made by Mr. Brown for the State of New Hampshire, pages 41, 42.

(The data referred to follows:)

New Hampshire

Purpose of trip	Number of State officials	Out-of-State points to which travel performed	Date of departure	Date of return	Total costs charged to granted funds
Attend meeting of special committee on supplemental appropriations of interstate conference—Reed bill status.	1	Washington, D. C.	Jan. 19	Jan. 23	$109.91
Represent interstate conference before Senate Finance Committee; confer with Bureau on appropriations.	1	do	Mar. 7	Mar. 11	116.48
To the best of my recollection, met with President Kendall, several other conference members, legislative committee counsel and possibly finance committee staff members reference Reed bill progress and amendments. May have consulted on appropriation legislation. Attended regional director's meeting en route down.	1	Boston, Mass. to Washington, D. C.	Apr. 12	Apr. 14	91.09
Attend meeting of legislative committee of interstate conference.	1	Washington, D. C.	Apr. 25	Apr. 28	69.52
Attend Supervisors' Institute	2	Kingston, R. I.	June 20	June 25	125.28
Attend annual convention of International Association of Personnel in Employment Security.	2	Asheville, N. C.	May 29 May 30	June 5 do	197.76 221.28
Testify to House committee on behalf of interstate conference.	1	Washington, D. C.	June 7	June 9	72.63
Report to executive committee of interstate conference; confer on appropriations.	1	do	June 20	June 23	96.96
Directors' meeting—regional office	1	Boston, Mass.	June 29	June 29	10.63
Attend meeting of services to small communities committee of interstate conference.	1	Washington, D. C.	June 16	June 19	98.62
Attend annual convention of International Association of Personnel in Employment Security.	1	Asheville, N. C.	May 30	June 6	220.91
Represent interstate conference at congressional hearings; consult with Bureau on appropriations.	1	Washington, D. C.	July 11	July 12	77.82
Interview migrant crew; attend meeting of Massachusetts Fruit Growers Association, New York, and North East Apple Institute.	1	Bridgeville, Del., to Amherst, Mass.	July 12	July 14	28.77
Attend meeting of President's Committee on Employment of the Physically Handicapped.	1	Washington, D. C.	Aug. 25	Aug. 28	99.47
Attend Foremen's Institute	1	Boston, Mass.	Sept. 2	Sept. 2	12.73
Attend meeting of executive board of International Association of Personnel in Employment Security.	1	Washington, D. C.	Sept. 22	Sept. 26	143.48
Confer with Bureau on conformity issue and attend annual meeting of interstate conference.	1	Washington, D. C., to New Orleans, La.	Oct. 6	Oct. 15	284.51
Attend annual meeting of interstate conference.	2	New Orleans, La.	Oct. 8 Oct. 9	Oct. 16 do	268.07 237.94
Confer with Bureau on conformity issue	1	Washington, D. C.	Oct. 6	Oct. 8	79.68
Attend meeting of North East Guidance Conference.	1	Manchester, Vt.	Oct. 14	Oct. 15	44.34
Attend meeting with importation committee, American Pulp & Paper Association.	1	Portland, Maine	Dec. 2	Dec. 2	15.08
Attend meeting of interstate conference region I executive committee.	1	Boston, Mass.	Dec. 8	Dec. 8	8.03
Total					2,730.99

Senator DOUGLAS. That shows a total of $2,730.99.

Senator ALLOTT. Yes, sir. That is all I have for the moment, Mr. Chairman.

Senator DOUGLAS. Mr. Cruikshank, in recent minutes there has been delivered to me a letter from Secretary Mitchell which was written before I asked that the telegram be sent, which replies to the second question asked in my telegram of yesterday, namely, as to what action was taken.

I will make the whole letter a part of the record, and I will read the passages dealing with this subject.

In reference to the action taken by the council on this report, I am quoting below a resolution introduced by Mr. Cruikshank, passed by the council at its meeting July 21 by a vote of 9 to 1.

"I move the council receive this report for further study and request a committee be appointed to analyze the report and inquire into the expenditures of appropriated funds for legislative activities by the interstate conference, and to draw up for later action by this council recommendations to the Department of Labor designed to govern the expenditure of such funds in accordance with the highest standards of governmental practice and accountability."

(The letter referred to follows:)

UNITED STATES DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, July 27, 1955.

Hon. PAUL H. DOUGLAS,
Chairman, Subcommittee on Labor,
Senate Committee on Labor and Public Welfare,
Washington, D. C.

DEAR SENATOR DOUGLAS: This is in response to the request from your staff director, Mr. Stewart E. McClure, in a telegram of July 26, requesting a copy of the report of the activities of the Interstate Conference, presented to the Federal Advisory Council, and information concerning action of the council on this report.

Copies of the report on the activities of the Interstate Conference were delivered to your subcommittee yesterday. In reference to the action taken by the council on this report, I am quoting below a resolution introduced by Mr. Cruikshank passed by the council at its meeting July 21 by a vote of 9 to 1.

"I move the council receive this report for further study, and request a committee of the council be appointed to analyze the report and inquire into the expenditures of appropriated funds for legislative activity by the Interstate Conference, and to draw up for later action by this council recommendations to the Department of Labor designed to govern expenditures of such funds in accordance with the highest standards of governmental practice and accountability."

If I can be of further assistance, please let me know.

Sincerely yours,

JAMES P. MITCHELL,
Secretary of Labor.

Mr. CRUIKSHANK. That was the action referred to, Senator, and I think it permits me, in propriety, to point out that the council did receive this report. They felt there were many unanswered questions about it, and they decided not only to continue but to broaden the inquiry so that they could make appropriate recommendations to the Secretary as the Wagner-Peyser Act setting up the council asks us to do.

Senator DOUGLAS. Are you charging that the Interstate Conference of Employment Security Agencies is dominated by or largely influenced by the organization headed by Mr. Stanley Rector?

Mr. CRUIKSHANK. I wouldn't go that far in my statement, Mr. Chairman. It may be, Senator, but I would not be prepared to say that at this time. I would say that the Interstate Conference, the individuals of the Interstate Conference, have a very close tie with Mr. Rector.

They are influenced by Mr. Rector, but that isn't my main point. My main point is that here is a group which has now departed from its original purpose, and again, we have no quarrel with that, and all of this statement about past history, we would support an organization for those purposes, and work with them, but to me, when the Senator, for example, read about study, interchange of opinions, interchange and pooling of experience, that is not the quotation—I don't mean it to be, but I think that was the kind of thing that was referred to—that the memorandum that I introduced yesterday from Mr. Brown in which he is calling for action, asking the State administrators to talk with the people in the States who have influence with the Senator, get one point of view presented; act now; time is urgent; and that kind of thing, is not the interchange of opinions and the pooling of opinions of State administrators.

That is the kind of thing a lobbying organization does. Now, I am not against lobbying organizations. My gracious, I am not putting myself out of a job, but I am against them being financed out of Federal appropriations, because I don't think that is fair to the taxpayer.

Now, that is my main contention, and my contention is—and I think this memorandum of Mr. Brown substantiates it—that he has been a party to that, and that that indicates a certain lack of sensibility of the responsibilities of public office.

Senator DOUGLAS. You remember some years ago very bitter attacks were made on Paul Hoffman because it was alleged that he had gone to certain Senators' offices unsolicited.

Mr. CRUIKSHANK. I recall that; yes, sir.

Senator ALLOTT. Mr. Cruikshank, have you ever called this to the attention of the Finance Committee or the Appropriations Committee?

Mr. CRUIKSHANK. This matter?

Senator ALLOTT. Yes.

Mr. CRUIKSHANK. Yes, sir. Indeed, the copy that I introduced yesterday is taken from the records of the hearing of the Finance Committee of March 10, 1954.

Senator DOUGLAS. You mean the Finance Committee or the Appropriations Committee?

Mr. CRUIKSHANK. It was the Finance Committee of the Senate.

Senator DOUGLAS. Because it has jurisdiction over social security?

Mr. CRUIKSHANK. Yes, sir.

Senator ALLOTT. At one of those hearings before the Senate Finance Committee in the 83d Congress, did you have an interchange of remarks with Senator Milliken?

Mr. CRUIKSHANK. Yes, sir.

Senator ALLOTT. Senator George?

Mr. CRUIKSHANK. Yes, sir.

Senator ALLOTT. I would like to read to you——

Mr. CRUIKSHANK. That was when Senator Milliken said he would look into this sometime when he got around to it, or words to that effect.

Senator ALLOTT. Well, the fact is that even then—and you have consistently attacked this organization for the past 2 years—you stated that you believe in general the propositions from the various statements I read of Mr. Loysen. Was that correct, as to the purposes and the need for such an organization?

Mr. CRUIKSHANK. As to the original and alleged purposes of the organization, but I maintain that they have gone far beyond that.

Senator ALLOTT. Do you think that they have needs and purposes which Mr. Loysen's statement did not contain?

Mr. CRUIKSHANK. I wouldn't say that that was a comprehensive statement of all the purposes of an organization of State administrators, but I think——

Senator ALLOTT. Did you read the complete statement of Mr. Loysen before the Senate committee that I just offered into evidence?

Mr. CRUIKSHANK. I did, back in 1950; yes sir.

Senator ALLOTT. And you don't think that is a complete statement?

Mr. CRUIKSHANK. No, sir; I don't think that was a complete statement of what they were doing at the time.

Senator ALLOTT. Now, it is a fact that you have been attacking this organization for years; is that correct?

Mr. CRUIKSHANK. I have been raising questions as to the propriety of their activities; yes, sir. I have not been attacking the organization. Every communication of which I have had a part indicates that it is our policy that we believe there should be such an organization. It has a legitimate purpose, but that purpose shouldn't be distorted to include lobbying activities on Federal funds.

Senator ALLOTT. Now, I will quote from the hearing before the Senate Committee on the 83d Congress, quoting you:

> Now, there are a couple of things about this, Mr. Chairman, and members, to which I would like to direct your attention.
>
> In the next to the last paragraph of this memorandum appears these words: "As soon as, and within the next month and a half, contact both of your Senators and any others that you may be able to directly, or even better, through those whose opinions would be valued by them; see that they are clearly aware of the problems and of your views and the views of all who support the bill."
>
> Now, Mr. Chairman, this is distinctly a lobbying technique; it is the kind of thing we do.
>
> Senator GEORGE. I was going to say I think I have observed that on the part of the AFL and the CIO.
>
> Mr. CRUIKSHANK. The difference is we are not being paid out of taxpayers' money. I have been on the Federal payroll, and I would not be permitted during the periods of service that I have had with the Federal Government to do this kind of thing, and I don't think any group should be permitted, when they are being paid by moneys coming out of the Federal tax receipts, to carry on the distinctively lobbying technique of this kind.

Senator ALLOTT. Now, I want to ask you this question, Mr. Cruikshank.

Do you believe that it is possible for an Interstate Conference to meet within the confines set out in these letters, or these satements, by Mr. Loysen and any other legitimate purposes which you have in your mind which have not been mentioned here and then operate in a perfect vacuum and never let the results of those be known to their own Congressmen and their own Senators when they are, in fact, employees of the State which those Congressmen and Senators represent?

Mr. CRUIKSHANK. Do I believe that is possible? Is that the question?

Senator ALLOTT. I ask you if it is possible?

Mr. CRUIKSHANK. Yes; I believe it is.

Senator ALLOTT. What purpose could the Interstate Conference have if they became aware of deep abuses or deep changes which should be made in the law which are resulting in inequities and injustices?

And let me say this too, Mr. Cruikshank: You are not the only one who is concerned with the welfare of the workingman.

Mr. CRUIKSHANK. I am very glad of that. I would hate to be a minority of one.

Senator ALLOTT. You are not. And how could they operate in a vacuum and not inform their Senators or Congressmen of what they have found and what they think should be done?

Mr. CRUIKSHANK. Mr. Chairman, may I say at this point that I have given a great deal of very careful thought, and I have discussed at considerable length with a number of State administrators and with the Labor Department people, including the Secretary of Labor and others, because of this long period in which this question has been in operation or before us, the proper role of the Interstate Conference. And if the committee thinks or feels that that this time it is appropriate that I should, in response to Senator Allott's question, state what I do think is the proper role of it, I would be very glad to do so. It would take me probably 4 or 5 minutes to do that.

Senator ALLOTT. Mr. Cruikshank, that is not a response to my question.

My question is: How can these people operate in a vacuum?

Mr. CRUIKSHANK. Well, sir, that is a little bit like the question "Have you stopped beating your wife." I say they cannot operate in a vacuum; but I say they can operate legitimately.

But your question is loaded. If you would ask me how I think they could operate, I would tell you.

Senator ALLOTT. It is a fair question.

Mr. CRUIKSHANK. It is like the question "Have you stopped beating your wife?"

Senator ALLOTT. I asked you about the vacuum; I didn't ask you anything about your wife.

Mr. CRUIKSHANK. I say they cannot operate in a vacuum. But I say there is an area that is not a vacuum. If you are interested, I will give you my comments; but if you are not interested, I will not take the time of the committee.

Do you wish me to comment?

Senator ALLOTT. No. I want you to answer my question.

Mr. CRUIKSHANK. I can say that they cannot operate in a vacuum. Nobody can operate in a vacuum.

Senator ALLOTT. You stated a few minutes ago that upon two occasions members of your council had refused to speak to the council or this Interstate Conference. Am I correct?

Mr. CRUIKSHANK. That is correct; yes, sir. The president and the secretary-treasurer.

Senator ALLOTT. That situations is not conducive to mutual understanding, and it is not conducive to a fair discussion of the issues; is it?

Mr. CRUIKSHANK. Yes, sir. As President Meany said, to do so would not be conducive. Now, here is what he said, sir. He said (1) that he had instructed frequently all of our State Federation people to work closely, harmoniously, with the State administrators

in every effort to improve the administration of these plans. Secondly, he had instructed us at all times to work at the Federal level in all cooperative endeavors with the Bureau charged by Congress with the administration of the Federal and this Federal-State program. He has also charged us here to meet and cooperate in every way possible with the State administrators and all the groups in all the activities of State administrators called by the Bureau for the consideration of Federal-State programs.

In other words, for every legitimate area to cooperate both with the Federal and State people at our national level, at our State level. However, he said that as long as the organization was engaged in activities which he thought were very questionable and that charges against them remained unanswered in this, and that as long as there was the close tie that he had observed with the employer lobby, that he felt that it would only be deceiving our own members if we associated with them because of the questionable activities.

In one conversation with the State director who called upon him personally to try to get him to change this, I very well remember that he challenged Mr. Meany and said "Well, you speak to the National Association of Manufacturers, and you speak to the United States Chamber of Commerce. There are many points opposed to your program." And Mr. Meany replied, "Yes, I do. But there is no question about what the National Association of Manufacturers is, nor the United States Chamber of Commerce. They have our views, and we have theirs, and we interchange speakers. But there is a question about the role of the Interstate Conference of Employment Security Agencies. It has become a lobbying group going beyond its original intentions and purposes. And, therefore, it would be misleading to our members for us to participate in their activities."

Senator ALLOTT. Mr. Cruikshank, were you present when he made that statement?

Mr. CRUIKSHANK. Yes, sir.

Senator ALLOTT. It is a fact, and I think you omitted this, that in speaking and testifying about the activities of the Federal Advisory Council yesterday you were the one yourself personally who made the motion that the council receive the report for further study and request the committee of the council to be appointed to analyze the report and so forth and so on?

Mr. CRUIKSHANK. Senator, I made no mention of any of the activities. I would not say that I had made a motion or offered a motion; because, in deference to the rules of the council, I told the chairman and the members of the committee that I did not feel free to discuss any of the matters. I did not say a motion had been made or anything else. Naturally I didn't say I made a motion which I am not free to discuss.

Senator ALLOTT. The chairman of this committee has offered the letter of the Secretary of Labor this morning which he received. And it says in part:

> In reference to the action taken by the council on this report, I am quoting below a resolution introduced by Mr. Cruikshank passed by the council at its meeting July 21 by a vote of 9 to 1.

Did you introduce that resolution or not?

Mr. CRUIKSHANK. I don't recall that I introduced it as a resolution. I introduced it, though, and as a motion, if that makes any difference. Yes; I was responsible for it; I introduced it.

Senator ALLOTT. You didn't mention that yesterday.

Senator DOUGLAS. The Chair would like to remark that Mr. Cruikshank was very scrupulous not to report any of the activities of the conference because they had been bound to respect secrecy until the Secretary made the release.

Senator GOLDWATER. Mr. Cruikshank, much discussion or much mention has been made here of the Reed bill. I think it is proper that we have an understanding of this bill so that we might understand your antagonism towards it and the States being for it.

Am I right in stating the general purpose of this bill—and I don't have it before me—that when the unemployment fund exceeded $200 million that this excess would be prorated to the States, but the States could use this money in any way they saw fit or see fit in the unemployment program; they could use it for administrative purposes; they could use it to increase benefits, or in any way they wanted to.

Is that not the essence of the bill?

Mr. CRUIKSHANK. I think that leaves out some important items in it, sir. The basic provision of the bill was, first, to earmark all of the unemployment compensation tax for the administration of unemployment compensation programs which had never been done before. With that we were in hearty accord. The points of difference between us and those who purported to represent the States, but who, as demonstrated yesterday, did not always represent the States—the point of difference there was the manner in which the surpluses, after the $200 million was accumulated, would be made available to the States.

Now, the interstate conference took the position that that should just be doled out without any strings attached. And the Undersecretary of the Treasury, Mr. Marion Folsom, who has, as you know, just been confirmed as the Secretary of the Department of Health, Education, and Welfare, and a man of long experience in unemployment compensation administration, wrote a letter to the Secretary of Labor in which he took exception to those positions.

Now, in my testimony, I presented the point of view of the American Federation of Labor on the basis which the funds should be distributed to the States as being precisely in accord with those advocated by the Under Secretary of Treasury, Mr. Folsom. But that is why in Mr. Brown's memorandum which I referred to yesterday, when he lists the opposition, he lists the Labor Department and the Treasury Department. He included them.

You see, the States were opposing the administration. Now, provisions and amendments were made, amendments to which, according to this memorandum, the interstate conference was opposed. Amendments were made to clean up that bill to a very large degree. And it was determined, for example—and one of the crucial elements was this—and it was one to which Mr. Folsom directed his remarks and his criticisms—that this money was to be dished out here to the State administrators and would not have to be appropriated by their State legislatures. And as Mr. Folsom pointed out, this was a very unusual situation in government finance: That men were spending money for

which they were not responsible to any of the people who had to raise it by tax appropriations. And he was against that in principle and so were we.

But the interstate conference took another position.

Senator GOLDWATER. What was the position of the interstate conference?

Mr. CRUIKSHANK. The interstate conference position was against the amendments that brought the expenditures into line of unusual government practice of making the administrators accountable to the elected members of the legislature for the expenditures of these funds.

Senator GOLDWATER. Well, now, is this a true statement: That the unions wanted the unemployment taxes over two hundred million—we will call that the excess—to go to the States solely to increase the benefits?

Mr. CRUIKSHANK. That is correct, sir. That was our original position.

Senator GOLDWATER. So that your opposition to the State conference stems pretty much from a disagreement on the part of the union with the States as to how the States should spend money that is raised in the rates?

Mr. CRUIKSHANK. No, sir.

Senator GOLDWATER. Well, it must be.

Mr. CRUIKSHANK. No, sir. Our difference with the Interstate Conference of Employment Security Agencies is that they are operating on grants appropriated by Congress to carry on lobbying activities. And we would be against that if they were lobbying on our behalf.

Senator GOLDWATER. Don't you believe that the conference was acting within their prerogatives when they come to Washington and ask the Congress to see that money raised within the State that is in excess of actual needs be reverted to the States for their needs?

I think that is a sovereign right of the State. And you and I disagree fundamentally and basically on that.

Mr. CRUIKSHANK. Sir, I haven't had a chance yet to give my position about what the legitimate role is. I think there is a legitimate role with respect even to legislation.

Senator GOLDWATER. You say that you are opposed to this group lobbying?

Mr. CRUIKSHANK. Yes, sir.

Senator GOLDWATER. You are opposed to them lobbying, as I can gather, from the fact that they oppose the unions on this one issue?

Mr. CRUIKSHANK. No, sir. I am opposed to their lobbying.

Senator GOLDWATER. Your actions do not carry out your words; because you had ample opportunity to introduce such a motion time and time and time again; but in 1954, by a vote of 78 to 3, the Senate passed this Reed bill, and the House, by an overwhelming majority, passed the Reed bill, recognizing what I feel to be a fundamental right: That if a program collects more money than is needed to carry it on properly and adequately as prescribed by the law, the excess money should go back to the States.

And you, representing your union, were in disagreement with the States. I think personally that Mr. Brown and the organization that he represented at that time were both acting completely, not only within their rights, but if I were the governor of any of those States,

I would have demanded that they come to Washington and do that.

Mr. CRUIKSHANK. It so happened, sir, that some of them came and represented a view that was contrary to the view of their governor.

Senator GOLDWATER. I am not surprised at all, because I know there are governors, and there have been governors, in this country who would like to see the Federal Government run everything.

Senator SMITH. I think Governor Driscoll has been misrepresented in this matter. He was not Governor at the time.

Mr. CRUIKSHANK. He was Governor at the time these people were down here purporting to represent the interests of all the States.

Senator SMITH. I think you are wrong.

Senator GOLDWATER. I think this argument that they represent all or do not represent all is not a valid one. We discovered last night, for instance, that even within the confines of the CIO there was disagreement as to who was for Mr. Brown and who was against Mr. Brown. And I think you will find within the 96 Senators assembled in this building that there is an unusual degree of difference of opinion.

I think it should happen in all the processes of a republic. Now, if your contention is that this lobbying should not go on among groups that receive their income from the Federal Government, how can you reconcile Secretary Mitchell's standing up before the labor convention in Los Angeles last fall and advocating the repeal of right-to-work laws? Is that lobbying?

Mr. CRUINSHANK. No, sir.

Senator GOLDWATER. It isn't lobbying?

Mr. CRUIKSHANK. No, sir.

Senator GOLDWATER. The AFL or the CIO has no influence among the legislatures of the States?

Mr. CRUIKSHANK. Mr. Mitchell was speaking to an organization of working people, not to a legislature. And, anyway, he is a Cabinet officer, and it is quite different. Mr. Chairman, I would like to clear up this point.

Senator GOLDWATER. Now, just a moment.

Mr. CRUIKSHANK. Could I clear up the record?

Senator GOLDWATER. Well, let me finish this.

Mr. CRUIKSHANK. All right.

Senator GOLDWATER. When Secretary Mitchell comes before this committee and advocates the passage or the nonpassage of legislation——

Senator DOUGLAS. He comes on invitation, Senator.

Senator GOLDWATER. I might remind the Senator that they don't always come on invitation.

Senator DOUGLAS. When they don't come on invitation, we throw them out.

Senator GOLDWATER. It is hard to throw a man out who doesn't come in.

I want to pursue this just a moment, and I want to read into the record what Senator George said during the hearings that you attended.

Senator DOUGLAS. Any members of the Department of Labor who are here not on invitation will be thrown out.

Senator GOLDWATER. That are here on invitation?

Senator DOUGLAS. If there are any here who are not on invitation attempting to influence these proceedings, we will throw them out.

Are there any here who are not here on invitation?

(No response.)

Senator GOLDWATER. It was announced as an open hearing.

Senator DOUGLAS. Is there anyone here trying to influence the proceedings of this committee? We will ask them to leave the room, in accordance with the point made by Senator Goldwater.

Senator GOLDWATER. I think the Senator has attended enough committee meetings in his illustrious stay in the Senate to know that people in the Government lobby for legislation and lobby against legislation. Let's not quibble about that.

Senator DOUGLAS. I have heard very bitter denunciations of Mr. Paul Hoffman and others who walked into the offices of Senators unsolicited.

Mr. Hoffman came to my office, and I was very happy to have him. He didn't have to come in the back door, incidentally. We sent him a letter inviting him to come.

Senator GOLDWATER. We weren't discussing Mr. Paul Hoffman.

Senator DOUGLAS. What is sauce for the goose is sauce for the gander.

Senator GOLDWATER. I don't have a back door to my office. I am not fortunate like the Senator. So, when they call they have to come in the front door, and I rather welcome them.

I didn't know that Mr. Hoffman had entered into this conversation or this discussion.

Senator DOUGLAS. It should be a precedent.

Senator GOLDWATER. What we are trying to do here is to find out——

Senator DOUGLAS. Since no Department of Labor official has said that he is trying to influence the activities of this committee, I will assume that he is not trying to. If anyone is here, he is not trying to influence the activities of the committee. And if anyone is here, he has preferred to be permitted to stay.

Senator GOLDWATER. I am happy that you made that decision, because I know the Department of Labor people would like to stay if they are here. And I have never heard any complaints from them as to the way these committees are conducted. I think it is a rather healthy thing that these people in government come here and tell us what they think about legislation and what they dislike about it.

At times I find it difficult to get some members of the Government to even tell me what they think about legislation when I invite them. I want to get back to this hearing. I want to get back to something Senator George said on page 162 of these hearings before the Committee on Finance, United States Senate, in the 83d Congress on H. R. 5173:

> Senator GEORGE. Doctor, I in my own individual capacity have frequently seen men on the public payrolls up here who were directly interesting themselves in legislative matters before the Senate. I never take any offense at it. But that happens, nevertheless, every time you have a sharp issue, let us say, in which the administration is very much interested. You will find somebody around here in the reception rooms who is on the public payroll, some of them with pretty high salaries now and then. And they are not loath to express themselves on how they feel about a certain piece of legislation.
>
> Now, your criticism of State people here I don't think you ought to indulge in; because this is their job in the States. And they are supposed to know more about it than anybody else, actually.

Now, we have had, you know, from the very beginning an issue here between a completely federalized unemployment system and the system which we did adopt. Now, frankly, I don't think we could have adopted a federalized system at that time. I am not yet convinced that it is a wise system, because this question of employment, while it is national, and unemployment is a national problem, and employment is a national problem, yet it is affected by conditions that exist in all of the States. They are not always similar to the conditions that exist in remote parts of the country far from these States.

Their administrative officers are supposed to be able to give us some information, and I find it helpful. I don't object to seeing a Cabinet officer around here occasionally, or somebody else around here occasionally.

I didn't realize you carried the title of doctor.

Mr. CRUIKSHANK. I am not, sir. I have often had occasion to correct both Senator Milliken and Senator George. I claim that I have a doctor's degree from the Senate Finance Committee.

Senator GOLDWATER. I direct that to you merely to bring out further the fact that Mr. Brown or any of the misters, whatever their names were, that preceded Mr. Brown, were doing what this particular Senator feels is part of their job, to let the Senators know what they feel about legislation that affects that particular thing. I don't know where we could go to get the information.

If we came just to the A. F. of L., we would get a very sound, well-thought-out argument from the A. F. of L. expressing their viewpoint.

It might coincide with the other side. But in this particular case, it did not. Now, if we had taken only your position in it, we evidently would not have satisfied the Senators, because they voted 78 to 3 against your position. I don't see how we can condemn a man who was doing his job. And all through this I don't mind telling you the only complaint that I have heard registered against Newell Brown is that he stuck too close to the law.

Mr. CRUIKSHANK. Senator, may I comment on some of this, please?

Senator DOUGLAS. Yes. This discussion has gone on for a long period of time. I have not wished to interrupt it. I hope we can get to more substantive matters. But I think you should be permitted to reply.

Senator GOLDWATER. I think this is very substantive, because it is a part of his complaint.

Mr. CRUIKSHANK. I will make it just as brief as I can.

Senator GOLDWATER. This is the whole essence of his complaint, that Mr. Brown lobbied, as did the whole committee, and as it has done for years and as have other governmental officials. That is the only point he has made.

Mr. CRUIKSHANK. Mr. Chairman, first let me say that the vote was not precisely against our position. The bill was materially changed. In adopting certain amendments, the Senate did depart from the position of the interstate conference; so, it is not quite accurate, if I may say so, to say that the Senate adopted the position of the interstate conference by a vote of 73 to 3. The bill was considerably changed before that was finally adopted. And many of our objections were met.

At the very outset of the hearing on the Reed bill—and I am looking at page 151 of the hearings—and I am trying to make this brief by summarizing—I took a paragraph or so to summarize the main provisions. Then I said—and I quote:

We have no quarrel with the principle that all the receipts from the Federal Unemployment Tax should be earmarked and used only for the purposes of the Employment Security Program.

So, the difference with the interstate conference was not, as has been suggested, that the A. F. of L. didn't want the money taxes for the purposes of unemployment compensation to go back to the States. Now, again, our position is this: that while there is a place for this organization, and it even has a role in legislative matters, they cannot, as I said in response to Senator Allott's question, operate in a vacuum. And we would not expect them to do so. And they should be able as State administrators to respond to inquiries and questions from a Senator or Member of the House of Representatives saying how does this affect you, Mr. Joe Doaks, as administrator in your State. That is what I want to know when I am making up my mind as to how to cast my vote on a particular measure. I think that is entirely legitimate. And I think that both of them would be remiss in their duties if on the one hand it were not asked for and on the other hand if it were not given. But that is a different thing from establishing an entity, an organization, and then setting up that organization financed with funds to operate as a lobbying organization and not in response to inquiries, but to tell their State administrators to alert the Members of Congress to a particular situation and see that they know your point of view and see that they are approached by people who have influence with them. That is not acquainting them with the issues; that is lobbying in the strictest sense. And that, we think, is an illegitimate activity.

Senator DOUGLAS. Mr. Cruikshank, do you have any evidence that the cost of sending out these letters was borne by the Federal Government?

Mr. CRUIKSHANK. I don't have the evidence; but I have said repeatedly that it was, and it has not been, denied. I know that the Interstate Conference has the use of a kind of frank arrangement of some kind. The States use it. And I do know that letters doing Interstate Conference business have been sent out using that frank. But I don't know that this one was. I say that I have charged that it has, and neither the Secretary of Labor in personal interviews nor the Advisory Council nor anyone else has ever denied the charge.

Senator ALLOTT. Mr. Cruikshank, before we go on: Could you expand on that?

Do you regard it as against the law for the Interstate Conference to use this frank in the carrying on of their business?

Mr. CRUIKSHANK. I say it is against the policy as established by Congress. And I say that a person who does it——

Senator ALLOTT. I am trying to get this clear. That is because you say they were engaged in the lobbying activity?

Mr. CRUIKSHANK. That is right, sir.

Senator ALLOTT. But in carrying on their Interstate Conference business, they are within the law in using this?

Mr. CRUIKSHANK. Well, I don't know that they are not.

Senator ALLOTT. All right. Now, this letter that you referred to yesterday which Mr. Brown——

Mr. CRUIKSHANK. But I want to make it clear that it is against the policy established by Congress in that section 1913 that he read yesterday. Now, they can't be sent to jail for it, because the penalty pro-

visions apply only to Federal officers. But it is an expenditure of funds that is clearly against the policy adopted by Congress.

Senator ALLOTT. Now, in this particular instance, this letter that you read from yesterday in which you quoted from Mr. Brown, that letter was sent to the other administrators in the country?

Mr. CRUIKSHANK. Yes, sir.

Senator ALLOTT. Do you know of Mr. Brown having printed material or printed brochures or anything like that circulated among people in general or among Senators for this purpose?

First I will ask about the people in general, outside of the Congress.

Mr. CRUIKSHANK. I am not sure I understand your question.

Senator ALLOTT. Did Mr. Brown cause brochures or other statements or lobbying activities to be carried on outside of this contact with his own people?

Mr. CRUIKSHANK. Well, in this memorandum, he told them to get in touch with people who had influence with Congress.

Senator ALLOTT. The memorandum speaks for itself. But I am asking you whether you know of your own knowledge that he or the legislative committee of which he was chairman—and he has only been recently elected chairman as you pointed out yesterday—carried on communications with other persons other than with his administrators, members of the Interstate Conference?

Mr. CRUIKSHANK. I know that he asked them to do that. But whether they did or not I don't know.

Senator LEHMAN. Mr. Cruikshank, do you know whether this Conference of Employment Security Agencies maintains a separate staff or is the work done by people borrowed from the various agencies?

Mr. CRUIKSHANK. It maintains an executive staff in the Department of Labor of people who are on the payroll of the Department of Labor.

Senator LEHMAN. Separate staff?

Mr. CRUIKSHANK. A small staff. An executive secretary and 1 or 2 secretaries. I don't know exactly how many.

But he is a full-time employee to serve as executive secertary. He has no other duties that I know of.

Senator LEHMAN. What part of the cost of the administration of the State employment security programs is paid through Federal funds?

Mr. CRUIKSHANK. All of it, with the exception of very minor funds called contingency funds. State administrators refer to them as their "mad money."

Senator DOUGLAS. They refer to it as what?

Mr. CRUIKSHANK. As their "mad money." Presumably when they get out of patience with the Federal Government they have a little kitty that they can use of their own; that they don't have to account to the Federal Government for. But that is a small item composed of fines and so forth, and rebates, that they collect mostly in connection with tax contributions that have been in arrears or something like that. As to the rest, a hundred percent of the administrative cost is out of the funds appropriated by Congress.

Senator DOUGLAS. Mr. Cruikshank, are you ready now to proceed with the rest of your testimony?

Mr. CRUIKSHANK. Yes, I will, sir. I am beginning on page 5 here of the statement, and I will try to condense this in time if I may, because it is nearly the end.

This is the list of contributions that was to be in the record.

Senator DOUGLAS. Yes.

Mr. CRUIKSHANK. That is the only one I have, so I must not have given it to the reporter.

Senator ALLOTT. Mr. Chairman, I realize that this is not a legal proceeding, but I would like to state my objection to that list of contributions being made a part of the record as being so remote and fantastic in its application to this case that it has no application to the consideration of the nomination.

Senator DOUGLAS. The committees of Congress do not move with the strictness on such materials with which the courts move, and with the understanding that this information will only be given that degree of importance which the other facts justify, the Chair will rule that the material is admissible.

(The list of contributions referred to follows:)

[American Federation of Labor, Washington, D. C., September 1954]

List of contributors of $500 or more, first quarter, 1953, Unemployment Benefit Advisers, Inc.

Amount contributed 1st quarter, 1953

Pittsburgh Plate Glass Co., Pittsburgh, Pa	$1,000
Marshall Field & Co., Chicago	750
Beech-Nut Packing Co., Canojoharie, N. Y	500
Union Bag & Paper Co., New York City	500
S. S. Kresge Co., Detroit, Mich	750
Union Carbide & Carbon, New York City	2,000
General Electric Co., Schenectady, N. Y	2,000
Standard Oil of New Jersey, New York City	1,500
Republic Steel Corp., Cleveland, Ohio	1,000
U. S. Rubber Co., New York City	500
Atlantic Refining Co., Philadelphia, Pa	1,000
Eastman Kodak Co., Rochester, N. Y	500
Standard Oil of California, San Francisco, Calif	1,000
Sheaffer Pen Co., Fort Madison, Iowa	500
Westinghouse Electric, Pittsburgh, Pa	500
Retail Merchants Association of Pittsburgh, Pa	500
Aluminum Co. of America, Pittsburgh, Pa	1,000
Caterpillar Tractor Co., Peoria, Ill	1,000
Koppers Co., Pittsburgh, Pa	500
Associated Dry Goods Corp., New York City	500
Allied Stores Corp., New York City	1,000
Sun Oil Co., Philadelphia, Pa	1,000
Shell Oil Co., New York City	1,000
Alabama Power Co., Birmingham, Ala	500
Timken-Detroit Axle Co., Detroit, Mich	500
Federated Department Stores, Cincinnati, Ohio	1,000
American Cyanamid, New York City	1,000
Lead, South Dakota	500
Peoples Gas, Light & Coke, Chicago	1,000
Wieboldt Stores, Inc., Chicago	1,000
Carson, Pirie & Scott, Chicago	500
Firestone Tire & Rubber Co., Akron, Ohio	500
Transcontinental Gas Pipe, Houston, Texas	2,500
Libby-Owens-Ford Glass Co., Toledo, Ohio	500
Total	30,000
Total receipts (designated as "retainer") for 1st quarter, 1953	[1] 38,810

[1] The difference between this amount and the $30,000 total shown above presumably represents contributions of less than $500.

List of contributors of $500 or more fourth quarter, 1952, Unemployment Benefit Advisors, Inc.:

Amount Contributed, 4th Quarter, 1952

E. I. du Pont de Nemours, Wilmington, Del	$1,000
Gaylord Container Corp., St. Louis, Mo	500
Oscar Mayer & Co., Chicago, Ill	500
Humble Oil & Refining, Houston, Tex	500
Fairbanks-Morse, Chicago, Ill	500
G. C. Murphy Co., McKeesport, Pa	1,000
Gulf Oil Corp., Pittsburgh, Pa	750
Nash-Kelvinator Corp., Detroit, Mich	500
American Brass Co., Kenosha, Wis	750
Allis-Chalmers Manufacturing Co., Milwaukee, Wis	2,500
General Motors Corp., Detriot, Mich	3,500
Industrial & Self Insurer's Exchange, Boise, Idaho	1,000
Kelsey-Hayes Wheel Co., Detroit, Mich	500
Maytag Co., Newton, Iowa	500
Richfield Oil Corp., San Francisco, Calif	500
Great Lakes Steel, Detroit, Mich	500
International Harvester, Chicago, Ill	1,000
Cities Service Co., New York, N. Y	500
J. L. Hudson Co., Detroit, Mich	1,000
Clark Equipment Co., Buchanan, Mich	500
B. F. Goodrich Co., Akron, Ohio	500
American Can Co., New York N. Y	1,000
Kennecott Copper Co., New York, N. Y	750
S. H. Kress & Co., New York, N. Y	500
Chrysler Corp., Detroit, Mich	1,000
Total	21,750
Total receipts[1] for 4th quarter, 1952	[2] 34,465
Received during previous quarters of calendar year 1952	108,724
Total for calendar year 1952	143,189

[1] Designated as "retainer."
[2] The difference between this amount and the $21,750 total shown above presumably representing contributions of less than $500.

Mr. CRUIKSHANK. I am returning to my formal statement, Mr. Chairman. There is one other incident relating to the nominee's performance in his present position which has a bearing on his qualification for the post under consideration.

According to accounts appearing in the Manchester (N. H.) Sunday News on October 17 and 24, 1954, and the Manchester (N. H.) Union Leader of October 18, 1954, the nominee, on the occasion of a meeting of employment security officials, contracted an entertainment charge at a hotel in New Castle, N. H., a portion of which, to the extent of $350, was subsequently disallowed by the Governor.

While it was first claimed on his behalf during his absence from the State that he had never intended that any State pay this bill, he himself, upon his return, pressed the matter as a legitimate item of expense. Upon being overruled, he was required to pay this portion of the official entertainment out of his own pocket.

There are current reports in New Hampshire that the employees under Mr. Brown's direction reimbursed him personally for this expense item. As the members of this committee are aware, the acceptance of such reimbursement by a Federal official would undoubtedly be in violation of the following provision of law:

No officer, clerk, or employee in the United States Government's employ shall at any time solicit contributions from other officers, clerks, or employees in the Government service for a gift or a present to those in a superior official position nor shall any such official or clerical supervisor receive any gift or present offered or presented to them as a contribution from persons in Government employ receiving a lesser salary than themselves, nor shall any officer or clerk make any donations as a gift or present to any official superior.

Every person who violates this section shall be summarily discharged from the Government employ.

I have the citation. Now, in addition to these references in the newspaper files here that I made, some others have come.

Senator DOUGLAS. Are you submitting those newspaper accounts for the record?

Mr. CRUIKSHANK. I have two sets of them here which I would be glad to make available.

Senator DOUGLAS. Those will be made a part of the record.

Mr. CRUIKSHANK. All right, sir. Now, these raise certain points——

Senator DOUGLAS. I want to clear this up. Are you asking that these newspaper accounts be made part of the record?

Mr. CRUIKSHANK. Mr. Chairman, may I answer that later?

Senator DOUGLAS. For the moment, then, they will not be admitted.

Mr. CRUIKSHANK. I think it is a question of how useful they are to the committee. They just raise certain points, certain questions, and I would like to list those.

In the Concord Daily Monitor of October 16, it reports that—let me say that the cocktail business itself didn't amount to a great deal, except that there was a question about the propriety of the expenditure, but it did bring out certain other matters that had allegedly taken place in the State of New Hampshire, and one of them is that in this Concord Daily Monitor of October 16, it brought to light that an audit a year previously—it turns out that it was actually 14 months previously—had revealed certain questionable practices and the handling of expenditures under this contingent fund had been taken out of Mr. Brown's control.

The question was raised about the propriety, if not the legitimacy, of certain of his expenditures. Now, in the Manchester Sunday News of October 17, 1954, the State comptroller, Arthur E. Bean, was quoted in regard to this audit and his account of—the reasons for taking the control of expenditure of State funds out of Mr. Brown's hands and putting them subject to other checks is recorded.

Then in the Manchester Sunday News of October 17, 1954, the State treasurer, Mr. Alfred S. Klaus, stated that it was 14 month previously that he had taken over the expenditure of the contingency funds, and he is quoted as saying:

The attorney general's ruling had forced this policy shift.

The Manchester Sunday News of October 24, 1954, lists seven questions that go unanswered regarding Mr. Brown's handling of public funds in the State of New Hampshire. Some of them relate indirectly to that but I submit that all seven of these questions which this newspaper says have, as of that date, been unanswered, relate to the manner in which Mr. Brown had handled public funds.

The New Hampshire Sunday News of October 31, 1954, gave a news story indicating an alteration of a hotel bill, raising the possi-

bility that the items listed on the hotel bill had not been accurately listed with the view that it would not raise the question as to whether Mr. Brown had paid the—would have to pay the bill out of his own pocket or whether they could be charged properly to the State fund.

There is also a reference here on the—on the Concord (N. H.) Daily Monitor of October 16, 1954, a rather cryptic reference, quoting the Governor, explaining that he understood that Mr. Brown would not have to make good this out of his own pocket, even though he had reimbursed the funds; that members of employment service groups from the other New England States which took part in the assembly would help defray this item of expense.

He does not say that employees in New Hampshire would, but indicated that employees of other State agencies would make donations to defray this item of expense.

Those are the references to the newspapers, Mr. Chairman, and members of the committee, which to us raise very serious questions.

Returning now to the formal statement——

Senator DOUGLAS. Do you want to have these made a part of the record?

Mr. CRUIKSHANK. Yes, I believe that they should be. Yes, I think the entire file should be, because they raise important questions. There is one in the file that gives, I believe, Mr. Brown's reply. We looked into everything that we could find in the newspapers when this matter was brought to our attention.

There is one full account. I take it that it is full. It is a long account, at least, quoting from Mr. Brown's reply to some of these. In our judgment, it was not adequate, but that is included in the file, also.

Senator DOUGLAS. That will be made a part of the record.

Mr. CRUIKSHANK. Yes, sir. The whole thing, including his reply and his defense, is included in this packet. We tried to make it as complete as possible.

(The documents referred to follow:)

[October 9, 1954]

TAG TAXPAYERS FOR COCKTAILS—TIPS, GOLF IN $1,400 TAB O. K.'D BY GREGG, AIDES

By James Stack

CONCORD, October 9.—New Hampshire taxpayers footed between $1,100 and $1,200 worth of bills for cocktails, tips, golf course fees, dance music, but tours and other incidentals in connection with the meeting of the New England unemployment security assembly at New Castle.

This was revealed here this week through an investigation of a $1,400 expenditure approved by the Governor and council at its last meeting on the request of Newell Brown, director of the State's employment security division. The convention was held last week.

Though Brown himself referred to a "social hour" when asked whether part of the $1,400 had gone for cocktails, Benton Demers, his deputy, readily admitted that State funds had paid for liquor.

USELESS CONTRADICTION

"When any one of more than 200 people who were there can contradict you," Demers said, "there's no sense insisting there wasn't a cocktail hour if there was one. That's how I look at it."

The bookkeeping department of Wentworth-by-the-Sea—the exclusive resort hotel at which the convention was held—also confirmed the State was being billed for the liquor consumed.

The cocktail hour—which Director Brown preferred to call a "social hour"—is listed on the hotel bill officially as a "buffet."

Everett Senior, hotel bookkeeper, was asked what was meant, exactly, by the "buffet" item, which cost the State $350.

"Well, that was for the liquor they had," he replied.

In discussing the liquor item with a Sunday News reporter, Demers explained that he was "not sure whether the Governor and council knew they were approving money for a cocktail hour."

"THEY DIDN'T KNOW"

Demers said he was "inclined to think they didn't know."

When asked directly whether Director Brown—who is out of town for 10 days—had, to Demer's knowledge, deliberately avoided mentioning it when explaining the reasons for the $1,400 request at the Governor and council meeting, he said "Well, I don't know."

He added that "I don't think they would have approved it. When you spend funds of this kind for things like that, why, you keep your fingers crossed. I wasn't at the meeting myself, so I don't know."

Brown was summoned to the Governor and council meeting at the insistence of Executive Councilor John P. H. Chandler of Warner to render a complete explanation of what the $1,400 would go for.

Chandler told the Sunday News that, in his explanation, Brown said nothing about liquor, referring only to the need for $400 more.

For the past 3 years—since New Hampshire launched the New England employment security assembly—the division has had a blanket approval for $1,000 annually to cover cost of the affair.

This came to Chandler's attention, he said, this year, when Brown requested an additional $400 to cover estimated increased costs.

Chandler moved that the action of the Governor and council 3 years ago, approving the automatic $1,000 a year, be rescinded on the grounds that future council bodies should not be committed.

"I frowned on this expenditure," the Warner councilor explained, "but there was no other opposition, so I went along with a consent vote."

According to approximate estimates furnished by Demers and official figures given by Senior, the hotel bookkeeper, the State paid a total of $445.30 for "tips" as part of the overall bill.

Demers explained that the division decided to direct the hotel to charge the State 10 percent of the total room and board bill paid by about 250 New England employment security workers who attended.

Bookkeeper Senior said that "other tips for $35 and one for 40 cents" were listed, but that he didn't know "what the tips are for."

Listed also was a $75 item for use of the resort golf course by convention guests, $96 for bus tours to historic places in Portsmouth, a $26 banquet bill covering dinner for Governor and Mrs. Gregg, and for Mr. and Mrs. George H. Ellis of Boston. Ellis, director of the research department of the Federal Reserve Bank of Boston, spoke.

There was also a $5 charge by the hotel for a corsage which, according to Senior, was presented to Governor Gregg's wife.

The bill listed by Senior and charged to the State totaled $1,032.70. Still other expenses were explained by Demers.

One unusual aspect of the unique expenditure is that, for all that was spent, relatively few New Hampshire persons benefited, since only 60 or 70 Granite State employment security workers attended.

This figure was given at convention time by Director Brown, who said that a total of about 250 attended in all. The others were employment security workers from other New England States, he said.

Brown explained, at convention time, that the theory behind conducting the assembly—for which New Hampshire is the annual host—is to improve the employment security worker through contact with his counterpart from other New England States.

During the convention each year, he said, panel discussions on "mutual" and "interstate" problems are held, all aimed at improving the efficiency of the New Hampshire worker.

"There is also the question of State promotion," Brown pointed out. "After all, some of these out-of-staters might stay awhile or come back for a visit. State promotion is also considered in the spending of this money. It's good advertising."

"It cost us another $110 for $10 fees to panelists who came to the convention from out of State. There was also a charge for an orchestra and a charge for opening a couple of historic houses in Portsmouth. I don't know exactly how much they represent."

This brought the known total to $1,142.70, in addition to whatever is charged for dance music and other incidentals, he said.

Demers estimated that the overall total "might amount to something in excess of $1,300. We won't know for a few days.

[The Manchester Sunday News, Manchester, N. H., October 17, 1954]

PLOT DIDN'T CLICK—GREGG AND COMPANY "HIT ALL-TIME LOW"

(Below is reprinted in its entirety the political column: "The State Is My Beat" from yesterday's Concord Monitor.)

By Leon W. Anderson

Yesterday's Governor and council meeting hit an all-time low so far as our experience is concerned.

It was really something to see the way Governor Gregg sought to give the big lie to the N. H. Sunday News for its recent disclosure that a $350 cocktail party was among the items of expenses for the annual New England Assembly of Employment Security Personnel, which the Governor and council had voted $1,400 to subsidize.

As the meeting opened, the Governor introduced Deputy Director H. Benton Demers of the division of employment security and asked him if he had some bills to present, concerning expenses of the assembly.

Demers said yes, and produced two bills. One, he explained, totaled $967 for various items such as $96 for a tour for the assembly guests and $75 for golf fees. Then Demers carefully reported that a $350 bill for a cocktail party had been made out separately and billed directly to Director Newell Brown of the division of employment security on a personal basis.

We suppose that the idea Governor Gregg was trying to put across to everyone was that no one had ever intended that the cocktail party would come out of the State subsidy of $1,400. But from where we sat, the maneuver did not click.

In our opinion, at least, it was an insult to the intelligence of the five councilors to even think that they fell for the staged demonstration. One councilor later told us privately he not only was surprised and shocked by the show put on by Demers, but was also rather incensed by it all.

As it was Councilor Romeo J. Champagne of Manchester said he did not feel right about Director Brown footing the $350 cocktail bill. Champagne remarked that department heads should not be forced to such use of their salary.

Councilor C. Wesley Lyons of Rochester took another track. He said he would not ask Demers just how the $350 cocktail hour was to be paid for. Lyons emphasized that he did not care to embarrass Demers by seeking such information.

And Lyons added all he wanted to be sure of was that the cocktail bill would not be paid for from taxpayers' funds in any way, shape or manner. Demers gave his word that would not occur.

Demers was on the carpet, of course, because Director Brown had not yet returned from a national conference at New Orleans.

Champagne did not get very far when he asked Demers if cocktail parties had been given at similar assemblies in past years, which are annually sponsored by the New Hampshire DES for the benefit of employment security officials and workers of all the six New England States.

Demers said he could not remember. Which was a surprising statement, seeing as how he is and long has been, a top DES official.

Because Demers said he could not remember, we later hied ourself to the comptroller's office to check last year's assembly expenditures. We did not find any cocktail costs. But we did learn that while the Governor and council voted only $1,000 to subsidize the 1953 program, Director Brown actually spent $2,300 and the overspending was later given unanimous Governor and council approval.

We also discovered that $300 was spent for 300 aprons, presumably for use at a $129 clambake which the State paid for. Another $40 was spent for 100 2-ounce souvenir bottles of maple sirup.

We talked with State Treasurer Alfred S. Cloues and learned that some 14 months ago he had taken over supervision of the DES contingency fund, from which the assemblies are financed. Cloues said an attorney general's ruling had forced that policy shift.

More checking revealed the ruling followed a secret audit of the contingency fund by the comptroller's office, details of which have never been made public. The audit brought out that the law was being violated by the manner in which Director Brown had been regularly spending large sums from the contingency fund, without bids or manifests or any other public records.

We learned, in addition, that since contingency fund expenditures have been forced to clear the comptroller's office and Treasurer Cloues' supervision, only a part of the $10,000 yearly fund has been spent. The rest, which the law says must lapse into the jobless insurance trust fund on each June 30, now goes to help jobless workers who need such cash.

Councilor John P. H. Chandler, Jr., of Warner was given a hefty runaround by his fellow councilors during yesterday's meeting. Last month Chandler got his dander up when Director Brown showed up and asked for an extra $400 subsidy for this year's assembly. Brown explained that more than a year ago the Governor and council had approved an annual $1,000 allowance for the assembly, which was supposed to hold good year after year, and all he was asking authority for was the extra $400.

Chandler landed on that one like a ton of bricks. He said that under the law no Governor and council could bind future executive groups to commitments. Chandler won his point and the records were changed to conform to his viewpoint.

That is, Chandler thought the records were changed. But yesterday he learned the records of the September 30 meeting showed the Governor and council had not only reiterated last year's vote, but even more so. Instead of giving Director Brown a blanket $1,000 yearly assembly allowance, the new record reads the annual subsidy will be $1,400.

Chandler insisted the record should be changed so the $1,400 subsidy vote would apply only to this year. But when Governor Gregg asked if any other councilor seconded Chandler's viewpoint, no one spoke up. So Chandler is still out in left field with the sun in his eyes, so far as having his correct position backed up by his fellow councilors.

Chandler really had a bad day of it. He lost out on another point of the record. The record of the special meeting at Rochester, when Chandler was appointed to head up a probe of the State hospital bakery contract, reads that he would be required to report his findings as of yesterday's meeting.

Chandler insisted yesterday that Governor Gregg never did mention the time limitation for the probe, at the Rochester meeting, and we sure as heck agree with him. But when Gregg finally agreed to have that palpable error removed from the record, none of the four other councilors would second Chandler's plea to put the record straight. So the Governor ruled nothing could be done to rectify that mistake. And today Chrndler is still holding the bag on this one as well.

Yes, all in all, it was one of those council meetings which we dare say the participants hope will soon be forgotten, and will be long remembered.

[The Manchester Sunday News, Manchester, N. H., October 17, 1954]

BROWN SPENDING WENT ON DESPITE 1953 CLAMPDOWN—COMPTROLLER BEAN RECALLS DISPUTE LEADING TO CURB

CONCORD, October 16.—State Comptroller Arthur E. Bean revealed here tonight that it was his office that stepped in 14 months ago and halted alleged spending by Newell Brown's State employment security division, following an audit of the agency's $10,000-a-year contingency fund.

Bean, who stressed that he was talking from memory when reached tonight by telephone at his home, said a shift in the handling of the employment security contingency cash was ordered by the attorney general's office "after a bill that we wouldn't approve caused an argument."

The comptroller recalled that "as I remember it, a question arose and we called in Newell Brown on a bill. He had his ideas and we had ours. We had to straighten the matter out. That resulted in a ruling regulating spending by the employment security division."

A page 1 story in today's Concord Monitor by Political Columnist Leon W. Anderson revealed that despite that shift of control, the agency—which is directed by Newell Brown of Concord—spent $300 for aprons, $40 for maple syrup, and $129.30 for a clambake for the 1953 Northeast employment security assembly, sponsored annually by the State.

These details regarding the spending of taxpayers' cash became known yesterday when H. Benton Demers, deputy director of the department, appeared before the Governor and council to explain that a $350 cocktail party staged at this year's assembly was not to be paid for by the State funds.

Revelation that the cocktail party was held was made in a page 1 story a week ago in the Sunday News. At that time, Demers had not indicated that it would be underwritten by anything but State funds.

He did not make it clear when Director Newell Brown of the employment security division decided to "assume personal responsibility for the bill."

Yesterday's assurance to the Governor and council by Demers that the State would not foot the cocktail bill led to new disclosures today concerning employment security division spending.

EMBARRASSMENT MOUNTS

Embarrassment for the State agency mounted today when it became known that Director Brown got the Governor and council, a year ago, to approve a supplementary expenditure of $1,300 that had been overcommitted when his agency spent $2,300 for the 1953 employment security assembly, even though the sum of only $1,000 had been authorized in the first place.

Details of the alleged illegal spending were contained in a secret auditor's report prepared by the staff of Remick H. Leighton, a legislative budget assistant hired by State Comptroller Bean at the outset of an audit of the agency's $21 million fund.

The auditor's report asserted that Director Brown had been outlaying substantial amounts of cash from his department's $10,000-a-year contingency fund, apparently illegally, since the expenditures received no approval from the comptroller's office, as required by law, the report said.

After the auditor's report was submitted, Deputy Attorney Gen. George F. Nelson ruled that the department's free-spending practices should immediately cease and that contingency funds should be safeguarded by proper manifests and comptroller approval of all expenditures, as well as State Treasurer Arthur E. Cloues.

In 1943, it was revealed today, when Director Brown had personal supervision of the contingency fund, he paid out, without approval from the comptroller, according to the audit, such sums as $25 for repairs to the leased building in which his agency's offices are housed; $2,100 for the annual employment security workers assembly; $83.25 to the Jordon Luggage Shop; $460 to the R. H. Llewellyn Co. of Manchester; $469 to the Superior Electric Co. of Concord; $392 to the Allen Stationary Co.; $44.70 to the Remington-Rand Co.; $44.70 to Pelissier's Luggage Shop; $581 to the Remington-Rand Co.; and $681 for a calculating machine.

The auditor's report pointed out that all of these expenditures should have been processed through the office of Comptroller Bean, and added further that many of the items should have been put up for bid because of the amounts of money they represented.

Still further disclosures today brought out that about a year ago, the Governor and council O.K.'d expenditures of $300 for aprons, presumably used at the 1953 division of employment security clambake.

Governor Gregg and his aides also approved a request by Director Brown for $40 for 100 souvenir bottles of maple syrup, in addition to an item of $129.30 for a departmental clambake held at Wentworth-by-the-Sea, in connection with the annual Northeast employment security assembly.

These items, which were included in the $2,300 bill rolled up by the State agency at the exclusive New Castle resort hotel last year were listed in manifest and approved by the comptroller's department, it was learned. However, Governor and council records show that $1,300 of the $2,300 was approved after it was committed by Brown's department.

Since Director Brown turned over control of the contingency fund to State Treasurer Cloues, spending for such items such as those listed above have disappeared from records covering the fund, accounts show.

The contingency fund is made up of fines, penalties, and other sums paid by employers for laxness in filing payroll contributions. At the end of each fiscal year, whatever balance remains is automatically poured into the State's unemployment compensation trust fund.

Under the law, the contingency fund can be used for proper expenditures for which the division of employment security is not given budget allowances by the Federal Government or the legislature.

The law states specifically that "this fund shall be administered and disbursed in the same manner and under the same conditions as other special funds of the State treasury," and that "no expenditures are permissible . . . except as necessary and proper under the law."

[New Hampshire Sunday News, Manchester, N. H., October 31, 1954]

DEMERS WAS "PRESSURED" TO ALTER HOTEL TAB—"GET OVER TO NEW CASTLE AND GET THAT BILL CHANGED!"

By James Stack

CONCORD, October 30.—In shocking disclosures today by H. Benton Demers, deputy director of employment security division, Gov. Hugh Gregg was accused of using "pressure" and "influence" to shape Demers' conduct in the celebrated cocktail controversy that has been raging in recent weeks.

Demers revelations, made in an exclusive Sunday News interview, gave what appeared to be a final and affirmative answer to the "conniving plot" questions fired at Gregg by B. J. McQuaid, editor and associate publisher of the Sunday News, at the Governor's recent explosive press conference.

In answer to the question whether he had not "connived" to present a false picture of the cocktail party to his council and thus discredit the original Sunday News exposure, Gregg denied it energetically. He said flatly he had never had anything to do with Demers' statements to the council relative to whether the State was going to be billed for the $350 cocktail party staged by the DES at a convention.

For the benefit of thousands of New Hampshire radio listeners Gregg declared emphatically on October 18:

"The truth of that matter, Mr. McQuaid, is this: I asked Mr. Demers to come before the council meeting to give a complete explanation to the council of what took place. No discussion was held with Benton Demers except in the few minutes before he went in the council chamber. I discussed with him outside the executive offices of what his position was. There was no conniving."

But Demers, a 21-year career man with the DES, said today he was "put on the hook" by Governor Gregg. He said he had told the Governor so as recently as Tuesday, and had given Gregg "plenty of opportunity to take me off the hook" before deciding to explode the story.

The facts came out in what began as a routine interview. Among the most sensational of Demers revelations were these:

(1) Gregg called Demers on Monday, October 11. Demers confirmed to Gregg that the State had been billed for the cocktails. Gregg then told Demers that "somebody better get over to New Castle and get that bill changed."

(2) Alan Pope, secretary to Gregg, called Demers Thursday, after Demers had the bill changed so that Newell Brown, director of the DES, was responsible for the $350 cocktail charge, to ask what had been done so that the Governor could be "guided" in answering Sunday News questions.

(3) Before 9 in the morning on Friday, October 15, Demers was summoned to a governor and council meeting to tell a story that he said was "influenced" by a conversation he had with New Hampshire's Governor.

The Governor could not be reached by telephone at his residence where it was reported he was in New Haven, attending Yale-Dartmouth game.

Demers statement to the Governor and council, widely covered by press and radio, gave the executive body to understand that the DES had never intended to charge the cocktails to the State, but that Newell Brown, boss of the division, would assume "personal responsibility" for the bill.

This was exploded by Brown himself, upon his return from New Orleans, where he had been attending a convention, when he declared that he had always considered the cocktail item a legitimate expense and had fully intended to charge it to the State until the story was exploded.

The Brown statement came after Gregg, stung by a critical Sunday News story, challenged B. J. McQuaid, Sunday News editor, to appear at his monthly press-radio conference to engage in a discussion aimed at "letting the public know the truth" about the cocktails.

Caught in the trap that had been created by the conflicting Demers-Brown statements, Gregg doggedly refused an apology to the Sunday News reporter who had broken the cocktail story. Editor McQuaid demanded the apology as he leveled his "lying, conniving plot" questions.

Demers told the Governor and council that this writer had "misrepresented" himself as a member of the DES to obtain facts in conection with the State's bill for the cocktails. Gregg, following the unqualified Demers charge, told the council "it is a very serious thing that a reporter should misrepresent himself." Demers has apologized. The Governor hasn't.

Gregg, apparently clutching at straws on which to hang "facts" to back up his charge of Sunday News "inaccuracy" and "irresponsibility" at the radio-press conference, explained that the conflicting Demers-Brown statements about the cocktail bill as "an honest misapprehension."

But at the very moment Gregg made that statement to thousands of New Hampshire radio listeners, according to Demers, the Governor knew there never had been any misunderstanding and that he, Governor Gregg, advised Demers of what story he should tell the Governor and council about cocktails.

DEMERS' EXPLANATION

Demers explained that:

"On the day of the council meeting, when the Governor talked to me, he asked me whether I had had the bill changed, and I confirmed for him, in fact, that the State had been billed for the cocktails in the first place.

"He then told me—and I can only surmise what his intent was—that 'they'll crawl all over you if you go in there and admit that.' "

"He's the Governor of the State," Demers continued. "What could I do? I more or less had to go in there and tell the story as I told it."

Demers said that he "carried out the Governor's wishes as best I could without actually lying. I told the Governor and council that 'no State funds are involved' because it was apparent from the Governor's reaction, that there would not be. I certainly implied that Newell Brown had always intended to pay the $350 charge if I didn't say so in so many words."

Asked directly if he considered that he had been "pressured" or "influenced" by Gregg, Demers replied quickly: "Yes, definitely."

In addition to the "advice" given him by Gregg not to mention there was ever any plan to charge the State for liquor to the Governor and council, Demers also cited the Governor's statement that "somebody better get over to New Castle and get the bill changed."

"There I was, heading the department in Newell Brown's absence. I had no choice but to do what I did. Perhaps I shouldn't have done it, but it was a matter of judgment and I was the one who had to decide."

In spite of this telephone call to Demers, and his indirect contact with him 3 days later through his secretary, Alan Pope, the Governor insisted at his press-radio conference that he discussed the matter with Demers only once—just prior to the Governor and council.

"That, of course, isn't true," Demers said today. "I don't know why he said that. I called Newell Brown long distance because Governor Gregg called me. Otherwise, the matter would have been dropped October 11."

Demers said he could offer no explanation for the Governor's actions, but "am interested in them as they concern me."

BROWN BACKS DEMERS

Demers revealed that Newell Brown, his boss, had talked with Gregg last Tuesday and "at that time I made it clear that I had been put on the hook. I'm sure the Governor understood what I meant. He has made no attempt to get me off the hook in the meanwhile."

Brown, according to Demers, also informed the Governor that his deputy had been put "in a bad light" as the result of the incident.

Mr. Brown told the Sunday News today that, in relation to the Tuesday conference, he was "emphatic to the Governor—as he has been to everyone else—that Ben Demers acted throughout in accordance with his best judgment."

The DES director added that "it is all-important to me for the sake of Ben's position—and his future—that the record be cleared. Ben has been a fine, loyal deputy and should not be the target of any more opprobrium than he justly deserves."

Demers, a Dartmouth graduate in 1931, has been with the DES for 21 years, working up from the rank of clerk to his present position of deputy director. He intends, he said today, to remain with the division.

"I think the time to vindicate myself in this matter is now," he said, "not 10 years from now when the question might be raised again."

[New Hampshire Sunday News, October 24, 1954]

QUESTIONS GO UNANSWERED IN DISPUTED COCKTAIL HOUR

By James Stack

The celebrated cocktail hour tossed by Newell Brown's division of employment security for out-of-state bureaucrats at the expense of New Hampshire taxpayers monopolized newspaper headlines and radio airspace during a good part of last week.

But in the wake of all that was said by Governor Gregg as he scampered for cover following his charges that the Sunday News had been inaccurate in revealing the facts in the case, it is obvious that quite a few questions have gone unanswered.

Mr. Gregg tried desperately to blur these questions with a grammatical quibble. He claimed it was wrong for this reporter to have written that the taxpayers "footed the bill," or "paid" for the bill, because no money had actually changed hands. But this did not explain away the fact that the outlay of taxpayers' money had been approved by Mr. Gregg and his council specifically for Brown's party; that the party was held and the drinks consumed; and that the State was put under financial obligation to "pay." What saved the taxpayers' money was not Governor Gregg's quibble. It was this newspaper's exposure of the facts.

BACKED TO WALL

A quick review of all that went on including the play-by-play that highlighted the now famous radio-press conference in which Gregg was backed to the wall after his charges of Sunday News "irresponsibility" blew up in his face, might point up some of the still unanswered questions for the public.

It all began 2 weeks ago:

The Sunday News, in a page 1 story, revealed that the DES had staged a State-financed cocktail party at Wentworth-by-the-Sea, New Castle, and had also committed taxpayers for financing of other items such as golf-course fees, entertainment, dance music, bus tours, and the like.

Revelation that there had been a cocktail party at State expense allegedly came as a great shock to the Governor and council who had approved spending $1,400 to cover the whole shebang at Newell Brown's request, they said.

To satisfy the executive council that the Sunday News was wrong—to advance his plodding campaign to discredit the newspaper that has ripped away at his vulnerable administration—Gregg haled H. Benton Demers, deputy collector of the DES, forward to "explain" the matter.

Demers, talking for Newell Brown, absent because he was attending a New Orleans convention, flatly said that Brown had never intended that taxpayers would be tagged for the cocktails.

DEMERS "REPEATED STORY"

To support his claim, Demers told the council he had received two separate bills:

(1) A bill rendered to the State for $967 for items exclusive of the cocktails;

(2) A bill rendered to Newell Brown personally for the $350 cocktail hour, together with the "revelation" that it had "always been intended" that Brown would "assume personal responsibility" for the bill.

Gregg admitted in his radio-press conference—and his admission is contained in the transcript published in today's edition of this newspaper—that Demers discussed this "story" with him in his office and that he directed Demers to "repeat it" to the Governor and council.

Demers did.

Gregg was sitting pretty, even though it was suspected widely that Demers' explanation had been concocted following the Sunday News disclosures. If it could not be disproved the Governor's case might look better.

In any event Gregg decided, following a Sunday News charge last week that Demers' story was an invention to help him whitewash the incident, to challenge B. J. McQuaid, Sunday News editor, to prove it Monday at his press-radio conference.

Gregg issued the challenge in a telegram at 2 p. m. Sunday.

Sometime after that, it appears, he discussed the situation with Newell Brown, who had meanwhile returned from New Orleans. But Brown refused to go along with the Demers story.

Instead, Brown said very forthrightly that he never intended to assume personal responsibility for the cocktails, Demers' explanation notwithstanding, and that he, Brown, considered it a legitimate State expenditure.

Gregg—with his charges now blown sky-high—had to go through with his press-radio conference. But instead of rubbing it in to the Sunday News—as he expected to be able to do—he himself was forced to twist and turn in a frustrated attempt to explain the "bona fide misunderstanding" he said resulted in the widely varying stories told by Demers and Brown.

He refused this writer an apology and, to the contrary, hurled another of his "deliberate lie" charges in his attempts to cover up.

If Gregg is really interested in establishing the fact that some "deliberate lies" have been told, I suggest he should seek answers to the following questions—all of which he has chosen to ignore to date:

QUESTIONS IGNORED

1. Who authorized the Wentworth-by-the-Sea accountants to render a bill to Newell Brown—a bill that Demers had in his hand the day he gave the lie to the Sunday News before the Governor and council?

Brown himself says he didn't.

2. Why did Demers tell this reporter on October 7 that "no bills have been prepared as yet" if, in fact, the bills were made out on October 5, the date that appears on them as presented to the council?

3. Were the bills predated by special arrangement between Demers and the hotel? If not, how did it happen that bills dated October 5 were not received by Demers until October 14—9 days later?

4. If it was Demers honest understanding that Brown would assume "personal responsibility" for the cocktail bills, what deterred him from calling it to a reporter's attention on October 7, during an interview he knew would result in a news story embarrasing the State?

5. Why did Everett Senior— hotel bookkeeper—list the cocktail hour as a "buffet" in giving a rundown of the State's bill to this reporter? Who told the hotel to keep the word "liquor" off the bill?

6. If, as Newell Brown now admits, he had always considered the cocktails a legitimate State expense, why did he neglect to mention the cocktail party to the Governor and council when explaining what the $1,400 would be spent for at the time he asked for it?

7. If, as Newell Brown pointed out at the meeting of the Governor and council at which he requested approval for the expenditure, an additional $400 was needed badly, to supplement a standing appropriation of $1,000 why was there a $433 balance?

If Gregg, as a conscientious Governor, were to seek answers to those questions he might discover some genuine "deliberate lies."

[New Hampshire Sunday News, October 24, 1954]

FULL TRANSCRIPT OF THE "COCKTAIL CONFERENCE"

The full transcript of Governor Gregg's press conference on the subject of the State's "cocktail party" at the Wentworth Hotel appears below. This text was transcribed from a tape recording of the conference.

Moderator BERNIER. From the office of Gov. Hugh Gregg in the State House another of the monthly press-radio news conferences. On the panel today, B. J. McQuaid, editor and associate published of the New Hampshire Sunday News; Maurice McQuillen, staff reporter of the New Hampshire Sunday News; Leon

Anderson from the Concord Monitor and D. Frank O'Neil from the Manchester Union Leader, moderator, Gus Bernier, news editor of WMUR radio. We begin our questioning today with Mr. McQuaid.

Mr. McQuaid. Thank you Mr. Bernier. Let me just start by prefacing my question—my first question—by saying that I rather resent Governor Gregg's technique of issuing a sort of royal summons that I should show up here today at this press conference by sending me a public telegram. Of course he used the word "cordial invitation" but he said it with this telegram and then without waiting for any reply of mine, he makes the thing public and he apparently, judging from several radio programs last night, also voices the opinion that I won't dare to attend this press conference! And as a friend of mine said last night when I was talking with him about this, "why this is Gregg's police-state equivalent of having you sent for in leg irons!"

Well I'm here gentlemen, and I have some questions, and the first one I want to ask Governor Gregg is:

Governor, isn't it true that you and Mr. Demers got together and connived this lying story about the cocktails and about how Newell Brown was going to pay that money out of his own pocket? And isn't it true that you expected Brown to come back here from New Orleans and participate in this lying story? And Governor, what kind of a mind have you that you imagined not only that you and Demers can get together and connive, but that Brown would lie along with you? My hat is off to Newell Brown, evidently a man of some principle. He refused to go along with this lying conniving story and blew it up, and the questions I want to ask you, Governor, in view of all this is, why don't you apologize right now to Jim Stack of the Sunday News?

Governor Gregg. Well Bernie, since you preceded your remarks with a statement, I'll make a short statement. In the first place, I made no statement to anyone, anywhere or even implied that you would not "dare" attend this meeting. I didn't think you would attend, because I didn't think you were the person that you apparently are being here. I have extended previous invitations to your publisher to attend meetings with me and you have never been willing to accept it and I had every reason to believe that probably you wouldn't accept this one. Enough of that, I'm glad you're here, we'll have this out before the day is over. On the question of subpening you here, as you perhaps know, under the statutes, I could subpena you to come before the Governor and council. So, if I wanted you badly enough I could subpena you. This is a very cordial invitation extended to you because I think it's very fine that you are willing to come up here and meet with me in front of the public to have these questions out. Now, why do I, your question is?

Mr. McQuaid. Why don't you apologize?

Mr. Gregg. Let's start right off. Why don't I apologize? In the first place I don't think your reporter is entitled to an apology and I'll just give you a few quick reasons why he is not entitled to an apology. In the first place I would deny categorically that I ever connived with Mr. Demers or Newell Brown or anyone else anytime.

Mr. McQuaid. You got together with Demers, didn't you?

Governor Gregg. What do you mean by get together? Will you explain please?

Mr. McQuaid. According to your own statement in this morning's Union, handed out by your secretary, Alan Pope, you and Demers discussed this entire matter before you brought him before the council to make his statement.

Governor Gregg. The truth of that matter, Mr. McQuaid, is this: I asked Mr. Demers to come before the council meeting to give a complete explanation to council of what took place. No discussion was held with Benton Demers except in the few minutes before he went, before he went in the council chamber, I discussed with him outside of the executive offices of what his position was. There was no conniving, he told me what his position was. I said, you come in and repeat that to Governor and council which he did with no encouragement from me, no suggestions from me as to what he should say.

Mr. McQuaid. Why didn't you get in touch with Newell Brown as Demers said that he had?

Governor Gregg. Are you going to let me answer your question or are you going to keep asking continuous questions?

Mr. McQuaid. I thought this was a press conference.

Governor Gregg. It is, but you asked me a question, didn't give me chance to answer it yet.

Mr. McQuaid. All right; proceed.

Governor GREGG. Your question was: "Why won't I, will I now apologize to Jim Stack? Why don't I? I'll tell you why I don't, because he is not entitled to an apology. Jim Stack has been very, very irresponsible in the statements that he has made, as you have been, Mr. Editor, in your editorials in regards to this and other matters appearing in your editorial page through yesterday.

Mr. MCQUAID. Be specific.

Governor GREGG. Be specific, right. I have in front of me a copy, a clipping from your paper dated October 9, A1: Concord, an article by Jim Stack, the first word of which reads as follows: "New Hampshire taxpayers footed between $1,100 and $1,200 worth of bills for cocktails." Now that's the bill and the sentence goes on about other things included in the bill——

Mr. MCQUAID. Read the whole thing.

Governor GREGG. All right, I'll read the whole thing. "New Hampshire taxpayers footed between $1,100 and $1,200 worth of bills for cocktails, tips, golf-course fees, dance music, bus tours, and other incidentals in connection with the meeting of the New England Unemployment Security Assembly at New Castle." That article appeared in your paper on October the 10th, a Sunday, a week ago Sunday.

Mr. MCQUAID. It's the truth, isn't it?

Governor GREGG. Those bills. That is not the truth and it is a deliberate lie. Those bills today have still not been paid, they were not paid at that time and they are not paid today, the state hasn't paid one dime ah, for any of the expenses in connection with the unemployment security assembly at New Castle. And for you to assume——

Mr. MCQUAID. You're just quibbling, Mr. Governor.

Governor GREGG. Why am I quibbling?

Mr. MCQUAID. Because evidently you intended to put that bill into the State before we exposed your maneuvering.

Governor GREGG. Mr. McQuaid, I wouldn't even have known about the bill, it wouldn't have come to my attention. I don't audit all the bills that come through for the State of New Hampshire. I have no conception of some of the little bills submitted from time to time by various departments in connection with their activities.

Mr. MCQUAID. Well, what are you saying about this story?

Governor GREGG. I am saying what a way for you to deliberately lie to the people in the State of New Hampshire by saying that we have paid money for bills that are not even paid as of this date.

Mr. MCQUAID. You appropriated the money didn't you? There was $1,400 appropriated in your council at Mr. Brown's specific request to cover these bills.

Governor GREGG. Maybe we'd better go back a little bit.

Mr. MCQUAID. I guess so.

Governor GREGG. Mr. McQuaid, do you realize that we have an SOP in the control department?

Mr. MCQUAID. What's an SOP? That's a military term. Explain to the public.

Governor GREGG. We have a standard operating procedure. SOP stands for standard operating procedure, to the effect that no bills will be paid for liquor, ah, submitted by any state department, and as far as our comptroller knows, since he has been here, which is a great number of years, to his knowledge, this bill has not been paid.

Mr. MCQUAID. How did Brown fail to know about this?

Governor GREGG. That's a good question; how Mr. Brown failed to know about it.

Mr. MCQUAID. Well, you answer it.

"NOT MY JOB"

Governor GREGG. I don't know how he failed to know about it. That's not my job to know how he failed to know about it. Mr. Brown still thinks it's a proper expenditure. There's nothing in the statutes that says it's not. Mr. Brown can come in and argue and he probably will come in and argue at the next council meeting that that bill is a proper expenditure of State funds. There is nothing in the law that says it's not a proper expenditure of State funds.

Mr. MCQUAID. Then what do you base your statement on?

Governor GREGG. Because I personally don't feel that it's a good thing to pay for liquor expenses in connection with State activities.

That's why we have this SOP.

Mr. MCQUAID. Mr. Dictator Gregg, you personally aren't running the State of New Hampshire independent of the statutes, are you?

Governor GREGG. That's quite correct. If we are going to look into the statutes there's nothing that prevents anybody from submitting any bill in connection with State activity for liquor or cocktails. On that basis this still would not be allowed and approved, but I do have, but I do have as Governor a veto power over the council. If this bill came in I would veto it, but it never came in, never been paid, never been submitted, and it wasn't paid, and it wasn't submitted at the time that your reporter deliberately made the false statement that it had been paid by the State of New Hampshire. That's why I don't want to give Stack an apology.

DENIES FALSITY

Mr. MCQUAID. That is not a false statement and I repeat, that when he said "footed the bill" he obviously meant that the money had been appropriated and it was intended, as Mr. Brown now says, from the very beginning to cover the cost of the liquor and the other expenses. What else was that money appropriated for? It was specifically appropriated for that particular convention. Can you deny that?

Governor GREGG. It was appropriated for the convention, but not for the purpose of buying liquor, because liquor was never discussed at the time Mr. Brown came before the Governor and council to ask for the money to conduct this hearing—this meeting at Wentworth-by-the-Sea, not a word was mentioned that there was going to be a cocktail party. He didn't think it was necessary because in Mr. Brown's opinion that's a proper expenditure of State funds. And I repeat to you that under the statutes it's not improper expenditure of State funds. It's a matter of opinion. However, had Mr. Brown said to us that some of that money was going to be spent for a cocktail party, I would have vetoed that, for the possibility that, for spending that money for that purpose. I think the council would have gone along with it.

MODERATOR. We'll move to another question from D. Frank O'Neil of the Manchester Union Leader.

Mr. O'NEIL. Well, Governor, there's been a lot of talk about who's telling the truth and who isn't telling the truth. Now at last Friday's meeting of the governor and council, ah, Mr. Demers who is deputy director of the employment security division came in before the council and told them flatly that Mr. Newell Brown was being billed personally for this $350 cocktail party which was held at Wentworth-by-the-Sea. That isn't the truth, is it?

"NOT THE TRUTH"

Governor GREGG. That is not the truth. Apparently what happened Mr. Demers was of the opinion that Mr. Brown was going to pay those bills personally and he asked the hotel, not at my direction, on his own initiative because that was his belief, he asked the hotel to submit two separate bills, one to Newell Brown and one to the State for the other expenses and that's what Mr. Demers did, and that's what Mr. Demers came in and explained to Governor and council. There was no conniving, there was no fraud, there was no intent to deceive. Mr. Demers was apparently under a bona fide mistake as to what Mr. Brown's intention was in the matter.

TALKED WITH BROWN

Because when Mr. Brown returned from New Orleans, I talked with him yesterday, he said that at all times he expected it was a proper expenditure of State funds and he said furthermore, he is going to come to the next council meeting and try to convince the governor's council that it is a proper expenditure of State funds and that nothing in the state statutes to, which in any way conflicts with Mr. Brown's right to think that.

Mr. O'NEIL. When Mr. Demers told your ccouncilors that, that Newel Brown was personally paying for this bill, he was wrong?

Governor GREGG. He was wrong, but it was a bona fide, let me say this in defense of him, it was a bona fide misunderstanding. He wasn't deliberately wrong, he hasn't done anything wrong, he just had a misunderstanding.

Mr. MCQUAID. Whose misunderstanding was it, Governor?

Governor GREGG. Well I suppose that the misunderstanding is between Mr. Demers and Mr. Brown's intent.

TELEPHONE CALL

Mr. McQuaid. Well, what about the telephone call which Demers said he made to Brown in New Orleans, and checked this thing with Brown personally? Is that a misunderstanding?

Governor Gregg. He hasn't discussed any telephone call that I know of.

Mr. McQuaid. You don't know about that?

Governor Gregg. I don't know a thing about that.

Mr. McQuaid. Well it's some misunderstanding between Demers and Brown. Are you sure it's not——

Governor Gregg. Let me, let me just just show you how ridiculous this whole thing is. Let me give you another answer to it. Had the bill come through it would not have been approved in the comptroller's office anyway without coming to Governor and council because the comptroller won't approve any payments for liquor for the State employees. We have to complain all the time. Let me give you an example of what we get into. We have situations where our industrial prospects come here to have lunch with some of our industrial people and the prospect wants a cocktail and in those cases our State employees have to go out and pay for that cocktail themselves, which I think is wrong. I think in that case we should pay for the liquor expense, but under our rules they can't. So therefore if this bill had come through for liquor anyway, it would have been disapproved and it wouldn't have had any hassle about this thing, you wouldn't have heard anything about it.

Mr. McQuaid. But in any event, the misunderstanding lay somewhere between Brown, Demers and yourself.

Governor Gregg. I had no misunderstanding about any of this.

Mr. McQuaid. Then it was confined to Brown and Demers?

Governor Gregg. If there's a misunderstanding, yes.

Mr. McQuaid. In other words it is not Stack's misunderstanding.

Governor Gregg. Oh yes, Stack is, oh, I am sure it is. Want me to read this sentence again about how he says these bills have been paid when actually today no bill has been paid?

Mr. McQuaid. He said and intended to say that the money had been appropriated for these purposes.

Governor Gregg. Now, wait a minute.

Mr. McQuaid. Brown says the same thing.

Governor Gregg. Never mind what he said he intended to say, I have just read to you what he actually said. He said the bill had been paid by the State of New Hampshire.

Mr. McQuaid. He used the term "footed."

Governor Gregg. Oh he did. Well let me read you another sentence in his article. The State paid a total of $445.30 for tips and part of the overall bill. Paid, p-a-i-d, that's a deliberate lie.

Mr. McQuaid. Oh no it's not.

Governor Gregg (continuing). They haven't been paid yet.

"QUIBBLING"

Mr. McQuaid. You're quibbling and trying to twist statements in another meaning as you are so adept at doing. You know perfectly well that what he meant was that the State pretended to be good for this money. Do you think you can walk into any hotel and order $300, $400 worth of hooch and other incidentals and walk out of there without the hotel having some kind of assurance that you'd be good for it?

Governor Gregg. Well I think I've answered the question adequate. I am going to stand on my answer. Now if you got some more questions, McQuaid, pray let's have them because I want to ask a few before we get off this program today.

Mr. McQuaid. Oh you're asking questions?

Governor Gregg. Well I'd like to if you're willing to answer them. If you're not, it's all right.

Moderator. We'll go along with the panel now. Leon Anderson, any questions?

ANDERSON PASSES

Leon Anderson. Well I find myself in rather an unusual position. I consider this a cat-and-dog fight and it's a matter of personalities and, ah, I have other things to do and I don't wish to participate in this particular subject, I pass.

MODERATOR. Maurice McQuillen?

MAURICE MCQUILLEN. Yes, I have a couple of questions. They center mostly around the ethics of the newspaper profession: first of all the Governor has been saying a great deal lately about the ethics of newspaper people and irresponsible journalism. Now, one thing I am interested in particularly is this expose by the Providence Journal which in the best American newspaper tradition brought out the fact that there were newspapermen on the Rockingham Track Park payroll. Now the Governor said that this was obtained very unethically and I would like to know just what was unethical about bringing out these facts.

PRAISES M'QUILLEN

Governor GREGG. Well, ah, now Mr. McQuillen, ah, I know you have been a very fair reporter and I certainly don't want any remarks that I make to reflect on your integrity as a journalist because I have great respect for you and the way you have always covered this office and incidentally, just to get the records clear you talk about my being a dictator Mr. McQuaid, and censuring the news, I'd like to ask the reporters on this panel and that includes Frank O'Neil and that includes Andy Anderson, and that includes Maurice McQuillen, if at any time since I have been governor I have ever refused to answer a question that they have ever given to me. Now that's their question, do you mind if I ask that question?

Mr. MCQUAID. Do you mind if I answer it too.

Governor GREGG. Yes, sure. You answer it too.

Mr. MCQUAID. I'll answer it by asking you, didn't you impose this rule first of all, didn't you try to subject Chester Davis our former reporter to a tape recorder then didn't you impose this rule hat you would only answer questions in writing and didn't you tell McQuillen on the occasion of your last interview with him that you shouldn't really be answering his questions, you should demand to put them in writing?

DEFENDS POLICY

Governor GREGG. That is quite correct. This is the Sunday News. I adopted that policy because I thought it was absolutely essential and necessary and I could give you plenty of reasons for taking that position. But as for the rest of the press of the State I would tell the public of New Hampshire I have never refused to answer questions for Frank O'Neil, Andy Anderson, Maurice McQuillen who is on the Sunday News or any other newspaper or radio station in this state. As a matter of fact, I am the first Governor in the State who has ever set up monthly radio conferences. This is the 20th one that we have had monthly, when reporters can come in here unrehearsed and ask me any questions they want. If that is censuring the press, it's not my interpretation of the same.

Mr. MCQUAID. You singled out the Sunday News is it not true, because they are the newspaper which has caused you the major embarrassment?

Governor GREGG. The Sunday News is the most irresponsible newspaper I have ever read: If you would give me 5 minutes I could give you some specific examples taken right out of your, of your yesterday's edition, of irresponsible journalism both on the editorial page and in the news columns. I'd be delighted to do that if you would only give me 5 minutes. Now get back to your question. I'll do that if you'll let me, too. But to get back to your question, Maurice.

CITES EDITORIAL

This is an example of your irresponsible journalism, you run an editorial yesterday called "Ethics" and you make the statement in there, a flat statement in your editorial column thus, referring to Governor Gregg, he has the effrontery to blast the Providence Journal for performing a splendid public service. At no time did I ever blast the Providence Journal. As a matter of fact at that meeting that I went to I didn't even know that the Providence Journal was in attendance. The Providence Journal following the meeting got up and attacked me for having said things that they figured offended them. Now if that's attacking a paper, then I don't understand your interpretation of it.

Mr. MCQUAID. Give me just 1 minute, Governor, to show where you did atack the Providence Journal. Point it out, Mr. McQuillen, here in your article, will you please?

Governor GREGG. Now bear in mind, ladies and gentlemen of the public, while we are looking this up, neither Mr. McQuillen nor Mr. McQuaid; or any representative of the Union Leader Corporation attended this meeting in which they contend I blasted the Providence Journal.

Mr. MCQUAID. No, but we sent Mr. McQuillen back to go over the ground and find out what you meant by it.

Governor GREGG. Well then—we'll get the article first.

Mr. MCQUAID. And here's what you singled out according to Mr. McQuillen who you say is an accurate reporter.

QUOTES STORY

Mr. MCQUAID. Is this accurate, in his story under his byline of September 26, New Hampshire Sunday News, that one of the cases you singled out was "The Providence," and I am now quoting direct, "Rhode Island Journal Bulletin expose, in which it revealed that a number of newspapermen were on the payroll of the New Hampshire Jockey club at Rockingham Park."—let me point out parenthetically that that does not, never has, nor ever will include any man from the New Hampshire Sunday News—"came in for sharp criticism by Governor Gregg at the meeting, he intimated that this information could only have come from confidential State sources and been fed to the Rhode Island newspaper through the press association." Is Mr. McQuillen now misquoting you and distorting your statements?

Governor GREGG. (interrupting). I didn't know Mr. McQuillen quoted me.

Mr. MCQUAID. There is the story. Ask——

Governor GREGG. Let me ask Mr. McQuillen, he's here, he's perfectly capable of defending himself.

Mr. MCQUAID. Is he now under attack.

Governor GREGG. Who, Mr. McQuillen?

Mr. MCQUAID. Yes.

Governor GREGG. I should say not. I think he is one of the best reporters you got. I wish you had more as good as him.

Mr. MCQUAID. Then why should he defend himself?

Governor GREGG. He's not defending himself.

Mr. MCQUAID. You just said so.

QUERIES MCQUILLEN

Governor GREGG. Mr. McQuillen, let's get to the bottom of this thing. When you came in here that day and there was some, we had some little talk about censorship, did you not tell me that I had been very fair to you and the newspapers of this State?

Mr. MCQUILLEN. I told you you had been fair to me personally. I can't speak for the other reporters.

Governor GREGG. But you did tell me that you thought that I had been fair in not trying to suppress any news and try to be, meet all reporters on equal, meet you at least on a fair level.

Mr. MCQUILLEN. I can say personally any question that I ever put to you you answered.

Governor GREGG. Very fine, all right, now proceed.

Mr. MCQUAID. How about answering my question about this passage?

Governor GREGG. Oh, all right, let me ask Mr. McQuillen. Did I say at any time that I was attacking the Providence Journal? You don't even say that in there.

DISCLAIMS ATTACK

Mr. MCQUAID. Isn't that an attack?

Mr. MCQUILLEN. You questioned its ethics.

Governor GREGG. No, I don't question its ethics, and I don't question its ethics at the meetings either. I didn't even know the Providence Journal was involved in this controversy. I made a speech and it's a long speech and I obviously can't go into it in the time here, but the point of what I said in some way seemed to offend the Providence Journal which I didn't even know was in the audience. They got up and said, "Governor, some of the things that you said reflect on us," and I said this to the Providence Journal, I said, if these things reflect on you, Mr. so and so, whatever your name is, I am sorry, I don't mean to be in any way attacking your paper. I didn't even know you were involved in this controversy.

So then for you to come out editorially and say I attacked the Providence Journal is sheer irresponsibility of journalism.

Mr. McQUAID. Oh, now Mr. McQuillen is guilty of sheer irresponsibility?

Governor GREGG. He doesn't say I attacked the Providence Journal.

Mr. McQUAID. He just said so himself. He said you questioned their ethics.

Governor GREGG. Well ask him what he said.

Mr. McQUILLEN. That's right, I questioned the ethics, or rather you questioned the ethics and I asked you to elaborate on it and you went into an explanation, ah, of what you said at this meeting which we are referring to. That's the Associated Press meeting at Sunapee and I have a direct quote right here in which you say, "I still think that this information came from a person up here who had access to it because of his position of public trust. If so, it was very unethical but I can't prove it. So what could I do at the meeting? I could only withdraw the charge and apologize."

Governor GREGG. Oh, gee, I don't know of what more vindication is needed of my position. You have a direct quote that vindicates me.

WILD CHARGE

Mr. McQUAID. How often do you go around making charges that you know you can't prove?

Governor GREGG. Never to my knowledge, Mr. McQuaid.

Mr. McQUAID. You just admitted in that story that you did.

Governor GREGG. No I didn't make the charge in the first place. No charges were made. It wasn't an advisory proceeding that I had at that meeting. It was nothing advisory about the meeting. Anybody that attended that meeting will tell you there was nothing advisory about it. I went there as a guest speaker and gave them a talk on freedom of the press and several other matters. The statements that I made were not made with any intent of needling anybody.

Mr. McQUAID. "It was very unethical." (Direct quote from Governor Gregg.) "But I can't prove it."

MODERATOR. You through Mr. McQuaid? Ah, Frank O'Neil?

FREEDOM AWARD

FRANK O'NEIL. Governor, in connection with that speech you made at New London I think it was, ah, I understand that you have been nominated for an award on the Freedom's Foundation. Ah, have you ever found out who nominated you?

Governor GREGG. No. I don't think Mr. McQuaid did, but I wish he had because there's a thousand dollars in it if I win the award.

Mr. McQUAID. Was it your secretary Alan Pope who nominated you?

Governor GREGG. No, sir, I'd sooner believe it was you than Mr. Pope. Because Mr. Pope helped write the speech and ah, he's a pretty modest fella.

Mr. McQUAID. I do have a question which has been handed to me by a member of my staff. It seems you said a while back that this cocktail bill couldn't possibly have ever been paid because the comptroller would have stopped it. Now there appears in the record the statement that this bill was to have been entered—and this statement has been attributed both to Mr. Demers and to the bookkeeper at the Wentworth Hotel—would have been entered under the item "buffet." See?

Governor GREGG. Well it's true I, I——

Mr. McQUAID. How would your comptroller have recognized hooch under the label "buffet"?

NO ARGUMENT

Governor GREGG. If he couldn't recognize it, he could't stop it, there is no argument about that. I have no argument to make about that at all if he didn't know it was for hooch, if they put something in and recorded it as dog licenses and it's actually to buy a new building, of course he has no way of knowing about it. There's no argument on that.

Mr. McQUAID. Then that destroys your statement that the bill couldn't have been paid because the comptroller would have stopped it!

Governor GREGG. No it doesn't destroy the argument, because you don't know if it would have come in that way when it was submitted, the bill hadn't been submitted the time he said it had been paid.

Mr. McQUAID. We only know what your own official told us.

Mr. O'NEIL. Well, Governor, out of this whole thing, what's going to happen? I mean, you said——

Governor GREGG. Oh, I can tell you what's going to happen on the liquor, Frank.

Mr. O'NEIL. Well you say that Newell Brown and, ah, has been some misunderstanding apparently between Newell Brown and Benton Demers about who was responsible and who paid for it, et cetera. What's going to happen, are you going to recommend anything to the governor and council or——

WOULD VETO IT

Governor GREGG. No, I'll tell you what's going to happen, and as far as this particular bill is concerned I told Mr. Brown even if the governor, even if the council approved it and I doubt that they would, but even if they did that I would veto it so therefore he had better assume that obligation himself which he has agreed to do as far as the bill is concerned. However, Mr. Brown on the other hand is still going to come before the governor's council at the next meeting and he is going to make a plea that we should permit this bill as a proper expenditure of State funds. Now he and I disagree on that. But there is another thing that I am doing in addition to this, this whole liquor question has become a very difficult problem because there is some cases where I think liquor bills should be paid by the State such as the one I mentioned in reference to industrial prospects. So with that thought in mind, at our next department head meeting, I am going to discuss this whole subject of liquor and we are going to see if we can't come up with some sort of rules and regulations in respect to liquor bills in which the governor, which will be presented to the governor and council for their adoption so that in the future we'll have a policy that everybody will understand and will be already approved and ratified by the governor and council.

FIVE MINUTES LEFT

MODERATOR. Well I think it was mutually agreed earlier in the conference that Governor Gregg would like to ask some questions. We have 5 minutes left on the program, Governor. Would you care to take over?

Governor GREGG. Well, I don't care—I mean I—the questions I had are all addressed to the Sunday News and that may not be fair to the other members of the panel and I'm—I'm—there is only five minutes and I'm going to have the Sunday News ask me more questions. I'd be delighted to do the other.

MODERATOR. Mr. McQuillen?

Mr. MCQUILLEN. Yes, I have one. Jim Stack yesterday, or rather Sunday, had a first person story in which he accused the Governor of doing the very thing that he had been accusing Stack of doing, just assuming facts secondhand. Now the references to the telephone call between Mr. Stack and Mr. Senior in which Mr. Senior said he couldn't be sure that Jim Stack misrepresented himself as a member of the Unemployment Security Division. Now, I always preface my remarks and I think every other newspaperman does when he calls up, this is so-and-so of such-and-such a paper. Now I believe the Governor again just assumed that this were true and said that Mr. Stack had misrepresented himself as if it were a fact. I don't think that's quite, quite fair.

GREGG'S ANSWER

Governor GREGG. Maurice, if I did that I was wrong. I did not do that, the only time I have commented publicly, there have only been two times and this whole cocktail incident was once when an interrogatory was sent to me by Mr. Stack the answers to which the Sunday News did not publish and, two, at the Council meeting. Now at the Council meeting, present were Mr. Anderson and Mr. O'Neil who are today, at this conference today. What I said at the Council meeting and I'm sure they will bear me out is that, if Mr.—if it is true, if this Mr. Demers tells us himself that these, that this man mispresented himself, that's a serious breach of ethics for a journalist. Now that's all I said. I didn't say that Mr. Stack had in fact misrepresented himself because I didn't know whether in fact he had, and I still don't know whether in fact he had. All I did was repeat what Mr. Demers had said and say if that is so, it's a serious thing.

Now in reference to Mr. Stack's story, let me just say a couple of other things, because I want to show how far your paper has gone, Mr. McQuaid, in irrespon-

sible journalism. Let me give you a quick example of something aside from the story yesterday.

BABB HEARING

You have been claiming right along, your paper has been claiming that we did not give a transcript that had been promised to you people as a result of the Babb hearing down at, down at Rochester a week ago, and you've made quite a lot of that. Let me read to you a statement which I took this morning from a stenographer present at that hearing, just to set the records straight: "My name is Nancy Nelson, secretary of the right-of-way division of the public works and highway department and I was asked by General Merrill to take general notes in the essence of the so-called Babb hearing in Rochester, N. H., on Tuesday, October 5. I was not asked to make any verbatim transcript of the proceedings, nor did I do so. At General Merrill's request I merely took informal incomplete notes. The notes which I took were later transcribed. I made three copies. I know that one copy was later transmitted to the New Hampshire Sunday News. No deletions were made in either my transcription or on the copy presented to the newspaper. The Sunday News was given a copy of everything which I transcribed at that hearing."

The Sunday News has been claiming that we didn't give them a full transcript of that hearing. There was no full transcript made. They know it, they were there as I was there. How could we promise to give them something that was never done. And that's the stenographer's own statement in which she will give under oath to the effect that all she did take was notes and she will also make an oath that those notes were delivered verbatim to the Sunday News.

RECALLS PROMISE

Mr. McQuaid. Then why did you promise us the full transcript?

Governor Gregg. Obviously I didn't promise you a full transcript. How could I promise you something that I didn't have? I couldn't promise you a transcript if we didn't make one and it's silly to say that I ever did. It's another case of irresponsible journalism when you say I promised you something I never promised.

Now let's get back to Stack's story. Stack in the very same story that Maurice was talking about says a lot of things that are not true. He said that I have boasted publicly that I am the Nation's youngest governor. I have never done that. What I have said is that I am the Nation's youngest Republican governor and I have made a joke of the fact that Frank Clement is younger than I am, but he's a Democrat and we don't talk about him. I said that I am New Hampshire's youngest Governor. That's as far as I have ever gone in that regard and it's these little things that you keep putting into your columns that's irresponsible journalism.

Ah, you have made the statement in your column yesterday that it wasn't explained whether or not Mr., ah, Mr. Brown went to New Orleans on State business or pleasure, vacation, implying that State employees go out to New Orleans on vacation. Ah, if you'll check the council records and you'd been at the council meeting two meetings ago, ah, you would have found out and you would find in the records that he was authorized to go to Miami, New Orleans, on business and that your whole column, your whole editorial page is loaded with those kind of insinuations which are deliberately placed there and are not true.

Moderator. I am sorry——

Mr. McQuaid. Did this business include more cocktails and golf fees?

Moderator. Mr. McQuaid, our time is up.

Senator Goldwater. Mr. Chairman, in order to expedite this, I will not read this letter. We will supply members of the committee and Mr. Cruikshank with this. It is from Arthur E. Bean, the comptroller of the State of New Hampshire.

It is dated June 17, 1955, and I would like to make this a part of the record at this time.

Senator Douglas. I have made that a part of the record.

Senator Goldwater. This is the original letter, and I think it answers completely the questions that have been raised by Mr. Cruikshank.

Senator DOUGLAS. Well, I think Senator Bridges sent to Senator Hill a copy of this letter which I made a part of the record.

Senator GOLDWATER. Did you make it yesterday?

Senator DOUGLAS. Yes.

Senator ALLOTT. I would like to remark at this time that it is impossible to examine in detail this voluminous amount of newspaper clippings with respect to this matter With all due deference to the press, I realize that the press has different points of views, and it is obvious from even a cursory examination of those that this was primarily a political matter.

As far as I have been able to read and examine them in these few seconds, that is the gist of these newspaper clippings. I don't find anything in here which I think bears directly on this matter and which is worthy of consideration as testimony.

They are all conclusions of the people who are reporting and editorializing upon them.

Mr. CRUIKSHANK. Mr. Chairman, in the interest of saving time, may I just submit these——

Senator DOUGLAS. I would just like to make this comment in view of the comment of the Senator from Colorado. The Senator from Colorado implied this was purely a political matter. I would like to inquire if the Manchester Sunday News is not the sister paper of the Manchester Union Leader and owned by the same man, with the same editor and publisher?

Mr. CRUIKSHANK. I believe that it is the Sunday edition of that paper.

Senator DOUGLAS. Who is the editor and publisher of that paper?

Mr. CRUIKSHANK. I don't know.

Senator DOUGLAS. Is it not Mr. William Loeb, a very prominent Republican in the State of New Hampshire?

Mr. CRUIKSHANK. I didn't inquire into that.

Senator DOUGLAS. I think the record should show that the Mr. William Loeb is the son of the former secretary to President Roosevelt, a very active, and at times vigorous Republican leader in the State of New Hampshire. So any implication that this is an attempt by a Democratic paper to raise a political controversy is certainly beside the point, because I am sure Mr. Loeb would never agree that he was a Democrat, and I don't think that the Democrats would agree he is a Democrat.

As a matter of fact, I don't think there is a Democratic paper in the State of New Hampshire. I may be wrong in that, but I don't think there is a single Democratic paper.

Mr. NEWELL BROWN. Mr. Gallagher's paper in Laconia is, the Laconia Citizen. He is a well-known Democrat.

Senator ALLOTT. I simply want to call attention, when these matters are put in the record, to the character and nature of the exhibits. I think anyone who has an opportunity to read them can judge for himself.

Mr. CRUIKSHANK. Mr. Chairman, I would like to say that I have only put them in because these matters were brought to our attention first, and we asked for them to be inquired into; we looked into the files of these newspapers. Now, we have our experience with newspapers just as people in public life do. We don't say that everything

that is in the newspaper is true, and I am not prepared to say that all the charges in the newspapers are true.

We put the charges, we put Mr. Brown's countercharges or replies in. In our judgment, the reply was not conclusive or adequate, but that is, of course, for the committee to decide.

In our mind, it was information respecting the fact that these charges had been raised; it was information which the committee should have as it takes into account the qualifications for Mr. Brown.

We draw from it the conclusion that the picture of a person of impeccable standards of performance in the discharge of public duty is left considerably in doubt. If that doubt can be dispelled satisfactorily to the members of the committee, well and good, but if, after your conclusions, there still remains some doubt as to whether Mr. Brown, in his present position, has fairly and in all cases meticulously handled public funds and fairly dealt with the workers whose welfare is so much in his hands, then that is a decision of this committee which naturally we will accept as a responsible group.

Senator DOUGLAS. There is one further question I want to ask you. You stated in this paragraph that there are current reports that the employees under Mr. Brown's direction reimbursed him personally for this expense item.

Did you have any proof of that?

Mr. CRUIKSHANK. No, sir; that is exactly why I put it that way. There are reports, but they are so persistent and they exist in so many cases that we think they should be looked into. We think this committee should look into it. We can't get proof.

Senator DOUGLAS. Rumor can be a very cruel thing, as you know.

Mr. CRUIKSHANK. That is right; it can be. But when a person is up for a post as responsible as the Administrator of the Public Contracts Division of the Department of Labor, we feel that this committee would want to know that there are such reports existing in his State, and that you would want to look into them to find if they are just rumors or whether there is substance to it.

The report that I got was that the funds collected were somewhat in excess of the amount that was expended, and that it was set aside by Mr. Brown for future expenditures of this kind. Now, I just cannot prove that those are true. I am not appearing—I am sure I am not trying to remind the members of the committee of their duties.

I take it that this is an inquiry into the facts, and the situation as it exists about Mr. Brown and his qualifications. We are presenting to you all the information that we have, but we are not prosecutors and we are not in a position where we—we can't take depositions and we can't take statements under oath, but there were people in New Hampshire who reported that such gifts had been received.

Senator DOUGLAS. Mr. Cruikshank, this nomination has been before the full committee for some time. It was only before this subcommittee for a few weeks. To fully probe this matter would require that we subpena a whole series of State officials down there and put them under oath and have them testify, and that would occasion a delay which, in view of the already existing delay, would seem to me to be very difficult in view of what has already happened.

If you can produce evidence on this point, we will be very glad to consider it.

Mr. CRUIKSHANK. Mr. Chairman, I respectfully submit that it is not our responsibility to produce evidence, because we are not competent to take evidence. We can't subpena people. We can't take statements or depositions under oath.

We asked people to go into the State to inquire, and they reported back to us that a number of people did say that this was true; we are confident that it is true; but we are not prepared, because we are not that kind of an organization. We will present to you what we have gathered in New Hampshire, but it has not been gathered by a government agency.

Now, this is something which we, as a responsible organization, submit to you that has convinced us that there is something to it, but we can't take evidence and we can't put people under oath. Now, the indication is that these people in this State agency are faced with this position. They don't want to talk unles they are asked by a government agency or a Senate committee to talk, because if they would give us this kind of—suppose one of them would give a signed statement. Just suppose one of them would give a signed statement to this effect, and the result would be convincing to this committee and to the Senate.

The result is that that—is that Mr. Brown would be back and be the supervisor of the person who gave the signed statement.

Senator LEHMAN. Mr. Cruikshank, quite apart from the various other charges that you have made, or criticisms that you have made, against Mr. Brown, many of which I think certainly deserve most careful consideration from this committee, I think in justice to Mr. Brown that I should ask whether you are alleging that Mr. Brown personally profited by the expenditures of these entertainment funds and the collection from members of the staff, because I think to have that impression remain in the record might be very unfair to him.

Mr. CRUIKSHANK. Oh, I am not, and if there was any question, I am glad you brought that up, because even the report that I had in that respect was that (1) I suppose you would say this is against him; (2) that it is for him.

On one it was reported that he did receive the gifts to make up this amount from his subordinates, and that it exceeded the amount; but secondly, he set aside the excess and said it would be used for similar affairs. I have no report that he pocketed the money or profited by it, none whatsoever.

Senator LEHMAN. I just wanted to establish that.

Mr. CRUIKSHANK. Yes, sir.

Senator DOUGLAS. Senator Smith?

Senator SMITH. I would like to ask this question: On page 70 of the testimony yesterday, Senator Allott said, "You are attacking, then, his integrity and character?"

Your answer is "I am, surely."

Now, is your attack on Mr. Brown's character and integrity based on these rumors that you bring before this committee?

Mr. CRUIKSHANK. I am attacking his public character; I am——

Senator SMITH. You said you are attacking his character.

Mr. CRUIKSHANK. In part, yes. We believe he was careless with the handling of State funds, and there is reason to believe——

Senator SMITH. We don't take things like that without proof, and I resent your reflecting on Mr. Brown's integrity and character on the kind of rumors that you have brought here.

Mr. CRUIKSHANK. I have submitted the files of responsible newspapers in support of it. I have submitted his own signed memorandum in support of it. I think the whole question is whether or not Mr. Brown is of the character to administer an important and public law. We think he isn't.

Senator SMITH. To indicate how rumors can damage people, I have had it said to me that the letter that Mr. Meany sent in here was based on misinformation, is hearsay stuff that you gave to Mr. Meany. Now, I don't believe it, but that is the kind of rumor that gets around.

I have just as much reason to believe that as to believe what you have said about Mr. Brown.

Mr. CRUIKSHANK. I have heard those same rumors.

Senator SMITH. I wouldn't think of bringing that up if you hadn't made this kind of charge on Mr. Brown, but you are under the same kind of charge right now.

Mr. CRUIKSHANK. Let me say, Senator, these are not irresponsible. When these things first were brought to our attention, we didn't even know about them. We had no idea that anything like that—I don't read the New Hampshire newspapers.

Senator SMITH. Do you read Drew Pearson's columns? Do you read the other papers around here and the character assassination constantly going on on other people?

Mr. CRUIKSHANK. That is prejudging it.

Senator SMITH. It is a terrible thing to bring that out here. I am outraged by that kind of attack on a character.

Mr. CRUIKSHANK. Even if it were true, would it be terrible?

Senator SMITH. You haven't brought a bit of proof.

Mr. CRUIKSHANK. How do you know it isn't true? I say it is true.

Senator GOLDWATER. Would the Senator yield, because Mr. Cruikshank has referred to the newspapers as one of his sources of information that leads him to doubt the character of Mr. Brown.

I would like to quote Mr. McQuade, editor and publisher of one of these submissions of yours:

> My hat is off to Newell Brown, evidently a man of some principle.

Mr. Chairman, I know this is coming to an end, but Mr. Cruikshank has now entered the essence of fairness in these hearings, and I am glad that he has, because I want to be fair, and I know that Mr. Cruikshank wants to be fair, and I don't think you were fair in your testimony on page 3 when you tried to infer that through the actions of Mr. Brown, wages in New Hampshire in the logging industry went down.

You took the first quarter. Now, I have never been to New Hampshire in the middle of the first quarter, but I have an idea there is not much logging going on in there.

Mr. CRUIKSHANK. In the first quarter, that is when it takes place. That is exactly when it takes place, sir, when the snow is on the ground.

Senator GOLDWATER. You took a time when it is at a disadvantage with the southern part of the United States. Let's go a little further with this thing and let's tell the whole story. Since 1949—and I understand Mr. Brown took over in 1950, so that is the first year we can

take—New Hampshire has had the highest increase of any logging State reported to the Department of Labor, and since 1947, New Hampshire stands second highest in the United States in regard to increases paid to its logging people.

Now, I want to get that in the record, because I don't think it is fair to leave the impression that because Mr. Brown—because of Mr. Brown's administration, the logging people are making less money, when actually they have had a 41 percent increase since 1949; they have had a 49 percent increase since 1947, which is first in one respect and second in another respect in the entire United States, and I submit this chart which comes from the United States Department of Labor for the record at this point.

We have got to keep this fair. I don't like you coming in here and using figures that show only part of the story. Now, if you are going to be fair, submit the whole record and let the Senators draw their own conclusions.

Mr. CRUIKSHANK. Mr. Chairman, I am very glad the entire record is submitted. I was simply trying to reduce the most significant element out for the convenience in catching the trends that do stand and do emerge from the tables of the Department of Labor.

Now, it also shows, while we are talking about that, that New Hampshire is still a low-wage State in this area.

Senator GOLDWATER. We are not arguing that point. We are arguing whether or not wages have gone up or down. We sat here last night, for instance, and heard the CIO admit that they agreed to a 75-cent-an-hour wage.

Mr. CRUIKSHANK. That admission doesn't amount to anything. That admission doesn't amount to anything. Why, I saw last night—I thought of those poor people up there trying to negotiate a wage with thousands of unemployed people milling around, and with Newell Brown referring people to them on the 75-cent basis. Under those conditions, the union gets the best it can, and that is the best under those conditions it could possibly get.

I have negotiated wages in New England. I know what it means.

Senator GOLDWATER. That is all that I have, Mr. Chairman.

Senator DOUGLAS. I have no more questions.

Have you finished your testimony?

FURTHER STATEMENT OF ANDREW J. BIEMILLER, NATIONAL LEGISLATIVE COMMITTEE, AFL

Mr. BIEMILLER. Mr. Chairman, may I just point out on the figures which Senator Goldwater himself has brought in, that in 1954 wages in New Hampshire had fallen way below the 1953 level.

Senator GOLDWATER. I am not arguing that point with you, but do you sit here and contend that wages are going to go up, up, up, up, ad infinitum?

Mr. CRUIKSHANK. No, but they went up in other States.

Mr. BIEMILLER. They present exactly the same figures we do.

Senator GOLDWATER. You condemn a man for one quarter when for a period of 5 years he has given the log workers of New Hampshire a greater increase than any State in the Union.

Mr. CRUIKSHANK. But it started from a very low base.

Senator GOLDWATER. That is beside the point. The South is still at a low base.

Mr. BIEMILLER. The point remains that these figures are identical to the ones we presented which do show that, in 1954, New Hampshire is the only State with the exception of Oregon, with a very slight decline, in which there is a decline.

Senator GOLDWATER. I don't argue that. I say that you took the first and second quarters, which you show at a disadvantage with the Southern States, and they always will, and in fact, even if the Southern States do have a lower wage scale, the percentage of decline will show to a worse advantage at that particular period.

What I say is, submit the whole record. We are talking about the history of this man. We are not talking about what he did last month or what his record shows he did for the last quarter, or the first quarter of this year. We are talking about what are the results of this man's administration of the law, and because you feel his actions had something to do with the wages of New Hampshire, you submitted that his actions caused a 7 percent decline the first quarter of this year.

I maintain his actions by the same standards of judgment shows a 49 percent increase, or 41 percent increase over the period he has been in office.

Mr. BIEMILLER. I think, Senator, this matter also has to be taken in reference to the testimony that had been presented before this committee in lieu of the whole Canadian bonded situation, which we believe has a very serious effect on this matter.

Senator GOLDWATER. Mr. Cruikshank says he wants to be fair. I want to assist him in being fair.

Mr. CRUIKSHANK. Mr. Chairman, I think we have covered the points. Do you wish me to read these final paragraphs into the record?

Senator DOUGLAS. They will be made a part of the record?

Mr. CRUIKSHANK. Thank you. They relate to the things we have been discussing for the last hour.

Senator DOUGLAS. Thank you very much.

Mr. CRUIKSHANK. Thank you all, gentlemen, members of the committee.

(The statement of Mr. Cruikshank follows:)

STATEMENT OF NELSON H. CRUIKSHANK, DIRECTOR, SOCIAL INSURANCE ACTIVITIES, AMERICAN FEDERATION OF LABOR, CONCERNING THE NOMINATION OF MR. NEWELL BROWN, OF NEW HAMPSHIRE, FOR THE POST OF ADMINISTRATOR OF THE WAGE AND HOUR AND PUBLIC CONTRACTS DIVISION, UNITED STATES DEPARTMENT OF LABOR

Mr. Chairman and members of the committee, my name is Nelson H. Cruikshank and I am director of social insurance activities of the American Federation of Labor, having my offices at the AFL Building, 901 Massachusetts Avenue NW., Washington, D. C.

We appreciate the opportunity that you have afforded us to present the views of the American Federation of Labor with respect to the matter before you, the nomination of Mr. Newell Brown of New Hampshire as Administrator of the Wage and Hour and Public Contracts Division of the United States Department of Labor.

First, with your permission, I should like to read into the record at this time the letter from Mr. George Meany, president of the American Federation

of Labor, addressed to the Honorable James Mitchell, Secretary of Labor, under date of March 28.[1]

In taking this position, President Meany took into account the duties and responsibilities of the post of Administrator of the Wage and Hour and Public Contracts Division, and the requirements in terms of experience and personal qualities of the individual responsible for discharging its important duties.

As this committee knows, the responsibilities devolving upon the Administrator under the terms of the Fair Labor Standards Act and the Public Contracts Act are such that the manner and spirit in which they are discharged have far-reaching effects upon the welfare of the wage earners of America, and upon the operation of our economy. Permit me to review briefly what some of these responsibilities are as they relate to the qualifications of any individual to be appointed to the position under consideration.

First, in the Fair Labor Standards Act of 1938, as amended, the Congress declared that the "existence, in industries engaged in commerce or in the production of goods for commerce, of labor conditions detrimental to the maintenance of the minimum standard of living necessary for health, efficiency, and general well-being of workers (1) causes commerce and the channels and instrumentalities of commerce to be used to spread and perpetuate such labor conditions among the workers of the several States; (2) burdens commerce and the free flow of goods in commerce; (3) constitutes an unfair method of competition in commerce; (4) leads to labor disputes burdening and obstructing commerce and the free flow of goods in commerce; and (5) interferes with the orderly and fair marketing of goods in commerce." The act then continues to state it to be the policy of Congress "to correct and as rapidly as practicable to eliminate the conditions above referred to in such industries without substantially curtailing employment or earning power." The Administrator is responsible for placing these policies in effect and to that purpose is given wide discretionary powers. Among these are the following:

1. Appointing special industry wage committees for Puerto Rico and the Virgin Islands and after reviewing committee recommendations, establishing minimum rates for industries in these island possessions (secs. 5, 6(c), and 8).

2. Promulgating orders "regulating, restricting, and prohibiting industrial homework" (sec. 11(d)).

3. The issuing of regulations establishing "the method and procedure for ascertaining and promulgating minimum piece rates" (sec. 6(a)).

4. Defining a "bona fide profit-sharing plan or trust or bona fide thrift or savings plan" for use in determining the regular rate of pay (sec. 7(d) 3).

5. Defining "talent fees" for use in determining the regular rate of pay (sec. 7(d) 3).

6. Issuing regulations governing the employment of "learners, apprentices, and messengers" at wages lower than the applicable minimum wage (sec. 14).

7. Defining "area of production" as applied to agricultural products to determine coverage of the law (sec. 7(c) and sec. 13(a) 10).

8. Determining industries "of a seasonal nature" which are entitled to an overtime exemption provided in the law (sec. 7(b) 3).

9. Defining a "bona fide executive, administrative, professional, or local retailing capacity or in the capacity of outside salesman" all of which are entitled to an exemption under the law (sec. 13 (a) 1).

In addition, the Administrator is now responsible for handling the administration and enforcement of the Walsh-Healey Public Contracts Act. Here he has the responsibility to act on behalf of the Secretary of Labor in the determination of prevailing minimum wages for industries whose products are regularly purchases by the Federal Government. These duties include the collection of wage information and its evaluation, definition of the industry, the calling of public hearings, and the determination of a specific minimum wage to be recommended on the basis of analysis of the record, the hearing, and all available pertinent wage data. These wide areas where his individual judgment must be exercised represent the very heart of any realistic wage determination.

In the discharge of these duties he must act in a quasi-judicial capacity, making decisions that affect the lives and working conditions of all employees engaged in the performance of Government contracts under the Walsh-Healey Act. Therefore, it is essential that the person who occupies the position be possessed of judicial temperament and an extraordinary sense of fairness and detachment from representation of any particular interests.

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[1] Note: A copy of President Meany's letter is attached.

In the writing of these statutes, permitting such a wide area of discretion on the part of the Administrator, the Congress simply recognized that in our complex, dynamic industrial economy it was impossible to spell out every detail of regulation in the acts themselves. It also recognized the necessity for reliance upon public officials of unquestionable integrity and devotion to the public interest, and capable at all times of resisting the pressures of special interest groups. These are indeed high standards for public office, and while we recognize that no human individual has yet attained perfection, we are grateful that we live under a system that has produced many men and women who, through long years of public service, have come close to fulfilling these demanding requirements. I am sure there is no question in the mind of any member of this committee that the responsibility of the position in question requires the highest degree of objectivity, personal integrity, and sensitiveness to the proprieties of public office.

In arriving at our considered opinion that the present nominee does not measure up to the requirements of the responsible post for which he is now being considered, we had only the record of his performance in his present position of director of the division of employment security in the State of New Hampshire as a guide. This record indicates serious question as to whether the nominee possesses the maturity of judgment and the objectivity requisite to the exercise of the discretions granted the Administrator of a wage and hour law.

For example, as President Meany points out in his letter to Secretary Mitchell, one of the responsibilities of the nominee in his present position is to make the findings on which to certify to the Immigration and Naturalization Service when no American workers are available to fill positions in the New Hampshire woods at prevailing rates of pay. The prevailing rate of pay provision is the very heart of this determination: presumably there would always be a shortage of such workers at 50 cents an hour, just as there would presumably be an excess of applications for jobs at three or four dollars an hour. The oversupply or undersupply of workers in any such situation is therefore obviously meaningless, except as it applies to a given wage rate. You can readily see, of course, also, that the formula tends to work in reverse. If the certifications for the importation of foreign workers is based on a lower wage rate the additional workers brought in at that level tend to push the rate downward. Representatives of our unions whose members are employed in these and related activities charge that Mr. Brown has indeed exercised his authority in a manner to do precisely that.

The record of actual wages paid in the nine States in which significant logging activities are carried out would seem to bear out this contention. Here is the record of changes in earnings of loggers in these States from the first quarter of 1953 to the first quarter of 1954, and from the second quarter of 1953 to the corresponding quarter of 1954, as shown by data of the United States Department of Labor:

Change from 1953 to 1954

[Percent]

	1st quarter	2d quarter		1st quarter	2d quarter
Arkansas	+5.0	−4.1	Maine	+0.4	−3.6
South Carolina	+4.5	−5.0	Oregon	−0.7	+1.7
Florida	+3.2	+1.5	Washington	−2.3	−1.7
Georgia	+2.2	+2.7	New Hampshire	−7.0	−8.3
Louisiana	+1.4	+0.8			

It appears from this record that the application of Mr. Brown's idea of the "prevailing wage" leads to a sharp decline in the earnings of New Hampshire logging workers. We are deeply disturbed by the prospect of an administrator of the public contracts division adopting this approach to the prevailing wage determinations called for under the Walsh-Healey Act, as it would have seriously detrimental effects on the wage standards of American workers if applied on a national scale.

Turning now to the requirements of this position that relate to the standards of integrity and character, we again have to rely only on the record of performance on the part of the nominee in his present position.

In order properly to appraise this record we have to keep before us certain important facts about the nature of the position and the methods of financing the program, which he now directs in the State of New Hampshire, which are not generally known to the public, but which have a vital bearing on the points at issue.

The first of these is that the entire costs (aside from certain minor operations that are paid for out of a relatively small contingency fund) of the administration of the program of employment security, including unemployment insurance and the employment services in the State of New Hampshire— as in all other States—are borne by grants to the State from the Federal Government. The expenses of his office, his salary and all personal services, his per diem payments in lieu of expenses while in travel status, communications, including postage, and transportation expenses are all paid from grants by the Federal Government coming out of annual appropriations passed by Congress.

Bearing in mind this fact, I submit that the declaration of congressional policy set forth in the first paragraph of the section entitled "Lobbying With Appropriated Moneys" of the Federal law is pertinent. The paragraph referred to reads as follows:

TITLE 18, SECTION 1913

SEC. 1913. LOBBYING WITH APPROPRIATED MONEYS.

"No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business. * * *" (June 25, 1948, ch. 645, sec. 1, 62 Stat. 792, effective Sept. 1, 1948).

It appears that the intent of Congress to prevent the expenditure of Federal money to influence legislation is perfectly clear. Moreover, it is difficult to see how anyone could take exception to this sound principle of government. While we, along with most other Americans, would not wish in any way to curtail the freedom of citizens to make known their views to their representatives in the Congress, we also are in hearty agreement with the principles set forth in this act, namely that attempts to influence members of Congress should not be carried on at the taxpayers' expense. Both the principle of free access by individuals to their elected delegates and the prohibition against lobbying at the taxpayers' expense are, as we see it, thoroughly consistent with the best traditions of our democratic government.

In contrast to the unequivocal declaration of principle set forth in the act above cited, I should like at this time to place in the record the full text of a memorandum addressed to all State administrators jointly by Mr. Henry E. Kendall and Mr. Brown in his capacity as chairman of the legislative committee of the Interstate Conference of Employment Security Agencies. This memorandum, you will note, includes several pages of argument for the passage of a particular piece of legislation and concludes with the following two paragraphs, to which I particularly invite your attention:

"B. As soon as possible and within the next month and a half, contact both of your Senators and any others you may be able to, directly or, often better through those whose opinoin would be valued by them. See that they are clearly aware of the problem and of your views and the views of all in your State who support the bill.

"C. As opportunity offers in the next 6 months, make contact as above with your State representatives, against the possibility that a Presidential veto may face the House.

"Time is important. Please act now."

These paragraphs are followed by a list of the names of the Senators on the committee which at the time was considering the legislation in question, leaving no doubt in the minds of the recipients of the memorandum as to whom they should work on.

The lobbying prohibition referred to above makes a proper exception for communicating with Members of Congress "on the request of any Member." But this memorandum urges State administrators to take the initiative in alerting Members of Congress to what is described as "the problem" and in seeing that Members of Congress are made aware of the views of "all who support the bill." I need not labor the point that this is a clear case of lobbying and our information is to the effect that the entire cost of preparing this memorandum and mailing it to the States was borne out of grant money appropriated by Congress for the administration of State unemployment compensation acts. We respectfully submit that at the very least this indicates a lack of sensitiveness to the requirements of a position of public trust.

The matter of expenditure of Federal funds by State administrators in lobbying activities on several occasions has been brought to the attention of the Secretary of Labor. The Federal Advisory Council of the Department of Labor, composed of labor, management, and the general public, at its last regular meeting in November, 1954, passed by a vote of 25 to 2 a motion requesting the Secretary of Labor to look into this matter. In the discussion of this motion, which took place before there was any mention of Mr. Brown for the post of Wage and Hour Administrator, his questionable activities in the expenditure of public funds were specifically referred to. Surely, this committee will wish to have cleared up the questions specifically raised about this nominee by this responsible body of citizens before recommending to the Senate of the United States that he be confirmed in the position of Administrator of the Wage and Hour and Public Contracts Divisions.

There is one other incident relating to the nominee's performance in his present position which has a bearing on his qualifications for the post under consideration. According to accounts appearing in the Manchester (New Hampshire) Sunday News, October 17, and 24, 1954, and the Manchester (New Hampshire) Union Leader of October 18, 1954, the nominee on the occasion of a meeting of employment security officials contracted an entertainment charge at a hotel in New Castle, N. H., a portion of which, to the extent of $350, was subsequently disallowed by the Governor. While it was first claimed on his behalf during his absence from the State that he had never intended that the State pay this bill, he himself, upon his return, pressed the matter as a legitimate item of expense. Upon being overruled, he was required to pay this portion of the official entertainment out of his own pocket. There are current reports in New Hampshire that the employees under Mr. Brown's direction reimbursed him personally for this expense item. As the members of this committee are aware, the acceptance of such reimbursement by a Federal official would undoubtedly be in violation of the following provision of law:

"No officer, clerk, or employee in the United States Government employ shall at any time solicit contributions from other officers, clerks, or employees in the Government service for a gift or present to those in a superior official position; nor shall any such officials or clerical superiors receive any gift or present offered or presented to them as a contribution from persons in government employ receiving a less salary than themselves; nor shall any officer or clerk make any donation as a gift or present to any official superior. Every person who violates this section shall be summarily discharged from the Government employ." (Citation: Title 5, U. S. C., par. 113, sec. 1784, Revised Statutes.)

I have no information as to whether soliciting or accepting such gifts from subordinates in public service is illegal in the State of New Hampshire, but, as in the case of expending appropriated funds of the Federal Government for lobbying activities, the strict legality or illegality is not the essential point at issue. I submit that the important fact is the peculiar lack of sensitiveness of a supervisor displayed by his acceptance of these donations, whether they were voluntarily or involuntarily subscribed. I further submit that this inability to sense the impropriety of the action indicates the nominee's lack of fitness for a post as exacting in its moral requirements as that for which his name has been submitted.

It was on these considerations, gentlemen, that President Meany based his opinion as set forth in his letter to the Secretary of Labor, that Mr. Newell Brown does not possess the qualifications required of the position of Administrator of the Wage and Hour and Public Contracts Divisions of the Department of Labor which is so fraught with responsibilities determining the welfare of millions of American wage earners. We respectfully request that this committee recommend to the Senate that this nomination not be confirmed.

Senator DOUGLAS. Now, we have reached the hour of 11:55. The chairman has a 12:15 appointment which he must meet. I realize the importance of quick action on this matter, and also the necessity for giving Mr. Brown a chance to reply to the statements which have been made about him.

If Mr. Brown is willing to go on the stand now and testify, until about 12:10, and then his testimony could be resumed later, or if he wishes, we can put the whole matter over until this afternoon.

I have an afternoon conference committee appointment, but I am ready to call a meeting of the committee for 7 o'clock tonight.

Mr. Brown, you can testify now, with the understanding that you will complete your testimony later, or you can postpone the hearing until you have a complete opportunity.

Mr. BROWN. I am ready to start now.

Senator DOUGLAS. You wish to start now, with the understanding that we will have to adjourn at 12:10.

You may proceed in your own way, Mr. Brown.

FURTHER STATEMENT OF NEWELL BROWN, DIRECTOR, DIVISION OF EMPLOYMENT SECURITY, STATE OF NEW HAMPSHIRE

Mr. BROWN. Mr. Chairman, the committee has already amply demonstrated its willingness to give every man his hearing. And I want to make this as brief as possible. Until Mr. Cruikshank at the latter end of his speech brought up this matter of a cocktail party and the contingent funds, I had thought that the remarks I have summarized here in a chronological order might take at the outside half an hour. It might go a little longer than that now, sir, depending upon how much the committee wants to know about these things. I would not like to drop those without the committee being thoroughly satisfied one way or the other as to whether there is any truth in his allegations. I resent them.

Senator DOUGLAS. I think with only 12 minutes remaining, you can take 12 minutes now for a direct statement, without cross-examination.

Mr. BROWN. All right. I will start with Mr. Cruikshank's testimony and go through with Mr. Botelho's and Mr. Pitarys' last night and the addition this morning in roughly that order. And I will hit them very briefly.

No. 1. Mr. Meany's letter stated that by my own admission I was identified with reactionary employer interests. He refers to the celebrated memorandum I sent to the Administrators in which I list on the one hand those who were opposing the Reed bill as it stood at that time and those who were supporting the Reed bill as it stood at that time. There could be on Mr. Meany's part to the best of my knowledge no other reference. If there was any question in the committee's mind that I have come out and said I am working for any interests other than the State of New Hampshire, I would like to explore that at more length now.

I think that is what Mr. Meany meant in that statement. And he did speak about the opposition listing. Again I would like to call attention to the Senate vote on the Reed bill in its final form, 78 to 3.

I should also like to point out that the A. F. of L., did oppose the Reed bill right down to the last ditch. In the skirmishing and compromising that went on prior to its final submission to the Senate there were in fact compromises. The administrators for their part gave up certain points. I don't know that labor went along with the administration on some of those occasions. Specifically the administration went along with one particular thing, the query as to whether or not a State, being insolvent and coming to the Federal Government for help, could get money from this central Federal fund on a loan or a grant basis.

The States maintained from the start that it should be a repayable loan basis. The Administration came over to the State position in the end. I don't believe labor did. I would like to make another point, as Mr. Cruikshank has brought it up—and I think it is significant—and that is this: that it appears to me that the only differences the interstate conference had with labor in the last year were on these two points: the question of the use of distributed excess from this fund for administrative purposes if the State legislature approved it, and this question of loans versus grants. On everything else, the States and labor were either in the same corner or the States pled nollo in effect.

And let me point out what some of those areas were. First, the earmarking of tax collections from employers for the support of this employment-security program. Everybody agreed on that. And that was the heart of the Reed bill, as has been stated by Mr. Cruikshank. The A. F. of L. and the State administrators were on the same side so far as appropriations were concerned. The labor unions have consistently wanted more money for the operation of this program.

Other major bills that came in were unemployment compensation for Federal employees. The States, to my recollection, took the position that that was a Federal matter, and neither opposed it nor did anything else on it.

On the expansion of coverage, you recollect it was moved that employers or one or more at any time be covered by unemployment compensation. The States went in generally favorably to that position. That was labor's position, and one further thing—there was a provision in one bill that would make an employer eligible for a reduced contribution rate after a year of experience. The States went along with labor on that, or labor went along with the States.

So the points of difference, as a practical matter, last spring here on the Hill, were 2—and there were probably 5 or 6 issues where the States and the AFL and the organized labor were in the same corner.

Mr. Meany raises the point as to how the Department of Labor and the administration generally can possibly propose a man for this job when they differed last spring on this legislation, and I would only comment that perhaps the Department and the administration can distinguish between the disagreement of reasonable men on a given issue and the institution of a feud, based on a single disagreement or two.

66012—55——11

Now, a very substantial part of Mr. Cruikshank's case has to do with my lack of qualifications for the job, for the size of the job, for the nature of the job, and there I would say that probably reasonable men could disagree.

I would only submit for myself that I think I can handle it; that Secretary Mitchell, who has access to information as to what I have been doing and how I have been doing it, thinks I can handle it, and the administration which nominated me and which must take responsibility for any mistakes I make or trouble I cause seems to think I can do it.

I should be glad to go into what I have been doing in New Hampshire, how I have been doing it, the nature, size and scope of the operation, if the committee wishes.

In the matter of the woodworkers, I would like to add one more set of figures. The committee is now up to its ears in figures on the woodworkers, but Mr. Cruikshank attempts to prove that my policies affected wood wages.

I would like to recall my earlier testimony in this particular regard. I find, I identify woods rates—I have nothing to do with the policy of where they go. Having found them, as the chairman has pointed out, they may have one or two effects, because people are hired on the basis of my findings. They may, on the one hand, serve to keep wages down; on the other, they may help to put them up.

The history shows very clearly that woods wages have risen—or my findings have risen consistently since 1951, and I have very substantial documentary proof if the committee wants it, but so far as overall depression of woods wages goes, to me the most significant figures are some I got up yesterday.

Taking the spread from 1947 to 1954, Senator Goldwater mentioned it, that is, where wages have gone in New Hampshire relative to other States over that 7-year period, the record indicates that in New Hampshire they have increased 62 percent over that 7-year period.

Only two States in the Union had larger increases, and both started a good deal lower than New Hampshire. New Hampshire is third, with a 62 percent increase.

Senator DOUGLAS. What time was this?

Mr. BROWN. This is from the period 1947 through 1954, and these figures are annual figures as contrasted with quarterly figures. As I think a cursory examination of the figures you have seen so far will indicate, woods wages due to weather conditions, temporary recession, short-time rainy weather, mud, can fluctuate very sharply from quarter to quarter.

I have figures to show that a Brown Co. chopper will make $150 a week in one quarter, and may drop to $85 in the next. Your annual figure becomes, I think, your really significant one. Therefore, I introduce this.

(The data referred to follows:)

Industry 241, logging camps and logging contractors, average weekly wages

State	1947	1949	1951	1953				1954, 1st quarter	Percent change, 1st quarter, 1953, to 1st quarter, 1954	Percent change, 1947, to 1st quarter, 1954
				1st quarter	2d quarter	3d quarter	4th quarter			
Total United States	$42.32	$46.63	$55.73	$53.95	$64.17	$69.94	$61.31	$53.60	−0.6	+27
Maine	38.50	43.69	51.48	54.18	51.46	57.04	55.45	54.37	+.4	+41
New Hampshire	32.38	36.28	48.86	51.83	51.44	60.01	61.76	48.19	−7.0	+49
South Carolina	22.22	22.61	27.91	29.18	33.09	33.78	33.80	30.43	+4.5	+37
Georgia	24.91	32.10	28.15	31.22	33.18	33.65	33.35	32.00	+2.2	+28
Florida	26.04	33.09	40.57	43.19	45.13	48.01	49.32	44.53	+3.2	+71
Arkansas	18.81	20.67	29.76	25.98	27.80	32.24	30.87	27.21	+5.0	+45
Louisiana	20.08	22.10	28.13	28.65	29.53	31.88	34.03	29.07	+1.4	+45
Washington	58.33	64.06	72.42	74.97	87.36	87.07	83.28	73.16	−2.3	+26
Oregon	61.79	67.56	78.42	79.75	89.66	96.26	83.72	79.16	−.7	+28

Source: Computed from UI data.

Senator SMITH. Would you give us those again?

Mr. BROWN. Once again New Hampshire rates third among these nine States that we have been talking about in the field. In the percent of increase between 1947 and 1954. I would like to point out further that that increase of 62 percent, compared with industrial wages generally in New Hampshire, in that period, is more than twice the increase. Industrial wages in New Hampshire in that period increased 30 percent only. Woods wages went up 62 percent.

Nationally—if that is a significant figure—nationally industrial wages went up 43 percent in that period. Woods wages in New Hampshire went up 62 percent.

I think it is a pretty difficult thing to prove that if I had a part, which I don't have, in the policy of woods wages, that I depressed them, and I would say again that the comparison between quarterly figures is manifestly an improper and a specious one in this particular argument.

I would like to say one more thing on the woods worker, and that is, I made the point yesterday that I have had a recent and rather intense interest in this program, and I find that last year, in testifying before Senator Millikin in the Senate Finance Committee, we were discussing this matter of what States would do if there was an excess money distribution, if it was redistributed to the States into their unemployment funds, and then, if the administrator decided he wanted to use some of these moneys for administration.

Senator Millikin asked me:

Well, what would you use the money for if you had this money to go on—

and my answer—and this is on page 47 of the hearings of the Committee on Finance, United States Senate, 83d Congress, March 9 and 10. I say this at the bottom of page 47:

And a third thing: Just recently the question of bonded Canadians who come over into our woods to cut timber has come to a head. Labor is getting organized up there. The CIO and AFL have expressed concern. It is a problem that will take a lot of research. It is also important to enforce the tighter regula-

tions for which we are responsible, and that we are going to put in. It will take policing. Under current procedures, I can't get the men to do that kind of a job.

Now, the next thing I want to discuss, Mr. Chairman, is this—the prime bone of contention here—my memorandum to the other State administrators, and I suspect without seeing a clock that it is just about your time, and I would rather not launch into that, if it is about time to go.

Senator DOUGLAS. It is about time, yes. Thank you, Mr. Brown.

Now, with regard to the time of the next meeting, I am anxious that we should not delay, in justice to Mr. Brown. We should not do that. I have a conference committee at 2 o'clock and matters on the floor that I am interested in later in the afternoon.

I think in justice to Mr. Brown and in view of the fact that the session may end on Saturday, that I would not like to have this meeting go over until tomorrow. I would suggest tonight at 7 o'clock.

Senator SMITH. Why couldn't we meet at 5?

Senator DOUGLAS. I don't know how long the procedure in the Senate is going to be. I want to save some time for legislative duties.

Senator ALLOTT. I don't feel that Mr. Brown should be hurried. Could you give us some indication of how long you think it would probably take you to cover your statement?

Mr. BROWN. I think with the start I have gotten, I could probably wind up in half an hour if there were not too much questioning involved, but I, as I said earlier, don't want to cut off questioning if there is any question in the committee's mind as to integrity or honesty or anything else.

Senator DOUGLAS. I think it will involve possible questioning.

Mr. BROWN. My statement won't take more than half an hour as it sits.

Senator SMITH. Well, I made the suggestion, why don't we set it for 5 o'clock? If you are detained on the floor, we will have it go over until later. Let's see if we can't dispose of it at 5 o'clock.

Senator DOUGLAS. The question of voting is another matter. We may want to study the record overnight.

All right, let us meet at 5 o'clock with the understanding, however, that this will be for the taking of testimony, and it is not necessary to agree that we go into executive session and vote at that time. The technical point is that we are a subcommittee.

I think I should consult with the chairman.

Senator SMITH. When do you want to do that?

Senator DOUGLAS. Let's find out after the hearing this afternoon. I think there should be time for deliberation.

The committee will recess until 5 o'clock.

(Whereupon, at 12:10 p. m., the subcommittee recessed, to reconvene at 5 p. m. the same day.)

AFTERNOON SESSION

(The subcommittee reconvened at 5 p. m., Senator Paul H. Douglas, chairman, presiding.)

Senator DOUGLAS. Five o'clock having arrived, the meeting will come to order.

Mr. Brown, at the conclusion of the morning, I think you were close to the completion of your discussion of the Canadian labor question.

Mr. BROWN. Yes, sir; I was. I had completed it, unless there are questions. I have some clippings books which I don't intend to introduce in the record, but that is what the pile is there for. I wanted to have them handy in case some question came up.

I wanted to next address myself to this question of the interstate conference, and simply to give you a factual story of my entire participation in it for what it may prove, one way or another.

I became a member of the conference in 1950, when I was appointed to this job in New Hampshire, and the first 2 years I was in the conference I served on the conference legislative committee.

The second year I was—which was 1953, in the spring—I was here in Washington once or twice testifying on legislation with other members of the conference.

I was named to the chairmanship of the conference legislative commission at the fall meeting in 1953. That committee was directed at that time to do the following—and this is a quotation from the minutes of the executive committee meeting:

During the conference year, the committee—that is, the legislative committee—shall concentrate its greatest effort in fulfilling the objectives of resolution 2 at the 1953 annual meeting, which instructs the president, the national executive committee and the legislative committee to press for the enactment of the Reed bill, H. R. 2573, at the next session of the conference.

Pursuant to that directive, and pursuant to what I understood to be accepted, sanctioned procedure, I wrote the memorandum which has been put in issue here. As I say, it was my idea of what pressing for the Reed bill constituted, as step No. 1. I won't say today that if I had to do it over again, I would do it quite the same way.

In any case, at that time it struck me as the thing to do as far as I knew it. I would point out that there was nothing secret about the memo. It was sent to all 51 States, presumably was available to the Labor Department and the Bureau, and by way of additional sanction as to its verbiage it was cosigned by the then president of the conference, Henry Kendall of North Carolina.

So far as I know, that verbiage was not challenged until Mr. Cruikshank, at hearings before the Senate Finance Committee last spring, brought it into evidence. Some of the discussion at that time has already been read into the record today. I did not know of the lobbying statute at the time—that has also been discussed—at the time that I wrote that memo.

Since that time, needless to say, I have heard about it a great many times. I have also heard that the Labor Department, at some time in the past, used that Federal statute—or at least the first paragraph—as a statement of policy governing State activity.

That, also, was not a matter of knowledge to me at the time I wrote the memorandum, and to sum up, there was no intentional or knowing effort to violate the law or even a policy or even a principle at that time.

Senator ALLOTT. Mr. Brown, may I ask one question?

Senator DOUGLAS. I thought in general that I would abstain from asking questions so that Mr. Brown could tell us his story.

Senator ALLOTT. All right. I will do that, too.

Mr. BROWN. I would say, of course, since this thing has been on the fire and since I was well aware that this would be a prime issue—it is,

in fact, the prime issue involved here, I think—everything else is peripheral, to a degree, but I have done some studying up on the whole history of this thing. A good deal has been covered in the course of the testimony, but I do find that the conference, in 1937, first expressed itself as interested in legislation.

Senator DOUGLAS. 1937?

Mr. BROWN. Interested in Federal legislation.

Senator DOUGLAS. In 1937?

Mr. BROWN. Yes, 1937, sir, and as early as 1939 the question of the use of Federal money for this purpose was discussed before the Congress, February 25, before the Senate, on a hearing on unemployment and relief.

It was discussed again at an appropriations hearing at the House in 1942, again in 1937, and recently in 1950, 1951 and 1953 very strong challenges to the activities of the conference have been issued.

Generally, Mr. Cruikshank has been involved, or members of the AFL, so that it could not—it could not be said that this is a new issue presented to this committee. The Congress has looked into it before and heard the discussion.

I won't go into that in any further detail now.

A question was raised as to whether or not the administrators speak for their States or speak for their governors. I dare say that in speaking before the Congress, we leave the impression, if we do not say directly, that for the most part, and in general, we do represent our governors' point of view.

Two particular instances were brought up. In one instance, the instance of Colorado, I would say that if there is any question in the committee's mind as to whether Governor Thornton at that time backed his administrator, the committee should get in touch with Governor Thornton.

While I am not at liberty or cannot at this point tell you what I know about the situation, I think you would find that Governor Thornton strongly supported his administrator and his administrator's stand on the Reed bill.

Now, his later quotation, I think, probably reflects the fact that he agrees with the end, but not the means and would like to see it done some other way.

Senator DOUGLAS. Mr. Brown, Senator Allott has suggested we might just as well discard the microphones.

Mr. BROWN. All right. I will try to speak up.

As to Governor Driscoll, it has been pointed out that he was out of office during at least part of the time which these charges cover. However, while he was in office, his administrator was Harold Hoffman, of whom most of you have heard.

Harold Hoffman took no part in the conference activities that I was ever able to detect, and I am quite sure Mr. Hoffman never told a committee he represented his Governor. So I don't know about that.

Senator SMITH. Mr. Hoffman, as you know, had a very sad end. It was a complicated picture.

Mr. BROWN. A very minor point that has been covered, but in Mr. Cruikshank's testimony, Senator Allott, I think, raised the point—or Senator Goldwater—as to the impression left by certain wording

in Mr. Cruikshank's prepared statement, and he covered part of it. This I would like to be sure is straightened out.

Mr. Cruikshank says:

> Surely this committee will wish to have cleared up the question specifically raised about this nominee by this responsible body of citizens.

He is referring to the Federal Advisory Council resolution to study the interstate conference, and, in that particular statement, he would seem to imply that the study was to be made of me, and I think he made it quite clear that that was not what he had in mind, that he wanted a study of the whole system.

Another point that I think ought to be made, a corollary point—until 1953, or until the fall of 1953, the CIO and the AFL customarily sent official representatives to the annual meeting of the interstate conference, and they participated in the program usually in some area where there was a difference between management and labor; there was a debate or panel or something of that kind.

In 1953, as Mr. Cruikshank has already told you, he notified us that the AFL would no longer send an official representative to the conference's annual meeting on the grounds that, in effect, we were a kept organization—kept by management interests. We were greatly disturbed by that.

The conference was in New Hampshire that year, and with the president of the interstate conference, I went to see Mr. Meany directly, to see whether we couldn't get that changed, with the general point of view that the AFL might disagree with us violently on occasion, but certainly we were going to get no closer together if a wall were set up between us.

We visited with Mr. Meany, I guess, for half or three quarters of an hour with Mr. Cruikshank there, and apparently did no good. The fiat stood, and they have ceased to participate, so far as I know, in any official conference activities.

The CIO, I might add, though, continues to send a representative—they did in 1953; again in 1954, and I assume they will this year. I think one other thing, just to make the point clear that has been made, the AFL is many times, or frequently, on record as wishing to federalize this unemployment compensation system.

I think this is the basis of the thing without any question. They believe that a Federal system would be a better system than the present system, and I would say that there are some good arguments for that. It is not an open-and-shut, black-and-white case.

The administrators, on the other hand, would like to maintain the status quo. They feel that the original setup, a coequal Federal-State partnership is best, premised on the thought that the States, in their own locales, are better able to deal with certain aspects of this problem than would a central Washington body.

The States have taken that point, and that has made for collision wherever legislation appeared here in Congress which tended one way or another. These two interests appeared on the scene and made their points, and I think, of course, that is basic.

I won't go into the cocktail end of the cocktail story now, except for the matter of this business of contributions. I will cover the details of how the bill was incurred in the first place later, but speaking only to Mr. Cruikshank's written testimony, the story is this:

Again, if it is considered damning, I suppose that's it. I had personally felt that it was a rather pleasant memory. I was told that I could get money, State money, for this bill. I paid it out of my own pocket. As a result of a 3-to-2 vote of the Governor's council. They are reasonable men, and were of divided opinion as to whether it was a proper expense, but in any case, the vote was against me. Two or three days later, an anonymous envelope appeared on my desk with, oh, $30 or $40 in it. I called in my secretary and one of my directors, and said, "I don't want any of this at all. I made the mistake on this thing in the first place. Let's forget the whole thing. What do you think I had better do?

Their reaction was: "Well, we think the people would like to help you out."

Well, I said, "I have no interest in it. I don't want it. Let's forget the whole business."

Over the next 3 weeks, these blank envelopes continued to appear until there were, I think, about $200. Then I wrote a little article in our house organ expressing appreciation, not knowing where it came from or who contributed it, and then the next thing I know, I went to a regional meeting in Boston and the director of employment security from the State of Rhode Island appeared with a handful of bills as big as my fist and said, "These are donations from the other five New England States and the regional office. They heard about the trouble you got into."

It got into the papers, needless to say. "They heard about the trouble and they want to givee you a hand."

When we got all through, there was $425 against a $350 bill. The $75 balance is in the hands of my deputy and is being held for some divisionwide social occasion. It has not been cashed yet, and my wife keeps looking at the check book and keeps saying, "How can I balance up with $75 outstanding? Where is it?" That is where it is now.

Comments on the wires on the labor opposition in New Hampshire: There was a good deal of discussion on that. I checked into those wires, and I think it is perhaps significant that out of something like 130 AFL locals in New Hampshire, I think only 4, unless there is in the record something of which I am unaware, anly 4 have memorialized this committee against me.

Three are from Berlin and you are all aware of Berlin's point of view, and the fourth is from Groveton, N. H., which is about 35 miles away, and also concerned in that woods problem. I was particularly interested in the reaction of the Municipal Employees, AFL, at Berlin, because one of the things I worked for in the State legislature this year, in amending the law, was an expansion of coverage to cover all State employees on a mandatory basis and to make unemployment coverage available to municipalities.

The municipal employees of Berlin, organized or otherwise, up to this point have had no dealings with me of any kind at all. The only thing I have ever done relative to them as I say, would seem to be to their advantage. I would say that that requested amendment has been referred to an interim committee and no action was taken on it this year.

As to Mr. Fecteau, I think I am safe in saying that Mr. Fecteau, whether his verbiage carries the implication or not, wrote as an indi-

vidual. I think his intent in telling who he was, was simply to indicate to this committee, as seems to me proper, that he is a man whose position and background is sufficient to warrant some credence being attached to his judgment.

My personal feeling is that Mr. Fecteau, having fought with him and talked with him and discussed with him over a period of 5 years, now, around my council table, that his judgment of my capacity is far more valuable to me than almost any other labor leader in the State of New Hampshire.

It was said that the textile workers union is the largest union. Mr. Fecteau's is, I believe, actually the largest now, and he is, without any question to me, the leading labor statesman in the State of New Hampshire. That is my personal opinion, in dealing with many of them.

Now, I go now to the evening testimony. I would say that a point-by-point rebuttal of what was made last night would take all evening, all the rest of this evening. What I would like to do, therefore, is to give the committee a brief factual rundown of what this Textron Plastics case was all about and try and cover the issues in that way, rather than try to, piece by piece, knock off the things that were said. I would say one other thing: That Mike Botelho and Tom Pitarys I have known for a good many years, and I share with them a mutual social regard.

I also have a high regard for both of those men and all the labor leaders of their type in their broad objectives and what they are after, in the untiring efforts that they put into bettering the laboring man, and I say that in great sincerity.

Mr. Botelho, you noticed, had an affliction of a kind. He is something of a war hero. He lives on pills, and he keeps going night and day, and he is quite a guy. I do take violent exception when they come along and throw facts out that just aren't so in an effort to make their points. They know that. They have run into me before, but that in no way makes me feel that they aren't people whose broad objective is a good one. I would like to give the committee, if I might, a written summary of the facts that I am going to run over here, because there are quite a few figures involved, and I think that it would save time if you had them at your fingertips as I go along.

We will pick them up as we go along. As you will recollect, a large textile mill, Textron, Inc., went out of business. I have forgotten the exact time. It was in the fall, I believe of 1951.

Senator SMITH. Was that in Nashua?

Mr. BROWN. Yes, sir.

Senator SMITH. This is the Nashua case, then?

Mr. BROWN. This is the Nashua Textron Plastics case that was the nub of the discussion last night. Some 1,400 or 1,500 were initially out of work.

In the town of Nashua was a recently—recent in terms of about 2 years—a recently established plastics plant which got off to a terrible start in terms of local reputation among the laboring force for an excellent reason, in terms of sanitation inside, in terms of the wage scale, in terms of attitude of management toward the help and so on.

The smell, as I just pointed out, could be smelled up and down the street. It was along around the end of February that we received from this plastics company 99 job openings. They were expanding.

Senator SMITH. Was that a year ago?

Mr. BROWN. No; this was in 1952.

Senator SMITH. February of 1952?

Mr. BROWN. Yes. This was in the end of February 1952. Ninety-nine job openings were filed with my local office in Nashua. These jobs, the starting rate on these jobs was 75 cents, as it is in the shoe industry and a great many such other industries, but it was a piecework industry, and an analysis of the records which I have here, if the committee wants to look at them, indicates that the average hourly earnings actually were 95 cents, with the highest earnings running about $1.22.

After 4 or 5 weeks, most of the help got up to 95 cents or better. There were a lot of learners which actually kept that 95 cents down as low as it was, but it wasn't a high-paid industry.

At that time, in the files, in our Nashua office, we had better than 900 former Textron workers filing for unemployment compensation. The balance had found jobs. They had gone elsewhere, or they had found local jobs, but there were 900 who had been drawing at that point anywhere from 2 months to 23 weeks.

New Hampshire's law permits drawing up to 26 weeks. It is one of the most liberal laws in the country in most ways. Among those ways, we have a 26-week duration uniform for everybody, regardless of the benefit weekly rate.

My Nashua office referred 240 people to these jobs, these 99 openings, of whom 129 accepted. That is, they agreed to go and look at the job, and 111 refused to go at all. It had previously been determined, it had been decided by my deputy on the local level in consultation with me that the jobs were suitable under the circumstances for most of these people. He, therefore, disqualified this 111.

He disqualified 10 additional persons who went and looked at the job and came back, and therefore, there were 121 disqualifications. Of the 121 who were disqualified, 105 had formerly been employed at the Textron plant that had closed down previously, that I have spoken to you about.

This is more or less an aside, but as you will see in your item No. 7, 75 placements were made. That is, the people at plastics accepted 75 of the 129 who went there. The balance were unacceptable for some other reason; I don't know what.

Of the 75 who did go to work at plastics at that time, 37 were former Textron workers. I make that point only to point out that there were those who would go to work there, whatever its condition might be.

No, I would say this: That because of the reputation of this plant, going back over a couple of years, we were at some pains to find out whether the reputation was deserved, and as has been pointed out by other witnesses, the tribunal itself actually went into the plant and spent substantial time walking through it, smelling the smells, wading in the water, and so on—or the alleged water.

We also had an investigation made by the State Sanitary Department to see whether it fulfilled minimum sanitary conditions. The report was not of the best, but the plant nevertheless, in their opinion—met minimum standards.

Now, of the 121 whom we penalized, whom we gave a suitable work penalty—and in New Hampshire that means your benefits are postponed for 4 weeks—70 appealed. The appeal board heard these cases.

This is in the normal way of doing business. Every claimant who is disqualified on the local office level has the right to go to an administrative appeal tribunal to have the case tried de novo. That appeal tribunal can reverse the original decision. I make neither decision personally, but both are made in my name. So that I am often in the position of reversing myself. That is what happened in 33 of the 70 cases that went to the appeal board.

In 33 cases —and these are the cases which primarily are at issue— in 33 cases the board confirmed the original decision. In six cases the board went off on other issues, availability, or something else, voluntarily quit, I don't know what. In the remaining 33 cases the appeal tribunal reversed, making the claimants payable.

The 33 who wound up with penalties had been paid while at Textron Co. from $1.12 to $1.49 an hour base rate. That is a matter of record. Eighteen had been paid less than $1.30. Twenty-eight had been paid $1.40 or less, and the balance were up to $1.49, and they had been employed, contrary, I think, to the impression that was left last night, anywhere from 14 to 23 weeks.

Senator DOUGLAS. You mean unemployed?

Mr. BROWN. Unemployed; I am sorry. They had been drawing unemployment compensation for that period. In other words, in the best judgment of the appeal tribunal, a person who for roughly 4 months or more—that is, a point of departure for 4 months—had been unsuccessfully looking for a textile job similar to his old one, should take the work offered. At that point, after 4 months, it was probably time that he was willing to take a job which would pay him after a week or two at least $38 a week as against the $28 he was drawing out of unemployment compensation.

Most of these claimants were top rate claimants at $28 a week, because they had had good earnings with Textron.

Now, I would say New Hampshire's statute has no particularly good guide with one exception; and this took place before I came with the division. A suitable work case went up. It was called the Hallinan case. And it was decided in that case—well, the rough picture was, and these were textile workers also—they had been disqualified for refusing work that was 44 cents less than their original rate after 10 weeks of unemployment. So that was the only good guide we had. And that one was not exactly in point. The facts were not identical, but they were as near as you could find them.

In this case, then, we disqualified people who had been out roughly 16 weeks on an average. And the differential in many cases did not run to 44 cents; or if it was 44 cents, it was not much over. So that was as near as we could come to a guide and the decisions in this case were no stricter, at least.

Senator SMITH. Mr. Brown, I did not have the good fortune to be here last night. I had an engagement. So I am not quite clear from this what the charges were of wrongdoing on your part. What was the complaint about you? You were acting in sort of a judicial capacity in these matters?

Mr. BROWN. Yes, sir.

Senator SMITH. What did they claim you did was wrong?

Mr. BROWN. Well, the charge was that I was abusing my discretion in this matter in referring them too quickly to jobs that were too much below their prior salary. And that the upshot was that the

wages in New Hampshire in general had been depressed as a result of that activity of mine.

Senator NEELY. Mr. Brown, will you please refer to page 3 of Mr. Cruikshank's statement and explain why the reduction in the earning capacity of the loggers was so much greater in New Hampshire than it was in any other State?

Senator DOUGLAS. Mr. Brown replied to that this morning when you were not here.

Mr. BROWN. I could give him a 30-second answer.

Senator DOUGLAS. All right.

Mr. BROWN. Sir, this compares quarterly rates between 2 years. It is apparent, I think, from looking at the record that the rates fluctuate very dramatically between quarters.

Senator DOUGLAS. That is, the earnings fluctuate?

Mr. BROWN. The earnings; excuse me. As a counter to this, sir, I presented evidence this morning showing that between 1947 and 1954, among the nine States that we have been talking about in these hearings, New Hampshire rates third from the top with 62 percent——

Senator DOUGLAS. New Hampshire earnings, again.

Mr. BROWN. New Hampshire average weekly earnings rate third from the top among the nine States, 62 percent increase between 1947 and 1954.

Senator SMITH. That is taking the entire year instead of the quarter?

Mr. BROWN. Yes. Those are yearly average weekly earnings figures.

Senator NEELY. What was the explanation for the marked reduction? In the second quarter in Arkansas the reduction was 4.1 percent; in South Carolina, 5 percent; and in New Hampshire, 8.3 percent. Except South Carolina the reduction was more than twice as great in New Hampshire as it was in any other logging State.

Mr. BROWN. We readily admit, sir, that in the years compared here, in 1953 to 1954, we had a recession condition in our woods in New Hampshire, particularly in the spring when we had bad mud and wet conditions. And throughout the years 1953 and 1954 you can compare quarters all the way—first, second, third, and fourth quarters—and get the same result.

And you will find New Hampshire near the bottom of the heap in terms of comparisons between 1953 and 1954. I made the point this morning that my findings actually have no particular bearing on that situation. The situation was caused, as I say, by recession conditions and weather conditions.

Senator DOUGLAS. You are the first Republican that I have ever heard confess that there was a recession.

Mr. BROWN. I referred only to our woods, Mr. Chairman.

Senator NEELY. Mr. Brown, in the first quarter, the reduction in New Hampshire was 7 percent. And the next greatest reduction appears to have been made in the State of Washington in which it was only 2.3 percent.

Mr. BROWN. Well, going back to the Textron Plastics, that gives you, to the best of my knowledge, the facts of that case. Mr. Botelho, needless to say, and his friends who represented most of the claimants and who had kept the papers full of conversation about the thing was mad about the result, the 33 who were denied. And he demanded of the Governor a hearing. He was aware at that time, because I told

him many, many times, that the Governor, under our law—and I think it is true of all State unemployment compensation laws—had no part in a thing of this kind unless it could be proven that the administrator was guilty of misfeasance or malfeasance or something of that kind.

The judicial steps were clearly set out—local office, administrative tribunal, superior court.

Nevertheless, he felt that a hearing before the Governor would be a good idea. And Governor Adams consulted me about it. And I said, "I suppose the Governor ought to listen to anybody who wants to be heard." So, there was a hearing, an unrecorded hearing. And there is nothing to be said about that particularly at this stage.

There were no appeals to the court. Never in the 5 years since I have been division director has an appeal gone to court on a suitable work issue. I have been taken up on others, but never on suitable work.

In the fall, the CIO, the State CIO, in its annual convention, passed a resolution demanding that I be relieved from my job as administrator, primarily on the basis of these Plastics cases.

Mr. Botelho again demanded of the Governor a hearing on this ouster resolution. At that time Governor Adams was not there. Acting Governor Atherton was there. And the hearing was held before him. That hearing wound up with a letter to Mr. Botelho from the attorney general making 2 or 3 points. First, that the Governor could find no grounds for removing me from office under the statute. Second, that Mr. Botelho's recourse was to the courts, as was apparent in the statute.

And finally—and this is, I think, perhaps my whole case—there was this interchange. I am reading from a transcript of the hearing before Acting Governor Atherton, Governor's Chambers, State House, Concord, N. H., October 10, 1952. I don't think the committee wants this for the record. There is already enough in it; but perhaps this one quote:

The Attorney General was talking across the table to Mr. Botelho.

> I think you said, Mike, in connection with the representation of the CIO, that Mr. Brown made the statement that he is not bound by the law, nor did he intend to follow the wishes of the CIO.
>
> Mr. BOTELHO. I stated that he told me he was not bound by any decree of the CIO or any recommendation of the CIO executive council. I never stated that he was not bound by the law. He binds himself too much to the law.

That was from Mr. Botelho, who was before you last night.

There was some discussion, but it was not followed up at yesterday morning's session about the possibility that the letters of endorsement from labor people that were submitted to you were perhaps prompted by their service with my division on its appeal tribunal. The pay for that has been recently raised—$20 per diem. Tribunal members, both management and labor, sit on an average of 2 to 3 times a month. There are 15, I think, on each side of the panel. They sit depending upon their availability, geographical location of the appeals, and so on. I endeavor to get men who are respected by the unions onto that panel, both because of their judgment and because of the credence which would attach to the decisions they rendered.

The tribunal is composed of a chairman, who is in my employ, 1 representative of management, 1 representative of labor. Ninety percent of the decisions are unanimous. And they enjoy a very high

repute. It is true that Mr. Fecteau, Mr. Connor, and Mr. Brewer, among those who wrote letters that you have seen, serve on that panel, and for good reason. They are top labor men in the State.

I am delighted that they are willing to give me that kind of service. I think perhaps it stretches credulity that they would sell out their unions for $20 a day 3 or 4 times a month. Now, it was also brought up again on this question of why the Textron workers—going back to this case—did not appeal. Mr. Botelho made quite a point of the cost involved. In that particular case, I have no sympathy for Mr. Botelho's point of view. The CIO was behind those cases from start to finish. They had their big guns in. They spent a lot of time and energy, and I presume cash, in fighting those cases. It stretches my credulity that they couldn't have at least taken up a trial case for a hundred dollars or so, particularly when in his statement he claims that the result of my findings on suitable work have had the effect of depressing wage scales in New Hampshire generally.

The cost involved in challenging me and overturning me, if those decisions were as bad as they are represented to be, would certainly have been worth it. However, I would say this: that in general I agree with Mr. Botelho about the fact that the average claimant, the average worker, who comes before my division, who goes up to the appeal step which doesn't cost him anything, to all practical intents and purposes that guy has had his last appeal. He either does not have the know-how or he doesn't have the cash to carry it further.

In that regard, I am particularly emphatic with my appeals tribunal to point out that fact to them and to add "Be sure you are right; don't take any chances."

I have gone further to this extent: I have already entered for consideration at our next legislature—I just discovered this was possible—an amendment to our law which will make it possible for us to finance claimants to court appeals where in the record there is some evidence that they may have a case; not frivolous appeals, but a case, for instance, where they are ruled payable on the initial level and reversed on the second level. In a case like that, the law permits me to use Federal administrative funds (if the New Hampshire law says so) if that claimant wants to take that case to court. He says: "I haven't got the cash; but I still think the first decision was right." He can go to court, and we will pay for his attorney's fees. And I hope to have New Hampshire's law amended to that effect; because I think there is an inequity as between employers and employees when you come to the actual possibility of going to court over an issue.

When employers disagree with me, I say: "Go on, take me to court." But I must say I am concerned about many cases where claimants cannot do that.

Now, I would like to inject a little perspective into this question, into these Textron cases, very briefly.

There are 33 cases, plus 6 Dorr Woolen cases that were brought up; a total of 39, that seemed to concern Mr. Batelho. I would like to point out that in the 5 years that I have been with the division, 125,000 nonmonetary decisions, all susceptible to challenge, have been made. You have 39 then in that comparison to 125,000. I did not make all of those myself; they were made on my behalf. Of those 125,000,

about 6,000 have been appealed to the administrative level. And I simply point that out that, if decisions I have made in 30 or 40 cases as against 6,000 that have been made in my name constitute the entire basis for opposition to me, it raises a question as to the importance of the objection. As to the division's court record—and I thought the committee might be briefly interested in that—how I fared in court? I have been taken to court 55 times since I have been director of the division. Claimants have taken cases up 44 times; employers have taken cases up 11 times. The division hs been reversed in 17 instances out of the 55 that have gone up. In the other cases, the balance, we have either had draws or we have won them. And in 6 of the 17, we withdrew before they actually got into court.

I am nearing the end of the line on this.

I would like to comment on my philosophy on this law. And I think it would apply to the wage-and-hour law. First of all, the law guides. Whatever my personal opinion may be on a thing, the law guides. Frequently there as an area of discretion permitted by the law. My feeling is that a good administrator next goes to court decisions interpreting the law, or precedents, or anything that will indicate, either in his own State or in other States what the law, being nebulous, means.

If you get no help there, and if you are still in a middle land and you wind up 50–50, then basically you are dealing with a social, prolabor law. It was not passed to benefit manufacturers; it was passed to benefit labor. And on a 50–50 dead-center issue, it is a labor law, and the labor man gets the break on it.

Now, as I say in my appeal tribunal decisions, 90 percent of them are unanimous. It is 51 percent one way or 51 percent the other way. And the men on both sides see the point, and they vote where the law says they ought to.

Where they are smack down the middle, I expect the employer to take one side and the employee to take the other side. And that is my own feeling about it. The question came up, though, as to exactly how I felt about this thing. And I have here a letter I wrote on May 14, 1952, to this same Mr. George Fecteau, who has frequently been mentioned here. And I would like to quote very briefly from it.

This was just after the——

Senator SMITH. Whom is this written to?

Mr. BROWN. Mr. George Fecteau, the CIO representative, who was discussed earlier.

This is the first paragraph of this letter:

> DEAR GEORGE: After you left yesterday Bill Chamberlain said you had intended to speak to me about an impression received by some of those who attended the Governor's meeting on the Textron Plastics case; that I had stated that I considered 75 cents an hour an adequate wage. If I made this statement, I certainly did not intend to. What I did say, as I recollect, was that 75 cents at this time represented national policy on minimum wages, and that it was outside the jurisdiction of this agency to officially quarrel with the national standard. I also added that it was my personal opinion that 75 cents was not adequate in these times. This is in substance what I said at yesterday's meeting when the matter came up and has been by position right along.

And you will find in referring back to Mr. Fecteau's letter that he feels my views on this minimum wage legislation are adequate. But Mr. Botelho did make the remark that I had a policy that any 75-cent

an-hour job was good enough to refer a man to. And that simply is not so.

The issue of the Dorr weavers, the Dorr Woolen cases, came up. I don't know that the committee wants to go into that. And I will not do so unless the committee desires.

I have covered the local labor support situation. I would like to make one point here. And that is that the opposition that has been expressed here to me has been solidly labor. I wanted to point out that in a job like mine if you do it properly it is not a one-way street. I got a letter across my desk the other day which I thought I would just bring along, if I can find it here, to indicate that management is not always too happy with what happens. In fact, I have gotten into major scraps with most of the major concerns in the State, including the Brown Co. This is from a laundry near Lebanon, N. H. And I quote from a paragraph. And unless the committee is particularly interested I won't give names; but I am sure it will be all right.

> I am very much of the opinion—it is not a new opinion—that there is a constant tendency within your department and with the labor legislation to all the time make it easier for the employee to draw unemployment compensation. Whether the fact that some of the members, as I understand it, of your department are members of a union sometimes enters into this is, of course, a question again. I do feel at some time the panels are taking the words of the ex-employee when sometimes we employers have every reason to believe that it might not be a hundred percent the truth.

I get letters like that all of the time from the other side of the fence. As I say, it is not a hundred percent a one-way street. I would like to say something that was not brought up in the testimony but which has been repeated in the labor press twice—maybe 3 or 4 times—to my knowledge. And that is the statement, put in quotations, that I have described the wage and hour law as "unsound legislation." I categorically deny that statement. And I have seen no evidence presented here to even substantiate it. And I raise a question as to how it got into these articles in the first place.

Now, to wind up. And this is close to the end. To wind up with Mr. Cruikshank's nonmimeographed testimony this morning: The question of the Unemployment Compensation Benefit Advisors directed by Mr. Stanley Rector, has frequently been referred to; although Mr. Rector's name was not brought in this morning, his organization was. This is the lobbying organization representing major employers in the field of unemployment compensation here in town. Mr. Rector is a former member of the Interstate Conference, a former chairman of the Interstate Conference. He is thoroughly versed in these subjects. He is a personal friend of most of the administrators. We frequently find that his views and ours coincide. He happens to be a personal friend of mine. He has been entertained at my home, and I have been entertained at his home. Other administrators can speak for themselves as to whether Mr. Rector has bought their souls. I think you would find that none of them would say he had. And I can say with emphasis for myself that he has not.

On the other hand, I do not intend to forsake a good friend who has been helpful to me on occasion simply because he has views which are inimical to other views on the same subject. There have been frequent occasions when I have taken the side of labor. And I do not consider myself kept by labor under those circumstances.

I would go into the Reed bill at more length; but I won't unless the committee would like me to as to the pros and cons of it. It seems to me that the basic evidence is that it was passed by this Senate 78 to 3 with, I think, all members of this committee voting for it, with the possible exception of Senator Allott who was not here. And I think the pros and cons were thoroughly explored. And I don't see any point in going back into the issues.

Now, I would like to wind up, then, with the cocktail party issue, Mr. Cruikshank's implication that there was some wrongdoing there. And I will try and make this brief. I am a little over my time, but I guess I forewarned you that with this charge——

Senator DOUGLAS. You have unlimited time.

Mr. BROWN. I am trying to make it brief and talk about what interests you.

The cocktail party proposition started this way. When I first joined the division, a year after I got there, I came to the conclusion that the nondirectorial people in the division, those on the professional level—managers, and so forth—who did not in the normal course of the division's work get out of State to rub shoulders with their opposite numbers in other States would be benefited by that experience annually. It is a program that has a good many interstate implications and professional people always benefit from that kind of contact. So I thought up the idea of having a New England-wide annual conference of the lower levels, or lower echelons, in the employment security agencies of the six New England States. And we had such a conference. The query came up on how to finance it. I had this contingent fund, what Mr. Cruikshank referred to as "mad money." It is penalties, interest, and fines that we collect in the course of a year from employers mostly. It goes into a fund and I can spend it for certain purposes if approved by the governor and council. I got the approval to spend a thousand dollars of this for this purpose. The reason I needed any money at all was twofold. No. 1: These people are not paid very much. They cannot take $22 or $24 out of their jeans to come up to New Hampshire plus travel very easily, particularly right after Labor Day. And the second reason: Of course, I could have gone to the New Hampshire Manufacturers Association or some large employer—or in some States labor unions help sponsor things of that kind. But I feel very strongly personally that in a job like this—and that includes all of my employees—you ought to stay away from obligation to anybody with whom you do business. And I believe in that as to Christmas presents and everything else. I couldn't charge conferees a registration fee. They were overstretched anyway paying their own way. So, I decided the sane and sensible thing to do was to spend government money for this purpose. I ran the conference for 3 years, spending part of the money each year for a social hour, an organized conference cocktail party, as you find at any conference. I guess 1 year we did have a small registration fee and paid for it out of that registration fee. But the other 2 years we used this money. In the fall of 1954, last fall, an issue was raised. The question of the politics of the papers in New Hampshire, Mr. Chairman, comes up.

New Hampshire being at the moment a more or less one-party State, we have the condition that exists frequently in one-party

Southern States where there is some friction within the one party. And it appears that the major paper in New Hampshire and the then Governor, Hugh Gregg, didn't always see eye to eye, and word got around that government money was being spent for cocktails in this show of mine. And the paper made a very big production of it.

Senator DOUGLAS. This was an intraparty fight?

Mr. BROWN. Intraparty fight; yes. The paper made a big production of it, and I was away at the time, and there were mistakes as to whether or not I had any intent to charge the government for the party. I had every intent to, and the bill was on the record.

Nothing was hidden about it, but there were some misstatements made. When I got back, I cleared them up and said I intended to charge the government, to which the Governor said, "Well, I think you had better reach into your own pocket. I didn't know that was what you were going to use the money for, and I don't think it is proper."

I said, "Well, I think it is proper, and I would like to talk to the governor and council about it." So I had a hearing before the governor and council and the vote was 3 to 2 against me, and I paid for it, and the rest of the story you have heard.

The $75 that my employees contributed entirely voluntarily is sitting in a bank box somewhere waiting for another party. As to the contingent-fund proposition, you had this morning a letter from Mr. Arthur Bean, who was and is comptroller of the State of New Hampshire, and who is the best-informed individual and direct superior in any fiscal matter of this kind. I would like to read this letter in toto and drop the matter there, unless the committee has any further questions.

It was entered in the record this morning, but I would like to read it, because the allegations have been made. This was written to Senator Bridges, dated June 17.

DEAR SENATOR BRIDGES: In answer to your request for information regarding Newell Brown, with particular reference to his handling of division of employment security contingent fund, I must refer back to the year 1951, when Mr. Brown, early in his new duties as director of employment security, requested of this office that an audit be made of his division.

Due to a shortage of personnel, it was not possible for us to make this audit until the spring of 1953—that was 2 years later—"The audit found everything in good order; a question arose as to the method of processing payments from the contingent fund."

In order to clear up this question, a ruling was requested from the attorney general's office. The attorney general ruled that expenditures made from the contingent fund should be processed through the comptroller's office. Upon receipt of this ruling, Mr. Brown immediately brought his procedures into conformity with the ruling and has abided by it in his handling of the funds ever since.

In the fall of 1953, this office requested Mr. Brown to get governor and council approval of certain proposed expenditures and they were so approved. Newspaper stories appearing at the time inferred that we had made a secret audit and that there was the possibility of action being taken to deprive the division of the contingent fund, and that there was evidence of improper or questionable use of the funds.

Our answer to his is that we never have made a secret audit to our knowledge. The question of taking away the contingent fund has never been brought up. We did not find anything improper or questionable in the expenditures that had been made.

Our only question was one of how these expenditures should be processed and approved under the law. We could not and we cannot in the situation find any-

thing to reflect in any way on Mr. Brown's integrity, ethics, and good faith as a public official.

ARTHUR E. BEAN, *Comptroller.*

With that, Mr. Chairman, I am through.

Senator DOUGLAS. I will ask you a few questions, and then we will pass to others for questioning, with the understanding that we will take not more than 10 minutes apiece and rotate.

Mr. Brown, when you sent out the letters dealing with the Reed bill, you sent out those letters on franked mail?

Mr. BROWN. Yes, sir.

Senator DOUGLAS. You did?

Mr. BROWN. They did go on franked mail. The Government paid for those letters.

Senator DOUGLAS. Were the clerical expenses connected with sending out the letters borne by you, personally, by the New Hampshire committee, or by the Federal Government?

Mr. BROWN. They were borne by the Federal Government. They were done in the normal administrative routine as is all conference material.

Senator DOUGLAS. Were you to do that again, do you think you would do it that way?

Mr. BROWN. I don't think so.

Senator DOUGLAS. Now, all politicians run for office, and we know how readily we can get trapped by our friends, who sometimes turn out to be our worst enemies. When these unsigned envelopes appeared with money in them on your desk, did they come after your inner assistants had told the people that contributions would be welcomed?

Mr. BROWN. I don't know what happened after that meeting. They came in. I think I have told you all I can. They came in. I said "I don't want it. I don't think it is proper. I made the mistake." They said "they would like to do it." I shrugged my shoulders. I think that is the way it ended.

Senator DOUGLAS. You did not return the money?

Mr. BROWN. I did not return the money; no, sir.

Senator DOUGLAS. The contributions kept coming?

Mr. BROWN. I did ask them if they knew where the contributions came from. They said: "No, we don't know where they came from." That is right; then the contributions kept coming.

Senator DOUGLAS. Did you ever ask any of your assistants to suggest that contributions would be welcome?

Mr. BROWN. No. sir. Several times at staff meetings I thanked those who had, and said "Cut it out," or words to that effect.

Senator DOUGLAS. You didn't say "Here is the money; come and get it, according to the amount you contributed"?

Mr. BROWN. I did not, sir; no.

Senator DOUGLAS. The problem is very difficult, of friends getting one into trouble.

Mr. BROWN. This puts it in quite a somewhat different light, as it is presented here. As I say, it surprises me that I am in this light, because I think you would find among my employees a different light. I have refused to let them take any monetary presents at Christmastime. If an employer wants to give them a bottle of whiskey, I say

"Ask him to write you a letter congratulating you on what you have done," and that has been my point of view.

Senator DOUGLAS. I have the rule I don't accept presents of more than $2.50.

Now, on Mr. Stanley Rector, did you work rather closely with Mr. Rector in your advocacy of the Reed bill and opposition to the amendments which were proposed to the Reed bill?

Mr. BROWN. We worked with him; yes, sir.

Senator DOUGLAS. Would you want to develop that answer a little bit?

Mr. BROWN. Well, yes, I would put it this way: That Mr. Rector has been here in town a good many years. He knows his way around a good deal better than a youngster from New Hampshire coming down here, and from time to time he was helpful in indicating where we might go to get certain information, to get certain things done, and so on.

This issue of attachment to him has come up. If we were working on a bill with the AFL, I would go to Mr. Cruikshank for all the help I could get.

Senator DOUGLAS. What you are saying is that this was parallel with independent activity but not directed activity?

Mr. BROWN. Correct, sir. Two minds with a single thought in this regard, and he had know-how I didn't have.

Senator DOUGLAS. Fellow travelers, but not bound together by tight bonds, so to speak?

Mr. BROWN. Absolutely, not bound together, whatsoever.

Senator DOUGLAS. And, of course, the use of the term "fellow traveler" is divorced from anything ideological.

Now, on this woods business, it seemed to me that the important question is not so much the earnings as the cord rates for the choppers and the woodcutters and the sawyers, and we have had testimony both from Maine and New Hampshire and, of course, you can't answer for Maine.

But within the space of 2 years, the cord rates went down from $7.50 to $6 and that you were soliciting, and the companies were obtaining, Canadian labor at $6 a cord where it had formerly been $7.50.

Mr. BROWN. Yes, sir. Do you want me to make comments on that?

Senator DOUGLAS. Yes.

Mr. BROWN. I commented yesterday that so far as my figures are concerned, that is demonstrably not true, and I have—if I can dig here a minute, I think I can find that chart which I would like for you to take a look at, if I may.

Senator DOUGLAS. Yes.

Senator PURTELL. When you said, "Yes, sir," you didn't mean "yes" in reply to his question?

Mr. BROWN. That the rates had gone down?

Senator PURTELL. Well, he said you and others were seeking to get this cord rate at $6. Did you mean "yes" in reply to that?

Mr. BROWN. No, sir, I did not.

Senator DOUGLAS. I didn't interpret it so.

Senator PURTELL. No, But I was afraid, sir, that the record might.

Senator DOUGLAS. Just to make the record perfecly clear, I will say that the chairman did not interpret it so.

Mr. BROWN. This is a rather rough diagram, but this is column for the various types of woods work. This is the wage rate. No where can I find any indication that——

Senator DOUGLAS. May I make this a part of the record?

Mr. BROWN. I would like to, but could I smooth it up a bit so it is more understandable?

(The data referred to follows:)

Prevailing rate ranges for cutters in Berlin, N. H., area found by New Hampshire division of employment security for period 1951–55

6-month bonding period	Softwood	Hardwood	Softwood cut and skidded	Hardwood cut and skidded	Rough pulp, stump	Rough pulp, yarded	Peeled pulp, stump	Peeled pulp, yarded
April–September 1951	$4.50– $5.50	$5.50– $6.50	$9.00–$10.00	$10.50–$12.00	$4.50–$6.00	$5.00– $7.00	$7.00– $8.00	$7.50– $9.00
October 1951–March 1952	6.00– 7.00	7.00– 8.00	9.50– 12.00	10.50– 12.00	5.50– 6.50	6.00– 7.50	7.00– 8.00	8.00– 10.00
April–September 1952	7.00– 8.00	7.00– 8.00	9.50– 17.00	10.50– 17.00	5.50– 7.50	6.00– 8.50	7.00– 8.00	8.00– 10.00
October 1952–March 1953	7.00– 8.00	7.00– 8.00			5.50– 7.50	5.50– 10.50		
April–September 1953		7.00– 9.00	10.00– 12.00	10.00– 14.00	5.00– 7.00	6.00– 7.00	8.00– 9.50	9.00– 10.00
October 1953–March 1954	8.00– 10.00	8.00– 10.00	10.00– 14.00	12.00– 14.00	5.00– 7.00	6.00– 8.00	8.00– 10.00	9.00– 11.00
April–September 1954	8.00– 10.00	8.00– 9.00	10.00– 14.00	12.00– 14.00	5.00– 7.00	6.00– 8.00	7.00– 9.50	8.50– 10.50
October 1954–March 1955	8.00– 10.00	8.00– 10.00	10.00– 12.00	12.00– 14.00	5.00– 6.50	6.00– 7.00	7.00– 9.50	8.50– 10.50
April–September 1955	8.00– 10.00	8.00– 16.00	10.00– 14.00	11.50– 14.00	5.00– 7.00	6.00– 8.00	7.00– 9.50	8.50– 10.50

Senator DOUGLAS. I would like to ask this question: The office to which you have been appointed deals with the poorest paid group of industrial workers in the country. It is only partially covered by statute. There is a great deal of administrative discretion involved.

Now, as I said, it is very important, in addition to the strict following of the law and precedent, that it be tempered with human sympathy and human compassion, and I will ask you whether you could honestly and conscientiously say that if appointed to this office, or if your appointment is confirmed, that you would administer the law sympathetically and with human compassion?

Mr. BROWN. My answer was and is, yes, sir.

Senator DOUGLAS. That is all. Senator Smith?

Senator SMITH. I have 1 or 2 questions of Mr. Brown.

What year were you appointed as a director of the division of employment security in New Hampshire?

Mr. BROWN. August 1950, sir.

Senator SMITH. And then, by being appointed to that, you became one of these many State administrators throughout the United States?

Mr. BROWN. Yes, sir.

Senator SMITH. Now, in what year were you appointed chairman of the State administrators legislative committee?

Mr. BROWN. At the annual meeting in 1953, to my best recollection. The annual meetings are held in the fall, and I was appointed at the annual meeting held in New Hampshire in 1953.

Senator SMITH. Would you say that the State administrators as a whole favored this so-called Reed bill from the discussion here?

Mr. BROWN. I was aware of only one dissent, that of Rhode Island. Some were more active than others.

Senator SMITH. And you, as chairman of that group, were expected by the group to work legitimately for the passage of that legislation; is that right?

Mr. BROWN. Yes, sir. Press for it is the word that was used.

Senator SMITH. What I am getting at, were you so-called lobbying here just as an individual, or because you represented a group who had requested you as chairman to move into that picture and do all you could for the legislation they favored?

Mr. BROWN. Entirely as a representative of the group, sir.

Senator SMITH. Now, let me ask you another question. I have been told by a friend of mine who lives in New Hampshire and who knows something about this subject that prior to your being appointed to that chairmanship and prior to this Reed bill issue coming up, you were very highly thought of by the labor people in New Hampshire.

There have been legitimate criticisms, of course, but there has been a high respect for your administration of this office. Is that true?

Mr. BROWN. Outside of this Textron plastics case, and the occasional blasts that you get on a job like this, I had assumed that I was well thought of right along; yes, sir.

Senator SMITH. I have been advised further that at the time you took over the chairmanship, and when the Holland issue came up, then the matter became of national importance to Mr. Cruikshank who was representing the AFL, and he legitimately opposed the Holland bill, but at that time, the operation began to move into New Hampshire in order to get labor opposed to you and the criticisms after the agitation started from down here?

Mr. BROWN. I don't think I could say it was, Senator. I have not noticed the reflection of Washington opposition until this appointment was made. Since this appointment or nomination was made, there has been some evidence of pressure from Washington on local organizations.

Senator SMITH. Do you feel that the opposition to you from Washington is due to the fact that you were chairman of this administrator's group who favored the passage of the Reed bill?

Mr. BROWN. Yes, sir, I think so.

Senator SMITH. That is all I have to say.

Senator DOUGLAS. Senator Purtell?

Senator PURTELL. I have no questions.

Senator GOLDWATER. I have no questions. I would like to make one comment to bear out what Mr. Brown said about Rhode Island being the only State that came to his mind that objected to the passage of the Reed bill.

The 2 Senators from Rhode Island are 2 of the 3 who voted against it.

Mr. Chairman, I am perfectly satisfied with the integrity and honor of this man, and I intend to vote for him.

Senator DOUGLAS. Senator Purtell?

Senator PURTELL. I have already responded, but I would like to join my colleague, Senator Goldwater, in saying that I, too, am completely satisfied not only as to your integrity but as to your ability to fill this post and I shall most happily vote for your confirmation.

Senator ALLOTT. I would like to ask one question which I am not sure the record has made clear.

The letter which you wrote and which was criticized by the people who testified last night and this morning—to whom was that sent?

Mr. BROWN. To the best of my recollection, it was sent to each of the 51 administrators who make up the interstate conference. The other three are Hawaii, Alaska and District of Columbia.

Senator ALLOTT. Did you say whether copies of that were sent to the unions or not?

Mr. BROWN. No, none were sent to the unions that I know of, directly.

Senator ALLOTT. So that your activity in that respect was confined completely to members of your own conference?

Mr. BROWN. To the best of my knowledge; yes, sir; that was my intent.

Senator ALLOTT. Mr. Chairman, I want to associate myself with the remarks of my colleagues. I have complete confidence in the integrity of Mr. Brown, also in his ability to handle this job, and I will certainly vote to confirm his appointment when the matter comes before the committee.

Senator DOUGLAS. Do you wish to make another statement?

Mr. BROWN. One more statement. I missed one thing I intended to put in. My own advisory council at the time of this contingent fund hassle passed this motion unanimously. That was labor, management, and public; on October 21, 1954.

It was moved and voted unanimously by the council that the council be recorded as having complete confidence in the integrity of Newell Brown, director of the division of employment security.

Senator DOUGLAS. If there is no further question, the hearings are terminated, and I would suggest that the subcommittee meet at 10 o'clock tomorrow morning to consider the question of approval or disapproval of the nomination.

Senator GOLDWATER. Before the meeting is closed, I would like to go on record as complimenting the chairman for the very fair manner in which he has conducted the hearing.

Senator SMITH. I would concur.

Senator DOUGLAS. Thank you very much.

(Whereupon, at 6:15 p. m., the subcommittee adjourned, to reconvene at 10 a. m., Thursday, July 28, 1955.)

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