INTERNAL REVENUE SERVICE

HEARINGS

BEFORE A

SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES

NINETIETH CONGRESS

FIRST SESSION

SUBCOMMITTEE ON DEPARTMENTS OF TREASURY AND POST OFFICE AND EXECUTIVE OFFICE APPROPRIATIONS

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AUBREY A. GUNNELS, *Staff Assistant to the Subcommittee*

CHARGES OF ABUSES BY INTERNAL REVENUE SERVICE AGENTS

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U.S. GOVERNMENT PRINTING OFFICE
82-750 WASHINGTON : 1967

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INTERNAL REVENUE SERVICE

CHARGES OF ABUSES BY INTERNAL REVENUE SERVICE AGENTS

THURSDAY, AUGUST 10, 1967

WITNESSES

SHELDON S. COHEN, COMMISSIONER
WILLIAM H. SMITH, DEPUTY COMMISSIONER
DONALD W. BACON, ASSISTANT COMMISSIONER (COMPLIANCE)
JOSEPH ROSAPEPE, DIRECTOR, PUBLIC INFORMATION DIVISION
JAMES MILLER, LEGAL ADVISER TO COMMISSIONER
NORMAN SIMS, DEPUTY DIRECTOR, OFFICE OF BUDGET AND FINANCE, OFFICE OF THE SECRETARY

Mr. STEED. The committee will be in order.

The committee is convening this morning to discuss some problems with the Commissioner of Internal Revenue and his staff. As you know, Mr. Commissioner, the current issue of the national magazine Reader's Digest carried an article written by Mr. John Barron entitled "Tyranny in the Internal Revenue Service" in which a considerable number of case histories are reported which could give the average reader the impression that the great tax collecting agency which you head is going beyond its authorities and good judgment in carrying out its work.

As you know, it has been the policy of this subcommittee not only to go into great detail in the budgets that we supervise, but from time to time to sit in conference with those agencies to keep up with current activities, problems, and changes in programs. So we are very concerned about this article, its authenticity, and what needs to be put on the record to place all the facts in proper focus. We are not here to prosecute or defend. We are, as you know, interested only in the factual situation.

We know, of course, that collecting taxes is not one of the most popular and pleasant functions of Government, but it is probably one of the most important and necessary. I recall that in all of your appearances before this committee you have in the record discussed in great detail your appreciation of the fact that the American people have always taxed themselves under our code in a way that no people in all history have done, and that the overwhelming majority of people have been honest and forthright in their dealings with their Government. You have also stated that you think it is of the utmost importance for this public confidence to be maintained at all costs. I have always agreed with that.

We realize there are always those who want to cheat and evade, and applying the law to that type of people is not the most pleasant task. We know that in an organization involving as many human beings as yours does, it is possible that now and then some agent can exceed his authority or engage in activities that good judgment would not uphold. We are not inclined to get too excited at some mishap on occasion, but when the charge is made that this is widespread and by inference, at least, has the acquiescence of management, I think that poses a question that is very serious. I am sure you feel the same way. Our associations with you and your people have been to the contrary of those charges. I know you have introduced some innovations in the agency since you have been the head of it that make it more palatable to the taxpayer to do business with the agency. I recall earlier this year you made available some articles from a New York newspaper in which they had interviewed people who had been called to face your revenue agents on their tax returns, and almost without exception they were high in their praise of the treatment they received at the hands of the Internal Revenue Service. I thought the efforts you have made to improve the relations between the agents of the Internal Revenue Service and the taxpayers were bearing fruit, and that is why it was disturbing to me to see this article.

First, you have read this article, have you not?

Mr. COHEN. Yes, I have; with great distress, I might add.

Mr. STEED. I think first we would like to have any general statement you might want to make in response to this, and then we will have questions we would like to propound and go on with the review of the whole problem.

Mr. COHEN. Thank you, Mr. Chairman. I do appreciate the opportunity to meet with you and discuss in this way the very disturbing article. It is disturbing to me because, as you well pointed out, the efforts, not only during my administration but for a good long time in the Internal Revenue Service, have been in trying to modernize procedures to make them more humane and accessible to people and to eliminate all possible disputes. To that end we have made great progress, which I think has been recognized in many places independent of the administration or the particular agency involved.

So a broad accusation of a breakdown in the system I believe is uncalled for. In an agency with 60,000 people making independent judgments we do not claim infallibility. There are occasions when errors are made. But I think there are enough checks and balances in the system that each time a judgment is made there are checks made of it so that no one judgment goes off on a tangent very far before it is brought back. This is the majesty of the system.

I would like to run through a quick overview of the system, the things we have done and why we think general charges are uncalled for, and then handle a few specific instances that were brought up. Then I will be glad to answer any questions you might have.

I think, if the chairman does not mind, the way to start off is to read a letter I received yesterday afternoon. My secretary brought it to me at 5 o'clock yesterday. It is a carbon copy of a letter sent to a Congressman. It is from a taxpayer I never heard of and our people don't know him. It is addressed to Congressman Charles W. Whalen,

Jr., of Ohio, and I don't know Mr. Whalen either. I will read the letter, if you don't mind, in its entirety. It is not very long.

(Thereupon the following letter was read by Mr. Cohen:)

HUGHES WHITE TRUCK SALES CO.,
Dayton, Ohio, August 7, 1967.

Hon. CHARLES W. WHALEN, Jr.,
Congressman, Third District, Ohio,
Washington, D.C.

DEAR CHUCK: Have you read the article by John Barron in the August issue of Reader's Digest, entitled "Tyranny in the Internal Revenue Service?"

I did, a few nights ago, and I'm still incensed that a high grade publication like Reader's Digest would stoop to print such a scurrilous and misleading article.

Even if Mr. Barron's report of certain instances is basically factual, I feel he is completely unjustified in trying to infer that these are representative of the general policy or practice of the Internal Revenue Service.

In his peroration, Mr. Barron writes: "Let your Congressman know what you think of IRS abuses." Herewith I am following his suggestion, except for omission of his last word "abuses." As head of two small corporations, The Hughes White Truck Sales Co. and The Hughes Investment Co., I have had many contacts with IRS regarding Income Tax, Withholding Tax, Highway Use Tax, etc., and without exception its representatives have been well trained and fair minded. These contacts, over a period of nearly forty-seven years, have made me a sincere admirer of IRS and its personnel.

Finally, Mr. Barron writes: "It is important for all of us to stop being afraid of IRS. When it acts unfairly, we should speak out." I agree with his last sentence, but not his implication that it is so likely to use unfair tactics that we need be afraid of it. If the law now has objectionable features, it is the function of Congress to correct them. As an average "honest American taxpayer" (Mr. Barron's words), I have every confidence that IRS will enforce them properly and fairly.

Sincerely,

BOB HUGHES.

Mr. COHEN. This is a letter that was completely unsolicited. I called Mr. Hughes last night to thank him for the letter and ask for permission to use it, and he said he would applaud my use of the letter and in fact would be glad to make it public himself. He said when he went in business 47 years ago his first contact with the Internal Revenue Service was in connection with an excise tax problem. He said he computed the excise tax and then went to the agent because it was complicated, and the agent in charge of that office pointed out he had mistakenly overcomputed the tax and that the amount he owed was less than his computation. He said over the years sometimes he has come out on top and sometimes at the bottom, but never was he treated unfairly.

These letters I have here are all addressed to this particular article. I could have brought in a great many more, if I brought you all the letters addressed to me during the year—and I always read letters addressed to me and signed. I don't read unsigned ones, but all those that are signed are given to me by my secretary and I read them, whether they are complaints or praise.

It is rather surprising that in an agency such as ours, which by its nature can never be popular, the number of letters praising the Internal Revenue Service is rather large; because people who are happy with our operations are not prone to write.

One letter is from a gentleman who discusses the fact he just finished the first field audit he ever had and the Internal Revenue Service assessed him $10,000 in taxes. He says he is not enamored to pay

$10,000, but he thought the audit was conducted in a professional and fair way, and he believes the audit is right. This taxpayer feels his contact with the Internal Revenue Service after going through an "ordeal," in his terms, is one of admiration.

The basic strength of a self-assessment tax system is the confidence the taxpayer has in his Government. I think I distributed to the committee some time ago a couple of talks I made along this line. Mr. Rosapepe will distribute them. Two of them are illustrative. I made a talk to the National Industrial Conference Board and one to the Executive Club in Chicago indicating that the basic strength of the American tax system is mutual confidence. The taxpayer has confidence the Government is treating him fairly, and the tax agent is convinced the average American taxpayer is an honest man. I think that is the keystone as Congress would want it and as the people would want it. So any charge that anybody is breaching this trust and confidence—and the thrust of this article is that we have—is particularly distressing in the light of the fact that we think we have made some great changes in efforts in the last 5 years.

I might just outline to you some of the things that have occurred in the last 5 or 6 years.

The Internal Revenue Service, as you all are well aware, is a completely decentralized organization with its offices as close to the taxpayer as possible so it can create an aura of closeness and lack of formality and lack of inconvenience to the taxpayer to travel a great distance to have his dispute heard. There are 900 revenue offices all over the country. We encourage our agents to discuss the taxpayer's affairs with him in an informal way and to dispose of the case by agreement if at all possible, gathering the facts and making a quick disposition if possible. Most taxpayers—by and large the overwhelming percentage—are completely cooperative and this is a process that takes very little time. Some taxpayers have anxiety about this. I can't say that there aren't a good many who might feel that way, but our agents are instructed to try to keep them at their ease and to explain to them that the ordinary tax audit is just a factfinding expedition. By and large, the Internal Revenue Service puts its trust in the taxpayer. He is the one in control of the facts. The agent has no way of knowing if he has three or four children or whether the other facts claimed in his return are true or not true. Therefore, it is not reflection on the integrity of the taxpayer when the return is called for a verification; and that is all it is, a verification of the facts given by him.

Mr. STEED. In connection with your reference to these audits, perhaps it would be helpful at this point if you would outline which audits are mandatory and which ones are selected on a random basis.

Mr. COHEN. I think a part of the problem of this or any other article is a lack of understanding of the basic principles we follow in our system. First I would like to describe the mathematical verification process. Every return that goes through our automatic data processing system is verified for its math. We don't call that an audit. This is a pure mathematical verification. The interesting thing to me is that there were approximately 3.5 million corrections in arithmetic made during this process last year. The taxpayer receives notice that it appears his arithmetic is wrong, and here are the results of our calculations.

The number of returns which indicated errors in computation that the taxpayer made against himself, to his own detriment, last year amounted to 1,400,000. About $82 million was refunded to these taxpayers by the Internal Revenue Service without any request on their part, in fact without knowledge on their part that they had overpaid us. This is not indicative of a desire on the part of the Internal Revenue Service to get the last buck. These people did not know they had overpaid us. It is true, of course, that the other 2 million people whose returns we verified made mistakes the other way. The objective of our whole existence is to determine the proper tax, not a penny more and not a penny less.

Now, why do we choose a return for audit? Very few are chosen at random. Random selection is only used as a scientific device to show our other methods are working. The reason a return is chosen for audit is that there is some characteristic about it that leads one to believe there is an error. So you would think in the overwhelming majority of those chosen for audit there was a substantial error. Having chosen about 3.5 million, which was the capacity of our manpower last year to audit, we discovered 38 percent of those were absolutely correct. We verified the figures with the taxpayer and the taxpayer was able to show his claimed deductions, et cetera, were correct, and in each such case the taxpayer received a letter that after verification the return was accepted as correct.

Another 7 percent received refunds because it was determined that their tax was overpaid. Something in the neighborhood of $154 million was refunded on those returns. That is 45 percent of all the returns filed that were chosen for audit because it was thought there was error and were found not to have errors or to have errors in favor of the taxpayer.

When you get to the end of that statistical road you find 55 percent of those chosen for audit did have errors and adjustments were made of over $3 billion, about evenly distributed between individual and corporate adjustments, about $1.5 billion in individual adjustments and about the same, $1.5 billion, in corporate adjustments.

So the process is not one of extracting the last dollar, as some have alleged. The process is one of determining the right tax.

Now, we have an agent determine the facts. That is his only job; he is not a lawyer, he is not a judge; his job is to determine the facts and apply the law as written.

The taxpayer, of course, has a right to be represented by a lawyer or an accountant and most taxpayers with complicated problems are represented. Our agents are instructed to be extra careful with taxpayers not represented to be sure he understands the procedure and the law.

The taxpayer, when he receives his preliminary notice from the agent, is informed that if he disagrees with the agent he has certain rights of appeal. Some rights are provided by the Internal Revenue Code, but many are provided by the machinery we have set up to eliminate as many disputes as possible. The amazing thing about our system is that so few disputes arise. Some hundred million returns were filed last year and $148 billion was collected last year. Forty-eight million refunds amounting to $7.5 billion were made. When you think of the number of pieces of paper and the questions involved,

the miracle of the system is that it makes so few errors. This is not to say we make no errors; we are human beings.

The taxpayers, 55 percent of those audited, have received notice that the agent proposes an adjustment. They have an appointment and discuss these adjustments with the agent. Most of them are agreed upon at that point. If he chooses, the taxpayer has two administrative rights of appeal which we have been constantly liberalizing over the last few years. The first appeal is one we encourage all the small taxpayers, the ones with factual questions or involving a small amount of money, to go through, because it is the least formal and the most accessible to him and will work best in that kind of case. This is what we call the district conference procedure. If he has a claim of less than $2,500 he merely has to call or write the office and say he wants an informal conference and it is granted. No formal legal documents need to be filed and he does not have to be represented unless he chooses it. The person who hears his appeal is independent of the person who set up this original claim or adjustment. Conferees will sit permanently in a great many cities, 50 or 60 cities around the country, and when the need is there he rides circuit to the smaller towns through the various States so that nobody has to travel any great distance to accomplish this informal face-to-face conference with a man independent of the audit procedure.

Most of the cases are disposed of right here. The taxpayer may not have understood the importance of the matter or he may not have been able to properly focus on the problem, and in most cases, over 75 percent of the cases, are disposed of right there. That is the end of the road, sometimes because the taxpayer understands now and gives up, and sometimes because he has produced more facts and we are able, on discovery of those additional facts, to reduce or eliminate the amount of the claim.

The second level of appeal is for those taxpayers still unhappy after this first procedure, and I think 40,000 took this first procedure.

Mr. ROBISON. 40,000 out of how many?

Mr. COHEN. We start with 3.5 million and 40,000 took the first procedure.

Mr. CONTE. You emphasize the fact the person is advised he has the right of appeal and the right to have a lawyer. Do you advise him immediately that he has a right to have a lawyer?

Mr. COHEN. The audit procedure is not a legal procedure. It is a factual determination. There is no formal instruction to him that he should have a lawyer. The problem there is that we might scare him into believing he has to be represented. He doesn't have to. The rules say he can be represented if he chooses, and we make that clear to him.

Mr. CONTE. But he has a right to a lawyer?

Mr. COHEN. He has a right to a lawyer or an accountant.

Mr. CONTE. The Reader's Digest mentioned cases where the taxpayer was not allowed to call a lawyer.

Mr. COHEN. I will get to that allegation later.

The Appellate Division is where we suggest people with complicated cases go, or people dissatisfied with the first conference. The Appellate Division sits in about 40 cities permanently and likewise rides circuit to cities where there are problems, so that, again, the taxpayer does not have to go great distances to have a conference. The appellate con-

ferees are 700 in number. They are completely independent of our whole field of operation. Their line of authority runs from me in Washington and does not come from anybody in the district office that has anything to do with asserting the deficiency. I think both the bar associations and the accounting groups have applauded this effort and this procedure has been successful.

Mr. STEED. How long has it been in effect?

Mr. COHEN. The appellate procedure has been in effect for 30 years or more. The informal conference procedure, which we just improved this year or late last year by going to this $2,500 no-document-needed stage, has existed for 10 or 15 years in various forms and we have been constantly trying to improve it. My conferences with the bar and accountant groups indicate to me that it is going very well, and I am constantly seeking improvements.

About 26,000 cases a year go the Appellate Division route and the figures get a little more startling here because 90 percent of all the cases that go into the Appellate Division are disposed of by agreement. The taxpayer and the conferee agree on a deficiency—or lack of one. The issues have been sharpened and they agree. Five or six percent are defaulted. The taxpayer does not show up; they decide to drop it. Only 3 percent of the cases that went through our Appellate Division last year went to the courts.

The startling fact in the United States—and this startles everyone I have discussed this with, particularly abroad—is that we have so little tax controversy. We have less tax cases going to the court system in the United States than in a country such as West Germany, which has about one-third of our population. Germany has a fine system. I think ours is better. This is the miracle of the system. The taxpayer is notified throughout this procedure as to how he can proceed. In order to keep down the burden on the courts we encourage the taxpayer to come in and discuss the case with us, and I think we do a creditable job. That is not to say there is not a better way of handling cases. We are constantly seeking to find better techniques. We have over the years improved and hope to improve even more.

We now have electronic retrieval capability which gives our conferees the ability to know what kind of cases are pending around the country. I have demonstrated that technique to you here when it was used in our chief counsel's office. It is now being used and spread to our regional appellate division offices so that we can simultaneously or relatively quickly know around the country the way cases are arising all over the country and the way they are being handled in other places so that we can be fair. That is, so we can treat the taxpayer who lives in Oklahoma the same as we treat the taxpayer who lives in Massachusetts, New York, California, or wherever he might be.

That is not to say that 5 years from now we would not have better techniques. I hope that we will. Under the present state of science and the present state of the human mind, the techniques are rather sophisticated and I think from this discussion that you will see they work pretty well. We are not relying completely on this alone to keep the system going. We understand that in a system like ours where the confidence of the people is the critical factor between great success, and great effort on the other hand to bring a system up, one must have critical analysis constantly. Therefore, we have gone out to solicit

criticism of our system, aggressively solicit critical comments on the Revenue Service.

We do this in a rather unique way for almost any organization in the Government, and I might say a number of foreign governments have now observed the system and think they might want to adopt it for their countries. We have on the national level a Commissioner's Advisory Group. This Advisory Group consists of lawyers, accountants, both certified and noncertified, businessmen, business tax representatives, members of the teaching profession. They are chosen on recommendation from public bodies. We ask the bar association to recommend people. We ask the American Institute of Certified Public Accountants to recommend members. We ask the National Society of Public Accountants to recommend members. We have recommendations from an organization called Tax Executive Institute who represent the tax officials of large corporations. This group meets with the Commissioner and his staff here in Washington four times a year, usually for 2-day meetings, sometimes longer. The agenda is set by joint recommendation; that is, each of these groups has the right to put any item on the agenda, discuss any item it wishes. We bring up our items. The purpose is to find out what we look like to other people.

We know it is difficult to engage in self-criticism, so when we have a new program, for example, when our informal conference procedure was being clarified, we presented this program to this group well in advance of its dissemination to our own offices, or of its adoption, to find out if the representative citizens of the United States think it would work and what suggestions they might make.

It has been an excellent sounding board. They can bring us the criticisms that they hear from their organizations, from their fellow members, and the public, and they can help us in transmitting the ideas that we have for improvements. We similarly have such groups meeting with our district offices and our regional offices around the country. Each tries to discern what problems there are, what problems are arising, so that we can head them off before they become major in consequence.

I think that you can see we are not walking away from criticism. I think that healthy, constructive criticism is the way to find better methods of running Government, or private institutions, for that matter.

The problem that concerns us all is the problem that has been around since the beginning of time. One of my favorite quotations, and I may have used it before this committee before, is from Edmund Burke, who was a friend of the American colonists, you recall, during the Revolution and prerevolutionary period. Burke said: "To tax and to please, no more than to love and to be wise, is not given to men."

Our agency is the agency that stands between the Congress which enacts the laws and the taxpayers who must pay the taxes. Therefore, if the taxpayer feels aggrieved, and unfortunately the seat of man's sensitivities is usually his pocketbook, so Jefferson once said, he takes it out not on himself and not on you gentlemen either, but on us. So it will be forever. We just have to be stoic about it.

I am pleased to say that most taxpayers understand their responsibilities, do a job, and, if errors are made, attempt with us, in the best way we both can, to find the right answer. As you can see, the numbers

of disputes which arise are infinitesimal when compared with the number of disputes which might conceivably arise. We are seeking better techniques all the time.

Another thing I might add, and this is perhaps a personal distress to me, as I indicated, this Commissioner reads his own mail. He is appointed by the President with the advice and consent of the Senate for the purpose of overseeing an agency that is, perhaps with the exception of maybe the Defense Department, the most important agency of the U.S. Government. Without a revenue system no government runs.

With an inefficient revenue system, most countries break down. The Commissioner's job is to represent the people. Most of the Commissioners of recent years have been appointed from outside of the Government, from the private sphere, and have had experience on both sides of the fence, so to speak. They understand the revenue system both as it works from the Government side and as it works and affects the taxpayer.

It is rather distressing to find people who feel that the Commissioner has become part of a "system" which is designed "to get people."

I do not conceive my job that way. I try to get out whenever I can, whenever the workload will permit, to visit field offices, talk with our regional rank-and-file employees to find out what their problems are, to meet with accounting and law groups around the country.

Last week in a trip to the American bar convention I met with three CPA societies, a couple of bar groups, and tried to discuss with their members what problems they have. I am pleased to say that I got very few real complaints. I had some constructive suggestions for improvements but no real feeling of distrust of this agency.

These people are the ones who deal with the Revenue Service on a day-to-day basis on enough cases so they get a measure of the Revenue Service. Unless I have misunderstood all of the signs that I see, I read the Revenue Service as being a fine, healthy organization. I think it is composed of 60,000 of the finest people in America, trying to do a job. It is my job to oversee them and I must say that in the 2½, almost 3 years, that I have been Commissioner I have done it with pleasure. I have felt that I could be proud of the accomplishments of the organization.

With that general opening, I would like to go into a few details of the particular article so that you might point any questions at particular aspects of the thing that you might desire.

(The document follows:)

REPORT ON ARTICLE IN AUGUST READER'S DIGEST

Prepared by Internal Revenue Service

An article in the August issue of Reader's Digest, entitled "Tyranny in the IRS," contains too many half-truths, distortions and unsubstantiated conclusions to remain unanswered, the IRS said today.

Testifying this morning before the House Subcommittee on Appropriations headed by Congressman Tom Steed of Oklahoma, Commisisoner of Internal Revenue Sheldon S. Cohen gave a detailed report on each of the cases mentioned in the article.

While recognizing that honest criticism is desirable and necessary, IRS must respond to unfounded charges, since the most vital element in the American tax system is public confidence in the integrity and impartiality of tax administration.

The IRS said reputable publications make every effort to verify the truth of allegations before printing them. However, in fairness to the author of the article, had he sought to obtain further details beforehand on some of the cases he presents, IRS would have been unable to comply.

Under normal circumstances the law prohibits IRS from disclosing the details of individual tax cases to anyone other than the taxpayer or his authorized representative. This provision of law is designed to help insure privacy to the financial affairs of the American taxpayer.

Only if the information becomes a matter of public record, such as through court action, or if a taxpayer or his representative first makes public disclosure, as in the cases described in the article, can the IRS reveal the full story.

In administering one of the most complicated laws in the world—to collect each year more than $148 billion needed for the Nation's security, welfare and progress—it is inevitable that honest men will occasionally have differences of opinion.

It is also inevitable that, in processing 300 million documents, even the best managed operations and the most dedicated employees will make some mistakes. It is humanly impossible to deal with anything on this mammoth scale and not make some errors. The miracle of our fine system is that there are so few mistakes.

The Reader's Digest says its writer took six months, travelled 5,800 miles and held 200 interviews in order to make sure he did not write about "disgruntled crackpots and conniving tax dodgers."

This massive enterprise resulted in 16 instances of alleged wrong-doing by IRS, considered worthy of inclusion in the article. The full story on these cases is attached to this report and readers can judge for themselves the validity of the conclusions in the article.

The article states that most IRS agents, "want to be just and reasonable" but criticizes the "system." Conveniently overlooked is the efficiency and fairness with which the "system" deals with 100 million taxpayers, filing 70 million income returns, in a process that results in 48 million refunds, totaling $7.5 billion. Most of these refunds are made within 45 days from the date the taxpayer files his return.

While, in the course of a year, 3.5 million taxpayers are called in to substantiate their deductions and claims, some 25 million are given help and information as to their obligations and their rights—as a part of this "system."

Senator Edward V. Long of Missouri, whose Senate Subcommittee on Administrative Practice and Procedure has investigated IRS—and who has been critical of the Service—said in the Congressional Record of August 2:

> "Fortunately, most Internal Revenue Service Agents are courteous, considerate and helpful. Most citizens try to cooperate with IRS, and this, certainly, is as it should be. Our tax system depends on this great degree of cooperation."

The misrepresentations in the article are too numerous to be refuted in detail. A few examples of the most glaring ones, however, will give readers an opportunity to put the whole article into perspective.

As "proof" of some of the conclusions that "may sound incredible to those who have not yet been victimized by IRS," the article cites several sources of its material. These should be considered in some detail:

"Court rulings"—In several cases the article makes the point that suspected tax evaders were found not guilty, implying they should not have been brought to trial. As everyone knows, it is the responsibility of the courts to decide whether anyone has willfully violated the law. IRS does not determine guilt or innocence in a tax fraud case, but only investigates the facts.

Under our legal system a grand jury must indict before anyone is held for criminal trial. The fact that a court may acquit the individual means only that the government was unable to prove beyond a reasonable doubt that criminal tax fraud was committed. Last year the conviction rate of persons indicted for tax fraud was 97 percent.

"Congressional Investigations and Unrefuted Sworn Testimony"—Several of the cases cited in the article came from the hearings of the Senate Subcommittee on Administrative Practice and Procedure. Reference to "unrefuted sworn testimony" is made several times in the article. Where it refers to statements made before the Senate Subcommittee, the article does not make clear that these were legislative hearings and not judicial trials.

Americans who have seen court trials know that "sworn testimony" does not always produce the complete truth, unless there is cross-examination by the defense attorney and testimony of other witnesses to bring out the whole story. In the subcommittee hearings there was no cross-examination of witnesses.

"Admissions by IRS officials themselves"—It is the policy of IRS to admit a mistake and at the same time to tell what has been done to correct the error and what is being done to prevent it from happening again.

This policy is essential to maintain the confidence the American people have in IRS for providing fair, courteous and impartial service to taxpayers. This includes apprehending those few who would put an unfair tax burden on their neighbors by willfully failing to pay their own proper share.

Among the most serious distortions in the article is reference to the additional taxes "extracted" from 1.9 million taxpayers for "alleged" errors found during "special" examinations last year. These so-called "special" examinations are nothing more than normal audits of returns selected through procedures which identify returns most likely to contain errors in applying the tax laws.

The article then relates the 1.9 million taxpayers who made mistakes of this kind to the 1,324 taxpayers who were found guilty of actual fraud—with the implication that taxpayers not convicted should not even have been questioned in the first place. This implication overlooks the difference between returns with honest errors caused by complexity of the law and the relatively few cases where there was proof that the taxpayer wilfully committed tax fraud.

Furthermore the article does not bother to tell what happened to the remainder of the 3.5 million returns that were selected for examination during the year.

Of those 3.5 million, over 1.3 million taxpayers were notified that their returns were accepted without change and 300,000 other taxpayers received $154 million in refunds, because examination showed they had made errors which caused them to overpay their tax.

These figures were not used in the article, presumably because they would not jibe with the statements that IRS agents are judged by the "alleged errors" they find and "how often they bring in more dough."

Obviously, thousands of IRS agents and auditors, who found errors in some returns but also reported "no change" in 1.3 million returns or gave refunds in 300,000 cases, were trying to do their job in line with IRS policy to determine the correct tax—no more, no less.

In addition the article did not point out that IRS refunded $82 million to 1.4 million other taxpayers who made mistakes in arithmetic and overpaid their taxes—further evidence that IRS seeks only the correct tax.

In March 1966, President Johnson made specific reference to these unexpected refunds made by IRS in the preceding year, stating:

> You have not forgotten that a good tax collector is not only efficient, but a good collector also ought to be fair and just—and he should treat the other fellow as he would like to be treated if he were on the other side of the desk.

Among the many misrepresentations of fact in the article, there is space here to nail down only the most glaring examples of inaccuracy:

IRS maintained "a staff of specialists in illegal snooping."—As any law enforcement organization, IRS has a staff of investigators trained in the techniques of detecting violations of the law. It has no staff of specialists in "illegal snooping."

"Wiretaps, bugs, spying equipment, lock picking devices were used."—The article does not say that Congress is considering a dozen bills on the subject of electronic surveillance because the law is unclear. Nor does the article point out that in over 300,000 criminal investigations over eight years, there were only 94 wiretaps, 32 bugs, and 29 phone booth bugs—all in connection with investigation of racketeers, gamblers, moonshiners and other criminal evaders.

"Such lawlessness was encouraged from high levels of IRS."—Quite to the contrary, all questionable use of electronic devices was stopped in July 1965 as soon as it became known to top managers of the IRS.

"Top IRS bureaucrats have tried to cover up and withhold data."—The facts are that in addition to more than a hundred letters and reports submitted to the Senate Subcommittee by IRS, some 50 officials and employees were instructed by Commissioner Cohen to testify "fully and frankly." These included, besides Mr. Cohen himself, an assistant commissioner, regional commissioners, division directors, district directors, branch chiefs and supervisors.

The only data withheld from being spread on the public record by the subcommittee was information which cannot be disclosed because of specific provisions of the law or which identified innocent third parties.

As a basis for its conclusions on IRS activities, the article mentions subcommittee interviews with 621 individuals and 2,756 pages of "sworn testimony." However, the article did not say that more than half of these individuals had nothing to do with IRS. They included manufacturers and salesmen of electronic devices, employees of other federal, state and local governments, college professors, consultants, police informers and a varied collection of convicted criminals.

More importantly, the article did not mention the cases of the following persons who were among the 621 individuals interviewed or who gave "sworn testimony." These individuals or their testimony are not mentioned because apparently they would not have sustained the thesis of the article:

Ex-IRS agent John W. Harris of Boston, convicted on charges brought by IRS that he was shaking down a taxpayer.

Ex-IRS agent Archie P. Sherar of San Francisco, dismissed for refusing to bring in his own tax records.

Ex-IRS agent Joseph Rasonsky of San Francisco, dismissed for insubordination.

Bernard Spindel of New York, and Harold K. Lipset of San Francisco, wiretap experts who served as consultants to the subcommittee and were later indicted by a New York grand jury.

Ex-police official William M. Canaday of Kansas City, convicted of tax evasion, whose appeal later was denied.

Thomas Wheeler of Asheville, N.C., who testified he was wiretapped, with neither evidence nor reason to support such a claim, and who was convicted of tax evasion (later reversed on an unrelated technicality).

Anthony (Tony) Grosso, Pittsburgh gambler who testified he paid a Pittsburgh police lieutenant $1,000 a month for protection and to be informed if the "Feds" wiretapped him.

The Reader's Digest article says IRS can assert that a citizen owes taxes and force him to prove he does not. The American system of taxation is a self-assessment system in which the taxpayer tells the Government what he owes and not vice versa.

As Vice President Humphrey said in a talk last year:

> —the American tax agents and the citizens are really on the same team and they do not oppose each other in an atmosphere of distrust and suspicion or contempt but rather meet with a feeling of mutual respect * * * You do not arbitrarily tell the citizen what he owes * * *

In complying with the Revenue laws, it is necessarily the taxpayer's responsibility to establish facts peculiarly within his own knowledge. For the average citizen, this "burden of proof" in an examination, is met with a simple statement of wages, canceled checks, or receipts to substantiate deductions and payments.

When taxpayers disagree with a revenue agent's findings, they are advised of their rights of appeal. For small taxpayers, district conferences are available with independent conferees stationed throughout the country. No formal protest documents are needed when the tax amounts involved are $2,500 or less. Last year nearly 40,000 taxpayers obtained such conferences. In addition, almost 26,000 taxpayers took advantage of the IRS regional appeals procedures.

The article, in a gross over-simplification, say that IRS, at its whim, can seize a taxpayer's assets. Collection of taxes from those who will not pay voluntarily is a necessary procedure in extreme cases, in fairness to those who do pay.

However, only when there is an overt action on the part of a delinquent taxpayer to purposely dissipate his assets or to take them out of the country, will the IRS seize assets without warning. In every other case, a person who owes taxes is given ample opportunity to pay voluntarily. He is given several written notices, afforded conferences and, if warranted by his financial condition, part payment agreements are worked out. Enforced collection is made only as a last resort.

As Senator Frank Lausche of Ohio says in the Congressional Record of August 2:

> "—Every one of us realizes that to the extent that one individual fails to meet his tax obligation, others are compelled to bear a part of that delinquency.—"

The article quotes one U.S. Senator as criticizing IRS collection practices. Yet it does not mention that Senator John Williams of Delaware, for example, for more than 10 years has been encouraging IRS to take more prompt and strict action against delinquent taxpayers.

In pursuing its mission, the IRS makes every effort to treat all taxpayers fairly, regardless of economic, political, or social status, whether they are managers or employees, judges or farmers, editors or members of Congress. As Senator Williams told the IRS:

> "I do not object to my accounts being audited. Quite the contrary, I have always taken the position that no official of government is too high to be audited in exactly the same manner as is every other taxpayer, and I would criticize you if this procedure were not followed."

Through the years, IRS has invited taxpayers to write to their District Director or to the Commissioner in Washington, D.C., when they think a mistake has been made or they have received unfair treatment. This invitation continues in effect with assurance that IRS will consider every valid complaint and will take corrective action wherever warranted.

(Details of individual cases mentioned in the Reader's Digest article are attached.)

INTERNAL REVENUE SERVICE,
Washington, D.C.

SUMMARIES OF CASES MENTIONED IN READER'S DIGEST ARTICLE OF AUGUST 1967

Mrs. Michael Darrah—Kansas City, Mo.
and Kenneth R. Layne

The Reader's Digest alleged that IRS agents "intruded upon" Mrs. Darrah, who "pleaded with the men to come back another time"; that she was not permitted to call her father and advised not to call a lawyer; and the "terrified woman" was "being held a prisoner in her own home."

The facts are these:

An income tax investigation of Kenneth R. Layne, Mrs. Darrah's father, was begun in April 1961. An interview of Mrs. Darrah became necessary, as Mr. Layne claimed unexplained receipts were partly her income turned over to him.

The interview with Mrs. Darrah, accompanied by her husband Michael whom she wished to be present, took place on Sept. 14, 1961, at the U.S. Courthouse, Kansas City, Mo. For the convenience of Mr. and Mrs. Darrah, the interview began at 7:30 p.m. Mrs. Darrah's information essentially corroborated her father's statements about her earnings while living in her father's house.

Mrs. Darrah then read a statement containing the gist of her testimony which had been prepared after she finished, discussed it with her husband, stated it was true, but refused to sign it until her father had read it. Although the agents would not permit the unsigned statement to leave the office, they agreed she could bring her father, or anyone else of her choice, back to the U.S. Courthouse to read it there. The interview ended before 10:00 p.m.

During this interview, the agents learned Mrs. Darrah was expecting a child in early January 1962. Because of this, she was not contacted again until after her baby was born. Kenneth Layne's attorney informed the agents late in January 1962 that the baby had been born a week or two previously. On Feb. 7, 1962 she was telephoned for an appointment to obtain her signature on her statement prepared in September 1961.

Mrs. Darrah invited the IRS agents to come to her residence at a time when her husband could be present. She said she would call back and set up a definite appointment, which she did a few days later.

By appointment the agents met Mr. and Mrs. Darrah at their home, arriving about 9:30 a.m. on Feb. 15, 1962. The subsequent interview disclosed changes were necessary in the original September 1961 affidavit, and it was retyped at the Darrah home.

After reading it and discussing it with her husband, and with her father or his attorney, Mrs. Darrah signed the corrected affidavit at 1:30 p.m.

Mr. and Mrs. Darrah, who were pleasant and cordial during the entire visit at their home, served the group coffee around the noon hour, and did not ask the agents to leave or to return at another time. Mr. Darrah was present the entire time. Neither agent, at any time, attempted to prevent her from telephoning her father or anyone else. As a matter of fact, she did telephone her father or his attorney.

The Reader's Digest says Mr. Layne "ultimately" was absolved of any wrongdoing. He was indicted by a Federal Grand Jury Feb. 27, 1964 on two counts charging income tax evasion. His trial was held in December 1964, and he was acquitted on the day before Christmas 1964. These events took place nearly three years after the interview with Mrs. Darrah. The Reader's Digest concludes that Mrs. Darrah's unfortunate nervious breakdown was directly caused by the interview.

82-750—67——3

Lew M. Warden, Jr.—Alameda, Calif.

The Reader's Digest alleged that attorney Lew M. Warden, Jr. "patiently answered questions" about his tax return but refused to surrender files concerning his clients, which "an IRS agent demanded." As a result IRS "arbitrarily disallowed his legitimate business deductions for three years," seized his bank account and confiscated his sailboat, then "after hounding his for 33 months" suddenly dropped all charges against him.

These are the facts:

When an examination of Mr. Warden's tax matters was begun in June 1962, he refused to answer questions about his tax returns and refused to make his records available to the examining officer. The records requested were those relating only to his personal financial activities and his personal tax situation, not as the Reader's Digest says, records which contained "confidential information" about Mr. Warden's clients.

For over two years, Mr. Warden refused to produce his business records to verify certain items on his return, and twice refused a conference to discuss his tax situation. In order to determine Mr. Warden's correct tax, the IRS had to gather information independently to substantiate certain items of expense claimed for the years 1959, 1960 and 1961.

Lacking Mr. Warden's records to support his claimed deductions, IRS proposed certain adjustments calling for additional tax on the returns at issue. Mr. Warden wrote to the San Francisco IRS office, refusing to accept the deficiency findings. In a subsequent letter to IRS, Mr. Warden concluded with a desire to avail himself of the IRS appeal procedure.

With the case therefore transferred to the IRS Appellate Division, Mr. Warden appeared in April 1963 at an Appellate conference, but again refused to supply his business records. In December 1963 a statutory notice of deficiency was issued, showing the proposed adjustments to his returns.

A month earlier, in November 1963, Mr. Warden started an action in District Court, alleging that certain individuals employed in IRS had acted arbitrarily in proposing certain deficiencies in his 1959, 1960 and 1961 tax returns. The complaint further said that the defendents had schemed and conspired to deprive him of his constitutional rights.

On Jan. 8, 1964, Judge Zirpoli dismissed Mr. Warden's complaint. The Court's findings included the statement that the acts of IRS employees were undertaken solely to determine Mr. Warden's correct tax for the three years in question, and that none of these acts was undertaken for the purpose of denying him any right, privilege, or immunity guaranteed by the Constitution.

Mr. Warden filed an appeal; he subsequently dropped the appeal. In February 1964 Mr. Warden filed a petition with the U.S. Tax Court, on his income tax deficiency for 1959, 1960, and 1961.

At a pre-trial conference in November 1964, Mr. Warden gave the first indication of cooperation by informing members of the IRS Regional Counsel's staff that he was compiling records to substantiate expenses on his return. Two months later, in January and February 1965, Mr. Warden finally made them available for examination at his place of business.

With the records thus available, it was at last determined that no additional tax was due. But this occurred only after Mr. Warden made his records available, a reasonable action which, if taken at the time of the initial request for them, might have saved both taxpayer and government time and money.

The Reader's Digest says Mr. Warden unfairly had his bank account "seized" by the IRS, which also "confiscated his sailboat."

Mr. Warden owed taxes reported by him on his original returns. He was seriously delinquent in payment of these taxes; taxes which were not in question. The Collection Division, in activities entirely distinct from the examination of his tax returns, made numerous efforts to collect these taxes, admittedly owed by Mr. Warden. Only after he refused to submit financial data which would have enabled IRS to determine whether collection could be deferred, he was informed in June 1964 that action to collect the tax would be necessary.

On June 25, 1964, a levy was served on his bank account, and on July 17, 1964, his auxiliary sloop was seized in the yacht harbor where Mr. Warden kept it moored. These actions were unrelated to the examination of his tax returns and proposed additional tax. They took place as part of enforcement action to collect taxes seriously delinquent in payment.

On Aug. 4, 1964, Mr. Warden made full payment on all his existing tax liabilities, and his boat was released to him.

Businessman (unnamed)—Tennessee

The Reader's Digest alleged that an IRS agent opened a taxpayer's personal mail and showed a copy of a letter from "another woman" to the taxpayer's wife, trying to anger her so that she would agree to inform against her husband.

The facts are these:

This allegation is substantially true. An investigation made by IRS at the time of the incident which occurred on October 15, 1962, confirmed that the agent did show a copy of a letter to the taxpayer's wife.

IRS neither authorizes nor condones such conduct on the part of its employees. IRS employees are instructed never to remove from a taxpayer's office any records or books of account without the taxpayer's permission or due process of law. The IRS investigation resulted in disciplinary action being taken against the employee.

Roger Logan—Detroit, Mich.

The Reader's Digest alleged that IRS "slapped" liens on the suburban Detroit home of Roger Logan (real name not given by the Digest) simply because "it had two old claims against someone with a similar name."

The facts are these:

On Nov. 8, 1950, IRS filed a lien against a "Roger Logan" (note the absence of a middle initial) of a Detroit street address for unpaid income taxes. On March 8, 1961, IRS filed a second lien against the same "Roger Logan," now living at another Detroit street address, for additional unpaid taxes.

In the late summer of 1965, another individual, the one identified in the Digest article as "Roger Logan" of suburban Detroit, sought to sell his home. This individual had a middle initial which we will call "X". "Roger X. Logan's" property title was not cleared.

On Sept. 1, 1965, Mrs. "Roger X. Logan" came to the IRS office to clarify the matter. Displaying cancelled checks to show that the "Logans" had paid all their taxes, Mrs. "Logan" requested an immediate release of the lien. IRS cannot give a release of outstanding liens until it has been determined that the tax liability is satisfied, and Mrs. "Logan's" cancelled checks were not in payment of the tax covered by these liens.

An IRS clerk explained to Mrs. "Logan" that the IRS would check out the matter but that it would take several days. Since Mrs. "Logan" indicated that she wanted an immediate release, the clerk, apparently assuming Mrs. "Logan" was the taxpayer named in the liens, advised that the only way this could be accomplished would be for her to pay the tax and then file a claim for refund. This indicates that during the discussion both the IRS clerk and Mrs. "Logan" were unaware that a case of mistaken identity was involved.

That same day Mrs. "Logan" discussed the matter with her attorney. The attorney and IRS were able to substantiate the fact that the lien was not against "Roger X. Logan."

On Sept. 2, a certificate of non-attachment was prepared releasing "Roger X. Logan" from the effects of the lien, and Mrs. "Logan" was notified by telephone. Mrs. "Logan" or her attorney then secured the certificate and the title was cleared.

Noel Smith—Taylor, Mo.

The Reader's Digest alleged that "farmer" Noel Smith had his books checked for nine years without IRS telling him it suspected "any significant irregularity." Other allegations are that Smith's assets were seized, that he was presented with a bill for over $501,000 and that IRS later decided he "actually owed $54,573 in taxes."

The facts are these:

The Reader's Digest article in reciting certain facts does not give the reasons behind the facts and the full story does not support the conclusions drawn in the article.

Mr. Smith, like any other taxpayer with a large income, a variety of complex financial transactions and numerous business interests has had his returns examined nearly every year. Taxpayers in higher income brackets have learned to expect as routine an examination of each year's return.

In 1953 an examination was begun of Mr. Smith's 1951 and 1952 tax returns. Because of apparent understatement of income and a lack of records, an extensive investigation was necessary. Developments during the examination extended the audit to include the years 1946 to 1953. Mr. Smith could hardly have been unaware at this point that IRS suspected "significant irregularities."

In July, 1956, while conferences were being held with Mr. Smith or his representatives to discuss the proposed tax adjustments, IRS learned that Mr. Smith was attempting to dispose of his principal holdings, thus jeopardizing eventual collection of any tax. To protect the Federal Revenue, on Aug. 9, 1956 notices of liens were filed for a total of $375,688.45. No further collection enforcement action was deemed necessary at that time.

In July, 1957, IRS learned that Mr. Smith was transferring his assets to another country. Thus, it became necessary to enforce collection by serving levies on tenant farmers, grain elevators, banks and life insurance companies holding assets belonging to Mr. Smith. Beginning in October 1957 there were a series of court actions initiated by Smith to restrain the collection of his taxes.

During this period, 3,285 bushels of grain were seized by IRS and sold to avoid destruction of the grain by flooding of the storage units. IRS agents were present when the grain was removed by the purchaser. There is no evidence of destruction of Mr. Smith's property by anyone. Proceeds were credited to Mr. Smith.

Ultimately, in October, 1960, it was determined that for the period 1946–53 additional tax due totaled $54,573.11. Mr. Smith paid this amount together with other taxes and interest due for 1956 and 1957 totaling $102,270.32.

The reduction in tax was due primarily to adjustments in inventories and cost basis of real property In compiling the net worth statement on which the tax was based, the IRS used the inventory and cost figures reported on the tax returns. These amounts were changed because Smith established that the amounts previously reported on his tax return were not correct.

After settlement of the 1946–53 tax, an examination was made of the 1956–1959 returns and refunds of $6,559.47 for 1956 and $1,762.01 for 1957 were made. These refunds were based on net operating loss carrybacks for 1958 and 1959. A refund check of $8,321.48 plus interest was sent to Mr. Smith in September 1961.

Subsequently, claims of $7,820.12 for 1957 and of $4,834.27 for 1960 were filed. These claims were disallowed by the IRS and Mr. Smith filed suit. The case was settled and a refund allowed for the 1957 claim. A check in the amount of $9,812.43 covering refund plus interest was issued in March 1965.

Gordon W. Warren—Richland, Mo.

The Reader's Digest alleged that IRS agents demanded of Mr. Warren, president of a bank in Richland, Mo., the records of a depositor and that Mr. Warren was threatened with fine and imprisonment if he attempted to notify the depositor.

The facts are these:

During an examination of a taxpayer's returns in 1961 it became necessary to examine records of the Pulaski Bank. Two Revenue agents on April 13, 1961, asked Mr. Warren for these records. Mr. Warren asked first to notify the depositor and did, in fact, make a telephone call to the depositor who could not be reached at that time. Mr. Warren declined to supply the information.

The agents cited their legal authority to have the information and in fact read to Mr. Warren the exact language of the law including the provisions which state the penalty for violation. Mr. Warren was not threatened in any way.

On May 18, 1961, IRS agents again visited Mr. Warren; he agreed at that time to supply the requested information. It was actually supplied early in June 1961.

Informing any person of his obligations and rights under the law is required of Revenue agents. They would be remiss in their duties not to do so.

Waitress—Richland, Mo.

The Reader's Digest alleged that an IRS agent threatened to confiscate and "dispose of" a waitress's car unless she paid a tax bill that day; that only after spending days getting a sworn affidavit documenting deductions was she able to get IRS to admit the bill wan't owed.

The facts are these:

Additional tax plus interest was assessed on a joint return filed for 1962 by the waitress and her husband after they failed to supply requested information concerning dependents claimed as exemptions on their return. They were notified of the assessment July 24, 1964, and payment was requested. Additionally, requests for payment were mailed on Sept. 29, 1964, and Feb. 16, 1965, and a final balance due letter was mailed March 16, 1965.

The case was then assigned to a Revenue officer on April 20, 1965. He found no one home on May 7 and June 14, but finally found the taxpayer at home on July 19. She said she would try to borrow the money at the bank and bring her tax return preparer to the IRS office on July 21 to substantiate proof of the exemption. The appointment was not kept by them.

On Sept. 1, the Revenue officer left a note at the residence asking the taxpayers to phone him. She did and made an appointment for Sept. 7 but on that day the tax preparer was ill and the meeting was postponed until Sept. 14. The Sept. 14 appointment was not kept.

Finally on Oct. 5, the Revenue officer filed a lien, and notified the taxpayers that he was prepared to seize their auto and truck. The seizure was not made when she said she would try to get a bank loan. While two Revenue officers waited she arranged for the loan. This was the day described by the Reader's Digest.

Gordon W. Warren, the bank president (see case above, said the check would be mailed to arrive on Oct. 11. When the check did not arrive on Oct. 12, the Revenue officers went back again to get the check or seize the car and truck.

This time Mr. Warren said the check would be mailed the following day. It was received on Oct. 14, 1965, nearly 13 months after the first notice. As part of the loan agreement with the bank the taxpayer agreed to get proof of the exemption so a refund could be made and the loan repaid. Proof of the exemption was provided and a refund credited.

Fred and Katherine Tomlinson—Richland, Mo.

The Reader's Digest alleged that IRS, without warning, seized the bank account of Mr. and Mrs. Tomlinson for overdue taxes. After the seizure, Mr. and Mrs. Tomlinson mailed a cancelled check to IRS proving they had paid their taxes in full.

These are the facts:

A 1962 income tax return filed by Mr. and Mrs. Tomlinson erroneously reflected a withholding tax credit. Properly prepared, the return should have claimed the credit as an estimated tax payment. On July 30, 1964, IRS sent a letter to Mr. and Mrs. Tomlinson requesting information to assist in identifying the credit claim. The taxpayers did not reply.

On Oct. 9, 1964, the credit was disallowed and the taxpayers were notified that the assessment was made. A check dated Dec. 23, 1964, was received in part payment of the additional taxes.

On Jan. 29, 1965, not having received the balance, the IRS office sent a balance due notice. Again no reply was received. A notice of levy against their bank account was served by a Revenue Officer on March 31, 1965. Later that day, the Revenue Officer received a call from Gordon W. Warren, president of the bank (see case above), saying he had a copy of a letter from IRS and proof that the payments had been made.

The Revenue Officer agreed to release the levy if he could get proof of payment. On April 6, 1965, he received the letter that had been sent by IRS on July 30, 1964 (which therefore had been received by the taxpayers almost nine months earlier). There was also proof of payment made by two checks, one on Sept. 24, 1963, and the other on April 6, 1964. The notice of levy was released on April 7, 1965.

Jerry G. Pfnister—Chicago, Ill.

The Reader's Digest alleged that IRS attached Mr. Pfnister's salary "without warning," and that "only later would IRS give him a letter admitting that it had made an error and he owed nothing."

The facts are these:

Mr. Pfnister filed a joint return for 1965 without paying the tax due on May 27, 1966.

On that date IRS mailed Mr. Pfnister a first notice to which he responded on July 18, 1966, with a partial payment. Two more months passed without further payment.

On Sept. 5, 1966, the couple was notified by mail that their account was being assigned for collection due to its delinquency, and they responded with a second partial payment on Sept. 14, 1966. There followed a period of five months, during which time no further reduction in the balance took place, despite repeated telephone calls, letters, and personal contacts from IRS.

Finally, in response to a call on Feb. 10, 1967, Mr. Pfnister on February 13 telephoned and agreed that he would pay another partial payment immediately and send the balance due on his delinquent tax account by March 6, 1967. The day after the call, Mr. Pfnister did send another payment as he had promised, and then in early March he remitted two separate payments, to cover the balance. But, one of the two payments was inadvertently sent to the wrong IRS office.

Since the collection office was unaware this payment had been made, it faced a situation in which Mr. Pfnister apparently had disregarded his own pledge of the month before, and IRS had no other course of action left but to levy on his salary.

After the Notice of Levy had been served, Mr. Pfnister on April 5, 1967, visited the IRS, presented canceled checks, including the misdirected check, showing payment of his delinquent taxes in full, although he still owed some accrued interest. He paid the balance due and then asked that his employer be told the reason for the levy on his salary.

Immediately on learning the situation, IRS contacted the employer by telephone, offered a verbal apology in behalf of Mr. Pfnister and an explanation for the service of the levy. Mr. Pfnister then was given a Release of Levy for his employer, with a written explanation. These specific efforts were made to clarify and explain the service of the Notice of Levy.

This is a far cry from the Reader's Digest conclusion that "This callous disregard of the rights, feelings and welfare of ordinary people goes on all the time."

Claude F. Salter—San Francisco, Calif.

The Reader's Digest alleged that Claude F. Salter, formerly Chief of the San Francisco Audit Division, was demoted because "he consistently said no" to "superiors who asked special treatment for certain taxpayers." The article further alleged that IRS "tried to have him declared unfit by ordering him to the U. S. Public Health Service Hospital" and improperly implying that Mr. Salter was mentally ill.

The facts are these:

The voluminous record of a long series of hearings and appeals on Mr. Salter's demotion does not indicate any evidence that Mr. Salter's superiors ever asked for special treatment of certain taxpayers as alleged by the Reader's Digest.

Over a period of years Mr. Salter had exhibited personality traits that made it impossible to retain him in a management position.

When Mr. Salter's views were in conflict with those of his superiors, he expressed his opposition with shouting and indiscreet language. As an example, on Feb. 8, 1963, he was informed that an agent under his supervision was to be disciplined because the agent improperly discussed the tax problems of one taxpayer in the presence of another person without the consent of the taxpayer. Mr. Salter objected vehemently, using loud and profane language. This was one of a number of incidents in which he displayed increasingly intemperate conduct.

Since Mr. Salter continued to behave in this manner, the possibility that he might be ill arose. As a routine matter he was referred for a complete checkup to the U. S. Public Health Service Hospital. As a result of the examination he was declared medically fit for duty.

Believing that the best interests of the IRS required reassignment of Mr. Salter to a position of less responsibility, the Regional Commissioner in San Francisco transferred him to a non-managerial position in the Appellate Division.

When Mr Salter was demoted in September 1964, his salary was reduced from $19,310 to $18,580. His present salary is $19,813.

Mr. Salter appealed this demotion to the Washington headquarters of IRS. After a 3-day hearing in December 1964, the regional action was upheld. Mr. Salter then appealed to the Regional Office of the Civil Service Commission which conducted a 2-day hearing in July 1965. His appeal was rejected. Mr. Salter next appealed to the Board of Appeals and Review of the Civil Service Commission in Washington in October 1965. This appeal was rejected in March 1966. That same month Mr. Salter requested reconsideration from the Board of Appeals and Review and this was denied.

Donald R. Lord—Dedham, Mass.

The Reader's Digest alleged that "three IRS agents pushed past" Mr. Donald R. Lord, when he answered a knock at his door "one Saturday morning, still in his pajamas." After confiscating boxes of papers, and "threatening him with a jail sentence if he resisted," they left and subsequently "hounded" his relatives and "even tried to question his 88-year-old grandmother."

The facts are these:

On a Wednesday at 10:15 a.m., having made an advance appointment with Mr. Lord (not a surprise visit as Reader's Digest implies), three IRS agents arrived at his house, and Mr. Lord fully clothed (not in his pajamas) admitted the agents.

Mr. Lord is the son of a deceased accountant for a taxpayer under investigation at that time. The agents sat at Mr. Lord's kitchen table, inasmuch as he voluntarily produced the records they wanted to examine. Mr. Lord had no office since he is employed elsewhere and his father's records were at the house. The agents inventoried the records, then removed them with authority of a summons given to Mr. Lord. At no time was Mr. Lord threatened with a jail sentence if he resisted.

The Reader's Digest says "soon therafter, a neighbor phoned" reporting that agents had been there that day asking questions "about you." The neighbor who phoned was Mr. Lord's mother, wife of the deceased accountant, and the time was about 8 months later.

On that occasion and later, still seeking additional records in the principal case, IRS agents contacted Mr. Lord's relatives. There was no "hounding" of anybody by anybody. Mr. Lord's mother had made it known that her deceased husband's sister, Miss Marie A. Lord, had certain of Lord's records. By pre-arranged appointment with Miss Lord, and at her invitation, an agent called at her home, Miss Lord's aged mother was in the house, but was at no time questioned.

IRS agents did contact the deceased Mr. Lord's bank, to obtain records of financial transactions between himself and the taxpayer under investigation. This is not unusual procedure under the circumstances.

The taxpayer who was being investigated and whose records were involved was represented by attorney Lawrence O'Donnell, also discussed in the Reader's Digest article.

Lawrence O'Donnell—Boston, Mass.

The Reader's Digest alleged that accountant Donald R. Lord had engaged "a distinguished Boston lawyer," Lawrence O'Donnell, who was "suddenly" subject to hostile IRS examination including questioning of medical expenses for operations, and who finally, in court, proved IRS was "in arrogant contempt of the court order."

These are the facts:

Mr. O'Donnell's income tax returns for the years 1962 and 1963 were being audited. He sought through the courts to prevent the audits. On Jan. 25, 1966, the U.S. District Court denied his request. Mr. O'Donnell appealed. Here is what Federal Judge Coffin of the U.S. Court of Appeals said on July 11, 1966:

> "Appellant's (O'Donnell's) 1962 return was chosen for examination because of a large bank deposit consisting mostly of bills of $100 or more. His 1963 return was chosen for audit by an agent who had no knowledge of the prior selection, as the result of a routine classification of a block of returns, where claimed deductions for medical expenses and Schedule C reporting of business income and expenditures indicated the desirability of checking."

Concerning "arrogant contempt" of court, the Reader's Digest alleges the Federal Court in Boston ruled "seizure of the business records completely illegal * * *" but in that case, District Court Judge Wyzanski on April 13, 1965, found that IRS was not in contempt and ruled:

> "* * * I dismiss the petition with respect to civil contempt as well as with respect to criminal contempt."

Federal Judge A. J. Julian told the rest of the story in his ruling on the first of a series of legal actions pertaining to records of a tax client of Mr. O'Donnell.

Mr. O'Donnell's tax client, convicted on April 7, 1967, of tax evasion of $40,425, was sentenced to a 5-year jail term and fined $30,000. The records, legitimately

obtained on April 18, 1962, from Mr. Donald R. Lord (see case above) by IRS agents, were taken from IRS by Mr. O'Donnell in defiance of a court order.

In that case, Judge Julian ruled on Jan. 5, 1966, as follows:

> "The conduct of respondent O'Donnell * * * constituted contempt of court. This contempt persisted from Aug. 23, 1965, until Sept. 28, 1965, when the records were delivered to the Clerk of this Court. I find the respondent O'Donnell * * * guilty of civil contempt of court."

Circuit Court Judge Coffin, to whom Mr. O'Donnell appealed on July 11, 1966, sustained the lower court and said:

> "The district court in its opinion dated Jan. 6, 1966, ably set forth both factual findings and legal conclusions. Its order adjudged appellant (O'Donnell) guilty of civil contempt and ordered that the records in controversy be made available to the Internal Revenue Service for purposes of a complete and unhindered examination for a period of forty-five days."

The Judge continued:

> "The order, which appellant (O'Donnell) has been found below to have willfully disobeyed, was one link in a lengthy chain of events in connection with an investigation of the tax liability of (names of the tax clients.) It was preceded by summonses, refusal to produce, challenges to their legality, petition for enforcement, a prior order of enforcement, appeal, affirmance on appeal, and denial of a stay of enforcement by a Supreme Court Justice * * *."
>
> "The district court found these reasons (the ones advanced by Mr. O'Donnell * * *) to be spurious and mere pretexts for the removal of the records. The real reason for the removal * * * was to prevent the completion of the examination and to impede and obstruct the investigation of tax clients tax liability."

The Reader's Digest said Mr. O'Donnell proved "with testimony of one agent who resigned in disgust" illegal use by IRS of the tax records.

Regarding this testimony by the ex-agent, Federal Judge Andrew Caffrey on April 7, 1967, said:

> "Former Revenue Agent Donald Young left his employment at IRS to take the position at the dog track because his superiors denied him a promotion to which he felt he was entitled."

In this opinion, Judge Caffrey further says:

> "On direct examination Mr. Young testified glibly as to minute details of conduct that occurred approximately five years prior to the date he testified * * *. On cross examination his manner was markedly different, and even more different when queried by the Court at the conclusion of re-direct and re-cross-examination."

Webb & Knapp, Inc.

The Reader's Digest alleges that IRS allowed the real estate firm of Webb & Knapp to pile up tax debts over a period of seven years and then wrote off $26 million as uncollectible.

The facts are these:

The firm of Webb & Knapp is a huge real estate complex whose affairs are involved and intricately interwoven through a number of corporations and joint ventures.

The tax law permits certain "carryover" and "carryback" tax adjustments so that financial activities in one tax year may be reflected in tax returns of other years. Consequently, it is a practical necessity for IRS to audit very large corporations for as many as ten tax years at a time.

This enormous complexity in corporate transactions and in the tax laws explains an accumulation of tax debts. The audit takes time; counter-argument and appeals take time.

In audits on the Webb & Knapp case, additional taxes and interest totaling $27 million were found for the years 1952 through 1959 and were assessed on Nov. 16, 1965. IRS records show that the additional taxes were due to accounting technicalities developed during the course of the audit and were not attributable

to evasive reporting by Webb & Knapp or to any failure on the part of IRS to collect taxes known to be delinquent. A substantial portion of these additional taxes are in dispute and the cases are pending in the U.S. Tax Court.

The Federal District Court for Manhattan approved a petition for reorganization under the Bankruptcy Act for Webb & Knapp on May 18, 1965.

In December 1965, IRS was advised the assets in the Webb & Knapp estate at that time were approximately $2 million. No possbility of collecting the taxes appeared likely.

IRS wrote off as uncollectable almost $26 million. This is an administrative action which means that there are no assets or prospects of assets from which to collect. The tax liability is not discharged by the "write-off."

One account, larger than any anticipated payment, has been held open for the application of any funds obtained through the reorganization.

American Shipping Companies—New York
Stavros Niarchos

The Readers' Digest alleged that "similarly" to its handling of the tax matters concerning Webb & Knapp, IRS "last year wrote off as 'uncollectible' a tax bill of more than $23 million" owed by six shipping companies controlled by Mr. Stavros Niarchos.

The facts are these:

That Reader's Digest is as wrong about this situation as it was about Webb & Knapp, and furthermore nothing could be more dissimilar than the two situations.

First, no claims for taxes have ever been made against Mr. Niarchos as an individual. Mr. Niarchos owned or controlled six American corporations, which owed about $17 million in Federal taxes plus interest. These taxes were based on the government's contention that income of certain of the U.S. corporations was improperly diverted to certain foreign corporations chartering and sub-chartering seagoing vessels. These taxes are not written off as uncollectible.

The government was unable to collect these taxes. Faced with an imminent expiration of the statute of limitations for collection, IRS in 1962 went to court to get a judgment against the corporations for $17 million plus interest. As a result of this action, the court in April 1966 granted judgments totalling $25 million. To date, the government has received $1,501,022.27 in return for not seizing assets worth far less than this.

Thus, the six corporations admittedly still owe the government some $23 million. This debt is outstanding, and the government may seize any corporate assets discovered in the U.S. in the future.

Lawrence L. Callanan—St. Louis, Mo.

The case of Lawrence L. Callanan is cited by the Reader's Digest as an example of "double standard" treatment, in which he was treated "quite differently" from some taxpayers because he and his union lieutenant contributed to the Democratic Party. The article says that the "IRS settled his unpaid tax debt of $40,219.84 for a token $17,000."

The facts are these:

The whole story, which could have been ascertained by checking with Mr. Callanan, his lawyer or accountant, is that IRS collected the full tax and interest from Mr. Callanan in a series of payments, the *first* of which was for $17,000.

In 1964, some time after Mr. Callanan had been released from prison, IRS moved to collect outstanding taxes owed by him for the years 1950 through 1954 in the amount of $40,219.84 which included taxes, penalties, and interest.

On April 30, 1964, IRS collected $17,058.65. (Mr. Callanan obtained this money by getting a mortgage on his jointly-owned home and borrowing the balance. This payment was greater than the forced-sale value of any assets IRS might have seized.)

At the same time, and in accordance with long-established IRS procedures, a collateral agreement was entered into providing for payment of the balance. (Previous attempts to reach agreement on Aug. 2, 1960, and Sept. 20, 1962, submitted by Mr. Callanan's lawyers were rejected by IRS as being inadequate.)

Contrary to the article's statement of a total payment of $17,000, Mr. Callanan, in accordance with the collateral agreement, paid $3,586.14 on May 18, 1966, and on Oct. 25, 1966, paid the final balance of $10,138.09 in taxes and penalties and $11,874.36 in interest to the date of the payment.

Instead of settling his tax debt for $17,000 as the Reader's Digest said, he was required to pay the full $40,219.84 plus $2,437.40 in additional interest.

Paul R. Campbell—Kansas City, Mo.

The Reader's Digest alleged that an unidentified IRS agent, stopped by policeman Paul R. Campbell for a traffic violation, caused the examination of Campbell's tax returns and that Campbell was "pestered" for months with interrogations.

The facts are these:

The IRS is unable to identify the employee allegedly charged with a traffic violation. However, an investigation shows that Mr. Campbell's 1960 income tax return was selected for audit by normal selection procedures.

Mr. Campbell was asked on May 8, 1961, for a form which was required to complete his 1960 return. He was also contacted on Feb. 1, 1962, as a result of comparison of data on his return with information documents required by law to be furnished the IRS. This comparison led to the return's assignment for examination in May 1962.

Mr. Campbell was requested to bring his records in for examination on June 6, 1962. The return was found to be correct as filed and the taxpayer was so informed on June 20, 1962, two weeks later.

Mr. Campbell's 1960 return was one of 45,666 returns selected for examination through the regular procedures in the Kansas City District where nearly 649,353 returns were filed in 1960.

Mr. STEED. Commissioner, before you take up the various cases cited in the article, there is a general question or two I would like to ask at this point.

Who in your organization was interviewed by Mr. Barron during preparation of this article?

Mr. COHEN. As I recall this article, Mr. Barron has probably been in to see some of our people on other matters. As I recall the facts on this particular article, Mr. Barron did not come in to speak to any of our people. Mr. Rosapepe is out of the room now unfortunately.

As I recall, Mr. Rosapepe telling me, Mr. Barron had been in to see him about some other matters but not these particular cases. I don't know whether he spoke to any of the employees directly involved.

Mr. STEED. Would it have been possible for him to have gotten somebody at the policy level to go over this material with him?

Mr. COHEN. Part of the problem is, the answer to that is "Yes" and "No." This is one of our difficulties in dealing with the press, as this committee well knows.

The Revenue Code has provision which makes it unlawful for us to discuss anyone's private tax affairs as a public matter. The returns, the information we learn from the returns and audits, are held confidentially under the law. The only way we can discuss these matters is if the taxpayer himself chooses to make them public. In this case, each of these taxpayers has chosen to speak with Mr. Barron and therefore I am at liberty to disclose our side of the case, or if a taxpayer chooses to litigate or the Revenue Service must litigate, any material that comes out in the courtroom is perfectly proper.

This is one of our difficulties.

Mr. STEED. Aside from the case history itself——

Mr. COHEN. Excuse me.

Hr. ROSAPEPE. On one case he did come in. He came in to discuss one case.

Mr. STEED. In addition to the case history phase of the article, he makes a statement that last year IRS subjected 3,500,000 returns to special examination, exacting payment from 1.9 million citizens because of alleged errors. This type of information could have been obtained from the material you produced before this subcommittee and which was printed in the hearings.

Having had some experience with writing in my time, I am impressed with the impact this statement has, as it is printed, as against what it would have sounded like had he included the remainder of the material——

Mr. COHEN. Which is the material I gave; the other side of the coin.

Mr. STEED. How many refunds did you make?

Mr. COHEN. 48 million.

Mr. STEED. All I want to do is point out that he could have had proper access to that information. I am not questioning his right to just print as much or as little as he will.

Mr. COHEN. That kind of statistical information could have been easily explained. I think the words "special examination" in his parlance there connotes something there which we do not understand, and I do not think that anyone who is involved understands.

An audit of a return is a routine procedure. A special examination in our parlance, and I think in most tax people's parlance, is a fraud investigation. There are only about 2,000 full-scale fraud investigations in the whole United States in any given year.

When you try to compare peaches and pears, you get rather odd-looking results.

Mr. STEED. What I am trying to establish is that in addition to material printed in official hearings in which you participate before various committees of the Congress, it is possible for a writer or a newspaperman, for instance, to get information that would deal with a particular program like your appeal system or policies that are general throughout the system.

Mr. COHEN. Yes, sir. I think from the hearings here and our annual report which contains most of the statistical data. Perhaps it may be that the gentleman tried and misunderstood or misinterpreted it. I do not know.

Mr. STEED. Let us assume that a writer who had this sort of material and this sort of reaction to it prior to his submitting it for publication, suppose he had desired to get your side of the story, could he have gotten it?

Mr. COHEN. Yes, sir. Particularly in these areas of procedures and statistics. These services our Public Information Office generally provides to all publications.

Mr. STEED. In that light, were any of the members of your staff invited or given an opportunity or otherwise asked to participate?

Mr. COHEN. Not that I am aware of at all.

Mr. STEED. In the material that would have been apropos to this article?

Mr. COHEN. No, sir.

Mr. STEED. Now, you may proceed with your statement.

Mr. COHEN. I would just like to cover a few matters.

As was indicated, the gentleman indicates that he traveled 5,800 miles and interviewed some 200 people to discern some 16 cases. As was written in that letter, even if the 16 cases were agreed on as facts by both sides, I do not think that this is an indication that the system is out to get the taxpayer. I think that the premise is not sustained by the facts. I think, from the figures that I have given you, it would be obvious to you that I do not think that the facts even bear this out.

Senator Edward V. Long, who is otherwise critical of the Internal Revenue Service, said as recently as August 2 that—

> Fortunately most Internal Revenue Service agents are courteous, considerate, and helpful. Most citizens try to cooperate with the IRS, and this, certainly, is as it should be. Our tax system depends on this great degree of cooperation.

I concur in this completely. It is difficult to answer an article such as this because there are half truths and, with due deference to the author, I am sure that he thought he understood the facts completely. The problem is that as we know certainly—as a lawyer I can state—perception is a strange thing. I think this is one of the first things one learns when one goes to law school. When you talk to one wit-

ness you are getting the facts as he perceives them from his vantage point.

If you talk to a taxpayer who has been convicted of tax evasion, he has a rather skewed vision of the system. If you talk to a taxpayer disgruntled for one thing or another, he may not have a complete view of the system. He may have a view of the system as he perceives it. But in order to discern the full weight of the way the system works, one should talk to a cross section of taxpayers and one should talk to the people who observe this particular fact as it is applied to this particular individual from another viewpoint.

This is the American system of jurisprudence. In order to get the facts one talks to a number of witnesses. The catchwords of the article say that "in sworn testimony it was stated that," and this gives to the lay reader a ring of authenticity which, as a lawyer, I can say is not there. The reason that a court allows for cross examination and allows for the presenting of one's own witnesses is that we all know that either because they did not perceive properly or because they may be misstating, and that sometimes occurs in the best cases, the particular sworn testimony may or may not be true. The fact somebody states it in sworn testimony does not make it any more true than if it were not sworn testimony. One must look at all sides of a picture and then one makes a judgment.

Mrs. REID. Would the gentleman yield for a moment?

Mr. COHEN. Yes.

Mrs. REID. Of the various cases which have been cited in this article, have you talked with the people involved? Do you say now that the article is true or not?

Mr. COHEN. Several of the cases I would admit with 20/20 hindsight, perhaps the best judgment was not used. That is only a very few of these. In most of these cases the facts as I understand them are quite different. In fact, in several of these cases there have been court decisions which indicate, and I would like to cite them to you in a moment, that courts have found the facts completely different, if the author of the article had taken the time and trouble to discover the court records and read the complete records. He might have discerned in some case the courts had just gone the other way. In the number of individuals that were witnesses, who gave sworn testimony, and I will only give a few to illustrate the kind of sworn testimony that was given, for example, one was an ex-IRS agent named John W. Harris of Boston. Mr. Harris at the time he testified had been suspended by the Internal Revenue Service after examination of some transactions in which he had been involved in shaking down, extorting money from taxpayers. Mr. Harris has since been convicted.

Mr. ROSAPEPE. This man is not mentioned in the article.

Mr. COHEN. He said some 600 people were interviewed, or gave sworn testimony. This is one of the kinds of sworn testimony that create this atmosphere that we are talking about.

We have another Internal Revenue agent who was dismissed for refusing to bring in his tax records. He was interviewed, I might say, by the Administrative Practices Subcommittee.

Mr. CONTE. Is this in the story, too?

Mr. ROSAPEPE. This is not.

Mr. COHEN. There are a number of other people such as that. Several of the witnesses who testified, for example, before the committee were

two gentlemen one named Bernard Spindel and a Harold K. Lipset of San Francisco, who were so-called wiretapping experts and who also happened to be under indictment by a grand jury in the State of New York for engaging in a conspiracy to wiretap private citizens.

We know the reporter interviewed a former police official of Kansas City, a man named William Canaday, who was convicted of tax evasion, later appealed. The appeal was denied and conviction upheld. I could go on and cite any number of these things. I do not mean to say that all of the witnesses that were interviewed were lying or had a bad purpose. I do mean to say that some of them perhaps did and it certainly colors the way one views the testimony.

Mr. ROBISON. Mr. Chairman, if you would permit.

I am curious as to how you know which former IRS employees or presently employed IRS employees were interviewed by the author of the article since he does not identify them, I do not believe.

Mr. COHEN. The people that I am referring to here, he mentioned that 600-some-odd people, I have forgotten the number, were interviewed in sworn testimony by the committee. These people we do know were all interviewed by the committee. In one, he did talk to one of our people and indicated that he spoke to Canaday.

Mr. ROBISON. What I want to make sure is that this record is clear.

Mr. COHEN. We have not followed this gentleman around and we do not know other than what he tells us what he did.

Mr. ROBISON. Yes, but you are talking about "a committee." What is that committee?

Mr. COHEN. It was the Senate Subcommittee on Administrative Practices.

Mr. STEED. What was the date of that inquiry?

Mr. COHEN. These inquires all involved questions which arose in almost every instance more than 2 or 3 years ago. There are no cases of any transgressions that are discussed that are more recent than about 2½ years ago.

I think we can discuss, if you would like, several of the cases. I do not want to dwell at length because we will supply you with summaries of these cases. For example, we had one case reported where the Reader's Digest alleges that this attorney patiently answered questions about his tax return but refused to surrender his files concerning his clients and that the IRS demanded this. As a result—

IRS arbitrarily disallowed his legitimate business expenses for 3 years, seized his bank account and confiscated his sailboat, then after hounding him for 33 months dropped all charges against him.

Here are the facts, page 2 of the case summary. On this particular lawyer, in fact, examination was begun in 1962. He refused to answer questions about his tax records. He refused to make his records available to the examining officer. The records requested were only those relating to his personal activities and not confidential information about clients. We only wanted to know about his business affairs. This is on page 2 of the summary.

For over 2 years the lawyer, Mr. Warden, refused to produce his business records to verify certain items on his return, and twice refused a conference which was offered for the purpose of discussing the situation. In order to determine his correct tax liability, we had to gather information independent of his particular records to substantiate his expenses for 1959, 1960, and 1961. Lacking his records, the

only thing we could go on were these third-party records which we know on occasion are incomplete.

He wrote to the San Francisco office refusing to accept our deficiency findings and in a subsequent letter he indicated he desired to go through our appellate procedures.

With the case therefore transferred to our Apellate Division, Mr. Warden appeared in April 1963 in an appellate conference. At this time again he refused to supply any records. In December of 1963, as required by law, statutory notice was sent to him showing a proposed adjustment on his return. A month earlier, in November of 1963, he started an action against the Revenue Service in the district court alleging that certain individuals in the Revenue Service were acting arbitrarily. The complaint further said the defendants schemed and conspired to deprive him of his constitutional rights.

On January 8, Judge Zirpoli dismissed the complaint. The court's findings include the statement that the acts of the Internal Revenue employees were undertaken solely to determine Mr. Warden's tax liability for the years in question. None of these acts was undertaken for the purpose of denying him any rights, privilege, or immunity guaranteed by the Constitution.

He filed an appeal. Subsequently he dropped the appeal. In February 1964, he filed a petition with the U.S. Tax Court on his deficiencies and at a pretrial conference in November he gave the first indication he might cooperate with the Internal Revenue Service by informing the Chief Counsel's staff he was compiling records to substantiate his expenses. Two months later, in January and February, he finally for the first time made his records available to the Internal Revenue Service. With these records available for the first time it was determined that no additional tax in fact was due. This occurred only after he had made his records available, a reasonable action, which if taken on the initial request, would have saved both the taxpayer and the Government a great deal of time and effort.

The Reader's Digest story said Mr. Warden unfairly had his bank account seized by IRS, which also confiscated his sailboat. This is really another chapter and relates to the recalcitrance of the taxpayer in regard to another matter. Mr. Warden owed taxes reported by him on his original return but not paid with that return. He was seriously delinquent in the payment of these taxes, taxes not in question in the deficiency at all.

The Collection Division, in activities entirely distinct and separate from examinations of his tax returns, made numerous efforts to collect these taxes admittedly owed by Warden. Only after he refused to submit financial data which would enable the Revenue Service to determine whether this collection could be deferred on the basis of hardship, he was notified in June of 1964 the action to collect the taxes would be commenced.

On June 25 a levy was served on his bank account and on July 17 his sloop was seized at the yacht harbor where he kept it moored.

These actions were unrelated to audit of his tax return and took place as a part of an enforcement action to collect a delinquency. On August 4, 1964, Mr. Warden made full payment of all existing tax liability and his boat was released to him.

I would like to outline for you the steps that are taken before any seizure is made of anyone's assets. Contrary to what the author might

believe to be the case, this is an action which we regard as very serious in both our own behalf and on behalf of the taxpayer. Therefore, before any action is taken in a normal case, three notices, three written notices are sent to the taxpayer. If in response to any one of these notices the taxpayer establishes that payment would create an undue hardship, as distinguished from inconvenience, or that in fact there has been some mistake made or in fact a liability is not owed, then we can either make adjustment arrangements if a mistake has been made, or make periodic payment arrangements which suit his financial condition.

If collection in full, or part payment, is not accomplished, then and only then do we authorize any action to enforce the payment of the tax. Even then he is usually given one last notice that we have come to the end of the road. If enforced action is taken, we try to avoid any unnecessary hardship on the taxpayer. We do try to take into account the facts as we understand them. Mind you, in most of these cases the taxpayer has been completely uncooperative. It is difficult to discern the facts.

Mr. CONTE. Commissioner, are you all through with that page?

Mr. COHEN. Yes, sir.

Mr. CONTE. The next one that you mention seems to be a bit underhanded to me. That is where the IRS man opened the man's letter from another woman and showed it to the taxpayer's wife.

Mr. COHEN. I do not try to justify this action. We admit this is a mistake. In fact, I have written letters to Congressmen and other people that on occasion our people make mistakes. They are human beings.

Mr. CONTE. This woman must have been highly indignant the minute she saw a letter like that. That is on page 4 of the summary. What happened to this agent?

Mr. COHEN. This one, disciplinary action was taken. Right now I do not know what it was.

Mr. CONTE. This is just unpardonable.

Mr. COHEN. I would agree.

Mrs. REID. Would you yield?

I wonder if you can furnish to us what action has been taken with the agents who apparently were involved in these cases.

Mr. COHEN. I can try to find out. I do not know right now.

(Subsequently, the following information was supplied for the record by Commissioner Cohen:)

The Tennessee Case

There was only one agent involved in the Tennessee case. He came with the Service in February 1950, and thus, at the time of the incident, had been with the Service for 12 years. He is a competent employee who progressed to positions of increasing responsibility and had received a number of awards for making beneficial suggestions on improving the Service's operations. He had an unblemished record prior to the incident.

A thorough investigation was made by the Inspection Service which substantiated the agent's improper actions in the case. I might add that the agent has steadfastly denied—and it was never established—that he *opened* the envelope in question although he does admit making a copy of the letter and showing it to the taxpayer's wife. The agent was given a letter of official reprimand dated February 9, 1965, from the Acting District Director, Nashville.

The other cases cited:

In the other cases cited by the article, when all the facts became known, it was found that our employees had not done anything wrong—either in violating the law or regulations or depriving a taxpayer of his legal rights.

Mrs. REID. It seems to me the problem here is with personalities in your own Department in the way of handling these situations. Certainly, in a way, if it is at all true, anyone who would write to anyone would object.

Mr. COHEN. I would agree. Disciplinary action is taken under the appropriate procedures, which take into account whatever extenuating circumstances might have existed, what the man's record might have been before. Is this an isolated case or is this a case where we have had a problem with this particular agent before? In the light of that history, sometimes an action which is an isolated action will be punished in one way whereas if the action is an action where an agent has made a serious mistake in more than one instance, it might lead to his dismissal. They vary from case to case. I do not recall or have the records with me to indicate that.

Mr. CONTE. I would appreciate that information

Mrs. REID. Also, Mr. Commissioner, you mention the few numbers in the article in relation to the many, many cases which you have before you but it certainly is true that just a few tend to reflect on the entire Service.

Mr. COHEN. This is absolutely correct. This is one of the reasons we have had an increasing emphasis in our training effort on courtesy and tact. My slogan, that I have tried to emphasize in a number of talks to all of our employees is, that we may have to disagree, but we should never be disagreeable. I think this is the way we try to operate.

Mr. STEED. Mrs. Reid, I tried to get the Commissioner to agree that these courses they give in this area could be like a charm school. He never has quite come to an agreement yet.

Mr. Commissioner, at this point this discussion could leave an implication that this disciplinary action is only taken by you when something like this happens. Why do you not give us a picture of what goes on all the time, whether the public makes a complaint or not?

Mr. COHEN. I have three disciplinary cases on my desk right now on appeal from regional or district people. One of the cases complained of here is a disciplinary action taken against a former supervisor, a gentleman named Salter, who was in our San Francisco office, who, the regional Commissioner felt, did not have the capability of supervising. He was abusive both to the people supervised and to others and as a result thereof the district director felt maybe he had a physical or mental problem and suggested he have an examination, medical examination. The doctor said, "No, he is in good health. He is fit for duty." Under the circumstances, since the regional commissioner did not feel he was capable as a supervisor, he was transferred to another job which, I understand, he is performing in a fine fashion. This is the kind of effort that good supervisors ought to bring about.

If a man is not suited for the particular job, we may be able to find him a job that he can do without any difficulty. We ought to be looking at ourselves and we are constantly looking to make sure that we are putting round pegs in round holes and square pegs in square holes.

Mr. STEED. You also made reference to the fact that some employees, some agents, have actually been caught doing illegal acts and they have been prosecuted and imprisoned.

Mr. COHEN. Yes, sir. We have a very active inspection program which constantly is probing to make sure of two things: One, an in-

ternal audit procedure which is to discern whether we are following the law and the procedures established. This is an independent office, again directly under my jurisdiction, that goes out to all of our offices all over the country once a year to make an audit of procedures, to make sure that our people are doing what they should do, that management is directing and supervising in a proper way and reporting back to me.

Their second role is to constantly inquire into the integrity of the Internal Revenue Service so that no blemish goes uninvestigated. If there is any suspicion of any wrongdoing on the part of any Revenue employee, it is investigated. This is important both for the taxpayer's benefit and for our employee's benefit As often as we find where an employee has done something wrong, has perhaps exceeded his authority, quite often we also find that taxpayers have given erroneous reports of abusive conduct for the purpose of trying to avoid some other responsibility.

Mr. YATES. Did the employee, Mr. Commissioner, in the Tennessee case exceed his authority or was he authorized by the Department to look at the taxpayer's mail?

Mr. COHEN. No, he was not authorized.

Mr. YATES. Did not Senator Long's investigation relate to a time when you were tagging mail of delinquent taxpayers?

Mr. COHEN. No. That related to another area altogether. That related to a procedure used by the Post Office Department for listing of addresses. There was no mail opening. No discussion of breaking the seal on the mail.

Mr. BACON. There was a legal procedure where we seized a business. The legal interpretation was that the mail that came into the business, including business mail, was properly part of the business. We did open that mail for business receipts. That had been stopped because of the complaints and reinterpretation legally. That is the only situation.

Mr. COHEN. Even when that was done, as long ago as 3 years ago, even when that was done, it was always done where possible in the presence of the employee or the management of the business. In other words, they would go to the manager and say the business received so much mail. Some of this is probably checks. We would like to open it to discern whether there are any assets probably taxable.

Mr. YATES. If I can return to this particular case——

Mr. COHEN. In this case there was no authority to do what he did.

Mr. YATES. Not from the supervisor?

Mr. COHEN. No, sir.

Mr. YATES. This is just an enthusiastic agent?

Mr. COHEN. Yes, sir; bad judgment.

Mr. STEED. Commissioner, I would like to ask you this sort of a question: Suppose I am one of these timid, terrified 105 million taxpayers that one of your agents comes to see and despite all that you have done to try to make the Service as high class as you can, he happens to be the kind of an individual who approaches me either with some highhanded type of thing that is mentioned here, or some that no one has thought up yet, and I feel I am being made a very unfair victim. Suppose I wired you. What would take place if I wired you—had the nerve to let somebody know about it?

Mr. COHEN. I do not think it takes nerve. I think it takes good sense to know the Government wants its people to operate in a proper fashion. This is the job of the district director. It is the job of the regional commissioner and it is certainly the job of the Commissioner of Internal Revenue. Therefore, we have instructed, and I think we did not even need to instruct our district people and our regional people and certainly our inspection people, to be constantly ready to receive any complaints that taxpayers might make. Any complaint that a taxpayer might make is generally, if warranted, investigated by our Inspection Service to discern if there is a violation of our rules of the road, law or otherwise. If there is, proper disciplinary action is taken by the Service management. If there is not, the employee certainly ought to be cleared and given a letter by the Internal Revenue Service saying we find a complaint unjustified.

Every year the Inspection Service investigates hundreds if not thousands of these things. In those few cases they discern that we have had someone do something wrong, a report is made to the supervisory official in charge of this employee so he might take an appropriate disciplinary action. In a case where they find nothing is wrong, then the employee as a citizen of the United States deserves a letter saying, "We find your actions were entirely proper." He gets such a letter.

Mr. YATES. In the Tennessee case how much time had elapsed between the time he opened the taxpayer's personal mail and the original beginning of the dispute?

Mr. COHEN. I do not know that fact that closely.

Mr. BACON. We will get the facts on that.

Mr. COHEN. Mr. Bacon will let you know probably within a day.

Mr. STEED. Commissioner, as a Member of Congress I have had a few occasions where some constituent meeting me would start outlining a very rough time that he had had with one of your agents. In his original presentation of the situation he was very severe and outspoken in his analysis of the man's highhanded and unfair treatment. So far in every case where I said, "Why didn't you call me? Perhaps I could have helped you," he always wound up by saying, "Well, I got it all worked out and I didn't want to bother you." My impression was that sometimes people in the first instance are a little inclined to exaggerate.

Mr. COHEN. I think there is a rationalization. All of us like to think that we are pretty careful and we have done a pretty good job. After all, this agent's job is to make sure that you have been reasonably careful and done a pretty good job. No one of us likes to have our ability to do that good job questioned.

There is a natural feeling of antagonism that perhaps creeps in. When the agent discovers that you have made some error, there is a feeling, I am sure, that arises in the taxpayer that, "Well, I am embarrassed by this." There is a feeling of chagrin, and some taxpayers being naturally more aggressive, might take it out in ways of venting their anger.

I think what happens in most cases when they become analytical and see what the process is really about, they discover that substantial justice has been done here. This is not really bad.

From my own practice I recall representing taxpayers in a transaction in which they went with some knowledge. The law is unclear here. The tax might apply this way and it might apply the other way.

We are not exactly sure but it is a good business transaction and you ought to go ahead with it whatever the tax consequences will be. By the time the taxpayer goes into it and the agent comes in 2 or 3 years later the taxpayer has rationalized in his own mind the answer that he wants. This is human nature. He is now determined that the lowest possible tax applies even though he was told at the beginning that it might be this or it might be that. When the agent asks him those questions, it is painful and that rationalization process requires almost that he say, "This is absolutely highhanded and erroneous." I have sat with taxpayers who have gone through that process.

From the taxpayer's representative point of view, I can say that I have seen it now from both sides.

All the right does not ever exist in any one institution or person. The Revenue Service does the best job it knows how to determine the correct facts.

One case in the list there that is particularly disturbing to me is the one on page 12, and 13, and so on that involves the *Donald R. Lord* case and his lawyer named O'Donnell.

If you will bear with me, I would like to go through this particular one because I think the court records indicate very clearly the nature of the particular problem here which could have been easily determined.

The Reader's Digest alleged that "three IRS agents pushed past" Mr. Donald R. Lord when he answered a knock at his door "one Saturday morning, still in his pajamas." After confiscating boxes of papers, and "threatening him with a jail sentence if he resisted," they left and subsequently "hounded" his relatives and "even tried to question his 88-year-old grandmother."

The facts are these, as we understand them:

On a Wednesday at 10:15 a.m., having made an advance appointment with Mr. Lord (not a surprise visit as Reader's Digest implies), three IRS agents arrived at his house, and Mr. Lord, fully clothed (not in his pajamas) admitted the agents.

Mr. Lord was not being examined for his own return. Mr. Lord is the son of a deceased accountant for a taxpayer under investigation at that time. The agents sat at Mr. Lord's kitchen table, inasmuch as he voluntarily produced the records they wanted to examine. Mr. Lord had no office since he is employed elsewhere and his father's records were at the house. The agents inventoried the records, then removed them with authority of a summons given to Mr. Lord. At no time was Mr. Lord threatened with a jail sentence if he resisted.

The Reader's Digest says "soon thereafter, a neighbor phoned" reporting that agents had been there that day asking questions "about you." The neighbor who phoned was Mr. Lord's mother, wife of the deceased accountant, and the time was about 8 months later.

On that occasion and later, still seeking additional records in the principal case, IRS agents contacted Mr. Lord's relatives. There was no "hounding" of anybody by anybody. Mr. Lord's mother had made it known that her deceased husband's sister, Miss Marie A. Lord, had certain of Lord's records. By prearranged appointment with Miss Lord, and at her invitation, an agent called at her home. Miss Lord's aged mother was in the house, but was at no time questioned.

IRS agents did contact the deceased Mr. Lord's bank, to obtain records of financial transactions between himself and the taxpayer under investigation. This is not unusual procedure under the circumstances.

The taxpayer who was being investigated and whose records were involved was represented by attorney Lawrence O'Donnell, also discussed in the Reader's Digest article.

Mr. YATES. By way of information, what is the force of a summons? How can you remove records through the authority of a summons? Should not that word be "subpena"?

Mr. COHEN. The statute reads "summons." There is an administrative summons authorized under the Internal Revenue Code which is enforceable by judicial action. If the taxpayer declines, it is enforceable by court action.

Mr. BACON. I have a recollection of the case because I was in Boston as regional commissioner at the time. When it was reported to me, it was not disputed at that time. The investigation related to a person up there who was later convicted, and I was alerted to the case and so I knew some of the circumstances.

The agents reported they talked to Mr. Lord, who had the records, and they gave him what we call a courtesy summons, which banks or others frequently ask for.

Mr. COHEN. He wanted to give them voluntarily, but he wanted the summons to show he had been forced.

Mr. BACON. He gave us the records voluntarily, and we gave him the summons. He could have said, "I have 10 days to supply them." He did not make that request for 10 days, so our agents took the records but at the same time gave him the summons.

Mr. YATES. It is in the nature of a subpena?

Mr. COHEN. Yes; it is a misnomer.

Mrs. REID. I do not understand what you are saying.

In the article, apparently Mr. Lord was the one who was interviewed by the writer.

Mr. COHEN. A number of years later Mr. O'Donnell and others appeared before the Senate committee and made a number of accusations. I do not know, but perhaps that is the genesis of the problem.

Mrs. REID. The different story which you are telling is the story told by the agents?

Mr. COHEN. This is the story as we understand it.

The last aspect of this is Mr. O'Donnell's aspect, and I think, in addition to our agents' version, we do have it from a district court judge and out of a circuit court judge's opinion. So if you will bear with me, I would like to go into that.

Mr. BACON. May I mention that our data come from our daily records and the diaries of the agents as to what they did on these cases.

Mr. COHEN. That is why we can tell you the time. The agent writes a daily report. So if he tells us a year later we can pretty well sustain where he was a year earlier.

The Reader's Digest alleged that Accountant Donald R. Lord had engaged "a distinguished Boston lawyer," Lawrence O'Donnell, who was "suddenly" subject to hostile IRS examination, including questioning of medical expenses for operations, and who finally, in court, proved IRS was "in arrogant contempt of the court order."

These are the facts: Mr. O'Donnell's income tax returns for the years 1962 and 1963 were being audited. He sought through the courts to prevent the audits. On January 25, 1966, the U.S. district court denied his request. Mr. O'Donnell appealed. Here is what Federal Judge Coffin of the U.S. court of appeals said on July 11, 1966:

> Appellant's (O'Donnell's) 1962 return was chosen for examination because of a large bank deposit consisting mostly of bills of $100 or more. His 1963 return was chosen for audit by an agent who had no knowledge of the prior selection, as the result of a routine classification of a block of returns, where claimed deductions for medical expenses and Schedule C reporting of business income and expenditures indicated the desirability of checking.

Concerning "arrogant contempt" of court, the Reader's Digest alleges the Federal court in Boston ruled "seizure of the business records completely illegal * * *" but in that case District Court Judge Wyzanski, on April 13, 1965, found that IRS was not in contempt and ruled as follows:

> * * * I dismiss the petition with respect to civil contempt as well as with respect to criminal contempt.

Federal Judge A. J. Julian told the rest of the story in his ruling on the first of a series of legal actions pertaining to records of a tax client of Mr. O'Donnell.

Mr. O'Donnell's tax client, convicted on April 7, 1967, of tax evasion of $40,425, was sentenced to a 5-year-jail term and fined $30,000. The records, legitimately obtained on April 18, 1962, from Mr. Donald R. Lord (see case above) by IRS agents, were taken from IRS by Mr. O'Donnell in defiance of a court order.

In that case, Judge Julian ruled on January 5, 1966, as follows:

> The conduct of respondent (O'Donnell) * * * constituted contempt of court. This contempt persisted from August 25, 1965, until September 28, 1965, when the records were delivered to the Clerk of this Court. I find the respondent (O'Donnell) * * * guilty of civil contempt of court.

Circuit Court Judge Coffin, to whom Mr. O'Donnell appealed on July 11, 1966, sustained the lower court and said:

> The District Court in its opinion dated January 6, 1966, ably set forth both factual findings and legal conclusions. Its order adjudged appellant (O'Donnell) guilty of civil contempt and ordered that the records in controversy be made available to the Internal Revenue Service for purposes of a complete and unhindered examination for a period of 45 days.

The judge continued:

> The order, which appellant (O'Donnell) has been found below to have wilfully disobeyed, was one link in a lengthy chain of events in connection with an investigation of the tax liability of * * * (names of the tax clients). It was preceded by summonses, refusal to produce, challenges to their legality, petition for enforcement, a prior order of enforcement, appeal, affirmance on appeal, and denial of a stay of enforcement by a Supreme Court Justice . . .
>
> The District Court found these reasons (the ones advanced by Mr. O'Donnell . . .) to be spurious and mere pretexts for the removal of the records. The real reason for the removal . . . was to prevent the completion of the examination and to impede and obstruct the investigation of tax clients' tax liability.

The Reader's Digest said Mr. O'Donnell proved "with testimony of one agent who resigned in disgust" illegal use by IRS of the tax records.

Regarding this testimony by the ex-agent, Federal Judge Andrew Caffrey on April 7, 1967, said:

> Former Revenue Agent Donald Young left his employment at IRS to take the position at the dog track because his superiors denied him a promotion to which he felt he was entitled.

In this opinion, Judge Caffrey further says:

> On direct examination Mr. Young testified glibly as to minute details of conduct that occurred approximately five years prior to the date he testified . . . On cross-examination his manner was markedly different, and even more different when queried by the Court at the conclusion of redirect and recross-examination.

For example, one of the cases is politically sensitive and therefore I think it is important that we get the record clear on this.

The article attempted to show there is a double standard, that some taxpayers are treated better because they are wealthy or important.

As the statement shows, in regard to the Niarchos Shipping Lines that no tax was forgiven, that the Government collected all of the tax that it was possible to collect, that in no event did the Government ever have a claim against Niarchos as an individual, it was only against corporate entities controlled by him, and that none of it has in fact been forgiven.

For example, in the case of the so-called double standard treatment of Lawrence L. Callanan, who was a labor leader in the St. Louis, Mo., area, they indicated we settled a $40,000 tax liability for $17,000. The facts on this one are crystal clear and this is why I want to mention this.

The whole story, which could have been ascertained by checking with Mr. Callanan, his lawyer or accountant, is that IRS collected the full tax and interest from Mr. Callanan in a series of payments, the first of which was for $17,000.

In 1964, some time after Mr. Callanan had been released from prison, IRS moved to collect outstanding taxes owed by him for the years 1950 through 1954 in the amount of $40,219.84 which included taxes, penalties, and interest.

On April 30, 1964, IRS collected $17,058.65. Mr. Callanan obtained this money by getting a mortgage on his jointly owned home and borrowing the balance. This payment was greater than the forced-sale value of any assets IRS might have seized.

At the same time, and in accordance with long-established IRS procedures, a collateral agreement was entered into providing for payment of the balance. Previous attempts to reach agreement on August 2, 1960, and September 20, 1962, submitted by Mr. Callanan's lawyers, were rejected by IRS as being inadequate.

Contrary to the article's statement of a total payment of $17,000, Mr. Callanan, in accordance with the collateral agreement, paid $3,586.14 on May 18, 1966, and on October 25, 1966, paid the final balance of $10,138.09 in taxes and penalties and $11,874.36 in interest to the date of the payment.

Instead of settling his tax debt for $17,000 as the Reader's Digest said, he was required to pay the full $40,219.84 plus $2,437.40 in additional interest.

This is an easy one that makes me a little angry.

Mr. STEED. For the sake of continuity, we will insert this material at the beginning of your discussion of the case histories so that, as you have discussed items in it, it will be handy for readers.

Mr. COHEN. In order not to belabor the committee, I tried to pick out the items that were of interest or which were particularly easily explained so that you might see the tenor of the problem.

Mr. STEED. Commissioner, now that I have gone through with you what I think is the basic record, other members have questions they would like to propound. I would like to yield to Mr. Passman.

Mr. PASSMAN. Thank you, Mr. Chairman.

Mr. Chairman, I should think that the individual members to some extent would judge the IRS by the experience they have had in their own congressional district. I have been in Congress 21 years, operating businesses prior to coming to the Congress, and several years after I came here. My district is no different than any other congressional district. It is diversified. I have requests for service, of course. Many of them come from taxpayers both by mail and personal interview during my visits back to my district office.

I am somewhat out of character when I defend Federal agencies, but the Internal Revenue Service and the Post Office Department are two I know something about. I have had reason to commend them for the way they have run their businesses over a period of many years.

I have had many disgruntled taxpayers come in, disgruntled by agents, and by referring them back to the Internal Revenue Office it has always served my purpose well. I have never interfered, because I have never known of an instance where a taxpayer has actually been mistreated. Some of them have been dealt with somewhat firmly, but I know of no instance where there has been any mistreatment.

So I would be inclined to discount this article very greatly and take the position that if the Internal Revenue Service should ever start listening to the whims of too many Members of the Congress and taxpayers, the system would break down.

So I actually would not have any comment on this article other than to say I think it should be very greatly discounted and I would regret very much if the IRS should let this go by without trying to get some answer, even if it is the hearings here. I cannot believe they would not give some individual an opportunity to respond. I believe, in fairness to the Service, that in some way this article should be responded to.

I am not going to waste the time of the committee. I think I have heard from two constituents with respect to this article since it appeared. That would indicate there is not a lot of dissatisfaction in the district that I represent and I question whether there has been too many complaints elsewhere.

Finally, IRS agents are human just like Members of Congress, and if a client becomes abusive, I do not think you would want an agent that would not respond with some pretty straight talk. I have had many checks in my life and I always wondered why I had them. But they have always turned out well and I surrendered my books and vouchers and said, "Everything is wide open, just check as long as you want to." With that, Mr. Chairman, I do not think I have any more questions.

Mr. STEED. Mr. Conte?

Mr. CONTE. Commissioner, would you agree that the small tax court concept sponsored by Senator Magnuson and mentioned in the article would be a very valuable means of dealing with the types of problems we are discussing?

Mr. COHEN. I am not at all sure. I would like to examine it, but as you can see there is a rather informal low-cost means of providing taxpayers with the assistance they now need. The Tax Court under its present arrangements is readily accessible. It sits all over the country.

It does have the authority even under its present jurisdiction to appoint commissioners to hear cases, and in fact when I was in Seattle last week I learned there was a Tax Court commissioner sitting hearing some cases in that city. The Tax Court has experimented recently itself under present procedures with pro se dockets, that is with taxpayers who file their cases without representation of attorneys. As I recall the figures, the Tax Court judges indicated that most of these are disposed of under present procedures amicably without too much controversy. The problems that do come up are generally problems of understanding.

One of the things that the Congress has just recently done, that is going to help us tremendously and help, I think, the Tax Court tremendously, is a suggestion that I had the privilege of making almost 4 years ago, involving the most litigated, the most controversial issue that faces us in the courts and through our appellate procedure. This was the question of who is entitled to the dependency exemption for the children of divorced spouses. The wife, under ordinary circumstances, has the custody of the child and the husband is providing, under a court decree, some measure of support and the wife is contributing also.

We had constant controversy in that area, most of it ending up in court, unfortunately, because neither taxpayer would cooperate with the other one. They felt they wanted the deduction for themselves, and we were really the stakeholder, incuring the animosity, I might say, of both taxpayers.

The Senate passed the House bill just the other day, I think last Friday, that would set up presumptions and would encourage courts, when they hand down decrees, to designate that person who is entitled to the dependency exemption. This will give the taxpayers the ability of knowing in advance what the tax consequences are going to be and getting the Revenue Service out of the middle.

We are looking for other areas such as that, where we can suggest to the Congress means of obviating the dispute in the first instance. These are the kinds of disputes little taxpayers find themselves in.

I think with that kind of a constructive approach and the constructive approach of the Tax Court in trying to handle pro se taxpayers in an informal way. We are all cooperating, the Tax Court, the bar, and the IRS. I would think we really ought to try that before we go to any new procedure which may add expense and burden in effect rather than alleviating the problem.

In other words, I would say let's try to make the present procedure work. If it does not and we see what our problem is after study, I think yes, we may want to go to some other procedure.

Mr. CONTE. Can you explain to me why under our tax collection system, contrary to practically all other legal situations, the burden of proof is on the individual being claimed against rather than the one making the claim?

Mr. COHEN. This is one of those problems that at first brush always causes people surprise. I think if you think about it for the moment, logic requires it.

Ours is a self-assessment tax system. The taxpayer tells us what he owes rather than vice versa, as in many countries. The taxpayer represents that this is my fair share of the tax under our tax laws. The taxpayer is peculiarly acquainted with the facts and we are not.

Under our laws he is entitled to deduct medical expenses, dental expenses, interest, charitable contributions, and the like, a whole long list of items. These items are only in the knowledge of the taxpayer. The Revenue Service has no independent means of discerning these facts. So that the law rightfully says to the taxpayer, you are entitled to these deductions providing you furnish sufficient proof to establish these facts. And that is the reason for that rule.

Mr. CONTE. I am not too much concerned with the big taxpayers who have the means and the resources. I am concerned about the taxpayer with lesser means who does not have the financial resources.

Mr. COHEN. In the main, these problems are really de minimus. The taxpayer has a checkbook and he has receipts for doctors or dental, or medical expenses, and that is all that is required. In most of these cases, while you say burden of proof, which sounds rather formalistic, the degree of proof is one of reasonable probability that the expenses were incurred.

There are one or two areas where the law sets up a very strict standard of proof. For example, in the entertainment expense area, but this is not a problem that the unsophisticated get into, it is a problem that the sophisticated get into. In that area the Congress has established a very tough principle of proof and requires more elaborate records.

But as to interest, for example, on my mortgage I get a statement each year as probably each of you do from the bank that holds your mortgage—if you do not get one you could on request—that you paid $345.05 in interest this year.

I likewise have a copy of my statement from the county tax assessor that my taxes on my house were whatever the dollar amount was. And these things are the only things that might be required in the normal course of an examination of a garden variety tax return. We are not talking about sophisticated records or elaborate procedures.

One of the things I think the committee is pretty well aware of that we are doing is trying to disseminate more information to taxpayers as to the ways they can miminimize their tax. This is their right under our law, and therefore we are getting up any number of pamphlets and we have any number of TV programs and we have educational programs in the schools to tell taxpayers the kind of records that will substantiate deductions so we do not have controversy, which we attempt to avoid.

Mr. CONTE. Along that same line of questioning, your agency has the right to place a lien on a piece of property?

Mr. COHEN. Yes, sir.

Mr. CONTE. Or attach a salary, attach a lien on a bank account?

Mr. COHEN. Yes.

Mr. CONTE. This happens once you find out a tax is due and has not been paid. I am just wondering whether you ever thought of having preliminary hearings?

Mr. COHEN. As I indicated to you earlier in the morning, I went through the procedures that are adopted before any such action is taken—three notices, offer of conference procedures, and so on.

Mr. CONTE. I realize that, but the point I was going to make is what type of hardship is this going to work on the individual. Is it going to put him right out of business?

Mr. COHEN. This is the purpose for offering the conference.

For example, if we discern that this is an employer, for example, and he has a going business and there are people employed here, it is to the mutual interest of the taxpayer and the Government that this business go on. It helps employment, it keeps up the economy, it provides more tax moneys in the long run. So we are not interested in driving this man out of business. Yet at the same time, as against other taxpayers in a comparable situation, we have to be fair to them, they are paying their taxes on time, and so we must be sure the tax is going to be paid. And so in that kind of a situation, where the taxpayer can give us a reasonable assurance that over a reasonble period of time he can pay the tax under ordinary arrangements, we will enter into such arrangements. It may require escrows, it may require monthly payments. We have great flexibility and we try to use that flexibility to keep the taxpayer going in business but paying his liability.

Mr. PASSMAN. That is also true of individuals. If an individual is delinquent, many times you may take possibly $2 to $3 a week?

Mr. COHEN. We may take a payroll deduction from his employer if they want to do that if it is an appropriate case.

Mr. PASSMAN. I know you have many adjustments where an individual was permitted to make monthly payments over several years rather than causing him to lose his job.

Mr. COHEN. We are as conscious of those problems as I think you gentlemen might be.

Mr. CONTE. I have some other questions I will forgo. I have one last question.

As usual, I want to compliment you for what an outstanding job you have done here today in presenting this case for IRS. Not only IRS, but also the taxpayers. I find that you have made a good case in all of these except the Tennessee case on the right of privacy.

Mr. COHEN. I have never maintained because a person is a Revenue employee he is infallible. We have to make, in handling this volume, some mistakes. I think we likewise have to be sensitive to have a proper procedure to correct them and we think we do.

Mr. ROBISON. On this Tennessee case, is it not so, since that happened, that there has been a change in procedure with respect to your right or your privilege or your practice of opening mail?

Mr. COHEN. That is true, but I do not think even under whatever procedure existed at the time what was done there was excusable.

Mr. ROBISON. I would not think so either.

Mr. COHEN. It was an individual aberration and we could not seek solace in the fact that under some other circumstances a similar event might not have occurred. This is just an aberration.

Mr. ROBISON. It is true that your practice along those lines has changed, right?

Mr. COHEN. Yes, sir, dramatically.

I might indicate to the committee that recently I received a letter from Senator Edward Long which indicated "The reverse of the attitude on the part of IRS in relation, for example, to electronic eavesdropping is noted and we congratulate you for your efforts in this direction."

So I think it is recognized that whatever problems may have existed 3 or 4 years ago—and they were de minimis, as I have indicated in our report which I think has been distributed to the committee—they no longer exist.

Mr. CONTE. I am pleased to hear that.

The question I want to ask is this: This Reader's Digest article seems to me to emanate, a great portion of it, from Senator Long's hearings.

Mr. COHEN. A number of the cases that are discussed were brought up in the hearing.

Mr. CONTE. I am just wondering why, and you could tell us, you did not answer it at that time as you have answered it so well here this morning.

Mr. COHEN. Part of this is the fact of the way a hearing goes.

Mr. CONTE. You were called first?

Mr. COHEN. I was called first; yes, sir. When some of these cases became public knowledge, while we did not introduce our answers into the record, as we had no opportunity to do so, we did distribute as press information, and did distribute in fact to the committee, what we called fact sheets, which gave the facts as we understood them in several of these cases.

Someof these charges that are made in the article are not directly from the hearings, but are outgrowths from the hearings. So the combination is the reason that the answers do not appear in the hearings, both reasons really.

Mr. PASSMAN. Have you had many inquiries from Members of Congress about this item?

Mr. COHEN. The Public Information Office tells me we have 40, 50, 60 inquiries, mostly in terms of "I have gotten a letter from my constituent. What is your reply?"

Mr. PASSMAN. Thank you.

Mr. STEED. Mr. Addabbo?

Mr. ADDABBO. Mr. Cohen, first of all, I know your office handles tens of thousands of cases and what we have read about and what has been discussed here this morning are probably the exceptions. I have been in touch with your office on several occasions on behalf of constituents of mine. In the last 7 or 8 years I have had a dozen cases, which is perhaps nominal, but still every harassed taxpayer is entitled to the full protection of the Constitution.

One of the complaints we have received I understand is a spot-check made by the tax office, a TCMP form which goes into the man's life history from the year 1, and sometimes in the working of these we receive complaints.

Mr. COHEN. The TCMP audit takes longer than normal.

Mr. ADDABBO. And the phone calls are continuous and all hours of the night.

I wish in these cases you would at least limit them to the taxpayer and not the neighbors——

Mr. COHEN. I think I have discussed the TCMP program with the committee before. This is an attempt to be able to tell this committee and the committees that are writing tax legislation and the Secretary of the Treasury what the real problems on a cross sectional sample are like. Therefore, the taxpayers whose returns were chosen—that is a pure random selection of returns—have no particular concern involved.

They were not picked because they have errors on their return, they were picked because we picked returns in the cross section of population. It is an attempt to find out what kind of problems arise and it will give us a statistical tool to use to develop better auditing techniques. It may be uncomfortable, I realize that.

Mr. ADDABBO. But again the depth and the time and the type of investigation——

Mr. COHEN. And I think the fullness of the examination is necessary and that the particular taxpayers understand fully the reason for this. We will cooperate with him in making it as painless as possible. I think you are right.

Mr. BACON. I would like to clear up a misunderstanding.

I know of no instance we have had occasion to visit neighbors or anybody besides the taxpayers.

Mr. ADDABBO. How about relatives?

Mr. BACON. No.

Mr. COHEN. Not in that kind of examination.

Mr. SMITH. There were only 38,000 in the United States last year.

Mr. COHEN. We vary the sample from year to year to get the kind of information we need.

Mr. ADDABBO. In the hearings before the subcommittee of the 89th Congress, second session, we went into the question of revenue agents, and your answer in testimony was:

> Our revenue agents are under no pressure to produce certain amounts of revenue; there are no quotas. Rather, emphasis is on quality and fairness with which the examinations are conducted.

Is it not a fact that your agents are required to keep time sheets and case histories and plus or minus on tax collected?

Mr. COHEN. No, not the plus or minus. The time sheet, yes, and case histories yes, sir, because these are the only things from which a supervisor can discern whether an agent spent too much time on a case.

In other words, if there is a small amount of tax involved, do not spend a lot of time, do not bother this taxpayer any more than absolutely necessary. And we have to make sure as supervisors that the tax return is given that amount of energy it warrants and no more. The only way we can do that is to have the agent keep records.

I must say that when I worked for an accounting firm and when I worked for a law firm, I kept time records. They are the only things by which supervisory officials can judge how effective you are.

In other words, the important thing to us is how much time does the average audit take for this particular degree of complexity, not how much money is brought in, because the money that is brought in is pure chance. This particular man made a serious mistake, the next fellow did not. The complexity of the audit may be just the same.

So these are the purposes for this kind of records. As a lawyer, I can say to you I practiced law with Adlai Stevenson and he kept time records.

Mr. ADDABBO. This we can understand, but when the agents say that they have been demoted or have been passed over for promotion because they have not had certain production sheets up to par——

Mr. COHEN. I suspect the real reason is a rationalization on the employee's part. We do counsel our employees and try to advise them if we feel they are dillydallying or wasting time. The watching of

time is an effort on our behalf to make sure that they do not stay in a taxpayer's office any more than is absolutely necessary for a particular case and that they are as productive as the particular kinds of audits that they are working on would normally bring in, but not in terms of dollars but in terms of utilization of time.

Mr. BACON. I think we should clarify that. We do have a control record for each examination and that does include on it the amount of any deficiency or overassessment.

Mr. ADDABBO. This we realize and are happy about.

Mr. COHEN. I think I outlined to you the procedure that is proper and, as far as I know, is carried out.

Mr. ADDABBO. I think it would be well from time to time to send out memorandums to your field offices.

Mr. COHEN. This was the subject of discussion recently. I think that is the thing we worry most about, the proper supervision in this matter.

Mr. ADDABBO. Are your agents advised of court of appeals and Tax Court decisions?

Mr. COHEN. Yes, we bring those to their attention as rapidly as possible.

Mr. ADDABBO. Are they told to adhere to those decisions of the court of appeals or the Tax Court?

Mr. COHEN. The problem there is, if you have a Tax Court decision on appeal. We notify them the Tax Court has decided against us, but where we are appealing or the taxpayer is appealing and the decision is not final—you can't say, because a single court has determined a single case, that the law is decided. As soon as the law is clear we send out notification to our field offices that this appears to be the settled law and this is the way we will operate.

Mr. SMITH. It is not unusual for two circuit courts to decide differently.

Mr. COHEN. Where you have a conflict of circuits and an appeal is pending, we tell them there is a case now being appealed to the Supreme Court that will determine this issue, and if the taxpayers don't want to get into litigation they can sit and wait until the decision comes down. If an answer will come from the Supreme Court that will solve the problem, we will hold the similar cases. We had a case a couple years ago, Clay Brown was the name, where we had a number of similar cases and we suggested to the taxpayers that since this case was in the Supreme Court it would be to our mutual interest to wait. That worked out. We lost that case in that instance and gave up a number of other cases like it.

Mr. ADDABBO. On the question of harassment, is it not a fact if the taxpayer feels he is being harassed or is not being treated properly by the agent, all he has to do is call the supervisor of the district office and tell him the problem?

Mr. COHEN. That is right. If he feels aggrieved he should get in touch with the district office and make his feeling known. It is not entirely unheard of that you have just a plain personality conflict, two people can't get along. It may be the taxpayer's fault or it may be the agent's fault or it may be nobody's fault, really, it is just a conflict of personalities. In that case another man will be assigned who has a different kind of personality. That does not mean the taxpayer is wrong or that the agent is wrong.

Mr. ADDABBO. You don't go into a long investigation?

Mr. COHEN. In that type of case, unless the taxpayer gives a reason that is not reasonable, such as if he says the agent is finding everything against him and when you look at the record you see there is reason for the agent so finding, we will not change the agent in a case such as that; but if a reason is given that appears to have validity, a change is made.

Mr. ADDABBO. Thank you.

Mr. STEED. Mr. Robison.

Mr. ROBISON. Mr. Addabbo touched on this, but I would like to tie it down for the record. As I understand from what you have said, there is no quota or other standard of measurement by which IRS agents are judged with respect to their efficiency or "productivity" and by which measure they earn promotions?

Mr. COHEN. Absolutely not. It would be silly of us to operate on that basis because an issue determined today on one basis may work to the taxpayer's advantage tomorrow. This has happened before. There are usually two sides to every legal question and we don't know which side will work to the benefit of all taxpayers. Many work both ways. So the answer we have to find is the right answer, whether or not in a particular case it works to the advantage of the Government or to the advantage of the taxpayer.

Mr. ROBISON. I think probably one of the best barometers, apart from the mail produced by the Reader's Digest article, of whether or not the people back home feel they are being treated fairly by the Internal Revenue Service is the amount of mail you get from Congress, mail received by Congressmen from their constituents as to their treatment by IRS agents and referred to you.

Would it be your judgment—and you can supply it for the record if you want to—that this mail has been going up or down in recent years?

Mr. COHEN. I can give you a judgment that most of the problems we see are problems of time. A taxpayer files a refund claim and we haven't seen it yet. It is not a matter of how he has been treated. In many cases refunds have been mailed and the taxpayer moved and the refund has not been forwarded, or some quirk such as that. The number of complaints I see of congressional type mail——

Mr. ROBISON. Do you see them?

Mr. COHEN. I see them all. They are small. It would be an arduous task to go back and check them, but the tenor over the last couple years has been better. Most people who want to compliment you don't write you. But I asked some of the fellows 6 months ago or so to collect a few of those and we have an awful lot of letters from people who say, "You know, I got hooked or clipped or nicked for $5,000 or $10,000, but your auditors did a pretty good job. I don't necessarily agree with the result, but I was given every courtesy, it was explained to me, and I was told I could go to court." And he writes saying the agent should be commended. I have a lot of them. I didn't want to burden the record by bringing them all here, but this is indicative of the fact it has gotten across to our agents that this is the best policy.

Mr. ROBISON. But you do not see a great upturn of complaints coming to you from Members of Congress?

Mr. COHEN. No.

Mr. ROBISON. With respect to the message you just mentioned. I notice from some of the additional material handed to us that one of the speeches you made was sent out by Deputy Commissioner Smith to regional and district officers. Is this an attempt to get the message across to older agents in the field?

Mr. COHEN. This is an attempt to expound the philosophy we have all over the Service. Mr. Smith asked me if I would mind his doing this, and he did it. Mr. Rosapepe has asked me to film talks I have made to groups so he can disseminate them. I can talk to all the regional and district officers and I do so, and I pick a small group of rank and file employees I can sit down with and discuss what we are doing and what their problems are, but to reach all the employees this is the technique Mr. Rosapepe has suggested. I am a novice in the field of public information but I think he has done a good job of it.

Mr. ROBISON. I suppose this philosophy approach is a part of your training program for new IRS agents?

Mr. COHEN. Right.

Mr. ROBISON. I wonder if you have ever formalized this attitude in any specific directive?

Mr. COHEN. There is a statement of the mission of the Internal Revenue Service which embodies it, signed by myself. It is in the manual.

Mr. ROBISON. If it is not too long, could it be made a part of the record?

Mr. COHEN. Yes. One of them is one Mr. Caplin and I drafted when he was Commissioner and I was Chief Counsel.

(The statement referred to follows:)

U.S. TREASURY DEPARTMENT, INTERNAL REVENUE SERVICE, PUBLIC INFORMATION DIVISION, TECHNICAL INFORMATION RELEASE

For release, Friday, May 1, 1964.

Commissioner of Internal Revenue Mortimer M. Caplin today announced that the following Revenue Procedure will be published in Internal Revenue Bulletin No. 1964–22, dated June 1, 1964.

REV. PROC. 64–22

Statement of Some Principles of Internal Revenue Tax Administration.

The function of the Internal Revenue Service is to administer the Internal Revenue Code. Tax Policy for raising revenue is determined by Congress.

With this in mind, it is the duty of the Service to carry out that policy by correctly applying the laws enacted by Congress; to determine the reasonable meaning of various Code provisions in light of the Congressional purpose in enacting them; and to perform this work in a fair and impartial manner, with neither a government nor a taxpayer point of view.

At the heart of administration is interpretation of the Code. It is the responsibility of each person in the Service, charged with the duty of interpreting the law, to try to find the true meaning of the statutory provision and not to adopt a strained construction in the belief that he is "protecting the revenue". The revenue is properly protected only when we ascertain and apply the true meaning of the statute.

The Service also has the responsibility of applying and administering the law in a reasonable, practical manner. Issues should only be raised by examining officers when they have merit, never arbitrarily or for trading purposes. At the same time, the examining officer should never hesitate to raise a meritorious issue. It is also important that care be exercised not to raise an issue or to ask a court to adopt a position inconsistent with an established Service position.

Administration should be both reasonable and vigorous. It should be conducted with as little delay as possible and with great courtesy and considerateness. It

should never try to overreach, and should be reasonable within the bounds of law and sound administration. It should, however, be vigorous in requiring compliance with law and it should be relentless in its attack on unreal tax devices and fraud.

Mr. ROBISON. A suggestion was made about a small Tax Court. The Reader's Digest article seems to leave the impression that people can't go to the present Tax Court without an attorney. Is that right?

Mr. COHEN. No. I would say about one-third of the petitions filed in the Tax Court are pro se unrepresented by tax counsel. I have discussed this with the chief judge of the Tax Court, and the court bends over backward to make sure the full facts are brought out in these cases. I have also discussed with the bar association that in those cases where the court feels counsel should be provided, that the bar association cooperate and provide counsel.

Mr. ROBISON. That is my point. This might be an area where the bar association might be helpful or the concept of an ombudsman could be used.

Mr. COHEN. The court does have authority and, on occasion, appoints counsel in cases where they think counsel is needed. There was a case in the Supreme Court last year where a court-appointed counsel carried the case through to the Supreme Court. It had been filed pro se. The court felt counsel should be had and appointed counsel.

Mr. ROBISON. My final question has to do with the allegation in the Reader's Digest article that in some cases agents questioned people and prevented them during that period from calling their attorney or accountant to give them assistance or moral support. Is there any requirement of law that exists with respect to your operation in this regard?

Mr. COHEN. There is absolutely no inhibition on anyone at any time from being represented by a lawyer of his choice. There is a statute that states all certified public accountants and lawyers without citations against them are allowed to appear. There are other individuals also qualified to appear, and a person can get anyone from that realm to represent him, and in fact we encourage that he do so.

I can understand a taxpayer perhaps feeling that when the agent starts asking him questions he has to answer them right now or he will get upset, but that is not the case at all. Anybody who desires to be represented just has to say, "I will engage counsel and will you get in touch with me in a week" and that is it.

Mr. ROBISON. Would it be useful for the Service to make this a part of the procedure in a case where the taxpayer may not have an understanding of his rights?

Mr. COHEN. Maybe we should put it in a letter to the taxpayer. We can check that out. These are our rules. We have no inhibition on representation.

Mr. CONTE. Will the gentleman yield?

At one time we used to have a Treasury license of some kind good for 6 years.

Mr. COHEN. Five years. That is only true as to the people not licensed by the State, such as certified public accountants or lawyers. If a person who is not a certified public accountant or a lawyer feels he wants to do some tax work, he can take an examination and if he passes it qualifies him to practice. But any qualified lawyer or certified public accountant can practice.

Mr. ROBISON. In conclusion, I would like to say I think this hearing has been most useful to the committee and to the public.

Mr. STEED. At this point, since it has a bearing on this subject under discussion in the sense of action taken by the Commissioner to expound his policies to his employees prior to the appearance of this article in the Reader's Digest, we will make this material a part of the record at this point.

(The documents referred to follow:)

DECEMBER 29, 1966.

To: Assistant Commissioners, Chief Counsel, Regional Commissioners, Regional Inspectors, District Directors, and Service Center Directors.
From: Deputy Commissioner.
Subject: December 15, 1966, Speech of Commissioner Cohen.

As you know, we have a procedure whereby we send to all of you a few copies of speeches made by the Commissioner or myself where a text is available. We do this, of course, so that you can be aware of the kinds of matters the Commissioner and I are talking about and also as an aid for possible use in speeches by you or members of your staffs.

On December 15th, Commissioner Cohen made a major address before the National Industrial Conference Board in New York which I want to say a special word about.

In this speech the Commissioner sought to draw attention to the changing philosophy that has been evolving in Revenue over the last several years and its significance to the taxpayer. I think you will agree, however, that this new philosophy also has significance for all of us and calls for a questing spirit, a willingness to examine old ways and old assumptions, and a creative attitude toward our work. For this reason, we wanted not only to call the speech to your special attention, but also to give you enough copies to permit a wider distribution than is normal.

WILLIAM H. SMITH.

Attachment.

REMARKS BY COMMISSIONER OF INTERNAL REVENUE SHELDON S. COHEN BEFORE NATIONAL INDUSTRIAL CONFERENCE BOARD, NEW YORK, N.Y., DECEMBER 15, 1966

"TO TAX AND TO PLEASE"

Just about 60 years ago my grandfather arrived in this country—a penniless refugee from oppression—with a family of eight children. My father was the youngest of two boys. In today's parlance, my father was a high school dropout at the age of 16—not by choice but to help the family survive. He was an educated man and demanded the best his children could do in all aspects of their activities. Now, a few years later, I have the privilege of appearing before this group of industrialists—some of the most prosperous in America. This, gentlemen, is the finest tribute to the American system I know. The system we have built provides this kind of success for those who are willing to work and contribute to the fulfillment of our country's aspirations. This is the beacon which will show the underdeveloped countries of the earth that ours is the system to be emulated—not some other totalitarian system which reduces man to a creature of the state without individual desires or aspirations.

The title of my talk, of course, comes from Edmund Burke, that great friend of the American colonies and one of the earliest advocates of American tax reform. If his advice had been followed, the American Revolution might have taken a different form or, indeed, might not have even occurred. Mr. Burke said:

"To tax and to please, no more than to love and be wise, is not given to men."

Burke was as perceptive of the need for people to determine their own tax system as he was of the traditional unhappy lot of the tax collector.

By contrast, in April of this year, the Honorable William H. Timbers, a Federal judge in Connecticut, had this to say:

". . . in my own view . . . attempted tax evasion is tantamount to striking at the jugular vein of the United States . . .

". . . defense of freedom of this country, of the free world, has a very direct relationship to the vigorous, adequate enforcement of the Internal Revenue laws of this country . . ."

This is quite a change of attitude over the span of two centuries. I should like, this evening, to try to suggest why this change has come about and what, if anything, the Internal Revenue Service has had to do with it.

I realize that there are many improvements which can still be made to our system, but this is a minor problem. There are very few voices heard today which seriously contest our basic system. There are those few who would, for example, amend the Constitution to do away with the income tax altogether. Those who advocate this course do not make clear where the money would come from to operate the Government and finance our national security. On the more serious side, though, one does hear a more provocative objection to the income tax and that is that it tends to sap initiative—presumably, initiative to earn more money.

It appears, however, that this is another one of those easy assumptions that is not borne out by actual research.

Only last month, for example, the Brookings Institution reported on a study of high-income Americans in a book entitled "Economic Behaviour of the Affluent." Their findings pretty well shatter the belief that the progressively steeper rates of the income tax inhibit the wealthy and the talented. Seven out of eight high-income Americans said explicitly that they would not curtail work because of taxes. The Brookings Institution concluded that:

> "The annual loss of output due to the effect of taxes on work incentive, contrary to popular opinion, appears very small . . . probably less than one-half of one percent."

So I think one may reasonably say that this country has managed to raise the large sums necessary to meet its obligations without stultifying the urge of Americans to work hard and to excel. Indeed, I think a case can be made for a more positive statement: that high taxes actually encourage risk taking.

Nor has the income tax, as is sometimes alleged, turned us into a nation of tax cheats. In an essay a few months ago on "Larceny in Everyday Life," *TIME* Magazine had this to say:

> "Everybody is supposedly eager to cheat the Government on his tax return. That impression is reinforced by the occasionally epic search of U.S. business tax loopholes—which may be ethically debatable but are, by definition, not illegal. In fact, the American is a model taxpayer, and was so even before Internal Revenue installed its formidable automated data processing system known as 'the Machine.' The Government last year indicted fewer than 2,000 out of 102.5 million taxpayers for fraud. Even the most pessimistic estimate of unreported income . . . suggests that more than 95% of all income was reported."

In fact about 37% of all audits result in no change. This is in spite of the fact that the reason these returns were audited in the first place was that something appeared to merit attention.

What are the reasons for the American tax system being perhaps the most efficient and widely supported the world has ever known? Why are we called upon to export our tax know-how to Latin America, India, Turkey, Vietnam, and other parts of the world? I submit that what makes our tax structure a success and a national asset is the confidence of the American people in its administration and their faith in the democratic tradition. Our people believe that the tax laws are reasonably fair and are being administered honestly and evenhandedly, so they in turn report their income and pay taxes honestly.

We tend to take this compliance for granted, but it is really quite remarkable. Very few countries, including those in the Western family of nations, can successfully administer a mass income tax. As one reporter wrote:

> "Most nations do not even attempt the self-assessed income tax return; people would not have enough confidence in each other, or in their Government, to try it. The idea would seem preposterous."

It is a historical coincidence that the income tax, the backbone of the American tax system, was recommended by President Lincoln and enacted into law by Congress to finance the Civil War. And it was another war, World War II, that ushered in the self-assessment tax system we have today. World War II changed a lot of things permanently, but nothing more fundamentally than the income tax. It converted the income tax from a narrowly-based tax affecting some 8 million individual taxpayers to a broadly-based one now affecting nearly 70 million taxpayers.

Before World War II, the tax system was so designed that Internal Revenue could audit virtually all the returns that a tax administrator might want to audit. As the tax base mushroomed, this became impossible. The alternative the Government faced was either to increase the number of auditors to permit the same

blanket audit coverage, or face up to the fact that the great mass of taxpayers would have to compute their tax themselves and send in their returns with payment.

It is fortunate for the country that the latter approach was adopted. It is, I think, not only more in keeping with the American concept of the role of Government but it also capitalizes on the strength of the American character.

Two other national characteristics helped the tax collector: American inventiveness and genius for organization. These led to development of the steps that were essential to a tax system comprising 70 million taxpayers filing over 100 million returns.

The major events that have shaped the modern Internal Revenue Service are the development of the *standard deduction* and the *per capita exemption* which made possible the short Form 1040; *withholding at the source*, which applied the pay-as-you-go principle to tax collecting; the *Reorganization* of the Internal Revenue Service in 1951 and 1952; the conversion to *automatic data processing* in 1959; and the recent flowering of that conversion, legislation for *direct filing* of tax returns at Service Centers, passed this year. These developments are the pillars of modern tax administration. They enable us to run the system effectively and economically—that is, with a work force which is proportionately one of the world's smallest and at a cost of less than half a cent for every dollar collected.

Let us at this point take a quick look at the nation's tax collecting agency.

The Internal Revenue Service ranks in size with the 100 largest United States corporations. We employ about 65,000 people, including over 15,000 accountants, 600 lawyers, and 10,000 other professionals. Ours is a decentralized organization for we have long believed that the citizen should be able to settle his tax affairs locally, without the need for decisions to be referred to Washington.

We have 58 District Offices, at least one in each state, and about 900 local offices, placed for the convenience of taxpayers. Joined to these are seven regional offices performing intermediate supervision and certain operating functions and seven service centers set up under our automatic data processing network.

All of our people are in the civil service, which means that the sole qualification for recruiting and promoting employees is merit and fitness. In the Federal family, we are perhaps distinguished for the vigor and scope of our executive selection and development efforts and for the independence and professionalism of our internal audit and internal security operations. This last emphasis seems only fitting. Since we expect so much from the American taxpayer it behooves us to be above suspicion ourselves.

The Internal Revenue Service entered the 1960's well organized and well equipped to administer a tax law that reaches into the lives of virtually all adult Americans. The time was ripe, with the ferment and creativity of a new Administration, for articulating a new philosophy that would reflect the fundamental changes that had taken place in our tax system in the post-war years. This was to have a profound effect on the thrust of future Service policies and programs.

Since it has grown, step-by-step, this philosophy has not been as clearly recognized—inside or outside the Service—as would be desirable. It is time we took account of it.

Recent Commissioners have become increasingly aware that the great strength of the American tax system is its self-assessment nature and have launched programs designed to nurture and support the self-assessment system. My immediate predecessor, Mortimer Caplin, was especially noteworthy in articulating the need for following, and indeed accelerating, this trend.

He and top Service officials concluded that in subtle but significant ways the Service had fallen into the habit of looking primarily at the enforcement side of the Service's activities. This created a climate in which an adversary spirit could grow between our people and taxpayers—a feeling that Internal Revenue's job is to "protect the revenue;" and it's the taxpayer's job to protect himself.

In contrast, we concluded that we should focus on the hundred billion in Federal tax revenue that comes in through voluntarily as opposed to the $3 billion or so that comes in through direct enforcement efforts. This idea was eventually embodied in a new statement of our mission, which read as follows:

> "The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance with the tax laws and regulations and to maintain the highest degree of public confidence in the integrity and effi-

ciency of the Service. This includes communicating the requirements of the law to the public, determining the extent of compliance and causes of noncompliance, and doing all things needful to a proper enforcement of the law."

As a corollary to this, the Service also developed in 1964 a Statement of Principles which laid great stress on the need for objectivity and integrity in the interpretation of the tax statutes. I myself as Chief Counsel, drafted that Statement which developed out of an Order earlier that year to the 600 lawyers in the Chief Counsel's office. This Order called for an approach to litigation that would foster orderly and reasonable development of the Internal Revenue Code as opposed to an approach that would bring in maximum revenue. That Order said in part:

> "It is easy . . . in handling a particular case, to focus solely on the money at issue and to ignore or underestimate the broader effect of the case. Yet it is just that broad effect of the case which must govern our litigation attitude.
>
> "The position taken must represent the interpretation the Service wants because it is the best and most reasonable, the interpretation which makes the maximum contribution to a sound, wise tax system, not only immediately, but over the long run."

This Chief Counsel's Order and the new Statement of Principles exemplified the new spirit at work in the Revenue Service. As a result, over the last several years, tax administration policies in the Service have been directed toward three main goals:

(1) Seeking more reasonable, responsive interpretation of the tax laws;

(2) Providing better service to American taxpayers; and

(3) Continuing a vigorous enforcement program to discourage and deter tax abuses.

These goals are not only institutional; they sum up my own philosophy about the direction in which the Service should be heading. They also received important support from another quarter.

As a Presidential appointee, one of my goals is to give effect to the aspirations of the President. We are particularly fortunate that Mr. Johnson has taken a keen interest in the Internal Revenue Service.

The President really only gave me two instructions on taking this job. One was to continue to safeguard the integrity of the Service. The President is fully aware that the Internal Revenue Service must be as incorruptible as any human institution can possibly be if it is to continue to deserve and maintain the confidence of the people. Secondly—and this shows the President is as human as the rest of us—he asked me to try to do something about the tax forms.

Beyond these two specifics, the President has also shown a continuing determination to make the activity of the Federal Government more meaningful to American citizens. He has therefore spoken to us in Revenue on several occasions about remaining alert to ways to improve our programs and our services to taxpayers. The thrust of the President's guidance to me, therefore, has been to reinforce the new philosophy at work in the Revenue Service.

I should like to give you an idea of some of the things we are doing to carry out our new philosophy, fulfill the President's wishes, and make things a little easier for taxpayers. We have first of all recognized that taxpayers cannot comply with the law if they don't know what their responsibilities are. This may surprise you but 40 million taxpayers have no contact of any kind with the Revenue Service except for receipts of the tax package every year. These people can only learn about their tax responsibilities through the educational process and through the mass media.

We have in recent years, therefore, given increased stature and modest staff increases to our public information activity as our liaison with the mass media and our vehicle for reaching this great taxpayer audience. We have stepped up our production of television and radio spots, films, news releases, and pamphlets and booklets as part of this expanded information program.

In short, we are trying to give out more information, better understood information, more easily accessible information.

We are also expanding our program of taxpayer assistance, particularly during the filing period. We have created new taxpayer assistor positions in our field offices whose main purpose is to answer taxpayers' questions accurately and pleasantly. New assistors are selected on their ability to meet and deal with the public and get a special training course in what they need to know to handle the 26 million inquiries we receive each year. Today we have over 900 permanent full-

time assistors, about half in metropolitan areas and the other half in 400 cities and towns throughout the rest of the nation. During the filing period, we supplement this force with about 450 specially trained temporary employees.

Next to accuracy in determining a taxpayer's correct tax, we emphasize courtesy and service to taxpayers. To begin with, we select for public-contact positions only those individuals who possess the personal qualifications and characteristics needed to meet and deal with the public effectively.

After these individuals are hired, we convey to them through our training programs the importance of courteous behavior to all taxpayers. This has ranged from training in simple telephone techniques to training in the more sophisticated and sensitive areas of tax administration. We emphasize these points during classroom training for new employees and continue to stress the subject during on-the-job training.

To ensure that the ideas thus implanted do not lose impetus, we stress the importance of similar training in refresher courses conducted for experienced Revenue Service personnel.

I also made a film stressing the need for courtesy and we have shown this to our employees throughout the United States. We recently developed a special award for employees who have demonstrated outstanding ability to serve the public. Since our whole philosophy is based on the taxpayer helping himself, we feel we have a special responsibility to provide good service where and when the taxpayer needs it.

We have also launched a major effort to simplify the content and improve the appearance of our tax forms and form letters. As you may know, we brought in an industrial design firm to help us improve the typography and appearance of the 1040 and its sister forms. We have also been pushing the development of tables, such as the sales tax and gasoline tax tables, to make the taxpayers' computations easier.

We brought in a special group to help us with our form letters. We recently created a special section to work on improving the clarity and tone of these letters and we are in the process of bringing in a consultant to help us finish the job.

I recently approved a new in-Service training program aimed at improving the skills of our people who write and review letters. All of this is, of course, an enormous task, but we made a good beginning and we are pushing forward.

This filing period, in the southwestern part of the country, we are testing a radically new test form called the 1040Q. This is a tax return in the form of a questionnaire which interweaves instructions right along with the tax questions so that the taxpayer need not consult any other sources as he works and answers the questions. We have reason to believe that taxpayers will find the questionnaire easier to work with than the 1040, but the 60,000 taxpayers who make up the sample will have the final say.

For a number of years we have had a Teaching Taxes program in the nation's high schools which shows some three and one-half million students in 23,000 schools how to fill out and understand a tax return. Forty million students have completed this course to date with commensurate aid and benefit to their parents. As this proceeds, we expect to see new generations of taxpayers who will have overcome their feeling of despair at encountering the 1040.

We are also training about 20,000 adults a year in how to make out tax returns under adult education program. We are experimenting in one of our regions with a special task force for high school commercial and business students designed to acquaint them with the tax responsibilities of small businessmen. About 3,000 students in 50 high schools in five states are receiving this training.

We have another experiment going training returns-preparers in how to make out tax returns for others. If this proves successful, it might be the first step toward assuring a minimum competence for tax practioners not professionally trained.

In all these matters, we are not flying blind. We are undertaking a special study of our whole complex of taxpayer assistance programs, on which we are spending some 5,700 man years and $60 million this fiscal year. This special study will not only evaluate existing programs for possible improvements, but will also consider other ways of strengthening our services to taxpayers.

Because of the complexity of business operations and the need for certainty in tax affairs, a number of Internal Revenue's programs are of direct and special benefit to businessmen. A case in point is the area of advanced tax rulings on proposed transactions. About 30,000 rulings are issued every year, two-thirds at the request of business organizations. Ours is the only Government in the world that issues income tax rulings prior to consummation of the tax transaction. We are trying to improve our service in this area as well.

We are about to announce a new program for bringing up to date old rulings we have published since 1919. This will save taxpayers many hours of research, will reduce the possibility of their arriving at erroneous decisions, and will help the Service as it converts its legal interpretative activities to automatic data processing.

Early this year we also entered into an experiment with leading practitioner organizations whereby they could submit suggested revenue rulings. If this proves to be successful, we will expand the program as an additional means of getting timely suggestions from the business community.

In the compliance area, we are constantly striving to move our procedures closer to the grass roots. We have, for example, decentralized closing agreement authority and we have recently put our international field audit group under local supervision. Similarly, we are trying to speed up and improve the resolution of tax cases. This involves reducing the number of old cases in inventory, streamlining the management of large refund cases, perfecting our audit procedures as they affect large corporations, and strengthening district conference procedures.

This audience in particular will be interested in our program to modernize audits of large corporations. For a number of years, we've been aware that our approach to auditing large corporations was lagging seriously behind the tremendous changes in the structure, composition, and size of United States business. Our traditional "one man, one case" approach often resulted in serious delays in auditing corporation returns, and, in some cases, in rather superficial audits.

Our new approach has three elements: pre-identification of large corporate taxpayers, coordinated control to assure prompt audit results, and use of teams to conduct the audits. We think this new method of managing large cases will result in faster, more current, and more uniform audits. This, too, will make a contribution to enhance voluntary compliance.

In sum, there has been a perceptive shift of philosophy in the Service from a protecting-the-revenue approach to one that is more taxpayer oriented, more balanced, more reasonable, and more humane. Protecting-the-revenue in a narrow sense is no longer the shibboleth it once was. It has been replaced by a new and broader concern for orderly development of the law and reasonable tax administration.

It has become increasingly clear in recent years that the stability of the free world depends on the good health of our economic system and the soundness of our currency. This country must have a productive and viable economy that is strong enough to enable us to meet our commitments at home and around the world. Ability to do this rests in large measure on the capacity of our tax system to produce the revenues we need to meet the cost of world responsibility and domestic progress.

This places a heavy responsibility on the Internal Revenue Service and as I near the end of my second year in office I can say we are meeting that responsibility. In the time ahead, with the cooperation of the American taxpayer, we intend to continue along this new path of strengthening our voluntary compliance tax system.

To: All Regional Commissioners and District Directors.
From: Director, Public Information Division National Office.
Subject: Taxpayer Information Material (1967) (IRM 1(19)51.2) Speech Material—"Settling Disputes With IRS" (S–67–4).

The attached text of remarks made by Commissioner Cohen before the Executives Club of Chicago on March 17, discusses various aspects of tax administration with emphasis on the right of taxpayers to have a fair and impartial hearing in disputes with IRS.

This speech is particularly timely now that the 1967 filing period is past and the concern of many taxpayers and practitioners turns to audit and appellate procedures.

Regional Commissioners, District Directors and other IRS personnel who speak before practitioner or civic groups may want to include in their talks the themes and data in this text.

The transcript will also be helpful in providing background to newsmen who may be interested in IRS activities in the ensuing months.

JOSEPH S. ROSAPEPE.

Attachment.

SETTLING DISPUTES WITH IRS

By Sheldon S. Cohen, Commissioner of Internal Revenue

When people stop to think, they quickly become aware that the IRS today is using some rather modern, advanced concepts in the administration of what is perhaps the most complex, most successful revenue system ever devised.

We talk a great deal about the responsibility of the American citizen for the welfare of this country. These discussions range from the college campus to Capitol Hill and all points in between. But there has not been much discussion of the responsibility of the country to its citizens.

We have in the government the problem of serving 100 million taxpayers, 200 million people, and some of the techniques that have been devised in this country are the model for elsewhere in the world.

Most of us do not appreciate the techniques that our government and our people have devised. These include the methods by which controversies with one's government are disposed of.

Each of us looks at our own particular problems from our own particular vantage point and we are greatly concerned with our individual problems. The difficult thing for government, any government, whether it be local or state or federal, is not that particular problem. It is the very difficult problem of coping with and being fair to every one at the same time you are coping with and being fair with individuals.

Illustrative of this, I suspect, is an incident that took place last July. I was briefing President Johnson on the budgetary situation, especially our receipts,—giving him a rundown of the receipt side.

At the conclusion of the discussion he looked at me and said, "Sheldon, what kind of problems do you have?"

Here was a chance to pour your soul out to your boss, tell him how you are mistreated and you don't have enough funds, and there are all sorts of difficult interpretative problems in the Revenue Code—in other words, here is your opportunity.

I looked at him and I was ready to plead on how I needed more manpower and how I don't have enough of this or that. Then I thought kind of seriously for a moment and I said, "You know, it is a rather amazing system we have. We have 200 million people, we have 100 million taxpayers who file about 70 million individual tax returns,—requiring the handling of 102 or 103 million forms and returns altogether and 250 million information documents—$128.9 billion in taxes, 45 million refunds paid last year amounting to about $7.5 billion. When you think of all the things that could go wrong, in a system like that, and didn't, it is pretty much of a miracle."

The question could be asked: "Why don't we drop more things between the chairs?" We do. We all make mistakes. We are human beings. Just because one works for the government, doesn't make one any brighter than he was before he worked for the government. If I made mistakes then, I will make some now.

But when you think about the system from that viewpoint, you take a different approach. Unfortunately, not enough of us have the opportunity to think about it from that vantage point. I think we would have better government, we would have better everything if all of us could occasionally walk away to the top of the mountain and look down. Unfortunately, most of us don't have the time and perhaps don't have the desire. Each of us is usually too wrapped up in his individual problems and difficulties to worry about whether the system of government works or not.

But here we are, we collected $129 billion last year. Ninety-seven per cent of that comes in through payments of one voluntary nature or another. Three per cent of that is accounted for by our enforcement activity. That does not mean our enforcement activity is therefore unimportant. It is terribly important that it be uniform and fair to keep that confidence that we have, that encourages that 97% of the revenue to come in through the voluntary acts of our citizens. Most of the countries of the world would not even dare try a system like this.

Looking at this mass income tax that we have today, you have to see it in perspective. In the Thirties the paying of an income tax was a privilege that we only gave to the wealthy. In 1938 there were eight million taxpayers and by 1945 there were 45 million. Last year there were about 104, and in 1980 we will have 135 million. This is just a measure of the growth of our economy and as it has grown, so unfortunately has the complexity of the Revenue Code.

We all wish for those dear, distant days of the simple past when each of us was infinitely worse off than we are today, but we all long for them nevertheless.

The circumstance of the complexity of the Revenue Code really follows from the complexity of the economic society we live in. One desires simplicity, but one is not willing to live with the arbitrary nature of a simple system.

A simple system draws very straight lines and very straight lines hit people in very arbitrary ways.

But with the growth of the Internal Revenue Code from a starting point of 16 pages in 1913 to a point today where it is over 1200 pages in length, this brings problems.

One might expect that with a system such as this, the courts of the United States would be bogged down completely with nothing but tax litigations and that we would have an army of tax collectors out collecting taxes. Neither one of these is true. Civil tax litigation in the United States involves less than a thousand cases in a year. We have 60,000 people and to most of us that sounds like a lot of people, until we realize that the tax system of Great Britain—with a population about one-third the size of ours and a geographic area that is infinitely smaller than ours—has a tax collection force of 60,000 people. All things are relative, of course.

What leads us to a system that works as well as it does here? One of those things is the American character. American people have an inherent belief in fairness and fair play. They think their Congress has enacted a relatively fair law. We each have our gripes, but on the whole, we each think it is fair. We can each think of some abuse, and there are many improvements that could be made, but I think we agree basically, that the law is enforced with integrity and fairness throughout the country. That is the absolute essential to any system that is going to work on a voluntary basis.

So it is necessary that the Revenue Service design a system to eliminate controversy at the earliest possible moment in order to keep confidence, to keep this system moving. This is a designed system that has worked, that has proven itself over a long period of time. Indeed, the very first link in the chain, the revenue agent, is encouraged to dispose of cases at the earliest possible moment. Thus we try to keep disputes from ever getting into the pipeline in the first place.

Of course, part of this problem is that the courts simply are not equipped to handle the volume of appeals that could arise. An interesting facet is that a country the size of West Germany has more tax litigation in its courts than the United States. Our experience has shown that the tax litigation, tax controversies, can and are settled with due deference to the taxpayer's point of view and to the government's problems.

Any appeal system that is designed to work has to really provide three things:

First, you have to have a system that assures an equitable disposition of each case; justice if you will. The system also has to assure uniformity, that is, constant and uniform treatment of issues and persons.

Finally, it has to be accessible in a sense of being readily available to anybody wherever he lives.

Justice in the field of taxation is determination of the correct tax that the Congress intended. That is one of my problems. The problem is, as most people realize when they think about it—but they don't really think about it—that Congress enacted the tax laws, not the Internal Revenue agent who stands in front of you and must take the abuse for enforcing it.

The view has long been held, in many circles, that the Revenue Service is not so much seeking the right answer as it is seeking the most dollars and acting as an advocate for the government. This is not the case. This has never been our position and more particularly, is not our position today. Indeed, several years ago, we published a statement of philosophy which states unequivocally, "The sole interest of the Revenue Service is in the determination of the correct tax and in the reasonable interpretation and development of the law, not in the pursuit of dollars."

Many taxpayers read that as if it were the Magna Charta, but it is simply an articulation of a philosophy that has long been held. It is more particularly important to one who really understands the technicalities of the tax law.

It is a very complex law and a decision today that favors the government may cut the other way tomorrow, so that even out of selfish interest you must determine these things on the basis of principle and not on the basis of dollars.

The important thing about our system that differs from many in the world is its completely decentralized nature, with 58 district offices and 900 local offices spotted for convenience of the taxpayer throughout the country, with a system to keep these field people fully informed on the operating rules of the road. This is a system that came into existence in 1952 and it has flowered since.

Likewise, part of this situation is the right of the taxpayer to have his hearing, his audit, his appellate hearing, whatever it is, relatively close to home. Years ago, one had to travel to Washington for many of the deicsions, almost all of which are now rendered either by the District Offices or Regional Offices spotted around the country. Even though these 900 offices cover most of the nation, we have circuit-riding people who provide service in those parts of the country where we do not have an office.

Basically we have two levels of appeal from a decision of the revenue agent that one doesn't like. First, the agent is available or the supervisor is available for discussion. The agent supplies a copy of a report which sets forth the positions that he will take so that the taxpayer is fully informed of what his particular problem is.

The two levels are first the District Conference and second the Appellate Division.

The District Conference has been revised and modified over a period of years to meet the needs and desires of the tax practitioner, the taxpayer, and the modern problems as we see them. The District Conference staff is completely independent of the revenue agent and the revenue agent supervisor and is available particularly to the taxpayer who has a small case generally involved in a factual matter. No formal documents are necessary to get into this cycle and it works very well.

Until now we have limited the informal no petition, if you will, or protest cases to about $1,000. We are now considering raising that to slightly larger cases, perhaps $2,000, perhaps $2,500, in the interest of keeping the small pro se taxpayer representing himself free of any red tape. And most of the cases are settled in this area.

One has to think about the fact, though, that out of 70 million tax returns, only about 5% are selected for audit, and about two million involve some changes. The interesting thing is that during the course of audits last year, $278 million worth of refunds were made that the taxpayer never asked for. You never heard that figure, I bet. Nobody ever heard of an audit where we gave money back that was not asked for, but it happens every year.

In our mathematical verification last year, we gave back about $82 million where the taxpayers did not know they made mistakes against themselves. It cuts both ways.

Last year in the district conferences for small taxpayers there was a reduction of 36% in deficiencies originally proposed. And about 74% of all the cases—large and small—that went through that procedure were disposed of finally to the satisfaction of the taxpayer. If he was not satisfied, he had the right to go either to the Appellate Division or the court.

The Appellate Division, which is the second level of our appeal system, is designed really to handle the more complex cases, the ones involving not only complex legal questions, but also complex factual situations.

We have a separate line of authority. The Appellate Division is not even under the District Director's line of authority. Their authority runs from the Commissioner, directly from me to them, completely independent of any of the local people who set up the agent's report in the first instance. In fact, they have operated that way and I think they have the respect and confidence of the legal and the accounting societies around the country.

In the cases that are docketed, the responsibility lies concurrently in our regional counsel's offices and appellate offices to dispose of these cases. It is a difficult matter, to determine what is fair, what is just, and in addition the taxpayer has a view of what is fair and just in his case. Each of us would like to pay the lowest tax. In fact, if one reads the tax literature, particularly a book by the late Louis Einstein called "Ideologies of Taxation"—which is not as formidable as its title would indicate—he would find the statement that each of us would have our neighbor pay the tax, but each of us would find some rationalization why we should pay something less.

I cannot say that everybody is extremely happy when they walk out of any of these settlement procedures, but I have always considered the settlements as fair.

There are two kinds of settlements, one where everyone walks away happy; that is fine, but that happens rarely. And the other one is where everyone walks away a little unhappy and that is probably usually the case and that is probably fair also.

The Appellate Division has this reputation. In 1965, for example, 91% of the cases that went through the regional appellate division offices—sitting permanently in 40 cities in the United States, but riding-circuit where necessary—were settled to the satisfaction of the taxpayer and the government. Six per cent were disposed of by default. The taxpayer appealed to the Appellate Division and then for some reason or other, never showed up, and 3% went to litigation—726 cases in the whole United States.

The taxpayers are not inhibited. If the taxpayer feels aggrieved for a very nominal price he can docket with the tax court, he can be heard pro se and in fact about a third of the tax court dockets are pro se taxpayers, filed by himself, represented by himself, where he has a judge, where he has a right to a hearing, where the judge gives him the benefit of every doubt. That is about standard.

We have about 700 cases litigated in the U.S. Tax Court every year and about another 500 in the Federal District Courts around the country—less than half the litigation of West Germany. This system works amazingly well. So something is working.

The cases we are talking about are not the easy cases. The cases that were involved in the Appellate Division represent one and one-half per cent of the total cases examined in a given year, but they represent 50% of the deficiencies asserted in a given year, and yet 90% are settled to the satisfaction of both sides.

This high record, I think, reduces the potential disputes and with our new techniques and communications—by use of automatic data processing equipment, by the use of electronic retrieval systems—we are able to keep our field people in the Appellate Division, and in the regional counsels' offices informed of the kind of decisions that are occurring all over the country so they can dispense justice in Chicago in the same way that our Appellate Division in Boston or in Miami or in San Francisco is working.

Settlement, while it is important in the over-all administration, basically cannot be at the expense of fairness or taxpayers will lose confidence in the system. So we have this basic system, this mechanized system, really, which is both informal and accessible. We, and I think the taxpayer,—giving due deference to the bar and the accounting profession, all of us professionals on both sides—have a strong desire to reach the proper result at the earliest possible moment, at the least possible cost to the taxpayer, who, after all, as a partner of mine used to say, "Has the most expensive seat in the house."

We have sought to put no barriers in anyone's way but I think there are changes that can be made. We can have a better system and I, for one, would never believe that we had the perfect tax system. If we had a perfect tax system today, it would not be perfect tomorrow. This is a rather dynamic, changing world we live in and one must constantly adapt one's self to new and changing conditions.

But if you think about it, we have a pretty good system. We have a will to make it work, and I think with the cooperation of the professional groups of lawyers and accountants, we can continue to make this the strongest system in the world, the most workable, really, the envy of the rest of the world. We have had people visit my office from just about every nation in the world to find out what makes it work. I think that it is this basic confidence and integrity. I have confidence in your integrity as taxpayers and you have confidence in mine and that is why it works.

WILLIAM C. CAPES,
PUBLIC ACCOUNTANT.
San Mateo, Calif., July 31, 1967.

Mr. SHELDON S. COHEN,
Commissioner of Internal Revenue,
Washington, D.C.

DEAR MR. COHEN: I have, in the past, prided myself as a Reader's Digest subscriber. After the August issue I don't know. How the editors could have passed such an infamous article on the Revenue Service is hard to understand.

I am sure accountants thruout the country share disgust with such a perverted article.

My sympathy to you and your staff.

Yours very truly,

W. C. CAPES.

WESTCHESTER TRAVEL BUREAU,
White Plains, N.Y., August 2, 1967.

DISTRICT DIRECTOR OF INTERNAL REVENUE,
New York, N.Y.
(Attention Mr. Edward Fitzgerald.)

DEAR MR. FITZGERALD: So much has been said and written about the unethical methods used by Interal Revenue Service to secure tax information, especially the article in the current issue of "Reader's Digest", that I thought it might be nice to take a few minutes to describe my own experience, even though my pocketbook is depleted by something over $10,000.

I established this business in 1925 and paid my taxes without any discrepancy. In May 1964 I sold the business to National Bank of Westchester, but was retained as manager. I bought it back again Sept. 1966. This caused involved transactions between the bank and myself.

In April of this year I received a notice from one of your field agents in White Plains—Donald Ferrara of Group #305 that he had been assigned to examine my tax records for 1965. I live in Dobbs Ferry but the records are all kept here. The appointment was made and he spent many days during a period of three months in going through all the records of myself and the bank. He decided to audit the returns of 1966 as well as 1965. He showed every consideration and did not interrupt our business. Subsequently I received a notice that a tax deficiency for 1965 and 1966 is in excess of $10,000 which I will try to liquidate, as it is an honest debt.

Mr. Ferrara left the impression that the I.R.S. does not use Gestapo methods, but is only doing it's duty under the law and if more of his type got around to more people, I am certain the public at large would change it's opinion of I.R.S.

Cordially,

THOS. P. OUSSANI,

August 4, 1967.

THE READER'S DIGEST,
Pleasantville, N.Y.

GENTLEMEN: The article "Tyranny in the Internal Revenue Service" by John Barron in your August issue, in my opinion is grossly unfair to the Internal Revenue Service, is very detrimental to the public interest, lowers the prestige and value of your publication, and I was very surprised indeed to read it as a subscriber.

It is generally known that many small businesses, professional people, and individuals, keep no proper records from which their returns can be verified, and that resort must be had to extraneous information such as bank statements and cancelled checks showing deposits, purchases and expenditures, making verification by an agent a very difficult task especially if the taxpayer should be uncooperative.

Also it is well known that statutory notices must be given a taxpayer before an assessment can be made, and that he may have review within the Internal Revenue Service and by the U.S. Tax Court before such an assessment, and of course property cannot be seized without assessment.

The article deals very superficially with a few cases in which taxpayers have had trouble, and who would be naturally hostile; and it is written from their standpoint. I am satisfied that if the cases were gone into fully and fairly it would be revealed that important facts have been omitted and that the facts or inormation presented are so distorted and exaggerated as to make the article untrue.

I have been practicing law for many years but have never experienced any such treatment as the article charges has been suffered by so many taxpayers. The statement that the agents are pressured to find additional taxes regardless of the merits is certainly incorrect. I think a better way to put it would be that they are pushed to complete examination of as many returns as possible.

Very truly yours,

ALBERT A. JONES, *Attorney.*

JULY 31, 1967.

TO THE EDITOR
Reader's Digest Association, Inc.
Pleasantville, N.Y.

DEAR SIR: In all history the tax collector was regarded as the common enemy of men and our IRS is no exception. But criticism and condemnation can go beyond reasonable limits as I think they did in your August issue. Mr. Barron's examples appear to be loosely thrown together and I think I have cause to wonder because of my own experience. My personal and business returns have been examined by a lot of agents over 45 years and I have never had an experience that even remotely approaches the incidents he reveals.

I am no more, and no less, honest than any other taxpayer. I never hesitate to resolve borderline cases in my own favor and when the agent disagrees I always had the choice of a hearing. I have examinations that resulted in "No Change" and I have always had a courteous letter telling me so.

Mr. Barron leaves me the choice of believing that the agents have become a gang of unbridled marauders, or that the IRS has become a Mafia with the "burn, baby, burn," spirit. I reject both. I reject the notion that these examples are typical, and urge the opinion that some facts are missing.

I reject the notion that any supervisor or district director would tolerate such procedure.

Very truly yours,

CHARLES B. SACKETT.

EL PASO, TEX.

CHIEF, BUREAU OF INTERNAL REVENUE,
Washington, D.C.

Notwithstanding the article which appeared in the Reader's Digest for the month of August during my annual audit of my income tax return I found Mr. Charles Coffman and Mr. Richard Crandall of the El Paso office most cooperative intelligent and thorough. Please express my appreciation to both of them.

COL. WILLIAM A. STRICKLAND, Jr., *Retired.*

NASHVILLE, TENN., *August 1, 1967.*

MR. SHELDON COHEN,
Commissioner of Internal Revenue,
Washington, D.C.

DEAR MR. COHEN: I assume in your busy life that you will never personally see this letter but I hope that it is placed in the stack of papers which praise the examiners for the Internal Revenue Service.

I recently read the article in the August issue of the Readers' Digest and I am hopeful that those who have been treated as I was treated when my income tax was examined will write you as a rebuttal to the information which this article contained.

I am not sure of the dates but I think in 1953 and 1954 my tax return was examined and I could not have been treated better than by Mr. Fritz Gottfried, one of your local examiners. At that time, I was General Agent and my Company reported my income and my cashier also reported my income which made it appear that I had earned twice as much as I reported.

I would say that Mr. Gottfried and Mr. Nicholas Taylor who worked over him were very kind and gentle when an explanation was given.

In 1954 I believe was the date, Mr. Ben Mabry from your local office here in Nashville came to my office to go over my return with me. I remember very well that he put me completely at ease by telling me that he had found nothing wrong with the return. He checked my books carefully and came to the conclusion that the Government owed me about $25.00 and I told him to just forget it.

I have served on the Federal Jury and I know for a fact that the Internal Revenue Service as far as my experience, go out of their way to give the tax-payer the benefit of every doubt as long as they believe that the tax-payer is honest. Neither of the above men knew me personally, but actually it seemed to me that a personal friend could not have treated me nicer.

With kindest regards, I am

Most sincerely yours,

HERSCHELL EMERY.

JOHN J. DANNIN AND JOSEPH A. DANNIN,
LICENSED PUBLIC ACCOUNTANTS,
Newport, R.I., August 7, 1967.

Commissioner SHELDON COHEN,
Internal Revenue Service,
Washington, D.C.

MY DEAR COMMISSIONER COHEN: Enclosed please find a copy of the letter dispatched this date cancelling my subscription to Readers Digest. When a supposedly Responsible publication goes to such lengths as to slander such a hard working organization as yours without getting all the facts it is time we reassessed their integrity and objectivity.

I have had the pleasure of working with IRS men for the past 40 years, and I state unequivacably that never have I received anything but courteous cooperation. Your local officials, and in fact the whole Rhode Island District Office Staff, have assisted me on any and every occasion that I sought help.

Mr. Commissioner, I am certain that these dedicated men in Rhode Island are truly representative of your whole organization; and I wish there were some way that I, and my fellow tax accountants and lawyers, could bring to the attention of the whole country, how deeply we resent the shadow cast on these honorable men such as District Director John O'Brien. Revenue Agent in charge, Newport, Jack M. Martin; and Revenue Officer Edward Leary; to name those with whom we are in almost daily communication.

I am deeply moved by this terrible, terrible injustice and as a citizen, I apologize for my fellow citizen, who has maligned you and your men. I take this as a personal insult just as though one of my own family had been maligned.

With Deep Respect, I am

JOHN J. DANNIN.

P.S.—I can't close without mentioning the fact that last year I had the pleasure of meeting Regional Commissioner All's wife along with the wives of a number of the North Atlantic Region's Asst. Commissioners and District Directors. The occasion was a day trip for the wives while their husbands were attending a Regional Conference somewhere in Connecticut. I was pleased to accompany the group on their visit to our own Touro Synagogue, A National Shrine, and to present them to Rabbi Lewis.

The enthusiasm the women had for Newport rivaled that of Presidents Eisenhower and Kennedy who spent many "Working Vacations" in our city.

Our Chamber of Commerce has written Commissioner All inviting him to schedule this year's seminar in Newport in October, and should Mr. All see fit to accept the city's invitation I hope that it is possible for you to use this occasion to make your first to Rhode Island.

I am enclosing a brochure of Touro Synagogue which I am sure you will enjoy as an addition to your library.

JOHN J. DANNIN AND JOSEPH A. DANNIN,
LICENSED PUBLIC ACCOUNTANTS,
Newport, R.I., August 7, 1967.

EDITOR-READER'S DIGEST,
Pleasantville, N.Y.:

Your outrageous maligning of our Country's hardest working Administrative Agency has done irreparable damage to what is recognized world over as the finest tax collecting body in world history.

I have reference to your article "Tyranny in the Internal Revenue Service", August 1967 edition.

I have been working as a Public Accountant in Newport, R. I. for more than forty years. During this period of time I have represented clients in thousands of audits with Deputy Collectors, Revenue Officers and Internal Revenue Agents (at least 100 different individuals) and never have I found any suggestions of the abuses your articles treats as though they were everyday events. I can understand that individuals have abused their power in some instances; but for your magazine to indict the whole IRS is irresponsible reporting and downright shameful.

These men who represent the IRS are real professionals, and I have found them to be competent, able to exercise their independent judgment, impartial, and their very integrity bespeaks their loyalty and objectivity. I was particularly incensed by the reference made to "tax payer being an adversary" at no time have I been placed in position where I felt that my client was not getting

the same consideration he was entitled to under the law as the government was.

The local office in Newport and the Director's office in Providence, have always maintained our "Open Door" policy when we accountants or lawyers found ourselves confounded by a particular vexing tax problem, and have had to look for assistance in interpretation or procedure.

I am not alone in my deep respect for the Internal Revenue Service, and the individuals who strive so hard to give full meaning to the word "service". About the middle of June it was learned that John J. O'Brien, who had been appointed District Director for Rhode Island in May, was to make his official visit to Newport. The Newport County Bar Association, Certified Public Accountants, Newport County Public Accountants Society and representatives of the banking institutions tax departments joined together to form a committee to arrange an appropriate welcome. Under the co-chairmanship of President of the Newport County Bar Association and myself, representing the Accountants, a luncheon at our leading hotel, which was attended by more than one hundred lawyers, accountants and bank officials, was a tremendous success in bringing together the people you claim erroneously to be adversaries.

The District Director met each of us individually, and later from the podium spelled out in very definite terms what the goals of the Service were, and how he expected to attain them in this District. He was not shy in pointing out our obligations as practitioners; and the high quality of work he expected of us. The luncheon was deemed a great success by all who attended (90% of Newport lawyers and accountants, who were available attended), and all were in agreement that they would be able to work *with* such a high type individual.

To give tangible evidence of the esteem in which the Internal Revenue Service is held in Newport, and in appreciation of the *Service* rendered our community and its citizens, the mayor and the City Council passed a resolution proclaiming June 30, 1967 to be known as "Internal Revenue Day". Mayor Shea presented the original resolution, appropriately formed to Director O'Brien at the luncheon.

Since serving as Co-chairman of the welcoming committee, I have received comments from fellow practioners and taxpayers from all over the Eastern seaboard that commended our cooperation; and not a few noted that "Internal Revenue Day" was certainly a first in the nation. I hope through my contacts with professional and fraternal societies to encourage other cities and counties in Southern New England to demonstrate that the IRS is not considered to be the monster you depict; but truly a friend.

Please cancel my subscription. I am ashamed for you.

JOHN DANNIN.

LIMESTONE COUNTY COURT,
Athens, Ala., August 8, 1967.

COMMISSIONER OF INTERNAL REVENUE,
Washington, D.C.

DEAR SIR: The recent article in the "Readers Digest" purporting that many in the Department of Internal Revenue are Devils, makes me want to give even the "Devil" his dues.

My dealings with the Internal Revenue Service have always been most pleasant and, if anything, helpful; frankly, my only contacts have been mainly when I would wish information from the source or "Fountain of Wisdom" about some tax matter that I was unfamiliar with and I would always get a prompt reply, usually giving me sound and often tax-saving advice.

On July 4, 1965 my father died, leaving an estate subject to estate tax. I had never prepared such and knew nothing about such, and when I wrote to the Internal Revenue Office in Birmingham I received much helpful advice from a gentleman in that office, Mr. Arthur F. Lovell, Jr., who seemed to go out of his way to help me in this unknown field and even to save the estate money.

After the estate return was filed, in due course an Estate Tax Examiner from the Birmingham office, Mr. Irving W. Buchalter, came to Athens to contact me about the return, details, valuations, etc., and I could not have had dealings with a more pleasant, efficient and conscientious person.

True, he made me pay about $250.00 more tax, and he was correct in such, but he also called to my attention that I had paid the estate tax which amounted to about $18,500.00, in cash, whereas I could have paid it with U.S. 2½% Treasury Bonds of 1967–72 at par value (they were selling at only a little over 88¢ on the dollar on the open market) and he helped me prepare a petition to the Treasury Department to redeem the amount of bonds equal to the tax at par and in turn be

reimbursed by the Internal Revenue Service after the Treasury Department remitted to them, which gave the estate back several times the additional tax he had us pay. I told several attorneys here about this, and without exception they stated their dealings with representatives of the Internal Revenue Service had been courteous and pleasant.

Therefore, while the few "Devils" in the Internal Revenue Service are "catching Hell", let me say these words of praise about these two "Saints" in the Service! I hope that you promote each of them to Top Sergeant.

With all good wishes,

Cordially,

D. L. ROSENAU, Jr.

Mr. STEED. Mr. Commissioner, in conclusion I would like to say that personally I have enjoyed the many years that I have had the opportunity to be associated with the Internal Revenue Service and especially with you and your current staff. I have had many opportunities to know your employees out in the field, through their organizations and as individuals, and I have always found them to be people I was happy to know and people I admired for their dedication to their public service and to their jobs. I have had occasion to see at the very grassroots, so to speak, your employees in action, and I rub elbows all the time with people who pay taxes and do business with them. I agree with you there is more to be surprised about in the great volume of honesty and integrity and good service that exists rather than to be alarmed about the very small number of things that do happen when human beings are involved but which have nothing to do with intent or aims or policies. I want you to know that in nowise does this article inveigh against the high opinion I have of you and the Service. I have been concerned, though, about the way in which it was written, and since I have had some experience in writing myself, and because of my training, I think I know a little bit about the art of innuendo and propaganda. I am more impressed by the artistry that went into this article than I am with the facts. I can see where it could very unjustly cause a great deal of unfair trouble both in the functions of your important agency and the way the people themselves react.

To me the overshadowing cloud here is that motives have been under attack, either by direct charge or innuendo. To use the word "tyranny" is a very serious thing. I would have to say that this, by any standard, is a very severe and I might say deliberate effort, at least by innuendo, to create an inference that facts do not justify. And since your motives have been thus put under attack, I think the integrity of the publication itself and of those who prepared the article might be looked into by the same standard.

Since this magazine is a business corporation and I presume at some stage has to live up to its tax responsibilities, and since the author of the article is paid and has his tax responsibilities, is there any information you could give us that would bear on the reason why such an article has been written—whether it is just a legitimate effort to bring facts to the attention of the public, or whether there might be grounds to question their motives?

Mr. COHEN. As the chairman knows, the Revenue Code forbids us to discuss the tax affairs of any individual or corporation, and therefore whatever knowledge we might have of the tax affairs of these people is not relevant, in my opinion. I won't say there is or I won't say there isn't a motive, but the sexy stories sell magazines or newspapers. If you write something nice about the Internal Revenue

Service you can't advertise it by sending press releases, which obviously were sent to every radio and television station as well as to Members of Congress and to newspapers, because reporters have shown them to me. We were surprised at the peppering of self-adulation that occurred here, but that is the publication's right.

The Government should be open to criticism, hopefully to constructive criticism. Our job is to be sensitive enough to recognize that which is valid and that which is not. I hope our employees are sensitive to the fact that the American taxpayer has done a magnificent job and deserves a fair shake, and from my point of view I have been proud to be the Commissioner of the Internal Revenue Service because our agents have been sensitive, when they find a mistake has been made, in finding a way to correct it if at all possible. They are sensitive to the problems of the taxpayer and if they make a mistake they do the best they can to correct it.

Mr. STEED. Perhaps I can get you to agree with me on this general academic statement. When someone institutes an action, in this case a magazine article, which raises a question about the motives of someone, is it not fair that in return people who read the article might have a question about the motive of the person who writes it in the first place?

Mr. COHEN. I don't know that I had better answer that, Mr. Chairman. I have never met Mr. Barron.

Mr. STEED. Does it not generate a reaction of that sort?

Mr. COHEN. Some people might think that but I prefer not to question their motives. I think the motive is to sell magazines.

Mr. STEED. But when it impinges on a function of Government I think it concerns us.

Mr. COHEN. I think the people in the press have a duty to the public to take into account what effect it might have. When you are dealing with the confidence the American people have in their tax system, one ought to be very careful that one make just criticism. This is the only thing I can criticize in this respect. I think the criticism is overdrawn.

Mr. STEED. In the case of the Senate committee where a relentless effort was made to get at the facts about charges against the Internal Revenue Service, Senator Long and others, as the facts unfolded, were not hesitant to pay compliments to the Service.

Mr. COHEN. They do compliment us and they criticize where they question our actions, which is their right.

Mr. STEED. Any questions, Mr. Passman?

Mr. PASSMAN. I am afraid my defense is better than yours. I either represent the best people or you have the best agents in my congressional district or both. This is more than criticism: "Today, evidence from all over the country discloses that the IRS has bullied, degraded and crushed innocent citizens in the name of collecting taxes."

That is not criticism, that is a very derogatory charge, and I admire you very much for taking this and not going further than you have in defense of your agency. This is a rather serious indictment so far as I am personally concerned. As a matter of fact, were it not for the reputation of the Reader's Digest and this author, one might think they had an ax to grind stemming from their own tax difficulties. I have nothing to gain and certainly nothing to lose, and if the oppor-

tunity presents itself I will have excerpts made from this hearing, but I have nothing but praise for the way you operate.

Mr. COHEN. Thank you.

Mr. STEED. One other point before we conclude. In the area of an individual taxpayer's resentment or displeasure with your actions, there inevitably comes this situation where an individual, for reasons best known to himself, brings to you a complaint that someone else is not playing fair with the Government. They make charges and even may provide you with some material evidence that somebody is trying to beat his taxes. Now, when you get such information—and knowing the American people as I do I am sure you do get some—would you be derelict in your duty if you ignored it?

Mr. COHEN. It is absolutely necessary that any law-enforcement agency that receives information about a violation of the law investigate it. We are sensitive, of course, to the fact that all information one receives is not accurate, and therefore we have skilled people review any material that we might receive in such a way to determine whether or not there is any reasonable basis for such an accusation. If there is a reasonable basis for such an accusation after a preliminary investigation that does not involve going outside, hopefully, the secrecy problem, then we have to investigate it.

Mr. STEED. Because this in individual instances can be a source of irritation to some of the victims.

Mr. COHEN. I suspect that is true. If you happen to be the fellow investigated because you apparently have made an error or committed a violation of one sort or another, you get irritated if somebody comes after you, to say the least.

Mr. STEED. Mr. Commissioner, there is another thing that I would like to have you make whatever comment you feel that you can on. This is this matter of campaign contributions, testimonial dinners, this sort of thing. That poses some problems. What is the current attitude of the IRS in regard to this sort of thing?

Mr. COHEN. There are published revenue rulings which indicate that campaign contributions received as such will not be included in the income of the recipient, but should there be any diversion of those campaign contributions from strict political purposes to personal purposes, then income will result.

There are two circuit court cases, *O'Dwyer* and *Jett*. We can get you the citations for the two cases which sustain that position. I think it is fair to say that our presumption is that any gift given to a political figure as a political figure is presumed to be for political purposes unless it can be shown clearly otherwise.

(The citations referred to follow:)

O'Dwyer v. *Commissioner;* 28 T.C. 698 (1957) aff'd 266 Fed (2d) 575 (C.A. 1959) cert. den. 361 U.S. 862.

U.S. v. *Leslie E. Jett;* 352 F. 2d 179 (CA 6, 1965) affirming an unreported district court opinion.

Mr. STEED. Would that include the receipts from a testimonial dinner?

Mr. COHEN. I do not want to get into a discussion of that particular problem since there is a particular case involved. I do not want to prejudge anything.

Mr. STEED. Commissioner, on behalf of the committee I want to express our real and deep appreciation to you and your colleagues for coming here today and providing us this information.

We appreciate the candid and complete way you have responded to the questions and the information that you have made available. We hope that out of this will come some clarification of the facts in the minds of the people who are interested, both in and out of the Government.

The probable bad result from such an attack made on the Service has been minimized, we hope. We think that you are doing a good job and will continue to do so and assure you that this committee will continue to cooperate with you.

Mr. COHEN. Thank you very much, sir.

Mr. STEED. The committee stands recessed.

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