

Y 4
. P 84/10

1022

93-8
P84/10
7/1/86

93-8

NEGOTIATING EQUALITY FOR POSTAL EMPLOYEES AND UNIFORMITY IN LABOR RELATIONS

GOVERNMENT

Storage

DOCUMENTS

THE
KANSAS S

45544 00911Y
A11600 73564

HEARINGS BEFORE THE SUBCOMMITTEE ON L FACILITIES, MAIL, AND LABOR MANAGEMENT OF THE COMMITTEE ON OFFICE AND CIVIL SERVICE HOUSE OF REPRESENTATIVES NINETY-THIRD CONGRESS

FIRST SESSION
ON

H.R. 1282 and H.R. 5312

BILLS TO GIVE POSTAL EMPLOYEES THE RIGHT TO STRIKE
AND THE RIGHT TO NEGOTIATE A UNION SHOP

APRIL 9, 10, 11, 17, 1973

Serial No. 93-8

Printed for the use of the
Committee on Post Office and Civil Service



COMMITTEE ON POST OFFICE AND CIVIL SERVICE

THADDEUS J. DULSKI, New York, *Chairman*

DAVID N. HENDERSON, North Carolina, *Vice Chairman*

MORRIS K. UDALL, Arizona	H. R. GROSS, Iowa
DOMINICK V. DANIELS, New Jersey	EDWARD J. DERWINSKI, Illinois
ROBERT N. C. NIX, Pennsylvania	ALBERT W. JOHNSON, Pennsylvania
JAMES M. HANLEY, New York	LAWRENCE J. HOGAN, Maryland
CHARLES H. WILSON, California	JOHN H. ROUSSELOT, California
JEROME R. WALDIE, California	ELWOOD HILLIS, Indiana
RICHARD C. WHITE, Texas	WALTER E. POWELL, Ohio
WILLIAM D. FORD, Michigan	RICHARD W. MALLARY, Vermont
FRANK J. BRASCO, New York	ANDREW J. HINSHAW, California
WILLIAM (BILL) CLAY, Missouri	L. A. (SKIP) BAFALIS, Florida
PATRICIA SCHROEDER, Colorado	
JOHN JOSEPH MOAKLEY, Massachusetts	
WILLIAM LEHMAN, Florida	

JOHN H. MARTINY, *Chief Counsel*

VICTOR C. SMIROLODO, *Staff Director and Counsel*

WILLIAM A. IRVINE, *Assistant Staff Director*

THEODORE J. KAZY, *Senior Staff Assistant*

ROBERT E. LOCKHART, *Assistant Counsel*

ROY C. MESKER, *Staff Assistant*

FRANCIS C. FORTUNE, *Coordinator*

RALPH J. DEVLIN, *Staff Assistant*

SUBCOMMITTEE ON POSTAL FACILITIES, MAIL, AND LABOR MANAGEMENT

CHARLES H. WILSON, California, *Chairman*

ROBERT N. C. NIX, Pennsylvania	ELWOOD HILLIS, Indiana
JEROME R. WALDIE, California	JOHN H. ROUSSELOT, California
WILLIAM (BILL) CLAY, Missouri	WALTER E. POWELL, Ohio
PATRICIA SCHROEDER, Colorado	

Ex Officio Voting Members

THADDEUS J. DULSKI, New York

H. R. GROSS, Iowa

GEORGE B. GOULD, *Staff Assistant*, Room 122, Cannon Building—Ext. 53718

(II)

CONTENTS

	Page
Hearing held on—	
Monday, April 9, 1973.....	1
Tuesday, April 10, 1973.....	29
Wednesday, April 11, 1973.....	73
Tuesday, April 17, 1973.....	127
Testimony of—	
Adams, Melvin W., assistant director, Department of Public Affairs and Religious Liberty of the Seventh-day Adventist Church, accompanied by James J. Aitken, representative of the General Conference of Seventh-Day Adventists to the United Nations and U.S. Congress.....	29
Filbey, Francis S., general president, American Postal Workers Union, accompanied by Patrick J. Nilan, legislative director, David Silvergleid, executive president; Edward L. Bowley, legislative aide; and John Black, counsel.....	74
Klassen, Hon. Elmer T., Postmaster General, U.S. Postal Service, accompanied by Darrell F. Brown, Senior Assistant Postmaster General, Employee and Labor Relations; Louis Cox, General Counsel; and E. V. Dorsey, Regional Postmaster General, New York Region.....	2
La Penta, James J. Jr., representing the National Association of Post Office Mail Handlers, Watchmen, Messengers, and Group Leaders, affiliated with the Laborers' International Union of North America, AFL-CIO.....	146
Larson Reed, executive vice president, National Right To Work Committee.....	52
Rademacher, James, president, National Association of Letter Carriers, accompanied by J. Stanly Lewis, executive vice president and legislative director; Joseph H. Johnson, national business agent; and Austin B. Carlson, national secretary-treasurer.....	96
White, Robert L., national president, National Alliance of Postal and Federal Employees, accompanied by John W. White, legislative aide; and James B. Cobb, president emeritus.....	128
Statements and letters submitted—	
Beirne, Joseph A., president, Communications Workers of America, letter dated May 7, 1973, with enclosed statement.....	167
Davis, Hilton, general manager of legislative division, Chamber of Commerce of the United States, letter dated April 30, 1973.....	162
Elder, Harmon L., Washington representative of the Southern States Industrial Council.....	161
Lev, Edward R., letter dated March 27, 1973.....	157
McArdle, Walter F., president, the Metropolitan Washington Board of Trade.....	163
McCart, John A., operations director, Government Employees Council, AFL-CIO.....	164
Rademacher, James H., president, National Association of Letter Carriers, letter dated April 18, 1973.....	123
United Steelworkers of America and Coordinating Committee Steel Companies, pertaining to their proposed system of arbitration.....	169

CONTENTS

127	Thursday, April 27, 1972
128	Wednesday, April 26, 1972
129	Tuesday, April 25, 1972
130	Monday, April 24, 1972
131	Sunday, April 23, 1972
132	Saturday, April 22, 1972
133	Friday, April 21, 1972
134	Thursday, April 20, 1972
135	Wednesday, April 19, 1972
136	Tuesday, April 18, 1972
137	Monday, April 17, 1972
138	Sunday, April 16, 1972
139	Saturday, April 15, 1972
140	Friday, April 14, 1972
141	Thursday, April 13, 1972
142	Wednesday, April 12, 1972
143	Tuesday, April 11, 1972
144	Monday, April 10, 1972
145	Sunday, April 9, 1972
146	Saturday, April 8, 1972
147	Friday, April 7, 1972
148	Thursday, April 6, 1972
149	Wednesday, April 5, 1972
150	Tuesday, April 4, 1972
151	Monday, April 3, 1972
152	Sunday, April 2, 1972
153	Saturday, April 1, 1972
154	Friday, March 31, 1972
155	Thursday, March 30, 1972
156	Wednesday, March 29, 1972
157	Tuesday, March 28, 1972
158	Monday, March 27, 1972
159	Sunday, March 26, 1972
160	Saturday, March 25, 1972
161	Friday, March 24, 1972
162	Thursday, March 23, 1972
163	Wednesday, March 22, 1972
164	Tuesday, March 21, 1972
165	Monday, March 20, 1972
166	Sunday, March 19, 1972
167	Saturday, March 18, 1972
168	Friday, March 17, 1972
169	Thursday, March 16, 1972
170	Wednesday, March 15, 1972
171	Tuesday, March 14, 1972
172	Monday, March 13, 1972
173	Sunday, March 12, 1972
174	Saturday, March 11, 1972
175	Friday, March 10, 1972
176	Thursday, March 9, 1972
177	Wednesday, March 8, 1972
178	Tuesday, March 7, 1972
179	Monday, March 6, 1972
180	Sunday, March 5, 1972
181	Saturday, March 4, 1972
182	Friday, March 3, 1972
183	Thursday, March 2, 1972
184	Wednesday, March 1, 1972
185	Tuesday, February 28, 1972
186	Monday, February 27, 1972
187	Sunday, February 26, 1972
188	Saturday, February 25, 1972
189	Friday, February 24, 1972
190	Thursday, February 23, 1972
191	Wednesday, February 22, 1972
192	Tuesday, February 21, 1972
193	Monday, February 20, 1972
194	Sunday, February 19, 1972
195	Saturday, February 18, 1972
196	Friday, February 17, 1972
197	Thursday, February 16, 1972
198	Wednesday, February 15, 1972
199	Tuesday, February 14, 1972
200	Monday, February 13, 1972
201	Sunday, February 12, 1972
202	Saturday, February 11, 1972
203	Friday, February 10, 1972
204	Thursday, February 9, 1972
205	Wednesday, February 8, 1972
206	Tuesday, February 7, 1972
207	Monday, February 6, 1972
208	Sunday, February 5, 1972
209	Saturday, February 4, 1972
210	Friday, February 3, 1972
211	Thursday, February 2, 1972
212	Wednesday, February 1, 1972
213	Tuesday, January 31, 1972
214	Monday, January 30, 1972
215	Sunday, January 29, 1972
216	Saturday, January 28, 1972
217	Friday, January 27, 1972
218	Thursday, January 26, 1972
219	Wednesday, January 25, 1972
220	Tuesday, January 24, 1972
221	Monday, January 23, 1972
222	Sunday, January 22, 1972
223	Saturday, January 21, 1972
224	Friday, January 20, 1972
225	Thursday, January 19, 1972
226	Wednesday, January 18, 1972
227	Tuesday, January 17, 1972
228	Monday, January 16, 1972
229	Sunday, January 15, 1972
230	Saturday, January 14, 1972
231	Friday, January 13, 1972
232	Thursday, January 12, 1972
233	Wednesday, January 11, 1972
234	Tuesday, January 10, 1972
235	Monday, January 9, 1972
236	Sunday, January 8, 1972
237	Saturday, January 7, 1972
238	Friday, January 6, 1972
239	Thursday, January 5, 1972
240	Wednesday, January 4, 1972
241	Tuesday, January 3, 1972
242	Monday, January 2, 1972
243	Sunday, January 1, 1972
244	Saturday, December 31, 1971
245	Friday, December 30, 1971
246	Thursday, December 29, 1971
247	Wednesday, December 28, 1971
248	Tuesday, December 27, 1971
249	Monday, December 26, 1971
250	Sunday, December 25, 1971
251	Saturday, December 24, 1971
252	Friday, December 23, 1971
253	Thursday, December 22, 1971
254	Wednesday, December 21, 1971
255	Tuesday, December 20, 1971
256	Monday, December 19, 1971
257	Sunday, December 18, 1971
258	Saturday, December 17, 1971
259	Friday, December 16, 1971
260	Thursday, December 15, 1971
261	Wednesday, December 14, 1971
262	Tuesday, December 13, 1971
263	Monday, December 12, 1971
264	Sunday, December 11, 1971
265	Saturday, December 10, 1971
266	Friday, December 9, 1971
267	Thursday, December 8, 1971
268	Wednesday, December 7, 1971
269	Tuesday, December 6, 1971
270	Monday, December 5, 1971
271	Sunday, December 4, 1971
272	Saturday, December 3, 1971
273	Friday, December 2, 1971
274	Thursday, December 1, 1971
275	Wednesday, November 30, 1971
276	Tuesday, November 29, 1971
277	Monday, November 28, 1971
278	Sunday, November 27, 1971
279	Saturday, November 26, 1971
280	Friday, November 25, 1971
281	Thursday, November 24, 1971
282	Wednesday, November 23, 1971
283	Tuesday, November 22, 1971
284	Monday, November 21, 1971
285	Sunday, November 20, 1971
286	Saturday, November 19, 1971
287	Friday, November 18, 1971
288	Thursday, November 17, 1971
289	Wednesday, November 16, 1971
290	Tuesday, November 15, 1971
291	Monday, November 14, 1971
292	Sunday, November 13, 1971
293	Saturday, November 12, 1971
294	Friday, November 11, 1971
295	Thursday, November 10, 1971
296	Wednesday, November 9, 1971
297	Tuesday, November 8, 1971
298	Monday, November 7, 1971
299	Sunday, November 6, 1971
300	Saturday, November 5, 1971
301	Friday, November 4, 1971
302	Thursday, November 3, 1971
303	Wednesday, November 2, 1971
304	Tuesday, November 1, 1971
305	Monday, October 31, 1971
306	Sunday, October 30, 1971
307	Saturday, October 29, 1971
308	Friday, October 28, 1971
309	Thursday, October 27, 1971
310	Wednesday, October 26, 1971
311	Tuesday, October 25, 1971
312	Monday, October 24, 1971
313	Sunday, October 23, 1971
314	Saturday, October 22, 1971
315	Friday, October 21, 1971
316	Thursday, October 20, 1971
317	Wednesday, October 19, 1971
318	Tuesday, October 18, 1971
319	Monday, October 17, 1971
320	Sunday, October 16, 1971
321	Saturday, October 15, 1971
322	Friday, October 14, 1971
323	Thursday, October 13, 1971
324	Wednesday, October 12, 1971
325	Tuesday, October 11, 1971
326	Monday, October 10, 1971
327	Sunday, October 9, 1971
328	Saturday, October 8, 1971
329	Friday, October 7, 1971
330	Thursday, October 6, 1971
331	Wednesday, October 5, 1971
332	Tuesday, October 4, 1971
333	Monday, October 3, 1971
334	Sunday, October 2, 1971
335	Saturday, October 1, 1971
336	Friday, September 30, 1971
337	Thursday, September 29, 1971
338	Wednesday, September 28, 1971
339	Tuesday, September 27, 1971
340	Monday, September 26, 1971
341	Sunday, September 25, 1971
342	Saturday, September 24, 1971
343	Friday, September 23, 1971
344	Thursday, September 22, 1971
345	Wednesday, September 21, 1971
346	Tuesday, September 20, 1971
347	Monday, September 19, 1971
348	Sunday, September 18, 1971
349	Saturday, September 17, 1971
350	Friday, September 16, 1971
351	Thursday, September 15, 1971
352	Wednesday, September 14, 1971
353	Tuesday, September 13, 1971
354	Monday, September 12, 1971
355	Sunday, September 11, 1971
356	Saturday, September 10, 1971
357	Friday, September 9, 1971
358	Thursday, September 8, 1971
359	Wednesday, September 7, 1971
360	Tuesday, September 6, 1971
361	Monday, September 5, 1971
362	Sunday, September 4, 1971
363	Saturday, September 3, 1971
364	Friday, September 2, 1971
365	Thursday, September 1, 1971
366	Wednesday, August 31, 1971
367	Tuesday, August 30, 1971
368	Monday, August 29, 1971
369	Sunday, August 28, 1971
370	Saturday, August 27, 1971
371	Friday, August 26, 1971
372	Thursday, August 25, 1971
373	Wednesday, August 24, 1971
374	Tuesday, August 23, 1971
375	Monday, August 22, 1971
376	Sunday, August 21, 1971
377	Saturday, August 20, 1971
378	Friday, August 19, 1971
379	Thursday, August 18, 1971
380	Wednesday, August 17, 1971
381	Tuesday, August 16, 1971
382	Monday, August 15, 1971
383	Sunday, August 14, 1971
384	Saturday, August 13, 1971
385	Friday, August 12, 1971
386	Thursday, August 11, 1971
387	Wednesday, August 10, 1971
388	Tuesday, August 9, 1971
389	Monday, August 8, 1971
390	Sunday, August 7, 1971
391	Saturday, August 6, 1971
392	Friday, August 5, 1971
393	Thursday, August 4, 1971
394	Wednesday, August 3, 1971
395	Tuesday, August 2, 1971
396	Monday, August 1, 1971
397	Sunday, July 31, 1971
398	Saturday, July 30, 1971
399	Friday, July 29, 1971
400	Thursday, July 28, 1971
401	Wednesday, July 27, 1971
402	Tuesday, July 26, 1971
403	Monday, July 25, 1971
404	Sunday, July 24, 1971
405	Saturday, July 23, 1971
406	Friday, July 22, 1971
407	Thursday, July 21, 1971
408	Wednesday, July 20, 1971
409	Tuesday, July 19, 1971
410	Monday, July 18, 1971
411	Sunday, July 17, 1971
412	Saturday, July 16, 1971
413	Friday, July 15, 1971
414	Thursday, July 14, 1971
415	Wednesday, July 13, 1971
416	Tuesday, July 12, 1971
417	Monday, July 11, 1971
418	Sunday, July 10, 1971
419	Saturday, July 9, 1971
420	Friday, July 8, 1971
421	Thursday, July 7, 1971
422	Wednesday, July 6, 1971
423	Tuesday, July 5, 1971
424	Monday, July 4, 1971
425	Sunday, July 3, 1971
426	Saturday, July 2, 1971
427	Friday, July 1, 1971
428	Thursday, June 30, 1971
429	Wednesday, June 29, 1971
430	Tuesday, June 28, 1971
431	Monday, June 27, 1971
432	Sunday, June 26, 1971
433	Saturday, June 25, 1971
434	Friday, June 24, 1971
435	Thursday, June 23, 1971
436	Wednesday, June 22, 1971
437	Tuesday, June 21, 1971
438	Monday, June 20, 1971
439	Sunday, June 19, 1971
440	Saturday, June 18, 1971
441	Friday, June 17, 1971
442	Thursday, June 16, 1971
443	Wednesday, June 15, 1971
444	Tuesday, June 14, 1971
445	Monday, June 13, 1971
446	Sunday, June 12, 1971
447	Saturday, June 11, 1971
448	Friday, June 10, 1971
449	Thursday, June 9, 1971
450	Wednesday, June 8, 1971
451	Tuesday, June 7, 1971
452	Monday, June 6, 1971
453	Sunday, June 5, 1971
454	Saturday, June 4, 1971
455	Friday, June 3, 1971
456	Thursday, June 2, 1971
457	Wednesday, June 1, 1971
458	Tuesday, May 31, 1971
459	Monday, May 30, 1971
460	Sunday, May 29, 1971
461	Saturday, May 28, 1971
462	Friday, May 27, 1971
463	Thursday, May 26, 1971
464	Wednesday, May 25, 1971
465	Tuesday, May 24, 1971
466	Monday, May 23, 1971
467	Sunday, May 22, 1971
468	Saturday, May 21, 1971
469	Friday, May 20, 1971
470	Thursday, May 19, 1971
471	Wednesday, May 18, 1971
472	Tuesday, May 17, 1971

NEGOTIATING EQUALITY FOR POSTAL EMPLOYEES AND UNIFORMITY IN LABOR RELATIONS

MONDAY, APRIL 9, 1973

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL FACILITIES,
MAIL, AND LABOR MANAGEMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:45 a.m. in room 210, Cannon Building Hon. Charles H. Wilson (chairman of the subcommittee) presiding.

Mr. WILSON. The meeting of the Subcommittee on Postal Facilities, Mail, and Labor Management will come to order.

Of the 2,650,000 Federal employees, approximately 650,000 or 25 percent are postal employees. This group of postal workers are unique. While they are Federal employees, they work for an independent agency, the United States Postal Service, with which they have a collective bargaining contract, but no right to strike. In other words, postal workers determine their pay and working conditions by collective bargaining but cannot support their demands with the threat of strike. Consequently, they have no means of bringing economic pressure upon their employer.

Because of the controversial nature of this paradox, the subcommittee decided to hold hearings to get the views of concerned groups. In our hearing we will hear from the Postmaster General, the Department of Labor, the National Right to Work Committee, the various postal labor organizations, and other interested parties.

As a supplement to these Washington-based hearings, the subcommittee plans to visit Canada to learn firsthand the Canadian experience with this law that allows postal workers the right to strike.

The main argument against allowing any Government worker the right to strike is that such action disrupts the essential workings of the Government and is, therefore, against the public interest. However, the National Labor Relations Act specifies that when a national emergency is involved, the President has the option of using the Taft-Hartley amendment which sets forth procedures to protect the public interest.

I have introduced legislation, H.R. 1282, providing negotiating equality for postal workers, that would apply the provisions of the Taft-Hartley Act to the postal workers.

Additionally, some of our testimony will deal with another bill I have introduced, H.R. 5312, uniformity in labor relations. The provisions of my bill do not provide that employees must join a

union as a condition of employment. Rather, that in the event the employees chose a union to represent them in a National Labor Relations Board secret ballot election, that the union chosen may then seek to negotiate a union security agreement in collective bargaining with the employer.

In conclusion, while I have sponsored H.R. 1282, the right to strike for postal employees, and H.R. 5312, uniformity in labor relations, my mind is not closed on the subject. The immediate purpose of this legislation is to serve as a focus for our hearings so that the members can hear all sides of the question, whether or not Congress should grant postal employees the right to strike and the right to negotiate for a union shop. After a thorough examination of these issues, this subcommittee will act in a manner that will reflect the best interests of all concerned.

Mr. Klassen, we are very pleased to have you with us today, and realize that I believe you had a meeting of the board of governors last week, where they were to take some official action on this legislation, and we are waiting for that, of course, for your appearance here.

We would like to welcome you to the subcommittee and would like to hear your statement at this time.

STATEMENT OF HON. E. T. KLASSEN, POSTMASTER GENERAL, U.S. POSTAL SERVICE, ACCOMPANIED BY DARRELL F. BROWN, SENIOR ASSISTANT POSTMASTER GENERAL, EMPLOYEE AND LABOR RELATIONS; LOUIS COX, GENERAL COUNSEL, AND E. V. DORSEY, REGIONAL POSTMASTER GENERAL, NEW YORK REGION

Mr. KLASSEN. Mr. Chairman and members of the committee: I am here this morning to testify on two bills, H.R. 1282, and H.R. 5312.

H.R. 1282 is one of several bills that have been introduced in the present Congress to amend the Postal Reorganization Act so as to render those provisions of Federal law that make it unlawful for Federal employees to strike inapplicable to the Postal Service.

The proposed legislation would further amend the Postal Reorganization Act to delete 39 U.S.C. section 1207, which provides for factfinding and binding arbitration to resolve labor disputes.

In 1970, in connection with the legislation that became the Postal Reorganization Act, the House Committee on Post Office and Civil Service stated its reasons for continuing the ban on strikes by postal employees:

Collective bargaining in public employment involves factors that differ importantly from those traditionally found in the private sector. In the private sector, a strike involves an economic contest pitting the stockholders' capacity to forego profits against labor's capacity to forego wages. A strike may impair the ability of the enterprise to compete successfully in the market. In the public sector, the stakes are quite different; a strike would not merely threaten the income of a public enterprise and cause loss of wages to workers, it would also directly imperil the public welfare.

There can be no doubt that a postal strike would have crippling consequences for the public welfare and the national economy. The management and the board of governors of the Postal Service be-

lieve the legislation enacted by the Congress in 1970 as the Postal Reorganization Act should continue in effect as written.

H.R. 5312 would delete 39 U.S.C. section 1209(e) from the Postal Reorganization Act. That section provides:

Each employee of the Postal Service shall have the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right.

We recognize, of course, that there are strongly held convictions on both sides of the issue raised by H.R. 5312. The unions are understandably concerned with their economic security. On the other hand, valid public policy considerations, including a concern over the possibility of mandatory payment of dues as a condition of employment by a part of the Federal Government, caused Congress to enact section 1209(e).

The issue is very much a political issue, not in any partisan sense, but rather in the sense that it involves questions of public policy of a kind that only elected officials may appropriately resolve.

We do not recommend enactment of H.R. 5312. It is possible that future developments in postal labor relations, particularly a stronger commitment to collective bargaining, and a deeper sense of leadership responsibility than have sometimes appeared in the past 2 years could lead us to alter this view. At least for the present, we would not recommend any change in section 1209(e).

That is the end of my prepared statement, sir.

Mr. WILSON. Thank you, Mr. Klassen. That was brief and to the point.

Before I ask questions on the actual legislation before us, I had written a letter, as you will recall, in connection with the situation regarding the Deputy Postmaster General and I want to thank you for your response to my request for information concerning this position.

However, there are a couple of questions which I thought were not answered in your response. I would appreciate it if we could get answers to these two questions.

Are you prepared to answer questions about Mr. Hayden's contract today?

Mr. KLASSEN. About —

Mr. WILSON. The former Deputy Postmaster General, Mr. Hayden?

Mr. KLASSEN. Yes.

Mr. WILSON. Do all of the provisions of Mr. Hayden's contract expire at the end of August 1973?

In your letter you said some agreement replaced the 5-year contract.

Mr. KLASSEN. I can't be specific as to the date, but it is either August or September.

Mr. Cox, do you know the exact date?

Mr. Cox. Yes, sir, the provisions of Mr. Hayden's initial contract with the Postal Service in effect expired in September of 1972. There was an agreement that superseded that initial contract which called for a continuation of payments at a level stated in the con-

tract, as the Postmaster General explained in the letter to you to which you just referred.

Mr. WILSON. The letter says there was a 5-year contract, beginning September 27, 1971.

Now what is this 1972 date?

Mr. COX. I understand, sir, but the provisions of that contract in effect terminated with Mr. Hayden's resignation as Deputy Postmaster General. And that resignation was effective in September 1972.

Mr. WILSON. I see.

Mr. COX. He continues to receive payments until August 1973. Thereafter there are no obligations of any sort with respect to Mr. Hayden.

Mr. WILSON. Is he on the job?

Mr. KLASSEN. No, sir, he resigned from the job.

Mr. WILSON. Has the contract with the former Deputy Postmaster General Hayden prevented you from hiring a new Deputy Postmaster General?

Mr. KLASSEN. No, sir.

Mr. WILSON. Because the law only makes provision for one Deputy Postmaster General at a time.

He is getting \$57,000 while he is not working, is that right?

Mr. COX. Yes, sir, he resigned as Deputy Postmaster General as of late September 1972, and the position has been vacant since that time.

Mr. WILSON. That is better than paying him for 5 years. I think you were fortunate to get that type of agreement rather than having to live up to the total 5-year contract.

Mr. KLASSEN, as you know my bill, H.R. 1282 on the right to strike for postal employees applies the Taft-Hartley provisions of the National Labor Relations Act.

Do you feel this is sufficient protection to the public, or should there be additional safeguards to protect the national interest during a strike?

Specifically I have in mind such procedures as compulsory arbitration, giving the President the authority to prevent a strike for an additional 30 days, allowing the strike to continue but guaranteeing the delivery of certain types of mail, for example social security checks, veterans' checks, or the procedure known as final offer selection.

Mr. KLASSEN. Mr. Chairman, we only had really one experience with our current contract and we think we did quite well. There is credit due to both sides in our efforts to resolve the contract negotiations without necessarily taking the impasse through arbitration.

We think that we should continue with this legislation as it is.

From my point of view, we see no reasons to make any changes in it.

Mr. WILSON. You are talking about the Postal Service Act?

Mr. KLASSEN. The Postal Reorganization Act, yes.

Mr. WILSON. In other words, you are opposed to any right to strike legislation?

Mr. KLASSEN. Yes, sir.

Mr. WILSON. On March 14, I asked you, based on your testimony before the Senate, if you favored legislation giving postal workers

the right to strike and you answered that in having the right to strike the unions would have certain obligations and responsibilities and provided that the legislation contained certain safeguards—I think you mentioned preventing the unions from coming to Congress to supersede the bargaining procedure—you would favor the right to strike.

What I would like to know is what has transpired between your appearance on the 14th of March and your appearance today to force you to change your position?

In other words, your support of postal unions having the right to strike?

Mr. KLASSEN. Mr. Chairman, in the last 6 weeks one point that has been driven home to me with great force is that nothing should stand in the way of delivering the mail.

Both committees, the House and the Senate committees, have said to us, not necessarily in these words, but in effect, that service is the most important thing, and nothing should stand in the way of giving people service.

Now I have made a commitment that there shall be nothing that will stand in the way of our giving service.

We are making some improvements in our service performance. And I feel that in taking that position it would be wrong for us to then say that we are going to give you good service except when the union goes on strike.

I have changed my view on this thing. I realize that it is a good question for you to ask, but I also must say to you that in dealing with the private sector, here we are testing the strength of groups of people in a company context which necessarily does not have the same impact or effect that a postal strike would have.

And I have given reconsideration to this point of view. And I must also say I have never given an unqualified position that I thought they should have the right to strike. I think if we are going to give the kind of service we are committing ourselves to give, the kind of service we are gearing ourselves to provide, that we should not endorse the right to strike.

Mr. WILSON. Now isn't it true that your predecessor, Postmaster General Blount of the Nixon administration, supported the inclusion of the right of postal unions to negotiate a union shop in the Postal Reorganization Act?

This was in the original act that was presented to us, if you will recall. And like your position on the right to strike, isn't this a change from previous policy for the U.S. Postal Service management?

Mr. KLASSEN. It is a change. This from our point of view is something that is strictly a matter for elected officials to decide.

I realize your proposal said this would give them an opportunity to negotiate for a union shop. I realize the reason the unions seek union security, to try to strengthen their own security. I have also implied in here that as our relationships improve and get stronger, our position might change.

Mr. WILSON. What is your feeling about the compulsory arbitration? This seems to be a new approach that some other large unions have taken. The steel workers I believe have just negotiated a new

contract which would be based upon compulsory arbitration rather than striking.

How do you feel about this?

Mr. KLASSEN. Well, we viewed those words for our Postal Reorganization Act with some concern. I think it can be made to work. This is an entirely new approach in the private sector, of course. And I realize they have been working on that program for a long time, trying to get both sides to see one point of view. I am sure it is going to be watched with great concern and interest by all of the labor unions.

Mr. WILSON. One thing that I am a little disturbed about, Mr. Klassen, is that I think there should have been a postal rate increase. I would not have liked it anymore than anyone else, but I still feel it is necessary. And I think the responsible thing, last year when this was due, would have been to have a postal rate increase.

I gather from other remarks you made when you were here with us before the joint subcommittee meeting that you felt you could get by without a rate increase and provide the type of service needed and continue your facilities program. And that the only reason you might need a rate raise would be because of the results of any new negotiations with the unions.

Now doesn't this kind of statement make the unions, the postal employees the heavy? When you are through with the negotiations and, if you establish a higher pay schedule are you going to the postal users and say well, we wouldn't have had to raise the rates, but now we are going to have to raise them because of these postal employees?

Mr. KLASSEN. Mr. Chairman, I wish we were in such a position that we had the kind of efficiencies and technology in the Postal Service that if we had a wage increase we could absorb the added costs. You must keep in mind that 85 percent of our total costs are wage-related costs. And if we had a substantial wage increase, we would have little choice, because we are not in a position to absorb a substantial increase in cost.

As to the fact that we have been able to get by for 2 years without any price increase, there is a question of whether or not that was good judgment. At the time we thought it was.

Mr. WILSON. But you will have to have some rate increases after your negotiations though, won't you?

Mr. KLASSEN. Yes, sir.

Mr. WILSON. Mr. Hillis, do you have any questions?

I might say that we are not going to use the 5-minute rule today, because I think we should develop whatever we want in the way of questioning.

Mr. HILLIS. Thank you, Mr. Chairman. I will be brief, because I have to leave shortly.

Mr. Postmaster General, I am happy to receive your statement. I do have a few questions.

First of all, could you give us your assessment of what a postal strike might mean in the country today, if you were faced with this negotiation? What would be the impact in your opinion of a postal strike on the economy and on our society?

Mr. KLASSEN. That is fairly hard to evaluate. After all, there are a great many people in business, in particular, who depend upon the mails for their cash flow. A great many financial institutions would be affected if the mail service stopped.

I think it would have a very serious impact on the country.

Mr. HILLIS. Could the impact be lessened if certain classes of mail by law had to be delivered, such as the chairman pointed out—social security, veterans' checks, this sort of thing?

Mr. KLASSEN. Certainly the suffering of people would be lessened if provision were made for pension checks, social security checks and financial transactions.

Of course there are companies, industries, who wait for their production orders as the mail comes in and also wait for their cash as the mails come in.

Mr. HILLIS. In your opinion could the impact or effect be similar to that of a strike in the transportation industry, such as the railroad industry, that we have seen in the past? Would it be that profound?

Mr. KLASSEN. I think it would be more severe than that.

Mr. HILLIS. Now I understand you previously, before you assumed this position, for a number of years were connected with a major firm in private industry.

Mr. KLASSEN. That is correct.

Mr. HILLIS. In that position you, no doubt, or those under you, negotiated labor-management relations contracts. I mean your firm was unionized?

Mr. KLASSEN. Yes.

Mr. HILLIS. And of course those employees had the right to strike, did they not?

Mr. KLASSEN. Yes, sir.

Mr. HILLIS. Did you find in those negotiations the fact that the right to strike being a part of the package made some impact on the procedure that was followed in a give-and-take at the table?

Mr. KLASSEN. I am sure it has an influence; yes, sir. The union recognized they had a sort of economic strength, and I am sure it gave them greater courage.

Mr. HILLIS. They didn't exercise it every time, did they?

Mr. KLASSEN. No, very seldom.

Mr. HILLIS. Very seldom. Of course a lot of this depends upon the leadership on both sides of that table, doesn't it?

Mr. KLASSEN. It has a great influence on it, yes.

Mr. HILLIS. The responsibility of the people in the positions.

Mr. KLASSEN. Yes.

Mr. HILLIS. The fact it was there, though, does have some effect on the tenor of the negotiations and perhaps the seriousness of the bargaining too, doesn't it?

Mr. KLASSEN. I believe it does, yes.

Mr. HILLIS. Would you see that carrying over into this if this legislation were adopted? Would it change the character of the negotiations, do you think, the fact that you, sitting on one side of the table, knew the other side there had the right to, if you reached a serious impasse, to say all right, we are not going to work?

Mr. KLASSEN. Well, I am sure, Mr. Hillis, you and I both have read statements of some of the union leaders that say they will pay no attention to the Congress or the law, whether they have the right or not. If their membership responded in a given way, they will call them on strike.

Mr. HILLIS. I am familiar with wildcat strikes, illegal strikes, that sort of thing. But I don't think that is what we are talking about here.

I know you had one experience with it in the Postal Service, but it was brief and I think it didn't turn out well for those who attempted to call this illegal strike or walk-out.

Let me turn from this line of questioning. I would like to talk to Mr. Cox for a minute.

I have with me some materials that deal with the late action of the Steel Workers in accepting and ratifying an anti-strike accord. There are some lines of thinking that this is a new direction in labor-management relations.

Are you familiar with that?

Mr. Cox. Only as a casual newspaper reader, Mr. Hillis. I don't have any really deep knowledge of that at all.

Mr. HILLIS. Well, my question was how that would compare with the present law on the Postal Reorganization Act?

As I understand it, there is the right of binding arbitration.

Mr. KLASSEN. Mr. Brown is perhaps more familiar with this than Mr. Cox is.

Do you want to comment on it?

Mr. BROWN. Yes.

Mr. WILSON. What is Mr. Brown's title?

Mr. KLASSEN. Mr. Brown is the Senior Assistant Postmaster General for Employee and Labor Relations.

Mr. WILSON. Thank you.

Mr. BROWN. Mr. Hillis, the settlement that has been tentatively agreed upon, as I understand it, subject to ratification, in the Steelworkers Union and with the steel industry, is very similar to the procedures called for in the Postal Reorganization Act, and particularly that of compulsory and final and binding arbitration.

The matter has been discussed for a number of years, I think about 4 years, between the leaders of the union and leaders of industry. And it came to fruition just a week or 10 days ago.

The great concern of the industry and the union which led to this agreement, as I understand it, was the impact of imports upon the domestic economy and particularly within the steel industry, the impact upon employment or unemployment within the steel industry, and the results of preparing for a strike every 2 or 3 years by stockpiling, requiring a lot of overtime, and then in the absence of a strike, which occurs more frequently than a strike does, the layoffs that occur because of the stockpiling that had occurred prior to that.

To answer your question more directly, I do think there is a great deal of similarity between the tentative agreement and the Postal Reorganization Act as it requires final and binding arbitration for settlement of disputes pertaining to the national agreement.

Mr. HILLIS. Thank you.

Mr. WILSON. Mr. Waldie?

Mr. WALDIE. Mr. Klassen, I am personally of the impression that no matter what the law is relative to the right to strike, it is going to be exercised. It has been exercised in this country with increasing frequency over the last 5 or 10 years. Every public employee, every class of which I am aware, has been striking regardless of a law saying they cannot.

Therefore it seems to me that we ought to move the debate from the format which you have addressed in your letter, and that your board of governors apparently have decided upon, from the question as to whether the right to strike is a desirable tool for labor, to another plateau, and that is how best to control work stoppages when they do occur, so that they have the least adverse impact upon both labor and the public.

My own personal conviction is that you and I can sit here and your Board of Governors can meet and condemn work stoppages, but they are going to occur.

And, I suspect they are going to occur in the Postal Service.

So it would seem to me what we ought to be talking about is how best to handle work stoppages; to hope they don't occur, to hope that they can come up with agreements that will not necessitate their occurring; but if they do occur, to provide machinery whereby the issues that created the work stoppage could be handled with dispatch and handled with the least adverse consequences to all parties involved.

I am suggesting to you that I think we are precisely in the public employee field, particularly in the Postal Service field. Resulting from conditions prior to the Wagner Labor Relations Act—where concerted activity in those days was illegal and unlawful, but did not prevent working people from engaging in concerted activity—we finally responded to address ourselves to the chaos that was created by legislation to channel that activity along legitimate lines.

I am disappointed, very frankly, with your Board of Governors in their failure to understand that the issue of the right to strike really ought to be further debated.

What is the law which is now on the books?

Mr. COX. Mr. Waldie, there are criminal provisions as well as civil provisions that apply in the case of a strike by Federal employees.

Mr. WALDIE. What are they?

Mr. COX. I do not have them with me.

Mr. WALDIE. A thousand dollars fine and a year and 1 day in jail.

Mr. COX. Right, that is correct.

Mr. WALDIE. That is absurd, isn't it? When you had your last Postal Service strike, everyone anticipated that they were subject to a thousand dollars fine and a year and a day in jail, did they not?

They were, weren't they?

Mr. COX. Yes; if it was demonstrated that the elements of intent and so forth were present.

Mr. WALDIE. What kind of demonstration do we require? They struck. The fact of the matter is you didn't prosecute, and rightfully so. And that was a decision at your level, not to prosecute, was it not?

General, was it not?

Mr. KLASSEN. That is correct.

Mr. WALDIE. Why did you make that decision? Because of all of the political pressures which you had? Because it would be absurd, wouldn't it, to have prosecuted under this statute? Isn't that right?

Mr. KLASSEN. Mr. Waldie, Congress is the one which can enact that sort of legislation or not enact it.

Mr. WALDIE. Well, Congress did enact it. But the fact of the matter is you did not implement it, and I commend you for that, I am not criticizing you. I am trying to make a point, that it is foolish to argue about whether there is a right to strike. You are parroting your Board of Governors in the policy statement; I know it is not your own, and I don't enjoy your discomfort in appearing before this committee and having to now change your position on two vital labor relation issues from a position you had taken heretofore. I understand why you have to.

I particularly understand it when I look at the background of your Board of Governors. There is not a labor man anywhere near that Board of Governors, is there?

Mr. KLASSEN. Mr. Waldie, I want to make sure that we don't misunderstand each other on the right to strike.

I have never given unqualified endorsement to the right to strike.

Mr. WALDIE. But you have said to me in direct response to a question, you have said, "I would not oppose the Congress granting the right to strike to postal workers."

Do you recall that?

Mr. KLASSEN. With some qualifications, yes.

Mr. WALDIE. What were the qualifications? I don't recall then. I don't have your testimony. My recollection is you said you would not oppose the granting of a right to strike.

Mr. KLASSEN. I have never, either in the private sector or here, taken the position without qualifications for the right to strike.

In my last testimony I said that if the union negotiates with management and then comes to Congress seeking something they couldn't gain through negotiations, the union should not have that right.

Mr. WALDIE. I see. So it is the fact that they came and sought an increase in the contribution of health benefits that now causes you to believe they ought not to have the right to strike?

Mr. KLASSEN. That is a very basic issue.

Mr. WALDIE. If they had not done that, would you be supporting the right to strike for them?

Mr. KLASSEN. No, sir.

Mr. WALDIE. Would you be in opposition to it?

Mr. KLASSEN. Yes, sir.

Mr. WALDIE. So it wasn't that which created your opposition, right?

Mr. KLASSEN. I tried to indicate to you earlier that for us to say that we are going to fulfill the commitment of giving service to the public, we could not be a party to saying they should have the right to strike.

Mr. WALDIE. Then why did you say, at a previous time, that as far as you were concerned, you would not oppose Congress enacting the right to strike for postal workers?

Mr. KLASSEN. Mr. Waldie, most of us change our minds once in a while.

Mr. WALDIE. I recognize that. I ascribe your motivation for changing your mind to this magnificent labor-oriented Postal Service Board of Governors. I may have done them an injustice. Maybe there are other reasons.

Mr. KLASSEN. I want the record to be clear that the position I have outlined here this morning I recommended to the Board of Governors.

Mr. WALDIE. Are you saying you recommended to the Board of Governors that they oppose the granting of the right to strike?

Mr. KLASSEN. That is correct, sir.

Mr. WALDIE. And the granting of the union shop?

Mr. KLASSEN. On the right to strike, that is correct, sir.

Mr. WALDIE. And you did that because you have had a change in views since the last time you were before this committee?

Mr. KLASSEN. That is right.

Mr. WALDIE. And that change in view is because you think the unions are irresponsible?

Mr. KLASSEN. I haven't said that.

Mr. WALDIE. What have you said? I thought that is exactly what you said.

Mr. KLASSEN. I said as we develop greater maturity, and as we learn to live with each other better—

Mr. WALDIE. Then is it right to say you are suggesting they are immature, not irresponsible, but immature? Is that a fair assessment of your position?

Mr. KLASSEN. That is a fair assessment on both sides.

Mr. WALDIE. Let me just ask you one more question and I won't pursue this further at this particular point.

Suppose there is a work stoppage in the near future. What will be the course of action for the Postal managers?

Mr. KLASSEN. Well we must find some way of moving essential mail.

Mr. WALDIE. I understand that. What will you do?

Mr. KLASSEN. I can't tell you yet what we will do. You know the last time the President ordered the armed services to help us move the mail. Whether that will take place again or not, I can't tell you.

Mr. WALDIE. So you have no policies formulated that you are able to reveal to the committee as to what will happen if another work stoppage occurs?

Mr. KLASSEN. No, sir.

Mr. WALDIE. Now just one last line of questioning. A great deal of the postal mail is presently delivered by private contractors, contracting with the Postal Service, is that correct?

Mr. KLASSEN. Postal mail delivered by contractors? I will ask Mr. Dorsey to answer that.

Mr. WALDIE. For example, you use airplanes, ships, trucks, that aren't owned by the Postal Service, right?

Mr. DORSEY. I think the word "delivery" there has a particular connotation in the Postal Service. You mean transport?

Mr. WALDIE. All right. What percentage of your mail is transported by private carrier?

Mr. DORSEY. I would say the vast bulk of it, Mr. Waldie.

Mr. WALDIE. And the vast bulk of that transported mail is transported by employees that have the right to strike; do they not?

Mr. DORSEY. In terms of railroads; yes, sir.

Mr. WALDIE. And in terms of the airlines?

Mr. DORSEY. Airlines; yes.

Mr. WALDIE. In terms of trucks?

Mr. DORSEY. The truckers we deal with are mostly individual truckers. We have not experienced a nationwide truck strike.

Mr. WALDIE. But their employees are members of unions that have a right to strike?

Mr. DORSEY. In some cases they do have unions. In many cases they do not. The local contractors are not unionized.

Mr. WALDIE. Well, but a good portion of the mail is transported by employees that have the right to strike?

Mr. DORSEY. I think that is a fair statement; yes, sir.

Mr. WALDIE. Is that a problem of concern for you? Should they be denied the right to strike?

Mr. KLASSEN. Mr. Waldie, any time we have disruption it gives us concern, of course, whether it is railroads, airlines, or otherwise.

On the other hand, usually all of the airlines are not on strike at one time and we are able to move the mail. The trucks and the airlines don't necessarily go on strike at the same time. We find alternate ways of moving the mail.

Mr. WALDIE. In short then, because of the fact that they cannot go on a nationwide strike, there is no objection to their having the right to strike?

Mr. KLASSEN. Of course this is of no concern to us, really. This is something between—

Mr. WALDIE. It should be of concern if your only reason for denying the right to strike to postal employees is your desire to have the mail delivered. That is your only reason, as I understand it.

Mr. KLASSEN. I said to you any time any of our service is disrupted and it interferes with our being able to deliver the mail, it is of concern to us, of course.

Mr. WALDIE. Of course. And any time there is a strike in any sector of the economy that deals with the mail, the mail is not being delivered. And my guess is that the mail delivered in this country is transported, almost in its entirety by groups of employees who are blessed with the right to strike.

The United Parcel Service carries what portion of parcel post?

Mr. KLASSEN. About 50 percent of it, or more.

Mr. WALDIE. And they all have the right to strike?

Mr. KLASSEN. I believe they do.

Mr. WALDIE. Well, they do, we know that, we accept that as the gospel truth.

Now is it not peculiar to you that they do not express the same concerns that you and the Board of Governors have expressed about transporting the mail?

Mr. KLASSEN. Well, I haven't talked to them about that.

Mr. WALDIE. I would suggest if you have an opportunity that you do so. It has some bearing upon the decision that you have made here.

Can you tell us at this point what percentage of first-class mail is now being diverted because it is being carried by private services? Not first-class mail per se, this is against the law, but businesses that no longer use the Postal Service because they find it undependable and therefore have a carrying service that delivers their mail?

Do you have any idea of how much we have lost to those private businesses?

Mr. KLASSEN. I don't think I can give you a definitive answer.

Mr. WALDIE. Can you give a speculative answer?

Mr. KLASSEN. I would say it is not nearly as big as it was, because we have instituted a new form of service which has been very effective, the express mail service we are using. This has brought back a large piece of that business to us.

Mr. WALDIE. But it was a fairly substantial piece of business before that?

Mr. KLASSEN. There were a good many agencies or companies who were doing it.

Mr. WALDIE. I only point out to you that I don't know, but I presume, since they are private companies, that they are all subject to the right to strike too, and it does not seem to hamper their operation.

I would just conclude with a statement then that I think your issue that you have discussed with the Board of Governors and your response to us misses the whole point.

You are attempting to debate whether the right to strike is a desirable thing. And I am suggesting to you that no longer is this a matter for debate. The public employee, in the Postal Service particularly, has moved beyond that. They are going to exercise the right to strike, and what we are seeking to determine from you is what is the best way to handle those work stoppages when they occur.

The information you have given us is: don't do anything, the present law is sufficient. The present law is \$1,000 fine and a year and a day in jail, and I suggest to you that that is not a proper way to handle work stoppages and we ought to be discussing how we handle these work stoppages, not whether there should be a right to strike, but how the work stoppages become channeled properly to create the least disruption.

Thank you, Mr. Chairman.

Mr. WILSON. Before I ask Mrs. Schroeder to ask her questions, Mr. Klassen, I don't want to be accused of taking anything out of context now, because that was done after you made an unfortunate statement prior to meeting with the Senate. But did I hear you right when you said that the reason you were opposed to this legislation is because postal employees are immature?

Did you say that?

Mr. KLASSEN. I said we should develop more maturity in our relationships with the unions, and I also said this applies both to management and union leadership. You must keep in mind that for the most part our management hasn't dealt with the unions in the past

and for us to have the grievance procedures we have today, all of the contracts we have today, we have had to learn to live with some real problems. And I think as time goes on we will both do a better job.

Mr. WILSON. My goodness, you came from American Can Co., and you surrounded yourself with people from private industry. You brought one of your associates from American Can with you, your labor expert. It appears to me that the leaders of the postal unions have had considerable more experience in their craft than have most of your top executives in postal matters.

I wouldn't like to see the next issue of the American Postal Workers Union paper say, "Klassen accuses postal employees of being immature." I just want to be sure that you are not quoted incorrectly here now.

Mr. KLASSEN. Well, I think it would be wrong if I were quoted that way, because that is not what I said.

You must keep in mind that while at the top level we have some union leaders and management people who have a great deal of experience, yet the administration of a labor contract is as important, perhaps more important, than the negotiation of the contract. That has to be done by people out in the field.

We have some 30,000-odd locations. We have all kinds of union officers in the field. And there is where our problem develops, trying to get the understandings established through negotiations out in the field in such a way that the intent and purpose of that contract is administered.

Mr. WILSON. The supervisors are getting a little itchy about some kind of recognition. They are not immature, are they?

Mr. KLASSEN. When it comes to collective bargaining, I would say they might be.

Mr. WILSON. At what point do you reach the point of maturity in collective bargaining?

Mr. KLASSEN. That depends on the individuals and the kind of relationships they build.

Mr. WILSON. Now Mrs. Schroeder is an expert on collective bargaining matters and the National Labor Relations Act. I am going to let her ask some questions now.

Mrs. Schroeder, there is no 5-minute limit, so you take whatever time you feel is necessary.

Mrs. SCHROEDER. Thank you, Mr. Chairman.

I have to confess I have a lot of trouble with what I have been hearing. I have had a lot of experience in the public sector with employees and I think one of the biggest problems has been we started out with this notion of calling them civil servants way way back and it has been hard to drop that nomenclature. I think the word "servant" in our terminology connotes something much lower than an employee. It has been very difficult to switch their status from being servants to employees. I almost think I hear that going on right here.

There is no question that the Post Office is one of the most labor-intensive organizations that we have. A large portion of your budget must go to labor, because there is no other way to get the mail out.

There is also no question from prior testimony in earlier days that morale is very very low. And I think we are beginning to find out why it is so low, because I really hear us saying that these employees are different than other employees and we must relegate them to some kind of second-class status until they become more mature or until they have more experience, and I still hear us comparing them more to our servants than to our employees. And that disturbs me greatly.

I have worked for the Labor Board and for the State government and other things, and I have always had great problems when the Government passes laws that apply to private industry and then immediately finds reasons why they have to exempt themselves from those standards. So I can't really see any real reason why the National Labor Relations Act should not apply to the Postal Service. They want to be in the private sector, it is supposedly a new category, a new type of experiment.

We have talked about how the vast bulk of the mail is transported by people who are covered by the National Labor Relations Act. There are competing groups that will be covered by it. So I see absolutely no reason why the employees that are carrying the mail shouldn't also be covered by it.

But one of the questions I wanted to ask is when you went to the Board of Governors, did you look to see if there were other countries that treated their postal employees differently from other employees in the economy?

Mr. KLASSEN. Mrs. Schroeder, I have to go back to an earlier comment you made, and then answer this one in a minute.

I understood you to imply that we were treating these people differently than other people are being treated. I don't quite understand your point.

Let me say this to you: We fully appreciate the fact that if we can't get our people in the field—our management and employees in the field—to support the postal concept, the Reorganization Act, it will never work. We are trying to deal with the people as fairly as we can.

To answer your last question, I am sure there are a great many differences between some of our practices in this country and in other countries. I am aware that in Canada they have the right to strike. I have not discussed with them their experience. I trust the committee has or probably will.

I am not aware of any other country that gives them the right to strike. There may be others, but I am not aware of them.

Mr. WILSON. There are several countries, actually.

Mrs. SCHROEDER. I am basically trying to find out what happened with the Board of Governors.

You didn't go into that when you discussed this with the Board? In other words, you didn't try to find out what happened in other postal services?

Mr. KLASSEN. I think it would be unfair for us to take one area of our labor relations and let that influence our decisions without taking all areas into account.

I am sure our wages are substantially higher than they are in any other country. I am sure our benefits are substantially higher than in any other country. I don't believe we can take one section of the labor relations policy and separate it from the rest of them.

Mrs. SCHROEDER. I think you would also find in other countries the people dealing in the Postal Service compare to the private sector in their wage rates and benefits. I mean they are not out of line with what the people in the whole country receive. I think that probably fairly balances out.

But the other thing that I find even more interesting is your refusal to allow a union shop. I think that is probably the least controversial of the two decisions that were made.

What reason would you have for denying the union shop?

Mr. KLASSEN. We stated it as best we could, Mrs. Schroeder, in brief form. I recognize this is strictly a matter for the elected officials to decide. And we were asked whether we recommended it and we said no. I question whether there is really a need for it.

Mrs. SCHROEDER. Don't you think that is the beauty—to me that is the beauty of the National Labor Relations Act, that a Federal official comes in and holds the election and the employees decide whether there is a reason to have it or not to have it.

Mr. KLASSEN. I understand what you are saying. That is something we should let them decide. It is also readily understood and accepted that they frequently help us and tell us what we should decide on, too. So you asked my opinion and I gave you my recommendation.

Mrs. SCHROEDER. One of the things that I too am concerned about is what happens if we do have a work stoppage, because I really see no reason that we can, any of us in this room, can honestly say we think we can prevent one, no matter what the law is.

Did the Board of Governors consider at all any kind of proposals to allow a strike based upon such restrictions as you might have in a hospital, if you would maintain the emergency ward open, take that over to the Postal Service and say you would allow certain classes of mail to be delivered, say first class, or you would do something on that basis?

Did you ever look at the different services you provide and decide which is absolutely critical and say you would permit the right to strike based upon the following restrictions that this will go ahead and happen?

Mr. KLASSEN. Mrs. Schroeder, we are going to do our very best, put our best foot forward and see if we can avoid any such action on the part of the union. We want to live up to the contract we have. For us to sit here and discuss with this committee the sort of management actions we might deem appropriate and advisable if a wildcat strike did occur would be inappropriate.

Mrs. SCHROEDER. I don't think it would be. I would hope that you would try to help us with your insight, since you are closer to the day-to-day relationships, as to what kind of a law might be workable.

It is very clear to me that the thousand dollars plus 1 year and 1 day in jail is not a very workable solution to any kind of a strike.

First of all, we don't have that many jails to put people in if we decided to do it, and politically you will never do it, it is just an impossible task. To afford the attorneys alone, you would have to depu-tize half of the attorneys in the country to start this kind of action.

So I am saying that appears to be very unworkable. Therefore it appears that in reality they can strike if they want to strike, because it is impossible to enforce any legislation that we currently have against striking.

Now if we want to stop being negative and saying "Thou shalt not strike, however, we can't do anything about it," which seems to be where we are, and try to be positive and say "You have the right to strike, but this is contingent upon," that is the kind of thing that management might help us deal with.

You see, I see you are saying you don't want to give them the right to strike. Fine. But I am saying if we move further and say, look, in reality it is already there, so what do we do to try to help you. You can help us by telling us what things we might legislate, what things we might put in a right-to-strike bill to protect what we all want to, and that is the people who are receiving the mail service.

What are the absolutely critical areas we need to have delivered?

Mr. KLASSEN. Well, the legislation we now have, I assume has been on the books for some time, and I support your view and Congressman Waldie's view that it is a ridiculous fine, \$1,000 and 1 year and a day—

Mrs. SCHROEDER. It is also ridiculous to give you the right to fire anyone that strikes, because if they are on strike and you fire them all, you have to find all new people and start training them again, and management would be hysterical trying to do that kind of thing.

So that is not going to work. So the question is what is a workable solution that treats both sides with dignity, allows both sides to have some input, and hopefully does what we want the mail service to do, and that is deliver mail?

Do you have any ideas on that at all? Let's cast aside the other question. I know you don't want the right to strike. But let's say we are predisposed to go that route. What would you want to see in that legislation, as a management team?

Mr. KLASSEN. We haven't developed any recommendations for that. If the committee so desires, we would be very happy to do that.

Mr. WALDIE. Well, Mr. Chairman, if the gentlewoman would yield, I thought that is precisely what we thought we were going to get today. My understanding was the Board of Governors took the position that the right to strike was un-American, but the fact of the matter is, I think—and Mrs. Schroeder brought it out amazingly well—that it is there. We are trying to develop a means to not only assist the public, when the right to strike is exercised, but to assist management and the labor groups in having that grievance and that work stoppage channeled in the most orderly manner possible.

And you don't really give us any assistance if you just come up and say we don't want you to ever enact the right to strike. That is

what we have been living with for the last 20 years in the country and that is the dilemma we are confronted with. We are trying to find solutions.

For you to say the status quo is the solution is really no solution at all, Mr. Klassen, if you will forgive the criticism.

Mrs. SCHROEDER. Mr. Chairman, I think it would be interesting to have this.

Mr. WILSON. Certainly, and I don't think there should be any secret about what you are going to do if a strike takes place. I think the country and the employees are entitled to know what is going to take place if the postal workers do go out on a wildcat strike. I think Mrs. Schroeder brought out a good point. Even if you don't fine them or put them in jail, but just fire them, where are you going to get replacements?

We would like some assistance from you as to what is going to happen if this situation presents itself.

Mr. KLASSEN. For us to start dealing, Mr. Chairman, with those aspects at this moment would be like today putting forth our proposals before we have had a chance to deal with the unions on them. I think that to disclose whatever plans we might develop in-house, if we did have a wildcat strike, would be like giving away some of those things we need in dealing with our problem.

Mr. WILSON. You previously told Mr. Waldie you had no plans. Is that right? At the present time? Even a secret plan that you may not want to discuss today?

Mr. KLASSEN. That is correct.

Mr. WILSON. You don't want to discuss anything at all on this matter with us today?

[No response.]

Mrs. SCHROEDER. I was going to say I am sure the unions will be coming forth with proposals. We would like equal input from the other side.

Because again I think all of us really have the same goal. My biggest concern is the distrust on both sides that I see and I think one of the fascinating labor problems that has come up has been these brawls, where the Secretary of Labor says this is legal, someone else says it is illegal, and they are locking management in the restroom and throwing away the key, all sorts of things.

We don't want that type of thing going on here. I think the only way we can prevent it is to sit down and look at the thing and say what I really want to do is obviously no one wants to be in a position where they can't get social security checks and that kind of thing, but how can we cull out areas that are absolutely emergencies and still allow employees basic rights that they have been granted since the 1930's in private industry and stop treating them as second-class citizens.

I think that is what we are seeking. I really have great faith you are going to come up with some positive suggestions also, and I hope you won't hesitate to have some input. At this point I just hear you saying the status quo is sufficient. I just heartily disagree with you. I think we have nothing at this point to solve anything except

a major—no one wants to call out the Armed Services again to deliver the mail. And that is the only thing I really see that we have. So I really hope that you will reconsider that, take that message back to the Board of Governors and hopefully sit down and try to think of things to help us.

Even taking your position, we understand your position, you would like the status quo, and I think you understand our position, that we don't think that is adequate.

So let's go from there.

Mr. KLASSEN. Mrs. Schroeder, I find nothing in the proposed legislation that protects the public interest in any sense. The legislation merely gives them the right to strike. It doesn't say we are going to move certain sections of the mail. It doesn't say we are going to protect the social security payment checks, deliver them. It doesn't say we are going to deliver the economic transactions. It merely says an unqualified right to strike.

Mr. WILSON. Mr. Klassen, that is the reason we hold hearings, so we can improve on legislation. If there is something wrong with it, we want your recommendations.

Now a couple of weeks ago you told us you would favor the right to strike under certain conditions. And we would like to accommodate you if we can. We would like to help the employees. And we would like to get something that is going to solve this problem that we have facing us. And we need help from you to do it. We would like some recommendations. You are not giving us any.

Mr. WALDIE. Mr. Chairman, in addition, it is not as Mr. Klassen said. There are all sorts of conditions on the exercise of the right to strike in this bill. They are under the Taft-Hartley Act and the Wagner Relations Act, with the cooling-off period. There are all of the restraints upon unwise work stoppages that exist in the private sector.

There are no such restraints—except the \$1,000 fine and 1 year and 1 day in jail or firing everyone, which all of us concede are no restraints at all—in the existing legislation.

No matter how extreme the present bill before the committee might seem to you to be, it is a much more moderate situation than presently exists in the Postal Service. We may find that out, unhappily, as we did 2 years ago, and if we pass this bill, it is a more moderate situation than presently exists in your shop.

But there might be even other restrictions and restraints that we could enact into this bill, if you would provide us with some suggestions instead of just saying, as public managers have said for 100 years at least, it is outrageous and un-American to suggest that employees of the Government should be treated as employees of other American industry, and that they are different people.

Mr. KLASSEN. If your bill had given certain qualifications in it, given certain exemptions, our reaction might have been somewhat different.

Mr. WALDIE. What exemptions? That is what we are asking you. What qualifications? Tell us what you think would create a different reaction from you and we might proceed that way. Is there a grounds that would elicit a different reaction from you, other than no?

Mr. KLASSEN. First of all you have said to us over and over again the most important responsibility and obligation we have is to deliver that mail. And we recognize that this is our primary commitment.

How can we then subscribe to a work stoppage?

Mr. WALDIE. Then your point is that, given the commitment to deliver the mail, you have to have absolute control over the employees? Is that really what you are saying?

Mr. KLASSEN. No, sir. They have a procedure in the contract for resolving disputes. It is the same procedure as Mr. Brown mentioned a moment ago that the steelworkers have essentially adopted.

Mr. WALDIE. In your view, that is sufficient?

Mr. KLASSEN. Yes.

Mr. BROWN. Mr. Chairman, Mr. Waldie, Mrs. Schroeder, I think that it would be a mistake on the part of management of the Postal Service to say nothing while the assumption is that even without a law giving or placing these unions under the National Labor Relations Act, these people do in fact have a right to strike.

The laws says they do not. I don't think we should sit here in silence and agree that they do.

On the other hand, if we are thinking about timing, I think that is one important factor that influences the decision of the Board of Governors and the management of the Postal Service.

I ask you to remember that we have only had one experience in dealing with unions as we are now dealing with them, and that was in 1971. We were able to reach an agreement without a strike, without using the arbitration process, and we would like to continue to try to work along those lines until we know how to work with each other better than we do.

Now, whether we can come up with recommendations with respect to modification, recommendations to your bill as to exemptions, et cetera, the Postmaster General can address himself to that.

I don't believe, however, that we came here with that intent in mind. I think we were asked to express our views concerning the right to strike or not having the right to strike.

Mr. WILSON. Well, it is always helpful if people who are directly involved in something, if there is legislation that is going to affect their operation, if they could give us their ideas. In other words, you are just opposed to this legislation under any circumstances, and there is no exception, no way at all that we can compromise or come up with something that will create a better situation for the employees.

You are absolutely opposed to any right to strike, right to negotiate for a union shop, or anything of that type.

Mr. KLASSEN. Mr. Chairman, we were asked to address ourselves to this bill. We were not asked to come here with amendments to this bill.

Mr. WILSON. Well, I have never heard anything so ridiculous in my life.

Mr. GROSS, do you have any questions to ask?

Mr. GROSS. Briefly, Mr. Chairman.

Mr. Chairman, I regret that I did not get here when the session opened. Do I understand, Mr. Klassen, that the Board of Governors has taken a position with respect to the right to strike?

Mr. KLASSEN. Yes, sir.

Mr. GROSS. And in opposition to the right to strike?

Mr. KLASSEN. The Board of Governors and the management feel we should leave the legislation that we are now working under alone, not change it.

Mr. GROSS. In 1970, the Advisory Commission—this is according to Congressional Quarterly—in 1970, the Advisory Commission on Intergovernmental Relations, whose participants included U.S. Senators and Representatives, Government officials, Governors and mayors, said this, and I quote: "To condone strikes is to facilitate disruption of essential services which ultimately could bring Government to a standstill."

The Advisory Commission recommended that State laws prohibit all public employees from engaging in strikes, but authorize such procedures as factfinding and mediation to resolve deadlocks in public disputes.

Then again in 1970, on April 23, Mr. George Meany appeared before the full Committee, that is, the Post Office and Civil Service Committee, to testify in support of H.R. 17070, which as you know, Mr. Klassen, and the subcommittee members know, was the legislation on postal reform, resulting from negotiations between the administration and the postal unions.

Mr. Meany testified, he said, "on behalf of the seven unions having national exclusive recognition in the Postal Service," Mr. Rademacher of the Letter Carriers Union, appeared with Mr. Meany, but was a silent witness except for a brief comment relating to civil service status. Mr. Rademacher did not rebut a single statement of Mr. Meany and by his presence and silent acquiescence obviously supported the Meany testimony.

On that subject, let me quote from page 92 of the printed hearings.

Mr. HOGAN. I am just trying to get some information here. What I am saying is that your strong statement made previously that you can not have collective bargaining without the right to strike, you are now withdrawing, because the new legislation gives both parties the right to invoke binding arbitration, whereas the previous legislation only gave it to the Postal Disputes Panel. Is that right?

Mr. MEANY. Yes.

Mr. HOGAN. Then henceforth there is no need for the unions to strike, since they have binding arbitration?

Would you care to comment on that, Mr. Klassen?

Mr. KLASSEN. Congressman Gross, we have binding arbitration in our legislation and in our contracts. And I think it should be given a further opportunity to work.

Mr. GROSS. When the Postal Reform Act was before this committee in 1970, there was no demand at that time, in fact the settlement insofar as the legislation was concerned was on the basis of binding arbitration. Is that not correct?

Mr. KLASSEN. We have binding arbitration, yes.

Mr. GROSS. Yes. And apparently it is working, is it not?

Mr. KLASSEN. We believe it is, yes.

Mr. WILSON. That is the only thing that is, Mr. Gross.

Mr. GROSS. And, Mr. Klassen, there is a vast difference between American Can, a strike at American Can, and a strike of Postal employees, is that not correct?

Mr. KLASSEN. Well, if American Can were on strike there would probably be a dozen other can companies not on strike at the same time. This does not have the same effect on the economy as a Postal strike.

Mr. GROSS. But for all practical purposes, especially with respect to first-class mail, and other categories of mail service, there is only one deliverer of that service, if it can be called a service?

Mr. KLASSEN. Yes, sir.

Mr. GROSS. Thank you, sir. Thank you, Mr. Chairman.

Mr. WILSON. Thank you, Mr. GROSS.

Mr. Klassen, in connection with this Board of Governors meeting, did they meet last Tuesday?

Mr. KLASSEN. Yes, sir.

Mr. WILSON. How many members were there?

Mr. KLASSEN. There were seven members.

Mr. WILSON. You are short one member now?

Mr. COX. We are short one and there was one absent.

Mr. WILSON. That is pretty good. Do you have any other questions, Mr. Waldie?

Mr. WALDIE. Yes. Is there not another Advisory Board or commission that has labor union representatives on it?

Mr. KLASSEN. Yes, we have an Advisory Council.

Mr. WALDIE. What is the purpose of the Advisory Council?

Mr. KLASSEN. Just what it says, Mr. Waldie, to advise.

Mr. WALDIE. I presume you convened the Advisory Council for their advice on this issue?

Mr. KLASSEN. On this subject?

Mr. WALDIE. Yes.

Mr. KLASSEN. No, sir.

Mr. WALDIE. Why not?

Mr. KLASSEN. It wasn't an issue the last time we met.

Mr. WALDIE. Well, it wasn't an issue before the Board of Governors the last time you met either.

Mr. KLASSEN. The Advisory Council would not be in a position to make a judgment anyway, and make a decision.

Mr. WALDIE. Well, what is the purpose of having it if it is not in any position to do anything?

Mr. KLASSEN. Well, I have been asked that question a few times myself by the members of the Advisory Council.

Mr. WALDIE. The reason the members asked the question is because you have never convened it for advice. I can understand their reason wondering why it exists, but what is your reason for wondering why it exists? Because you don't deem its advice important?

Mr. KLASSEN. Well, I think that is the wrong connotation to make of this group. There are four union members and four people who represent the industry.

Mr. WALDIE. And that would seem to me to be a perfect composition to submit a question such as this to for advice, whereas you submitted it to a Board of Governors that has no union membership.

Why was this question not submitted to the Advisory Council for advice?

Mr. KLASSEN. Well, there has been some criticism of the way our Advisory Council has functioned, and the criticism was by members of the union, so we asked them to chair the committee the last session we had. This didn't appear on their agenda.

Mr. WALDIE. But why didn't you call them and put it on their agenda for a recommendation before you appeared before this committee? Was it your view that their recommendation was not important on this issue?

Mr. KLASSEN. Of course it is important on this issue.

Mr. WALDIE. Do you have plans for seeking their opinion? Would it have been helpful to the Board of Governors had the Advisory Council given an opinion?

As I read the Code, it says: "The Postal Service shall consult with and receive the advice of the Advisory Council regarding all aspects of postal operation."

You know, I don't mean to harrass you, but I am impressed with the Board of Governors making a firm recommendation that a strike right is not permissible. I would be more impressed if you had similar advice from the Postal Advisory Council.

I gather there was no intent on your part to even consult them on this issue. Is that a fair assumption on my part?

Mr. KLASSEN. I would say it is not a fair assumption on your part, no.

Mr. WALDIE. Was there an intention?

Mr. KLASSEN. There are people on that Council who would not really be in a position to discuss this subject actually; they have had no background and experience.

Mr. WALDIE. You mean the four managers? The four labor representatives sure have. The four managers' representatives?

Mr. KLASSEN. I would say some of those would be better qualified than others on there, yes.

Mr. WALDIE. Were they not consulted because it was your view they could not provide much information?

Mr. KLASSEN. No, that wasn't the reason. It wasn't even thought of as far as being on the agenda was concerned.

Mr. Chairman, I would like to say this—

Mr. WALDIE. Wait a minute.

Mr. KLASSEN. Excuse me.

Mr. WALDIE. Before you say that, let me finally conclude on this. Why was the Postal Advisory Council not consulted by you on this issue?

Mr. KLASSEN. I can't give you a good answer on that.

Mr. WILSON. Probably you just didn't think about it, isn't that the main reason?

Mr. KLASSEN. Yes. We gave them a chance of making up the agenda last time, Mr. Chairman and they didn't put it in the agenda.

Mr. WILSON. I suspect it is a kind of one-sided advisory committee too.

How is it made up? Four labor people and four management people and then four people from outside, plus you and the Deputy Postmaster General?

Mr. COX. Mr. Chairman, I suppose the best way to answer that is to read the law. It is very short. "The Advisory Council shall have 11 additional members"

That is in addition to the Postmaster General and the Deputy Postmaster General—"Who are appointed by the President. He shall appoint such members (1) four persons who are nominated by labor organizations recognized as Postal collective bargaining representatives; (2) four persons as representatives of major users, and (3) three persons as representatives of the public at large." And they serve 2-year terms.

Mr. WILSON. It does seem that on something involving labor-management relations, whether you pay attention to what they say or not, it probably would be a good idea to at least let them hold a meeting on this subject.

Mr. KLASSEN. Sure it would be.

Mr. WILSON. They haven't met or had anything on the agenda that is worthwhile, so why don't you call them together and let them talk about this thing? Maybe it might be worthwhile.

Mr. KLASSEN. In order that something constructive might come from this session, I would like to say to you that we would like to submit some ideas to the subcommittee. We want to help the subcommittee on this matter.

I am not saying that we are going to change our minds, but we might be able to develop some ideas that might be of interest to you.

Mr. WILSON. Well, I hope you would do that, Mr. Klassen. Very frankly we have to start getting a better relationship I think between the Congress and the Postal Service, and there are going to be many things that we are going to disagree on, I am sure. I am terribly disappointed. I voted for the Postal Reorganization Act and I consider it the worst vote I have made in 18 years of public service. I wish I had a chance to do it over again, because the legislation got out of the committee by only one vote.

I think that we were conned pretty much. You weren't the Postmaster General at the time and you didn't do the lobbying on the bill, and it wasn't all Mr. Blount. We had Mr. O'Brien and other people in my party who were equally strong for this legislation.

But the Postal Service has had an unfortunate relationship with a good many members of this committee, members on both sides of the aisle. I would like to be as objective as I can. It is awfully difficult.

I think you were put in a very unfortunate position the last time you were here. You had about 25 people out there backing you up and they let you down. There were questions asked and you should have had someone who should have been able to help you and there was so little help. You can't be expected to know everything, that is why you bring the back-up people, my goodness, we have to have them ourselves.

But this is a very important thing. You are going into negotiations at the end of April, I think, and you have some very strong feelings among the postal employees. They are talking about striking

again. We would like to head off the strike if there is any way we can possibly do it. We are not going to be able to do it by just saying well, we don't have to worry about it, just take a head-in-the-sand attitude about it. It just can't be handled that way, because you have some real militants, and the heads of these organizations can't always control these people.

I have been to a couple of the postal union conventions—I don't know if you ever have—but you get the guardhouse lawyers, like at the American Legion convention, and you have a lot of experts there and sometimes your national leaders, as responsible as they are, can lose control of the situation. Even though they would advise their members to work with you and not go on strike, they may not be able to control them in Brooklyn, Los Angeles, San Francisco, or Detroit.

I think we have to think very seriously about this and make every effort possible to prevent any illegal strikes or any work stoppages.

I think we shouldn't turn our back necessarily on bringing public employees under the same laws that private employees are under. This is what we told them they were going to get when they got the Postal Service. They lost their civil service status. They were to be treated like private employees. And this is one step that I think would mean a lot to them. Just because they have the right to strike doesn't mean they are going to go out on strike.

But we have a lot of work that has to be done between Congress and the Postal Service. I hope we can be objective about it.

Do you have anything else, Mrs. Schroeder?

MRS. SCHROEDER. I would like to just add one thing. One of the things I would like to have you take back to the Board of Governors is I am especially dismayed about the stand on union shop.

I think even if you have binding arbitration, you have severely limited the area of bargaining if you don't have a union shop. It really appears we are attempting to tie their hands more than normal.

So I would especially hope they would reconsider that, because I think you can't say that interferes with service, you can't say that really interferes with anything, because you can always have provisions made for people who don't like to join unions, they can just pay their dues and not participate.

So you can't say you are interfering with anyone's rights. There is really no reason for being against a union shop that I can see is justifiable.

I think they really ought to consider that, because even with binding arbitration, you are severely limiting the union on what it can ask for. If you are forcing it to represent everybody, it can't just represent those that pay it dues. So it must represent everybody, yet it can't demand that everybody pay equally for the representation. So they are getting representation without taxation, or something, which is kind of the best of all possible worlds for the person who is not taxed, but not very good for the poor fellow trying to represent the union.

I would hope you would take that back to them and reconsider that position.

Mr. WILSON. Of course that was not in the original bill. That was the right to work amendment Mr. Henderson introduced and was able to get adopted on the floor, I believe.

Mr. WALDIE. Mr. Chairman, may I ask a question further on that?

When the original bill was before us, that was in it, and the Postal Service did support it. Then the Congress took it out. Now the Board of Governors has recommended against putting it back in.

Can you tell me the reason for the change? Of course the Board of Governors, I presume, had nothing to do with the original decision of the Postal Service to include a union shop. Is that what we are confronted with? You were supporting the union shop in the original bill. Did you recommend to the Board of Governors that it not be put back in?

Mr. KLASSEN. Well, the union shop issue actually I did not discuss with the Board of Governors.

Mr. WALDIE. I see.

Mr. KLASSEN. I would like to think any of these things might help our labor relations. I appreciate what the members of this committee have said here—that they think these things are fair and they ought to have them. At the same time I have found nothing here so far that assumes that we have an obligation to move a certain section of the mail, whether they have the right to strike or not have the right to strike or whether they have union shop.

That is what I suggested to you before.

Mr. WALDIE. The union shop doesn't impinge on your ability to move the mail, though, does it?

Mr. KLASSEN. Well, some members of your committee have pointed out that they want us to reconsider this. My comment had to do with the fact that we would like to do anything that helps us establish a better relationship and keeps the essential mail moving.

What I read in this bill we have before us—there are no exclusions in here. It is an unqualified right to strike.

Mr. WALDIE. The bill may be defective in that regard. And I do appreciate the attitude you have expressed, that you will come back with some recommendations that might meet the obligation you have to keep the mail moving. But to get back to the union shop, does that in any way impinge upon your fulfillment of the obligation of moving the mail, its absence or presence?

Mr. KLASSEN. I don't think so.

Mr. WALDIE. And the Board of Governors made no recommendation on that, so I presume in your statement that that is your personal recommendation?

Mr. KLASSEN. That is correct.

Mr. WALDIE. What I am asking now is what has caused you to change your original recommendation from the time when you were before the committee when the bill was originally before us that included the provision and you supported it?

Mr. KLASSEN. Mr. Waldie, the time and circumstances alter many of us, to change our points of view on certain situations.

Mr. WALDIE. Certainly, they have caused me to change my view on things. But what circumstances have caused you to change your view on this issue?

Mr. KLASSEN. I see nothing, no particular reason, for their need for it.

Mr. WALDIE. You mean the unions don't really need the union shop?

Mr. KLASSEN. I don't believe they do.

Mr. WALDIE. You thought originally they would need it, when you supported it, originally.

Mr. KLASSEN. Well, I can't go back to those proposals.

Mr. WALDIE. Why not? Since you have changed your mind, I think it would be helpful for us to know why you changed your mind.

Mr. KLASSEN. I think, as I said a moment ago, that all of us from time to time change our minds about certain things.

Mr. WILSON. Mr. Waldie, in fairness to Mr. Klassen, I don't think Mr. Klassen was around when we were developing this legislation, was he?

Mr. WALDIE. Yes, he was. As a matter of fact, he and I engaged in colloquy on this issue.

Mr. WILSON. Excuse me.

Mr. WALDIE. And he was very supportive of the union shop. Am I correct in that regard, Mr. Klassen?

Mr. KLASSEN. Well—

Mr. WALDIE. You were head of the Employee Relations, is that right, at that time, weren't you?

Mr. KLASSEN. Where was this?

Mr. WALDIE. With Mr. Blount, when he was Postmaster General?

Mr. KLASSEN. I was the Deputy Postmaster General.

Mr. WALDIE. But you were the labor relations man in the Postal Service, were you not?

Well, you did support it, didn't you? That is all I am trying to say. You supported it, didn't you?

Mr. KLASSEN. Did I? I don't remember.

Mr. WALDIE. Mr. Cox, you recall, don't you?

Mr. COX. Certainly, Mr. Waldie.

Mr. WALDIE. I was so terribly impressed with Mr. Klassen's progressive outlook on these matters. It was really great. I am depressed today, but I was impressed then.

Mr. COX. I suppose the position we are taking this morning simply is that we think at this stage of the game that anyone who wants to change the Postal Reorganization Act in the area we are talking about has at least a certain amount of burden of proof. We haven't seen much that we can put our fingers on that would cause us to recommend a change in the law in this area at this time.

I think that is the heart of our position. That, of course, is a position that simply didn't exist 3 years ago.

Mr. GROSS. Would the gentleman yield?

Mr. WALDIE. Yes, but just one final comment, Mr. Gross. I really think what has changed is the vote on the floor of the House of Representatives and your desire to avoid the political problems that come from advocating union shop.

I don't see anything wrong with that. I only see something wrong with not saying that that is the reason. It is an understandable thing

that you don't want to take the flak. You have taken enough flak on enough fronts, without opening another one voluntarily.

I yield to Mr. Gross.

Mr. WILSON. Mr. Gross?

Mr. GROSS. The people in this room this morning with one or two exceptions, including the gentlewoman at the other end of the table, must have the cleanest minds known to mankind, because so many of them have changed them so much on these issues.

Mr. WILSON. Mr. Gross, I am one of the first ones to admit it. I was the first one to put in a bill to repeal the act.

But, Mr. Klassen, your attitude seems to be that all of these matters are for the politicians and the Congress to determine, that really this is a political matter, and if we are going to make any changes, we should do it.

Now is this going to be your attitude on all legislative proposals affecting the Postal Service—that you won't have any opinions on them?

Mr. KLASSEN. I couldn't make such an unqualified commitment.

Mr. WILSON. Do any other members have anything further to ask or any statement to make?

[No response.]

Mr. WILSON. Do you have anything else you would like to say, Mr. Klassen?

Mr. KLASSEN. No, sir.

Mr. WILSON. Thank you very much for being with us. We appreciate your cooperation.

The subcommittee will now adjourn.

[Thereupon, at 11:15 a.m. the hearing was adjourned to reconvene at 10 a.m. the following day.]

NEGOTIATING EQUALITY FOR POSTAL EMPLOYEES AND UNIFORMITY IN LABOR RELATIONS

TUESDAY, APRIL 10, 1973

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL FACILITIES,
MAIL AND LABOR MANAGEMENT,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 10:07 a.m., in room 210, Cannon House Office Building, Hon. Elwood Hillis (acting chairman of the subcommittee) presiding.

Mr. HILLIS. The hearing will come to order.

Chairman Wilson requested that I chair this meeting inasmuch as a previous commitment involving his other committee assignment precludes his presence this morning.

This is the second in a series of hearings on H.R. 1282, negotiating equality for postal employees and H.R. 5312, uniformity in labor relations.

It is Chairman Wilson's intention that we hear from as many organizations and individuals as possible on these two subjects so that the members will have an opportunity to fully evaluate this legislation.

In this line yesterday, we heard from Postmaster General Klassen, and today we are hearing from W. Melvin Adams, representing the Seventh-Day Adventist Churches, and Mr. Reed Larson, executive vice president of the National Right to Work Committee.

Mr. Adams, for the record, would you state your name and introduce the person who is with you?

STATEMENT OF W. MELVIN ADAMS, ASSISTANT DIRECTOR, DEPARTMENT OF PUBLIC AFFAIRS AND RELIGIOUS LIBERTY OF THE SEVENTH-DAY ADVENTIST CHURCH; ACCOMPANIED BY JAMES J. AITKEN, REPRESENTATIVE OF THE GENERAL CONFERENCE OF SEVENTH-DAY ADVENTISTS TO THE UNITED NATIONS AND U.S. CONGRESS

Mr. ADAMS. My name is Melvin Adams. I have with me here Mr. Jim Aitken, our liaison man, both of us from the Seventh-Day Adventist Church.

Mr. HILLIS. You may proceed with your statement.

Mr. ADAMS. My name is Melvin Adams. I am a clergyman and associate director of Department of Public Affairs and Religious

Liberty of the Seventh-day Adventist Church. It is my privilege to testify in behalf of the members of the more than 3,470 local Seventh-day Adventist congregations located in the United States. This testimony has been authorized by the officers of the General Conference of Seventh-day Adventists, Washington, D.C.

This statement is in behalf of the Seventh-day Adventists in the United States who will be hurt by the passage of H.R. 5312 for postal workers. It is against H.R. 5312.

These people march to the beat of a different drummer. They have different convictions than some of their fellow workers. Like some of the founders of this Nation, they hold religious convictions above consideration of money or security, and they are willing to lose their jobs rather than violate their religious convictions.

I refer to those who will not, for conscientious and religious reasons, join or otherwise support labor organizations. Most Seventh-day Adventists fall into this category. But they are not alone. When 14(b) hearings were held before the U.S. Congress, spokesmen appeared on behalf of the Plymouth Brethren IV, the Mennonites, the Amish, and the National Association of Evangelicals, which embraces 40 denominations. Those spokesmen plead, "Please grant an exemption for reasons of conscience from compulsory unionism." The proposed legislation which would permit compulsory unions would affect hundreds of conscientious men and women.

Historically, the Seventh-day Adventist Church has taught its members to stand apart from industrial strife. [See exhibit A.] Members who do not join or support labor organizations are motivated solely by religious convictions which they express in a non-violent way. They feel barred by conscience from membership or support in any organization which requires men of varying convictions to adhere to policies, comply with decisions or abide by restrictions which may be contrary to individual religious convictions.

LARGE NUMBER OF INNER-CITY BLACKS AFFECTED

Many Seventh-day Adventists who would be affected are black. They would have to choose between their job and their religious convictions. When their employment is terminated, they are thrust into that segment of the unemployed where men and women find it most difficult to reestablish themselves in the labor market.

THERE ARE ALTERNATIVES

Other lawmakers confronted with this question of conscience have met and solved it without threatening the security of organized labor. New Zealand and Australia, two countries with strong labor unions, are cases in point. Both countries have arrived at the same two-part solution.

First, they require each individual with religious convictions against joining or supporting a labor union to appear before a committee composed of a government man, a labor union official, a clergyman, and several businessmen. If this committee, as far as it can determine, finds that the applicant has sincere religious convictions against joining or supporting labor organizations, an exception is recommended.

Secondly, this exception requires that the religious objector pay the equivalent of dues and initiation fees to the government. The religious objector must abide by the rules of the contract. In this arrangement, he does not belong to nor does he support the labor union. Neither does he receive benefits, such as sickness or death benefits, administered by the labor unions. Because the governments of New Zealand and Australia have recognized religious convictions to be of peculiar delicacy, Seventh-day Adventists work side-by-side with labor union members. Recently, the States of Washington and Oregon have enacted laws attempting to help these people who have convictions against either joining or supporting labor unions.

A similar alternative was suggested for the United States in 1965 by the Honorable Edith Green. [See exhibit B.] Senator Wayne Morse suggested another alternative which, after many weeks of study by the Senate Committee on Labor and Public Welfare, was passed and recommended to the Senate on August 19, 1965. [See exhibit C.]

LABOR UNIONS RESPOND

Several years ago, I appeared before the House Special Subcommittee on Labor in the U.S. Congress during the 14(b) battle in behalf of the people who could not violate their religious convictions even though their jobs were at stake. As a result of my testimony, and that of other religious leaders, Mr. George Meany of the AFL-CIO sent the chairman a letter and asked that it be included in the record. [See exhibit D.]

Mr. Meany, assuring the House Labor Subcommittee that he and the international unions he represented understood the problem of the religious objector, said:

I am strongly of the view that unions and employers should undertake to accommodate religious objections with regard to union security arrangements.

After acknowledging that difficulties had been encountered, Mr. Meany said:

In any event, I believe that unions, and employers, too, should accommodate themselves to genuine individual religious scruples, and I am sure that all of our unions will take that view, too. I intend, accordingly, to propose to the AFL-CIO Executive Council that it adopt a strong policy statement to that effect; and that the international unions affiliated with the AFL-CIO undertake to insure that their local unions scrupulously respect individual religious reservations in the administration of union security agreements.

Mr. Meany added:

I do not believe that this matter is one which calls for or lends itself to legislation.

His statement of the problem is clear. Unions should accommodate themselves to genuine individual religious scruples.

True to his word, however, Mr. Meany, on September 20, 1965, did take the matter to his executive council which informed the international that the Executive Council declares it to be the policy of the AFL-CIO that unions should accommodate themselves to genuine individual religious scruples. [See exhibit E.]

The Council urged; "all national and international unions affiliated with the AFL-CIO, that have not already done so, to:

1. Immediately adopt procedures for respecting sincere personal religious convictions as to union membership or activities; and

2. Undertake to insure that this policy is fully and sympathetically implemented by all local unions.

Other churches responded to the appeal of Seventh-day Adventists and others for legislation to protect their religious convictions. During the hearings mentioned above, representatives of three major faiths appeared before the committee; namely, the National Council of Churches, the National Catholic Welfare Conference and a Jewish organization. Each representative stated that he was in favor of protecting the religious objectors in their refusal to either join or support labor unions. (See exhibit H.) They also indicated that they appreciated the promise of labor to protect these religious convictions.

POSTAL REFORM—1970—SETS EXAMPLE

When the Postal Reform bills were reported out of the committee in the U.S. House of Representatives and the U.S. Senate, each bill carried an amendment in identical language which protected religious objectors. Later, by majority vote, both the House and the Senate proved that they favor a law which protects the individual with religious convictions against either joining or supporting labor unions.

The Postal amendment, introduced and adopted by the U.S. House Postal and Civil Service Committee on May 7, 1970, and by the U.S. Senate Postal and Civil Service Committee on May 25, 1970, is as follows:

No individual who is a member of a religious sect, or division thereof, the established and traditional tenets or teaching of which oppose a requirement that a member of such sect or division join or financially support any labor organization, may be required to join or financially support any labor organization as a condition of employment if such individual pays to the Treasurer of the United States a sum equal to the initiation fees and periodic dues uniformly required as a condition of acquiring and retaining membership in a labor organization which is representative of the employee unless said individual and said labor organization mutually agree upon some other condition of employment.

As finally voted, the Senate bill contained both the religious objector and the Right to Work amendment. The House bill contained only the religious objector amendment. Later, in conference, the conferees agreed to the following language which protects the religious objector:

Each employee of the Postal Service shall have the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right.

PROMISES NOT ENOUGH

All Christians who have religious convictions against joining or supporting labor unions appreciate the concern expressed by Mr. George Meany (see exhibit E) and the urging of the Executive Council for all national and international unions affiliated with the AFL-CIO to adopt procedures for respecting sincere personal convictions.

Had the various internationals and locals followed this counsel, we would not be here today. It seems, however, that the AFL-CIO

is a loosely-knit association of internationals and local labor unions, and that neither his letter, his statements nor his proposed Executive Council action could dictate the response of the groups he purported to speak for. Unfortunately it seems that Mr. Meany and his Executive Council have no power to do any more than recommend. The experience of Seventh-day Adventists in attempting to make a living and not compromise their religious convictions by joining or supporting labor unions has proved this fact thousands of times since these promises were made to the Government in 1965.

As it is written, H.R. 5312 would hurt the postal employees who, because of religious convictions, cannot join or support labor unions. That individual would be forced out of his job if he is presently working for the post office, or he would be locked out of a job if he sought work with the post office. He would be compelled to choose between his job and his convictions. This, you will agree, is a cruel choice to force upon an individual. The past 8 years has proved that the promises of labor cannot be depended upon. People with these religious convictions must be protected by law. This has been true in the post office in the past. This protection must continue by either leaving the law as it is presently written or making sure that a conscience clause is attached which would provide this protection.

LEGISLATIVE AND COURT EXAMPLES

The free exercise of our first amendment safeguards probably the most precious possession that many of the citizens of our country have. Our legislatures and courts have repeatedly recognized that conscientious convictions occupy a very special place—stands atop a pedestal apart—in the hall of freedom.

In a number of areas where people's consciences are involved, legislatures and courts have recognized the obligation of providing for the needs of those citizens whose belief and practices differ from those of the majority. In our country we recognize that the State has a duty to protect the conscience of the minority as well as the majority.

Our draft laws make special provision for those young men whose consciences do not permit them to take other men's lives.

Many State Sunday laws have exemptions written in to protect the people who worship on a different day.

The Amish, because of their religious convictions, are exempt from the social security laws. And by court order they are exempt from school attendance laws. Again, it is because of their religious convictions.

The Jehovah's Witnesses, because of their religious convictions, are exempt from pledging allegiance to our flag.

In each of these cases, Congress or the courts have carved out a unique exception to meet a unique circumstance.

NOT A QUESTION OF EITHER OR

The question before this committee is not whether we should destroy the labor unions or the people with convictions against joining or supporting labor unions. It's a matter of finding a method of pre-

serving the labor unions and these people, people with sincere religious convictions. It can be done by using a simple railroad principle.

On railroad lines between some cities, there is frequently only one track. Yet, two trains may be highballing it toward each other on that single track. What prevents a head-on collision? Simple. At strategic locations, a small sidetrack is built, so that one of the trains pulls off onto the sideline momentarily while the other flies by. Both trains then continue safely on their way.

This can be done by attaching the conscience clause to this bill. All you have to do is put a sideline conscience law so that those who have religious scruples against joining or supporting a labor union won't have to do so. They can simply switch onto the sidetrack when a head-on collision is near.

We've got enough different factions streaking toward each other on collision courses without creating more. Some kind of exemption, patterned after the one worked out by the U.S. Senate Committee on Labor (see exhibit C), or a conscience amendment passed by the House and the Senate in the 1970 Postal Reform bill, should be passed to protect these people with their religious convictions. Organized labor, through their representative, Mr. George Meany, has indicated that labor could live with an exemption for religious objectors¹ for it does not present a threat to union security agreements.

THE SPIRIT OF THE 1964 CIVIL RIGHTS LAW

The Civil Rights Law of our Nation embraces more than the concept of color, nationality, or ethnic background. It also forbids discrimination because of religion. When an individual refuses to join or support a labor union because of his religious convictions, the proposed laws could compel that individual to choose between his religion and his job. This the Equal Employment Opportunity Commission declares to be religious discrimination. (See exhibit G.) These findings are rather new with the EEOC, but they have been showing up in various parts of the country.

CIVIL RIGHTS ACT OF 1964 AMENDED IN 1972

In the 1972 amendment, a definition of religion is given in title VII, section 701(j). It says, "The term 'religion' includes all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business."

RELIGIOUS PROTECTION SHOULD BE WRITTEN INTO LAW

To protect your own laws, it would be well to make sure religious objectors are protected against being forced to choose between their jobs and their religion. The amendment suggested to this committee

¹ Exhibit F not included.

today is but another provision for a very real and sincere conscientious conviction of a small minority. It poses no threat to the orderly working of the labor unions. As a matter of simple fact, it will help to hold some of the most dependable and honest employees. If they are forced to decide between joining or supporting a labor union on the one hand, or losing their jobs on the other, many of these sincere, honest people will choose to give up their employment.

Even if you believe they are wrong in their convictions, you should be willing to defend their right to be wrong.

Seventh-day Adventists are for fighting the labor unions. We do not organize campaigns against them. We recognize the right of an individual to join or support a labor union. Likewise, we sincerely request that this committee not only recognize the right of a religious objector to refrain from joining and supporting a labor union, but that it protect him in that right by writing a religious exemption into law.

THE BEAT OF A DIFFERENT DRUMMER

Henry David Thoreau, one of the great champions of freedom and individualism, has challenged us to embrace a truly tolerant attitude toward the man who is different. "If a man does not keep pace with his companions," said Thoreau, "perhaps it is because he hears a different drummer. Let him step to the music which he hears, however measured or however far away." Our appeal is—let the Seventh-day Adventist step to the music he hears. Yes, and the Baptist and the Catholic and the Jew. The Jehovah's Witness, too, and the Amish, as well as the doubter and the atheist.

"When we lose the right to be different," said Charles Evans Hughes, "we lose the right to be free."

[The attachments to the statement follow:]



EXHIBIT A

LABOR UNIONS--SEVENTH-DAY ADVENTIST POSITION STATEMENT

WHEREAS, On the basis of principles set forth in the Bible, the Seventh-day Adventist Church teaches that Christ is to be Lord of the life, the ultimate authority to which Christians will submit all decisions and relationships (Acts 2:36; 5:29; Col. 3:23, 24); and

WHEREAS, The church teaches that Christians should stand apart from any organization or alliance that might impinge on the lordship of Christ in the life (Isa. 8:12, 13; 2 Cor. 6:14-18); and

WHEREAS, The Christian dare not violate his conscience by giving support to activities or policies incompatible with the principles and counsel set forth in God's Word; and

WHEREAS, An increasing number of Seventh-day Adventists are finding it necessary to explain the position of the church in relation to joining or financially supporting labor unions and similar organizations,

We recommend, 1. That the Seventh-day Adventist Church hereby reaffirm its historical position that its members should not join or financially support labor unions and similar organizations.

2. That the Seventh-day Adventist Church member is following the teaching of the church when because of religious convictions he refuses to join or financially support labor unions and similar organizations or associations, or discontinues membership or financial support of a labor union, and similar organization or association.

3. That pastors diligently inform Seventh-day Adventist Church members through sermons, personal counseling, church publications and other media of the Bible principles and the Spirit of Prophecy counsel on which the church's position is based.

--North American Division Committee on Administration
Mexico City
October 16-20, 1972

EXHIBIT B

H. R. 8962

89th Congress
1st Session

A bill to amend the National Labor Relations Act to provide that individuals with religious convictions against joining or participating in a labor organization under a union security collective-bargaining agreement shall not be required to join or contribute to the support of that labor organization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Labor Relations Act (29 U.S.C. 151-169) is amended by adding at the end thereof the following new section:

"INDIVIDUALS WITH RELIGIOUS CONVICTIONS

"Sec. 19. No individual who has religious convictions against joining or financially supporting a labor organization may be required to join or financially support any labor organization as a condition of employment if such individual pays to the Treasurer of the United States a sum equal to the initiation fees and periodic dues uniformly required as a condition of acquiring and retaining membership in a labor organization which is representative of the employee unless said individual and said labor organization mutually agree upon some other condition of employment.

EXHIBIT C

August 19, 1965

The following is the text of the "conscience" amendment as approved today by the Senate Committee on Labor and Public Welfare:

1 "(c) Section 8(a) (3) of such Act is further amended by striking the
2 semicolon after paragraph (B) and adding a new paragraph (C) at the end
3 thereof, as follows: ', or
4 '(C) if he has reasonable grounds for believing (i) that such
5 employee has been issued a certificate by the National Labor Relations
6 Board either that he is a member of a religious sect or division thereof,
7 the established and traditional tenets or teachings of which oppose a
8 requirement that a member of such sect or division join or financially
9 support any labor organization, or that, even though he is not a member
10 of such a religious sect or division thereof, he holds conscientious
11 objections to membership in any labor organization based upon his
12 religious training and beliefs in relation to a Supreme Being involving
13 duties superior to those arising from any human relation, and (ii) either
14 that such employee has timely paid, in lieu of periodic dues and
15 initiation fees, sums equal to such dues and initiation fees to a nonreli-
16 gious charitable fund exempt from taxation under section 501(c) (3) of
17 the Internal Revenue Code, designated by the labor organization, or that
18 the labor organization has failed upon request to designate such a fund
19 or waives such payment, or (iii) that such employee has complied with
20 alternative arrangements mutually agreed upon by such employee and such
21 labor organization;'

EXHIBIT D

LETTER FROM GEORGE MEANY REGARDING RELIGIOUS CONVICTIONS ON LABOR UNIONS

Dear Mr. Thompson: It has been brought to our attention that some members of certain religious groups may have personal religious convictions which stand in the way of their joining unions, in the sense of formally becoming members; or participating in certain union activities, such as picketing; or, perhaps contributing financially to certain causes which unions may support. Suggestions have been made that some sort of special treatment should be accorded to these religious objectors.

These suggestions reflect in part a misapprehension as to what the National Labor Relations Act provides or permits. Under the types of union security arrangements permitted by the act, a person may only be required, as a condition of employment, to render the normal dues and initiation fees, which may not be "excessive" or "discriminatory." No one may be required to become a member of a union, or take an oath or obligation to it, or attend meetings, or participate in picket line duty.

Any religious reservations with regard to union security must perforce relate only to the possible use of dues money for purposes with which individuals may disagree. In line with that, it has been proposed that religious objectors be granted the option to contribute to charity, or to union charitable funds. A widely run advertisement urges that the option be given of contributing the equivalent of dues to the U. S. Treasury.

These same advertisements declare that the Taft-Hartley Labor Law does infringe on this "free exercise of religion" in violation of the Constitution of the United States. This assertion is ill founded. At least the courts have not, to date, thought this contention worthy of serious consideration. (See *Otten v. Baltimore & Ohio R. Co.*, 205 F.2d 58, 229 F.2d 919 (2d Cir.), cert. denied, 351 U. S. 983.)

Nevertheless, I am strongly of the view that unions and employers should undertake to accommodate religious objections with regard to union security arrangements, just as I think that persons who object to working on Sunday, or Saturday, are entitled to consideration.

Various unions have in the past worked out a variety of arrangements with particular religious groups. In some instances, special membership cards have been issued to religious objectors, and they have participated fully in union activities except for not taking the union oath or obligations, or serving as pickets. In other cases religious objectors have not participated at all in union enterprises, but have paid the equivalent of dues to a union charitable fund or to an agreed upon charity. One union issues special cards attesting that the holder is "entitled to the same rights of employment as good standing members of the union."

I am told that there have in the past been some difficulties in the implementation of these agreements by particular local unions. Some local union officials are reluctant to give special treatment to a handful of people, and employers, I am told, don't like the extra accounting and recordkeeping involved. It may be that where the numbers of people involved are very small the best course would be for the union and the employer to exclude them entirely from the union security arrangement.

In any event, I believe that unions, and employers, too, should accommodate themselves to genuine individual religious scruples, and I am sure that all of our unions will take that view, too. I intend, accordingly, to propose to the AFL-CIO Executive Council that it adopt a strong policy statement to that effect; and that the International unions affiliated with the AFL-CIO undertake to insure that their local unions scrupulously respect individual religious reservations in the administration of union security agreements.

I do not believe that this matter is one which calls for or lends itself to legislation. The newspaper advertisements to which I have adverted urge that the National Labor Relations Board be directed to prescribe regulations dealing with this subject. Presumably, the Board would undertake to screen each individual claiming to be an individual objector. Such an approach seems to me neither desirable nor practicable. The Selective Service System is hardly a precedent, for the country has thousands of draft boards and appeals boards, and established alternative forms of noncombatant service. Nor do I think that the problems are otherwise parallel.

Another reason why the matter does not lend itself to statutory treatment is that there is considerable variance in the nature and extent of religious objections to participation in unions. As I indicated, some objectors wish to participate in union meetings and other activities, and object only to taking an oath or obligation, and to participating in picket-line activity. Other objectors desire a lesser degree of participation. I am confident that unions and employers can work this matter out satisfactorily with the particular religious groups involved.

This whole matter seems to me, incidentally, to have only a remote relevance to the repeal of section 14(b).

I will appreciate it if you will make this letter a part of the record at the appropriate place.

Sincerely,

George Meany, President.

EXHIBIT E

C O P Y

Statement by the AFL-CIO Executive Council

on

Union Membership and Religious ObjectorsNew York, New York
September 20, 1965

In connection with consideration by the Congress of repeal of Section 14(b) of the Taft-Hartley Act, representatives of certain religious groups testified that some of their members have personal religious convictions which may stand in the way of their formally joining unions or, to varying degrees, participating in or financially supporting union activities.

A number of national and international unions have in the past worked out arrangements with particular religious groups for handling this problem of individual religious objectors, but other unions have not yet done so.

The Senate Labor Committee has incorporated in the bill repealing Section 14(b) provisions giving to religious objectors the option of contributing to a non-religious charity, designated by the union, sums equal to union dues and initiation fees -- provisions which the AFL-CIO supports. These provisions become operative where there are no voluntary agreements covering these matters. It is the conviction of the AFL-CIO that such voluntary union agreements are the best method for handling such matters.

Therefore this Executive Council declares it to be the policy of the AFL-CIO that unions should accommodate themselves to genuine individual religious scruples. We strongly urge all national and international unions affiliated with the AFL-CIO, that have not already done so, to:

1. Immediately adopt procedures for respecting sincere personal religious convictions as to union membership or activities; and
2. Undertake to insure that this policy is fully and sympathetically implemented by all local unions.

Department of Public Affairs and Religious Liberty
General Conference of Seventh-day Adventists
6840 Eastern Avenue, N. W., Washington, D. C. 20012



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
DALLAS DISTRICT OFFICE
400A LANCASTER-KIEST SHOPPING CONCOURSE, SUITE 17
DALLAS, TEXAS 75216

AREA CODE 214
742-1751

EXHIBIT G

CERTIFIED MAIL NO. 812284

Charge Nos. TDA3 0828, 0829,
0834, 0835, 0836,
0837, 0838, 0839,
0840
Case No. YDA3 352
Filed 12/08/72
Served 12/15/72

Joseph A. Jenkins
Dallas, Texas

Charging Party

JAN 24 1973

General Dynamics
Convair Aerospace Division
Ft. Worth, Texas

Respondent

DETERMINATION

Under the authority vested in me by Section 1601.19b of the Commission's Procedural Rules, 37 Fed. Reg. 20165 (September 27, 1972), I issue, on behalf of the Commission, the following determination as to the merits of the subject charge.

Respondent is an employer within the meanings of Title VII, and the timeliness and all other jurisdictional requirements have been met.

A recent decision by the United States Fifth Circuit Court of Appeals (H. Kessler & Co. v. EEOC et al., ___ F. 2d ___ (5th Cir. 1972), Rehearing en banc granted ___ F. 2d ___, September 26, 1972.) severely limits the amount of information which this district may divulge to the parties to an investigation, absent there being an action filed in court. For practical purposes, the court's decision permits us to divulge to a party only that evidence known to the party and contributed to the investigation file by the party. This means that this Letter of Determination is necessarily vague in some instances. Unless and until a court action is initiated, no information beyond that which is given in this Letter of Determination may be supplied.

The essential facts in this case are well known to all parties; briefly, the significant facts are as follows:

1. The quality of the charging parties as individual employees is not a matter at issue.
2. In August and September of 1972, the respondent employer executed with the respondent union lodge, with participation of the international union, contracts which contain agency shop provisions. These provisions require that each member of the bargaining units pay union initiation fees

and dues to the respondent union lodge, by check-off. Although the dues and fees are required as a condition of continued employment, the contracts specify that formal membership in the union is not required.

3. The attorney for the aggrieved persons in this case filed a charge with this Commission in behalf of the aggrieved persons, alleging that the respondent employer, union lodge, and international union had violated Title VII of the Civil Rights Act of 1964, as amended, by the initiation of the agency shop provisions.

4. The aggrieved persons are members of the religious group called Seventh-day Adventists. Among other things, this group believes that it is improper to join labor unions; in this case, the paying of initiation fees and dues is considered to be tantamount to being members. Thus, the aggrieved parties were placed in the position of having to choose between the tenets of their religion and their employment with the respondent employer.

5. In the meantime, the aggrieved persons made known to the respondents their religious beliefs, both individually and through their attorney, the charging party in this matter. Among other things, the aggrieved persons offered to pay to some non-religious charity moneys equivalent to the fees and dues, should they be allowed to refrain from paying the fees and dues to the union and, in effect, to refrain from being union members.

6. The respondents have been in operation at the situs for many years and, until the most recent contract, have not had agency shop provisions. The aggrieved persons have been employees of the employer, members of the religious group, and not union members for many years.

7. The employer argues that it cannot unilaterally give any accommodation to the aggrieved persons' religious needs to be exempt from the payment of fees and dues. The union argues that the mere payment of fees and dues does not constitute being members of the union; however, the religious position of the aggrieved persons and of the Seventh-day Adventists in general would seem to have to be a matter to be determined by the religious group. The union further argues that the giving of special consideration to the aggrieved persons would have a disruptive effect on the operations of the union because the dues-paying members would have to share benefits with the non-dues-paying employees.

8. The AFL-CIO Executive Council on or about September 20, 1965, issued a statement concerning "... Union Membership and Religious Objectors" recommending that in agency shop situations, the locals permit religious objectors to pay the equivalent to the union fees and dues to "... a non-religious charity, designated by the union ..." or to take other steps for "... respecting sincere personal religious convictions ..."

Speaking especially to days-of-work but also more generally, the Equal Employment Opportunity Commission has stated that it is necessary for any employer to make " . . . reasonable accommodation to the religious needs of employees and prospective employees where such accommodation can be made without undue hardship on the conduct of the employer's business" (29 CFR 1605, July 10, 1967.) Section 702(j) of the Act, as amended on March 24, 1972, includes essentially the same injunction as does 29 CFR 1605; however, 702(j) says further that "The term 'religion' includes all aspects of religious observance and practice, as well as belief"

In this case, the respondents have failed to show that any "undue hardship" would result from some "reasonable accommodation to the religious needs of" the aggrieved parties. The AFL-CIO, itself, has recognized the need for some sort of special accommodation to employees in this kind of situation. The union and employer have operated for many years, apparently successfully, without any payment of dues or fees to the union and without membership in it by the aggrieved persons and by others similarly situated. While there is no information available as to the number of Seventh-day Adventists (or of other religious groups which would take similar positions in this situation) who are within the bargaining groups, the number of members nationally is relatively small. Considering the substantial size of the employer and the union, it cannot be visualized that the loss of revenue from accommodation to the religious views of these persons would substantially affect the strength of the union; neither was this alleged by the union. Certainly, exemption of these persons would not adversely affect other members of the bargaining units to any greater extent than did their failure to join the union or pay dues in the past, prior to the initiation of the agency shop agreements. In short, the respondents have failed to demonstrate that there would be any "undue hardship" from some appropriate accommodation to the religious needs of these aggrieved persons and of others similarly situated.

Under Title VII as amended, the test as to whether failure to accommodate to religious need is illegally discriminatory is whether "undue hardship" would result from failure to accommodate to those needs. In this case, the employer and union have illegally discriminated against the aggrieved parties and others similarly situated by agreement to the agency shop provisions without reasonable accommodation and without demonstration of "undue hardship."

Having examined the entire record, I conclude that there is reasonable cause to believe that the Respondent has violated Title VII of the Civil Rights Act of 1964, as amended, in the manner alleged.

Having determined that there is reasonable cause to believe that the Respondent has engaged in unlawful employment practices, the Commission now invites the Charging Party to join with it in a collective effort toward a just resolution of this matter. I enclose an information sheet entitled "Notice of Conciliation Process" for the information of the Charging Party. A representative of the Commission will be in contact with the Charging Party in the near future to begin the conciliation process; at that time, the Commission representative will explain the process fully to the Charging Party. Until then, no action is required of the Charging Party.

On Behalf of the Commission:

NOTICE OF CONCILIATION PROCESS

Section 706(b) of Title VII of the Civil Rights Act of 1964, as amended, requires that if the Commission determines that there is reasonable cause to believe that the charge is true, it shall endeavor to eliminate the alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Accordingly, the Commission will contact each party to ascertain their willingness to engage in settlement discussion, and, if the parties are willing, join with them in a collective effort to arrive at a just settlement. Should the Respondent decline to enter into settlement discussions, or should the Commission for any other reason be unable to secure a settlement acceptable to the District Director, it shall so inform the parties in writing and advise them at that time of the count enforcement alternatives available to the Charging Party and the Commission.

Nothing that is said or done during and as a part of the endeavors of the Commission to eliminate unlawful employment practices by informal methods of conference, conciliation, and persuasion may be made a matter of public information by the Commission without the written consent of the parties, or used as evidence in a subsequent proceeding.

EXHIBIT H

REV. J. EDWARD CAROTHERS, Associate General Secretary, National Division of the Board of Missions of the Methodist Church; Secretary of Commission on the Church and Economic Life, National Council of Churches of Christ in the USA:

"Adequate protection for those individuals who, for reasons of religious belief . . . cannot participate in all conditions of membership."--Page 661

RT. REV. MSGR. GEORGE G. HIGGINS, Director, Social Action Department, National Catholic Welfare Conference:

"My position on the issue is that the conscientious objections from religious motives of people who do not feel they can in good conscience belong to a union should be respected, but I personally strongly favor the position taken in the letter submitted for the record to your chairman by President Meany of the AFL-CIO urging that this matter be resolved through negotiation between the several religious groups involved and the unions involved.

"I have complete sympathy with their point of view. I disagree with it from my own ethical and religious point of view. I think it must be resolved, not only in theory, but in practice."--Page 567

RABBI RICHARD G. HIRSCH, representing the Central Conference of American Rabbis:

"We should like to take special note of the problem raised by those among the Amish, Mennonites, Plymouth Brethren, National Association of Evangelicals, and Seventh-day Adventists whose religious convictions do not permit them to join labor unions or any other non-religious organization. It is essential in our democratic society to protect the rights of these persons, as of all minority groups, no matter how small the number involved.

"We recommend, therefore, that the most effective means is for the unions and these workers to establish an equitable arrangement privately. Some unions have already worked out such arrangements and we have good reason to believe that all others would be willing to do so. . . .
--Page 265

[The following summary was presented by Mr. Adams.]

SUMMARY

MR. ADAMS. When you understand that the Seventh-Day Adventist Church teaches its members that they should not either join or support a labor union, you can immediately understand that we are in trouble when such a bill as has been introduced here, H.R. 5312, proposes to make it possible for a union shop agreement to be signed.

This would mean Seventh-Day Adventists who are presently working in the Post Office would either have to compromise their religious convictions, go against their convictions, or they would have to lose their job. It would force them out of postal work.

For those that would want to secure postal work in the future, it would mean that they would be locked out of a job unless they compromised their religious convictions.

Now, Seventh-Day Adventists are not the only ones involved with these convictions. Others are not here today, nor do I suppose they will be. I just found out about this hearing last Friday. And the staff kindly arranged that we could be heard.

When other hearings of this nature have been held on the matter of compulsory unionism or a bill that would allow compulsory unionism, the Amish have either sent their representation or letters. The Mennonites have done the same, because they have the same religious convictions—the Christian Missionary Alliance, and some of the National Association of Evangelicals.

These people with Seventh-Day Adventists stand to be hurt if this present law, H.R. 5312, goes into effect. It even goes further—black people. We have many black people living in the inner city, Seventh-Day Adventists, who have these convictions that they should not either join or support a labor union. Many of them have been able to get jobs with the Post Office. And should this go into effect and the right to refrain be taken out of the postal regulations, it means that these people would be forced out of their job.

There are alternatives, however. It is not a matter of either having to destroy the possibility of collective bargaining with the labor unions or, on the other hand, destroying people with their religious convictions.

I refer to what has been done in other countries. Australia, for instance, where there is a labor government, where labor unions are strong, guarantees by constitutional law the right of an individual who has religious convictions to remain free from the labor unions without either joining or supporting. New Zealand has a similar arrangement.

Back in 1965, I met before a labor committee, a subcommittee here in the Congress when they were attempting to repeal section 14(b) of the Taft-Hartley. And when we presented the fact that we have religious convictions that do not permit us to either join or support a labor union, labor representatives immediately came forward and presented in a letter to Representative Frank Thompson, the Chairman of the subcommittee at that time, a statement that they recognized these religious convictions; they were sympathetic with them;

and that they would take care of them; that they would work out accommodations for them.

These same kind of promises were made to the Senate when the battle was transferred to the Senate. The Senate, however, was not so sure about the leaving of this to promises. They created a formula whereby an individual would not have to join, would not have to support, but would be required to pay the equivalent of dues or assessments to a nonunion nonreligious charity.

Actually, this particular formula, known as the conscience clause at that time, was attached to the repeal of section 14(b), and went to the Senate as a part of the repeal of 14(b), and would have become law had not the repeal of 14(b) been caught behind a filibuster that killed it at that time.

But labor went on. They said they would take care of these people. And true to their word, the executive committee of the A.F. of L.-CIO on September 20, 1965, and all these documents are in the papers that you have, passed an action. And this is what they said:

This Executive Committee declares it to be the policy of the A.F. of L.-CIO, that unions should accommodate themselves to genuine, individual religious scruples. We strongly urge that all national and international unions affiliated with the A.F. of L.-CIO that have not already done so, too, one, immediately adopt procedures for respecting sincere personal religious convictions as to union membership or activities and, two, undertake to insure that this policy is fully and sympathetically implemented by all local unions.

Now, that is A.F. of L.-CIO executive action of September 20, 1965. We entered then into what I call a waiting period. Waiting for this systematic and sympathetic accommodation from labor. One year went by; 2 years went by; 4 years went by; 6 years went by. Now, 8 years have gone by and still Seventh-Day Adventists are losing their jobs. Labor is not making an accommodation.

In fact, I testified in Wisconsin just a few days ago and the A.F. of L.-CIO representative stood before the committee where we were discussing similar situations as we are here. He says the thing for these people to do is to change their religion. He says there is another alternative. Why don't they get a dispensation from their church so that these people can go on and violate the convictions and yet get along.

That is the kind of accommodation we have received. That is the reason why we are so concerned about what has been proposed to this committee. With the right to refrain removed it means that these people with these religious convictions are immediately in trouble.

Now, Seventh-Day Adventists do not want to be freeriders. We are not attempting to be freeriders. We realize that there are a certain amount of things that are taken care of as far as bargaining; wages, hours and so on are worked out by labor unions. We have no choice of that. Labor unions asked for the privilege to be able to bargain for all individuals.

We cannot bargain for ourselves. We cannot talk to the management in regard to these things. We have to come under that umbrella. It was asked for by labor. It was granted to labor. But we do ask that within the framework of our religious convictions that we

be allowed to work without either having to join a labor union, or to support a labor union.

Now, in 1970, this was worked out by the postal reform. When that bill went through Congress in 1970, both in the House of Representatives and in the Senate, it contained identical language which protected the individual who could not either join or support a labor union. It was reported out of the Postal and Civil Service Committees with identical language in both Houses. It was attached to both the Senate and the House bill. It was passed by both the Senate and the House.

Later on, the Senate passed that section or that clause which gave freedom to refrain. And when the conferees came together, the freedom to refrain, which actually covered our problem, was the one that was retained in the bill. And what was known as the conscience clause at that time was dropped out because we were actually protected.

And so, what we come before this committee, Mr. Chairman, in saying, is, we are not entering into the political ramifications of whether a person should have the right to join or not the right to refrain. We are not entering into the political ramifications of whether you should be able to strike or should not be able to strike, because we are speaking for a church. And we are speaking about religious convictions.

What we are saying is if these things are changed, if the right to refrain is removed from the postal regulations, then some kind of wording should be put into these regulations that would protect people who have religious convictions and who, because of these convictions, cannot either join or support a labor union.

Now actually, Mr. Chairman, this is in the spirit of the 1964 civil rights law which this Congress passed. In 1972, revision or an amendment which was added to that law which spells out very definitely the definition of religion. And EEOC and other Government agencies are now beginning to find labor unions in discrimination because they are attempting to fire individuals who refuse to join or support. And it is based on the 1964 and 1972 civil rights law.

So, we make the appeal: Do not make Seventh-day Adventists second-class citizens in the post office. Many of our people have sought Government work, postal work, to avoid the labor union problems in the private sector where they cannot get jobs because they refuse to join and they refuse to support. So, we appeal that we not be made second-class citizens; that our right be recognized; that we be protected, that the right of religion, the freedom to exercise our religion here in the United States be protected.

Our church is not large. We do not have any political clout. We do not have any political machinery. We do not have any control of votes. We do not have a lot of money, or any money that we can put into political campaigns.

Our hope is that the constitutional government, that type of government that this Nation works under which says that we will protect minorities, not because they are big, not because they have votes, not because they have money, but because they have the right of protection—we plead on that.

Government by majority would just roll over the minorities and nothing could be done. But our Government is one that protects. And we have a lot of things that exemplify that. The draft law. Minorities who cannot because of their religious convictions take part in war. We have taken care of that.

Many States have Sunday laws which says that people have to refrain from work or selling on a certain day. They have written into those laws exemptions for people who worship on another day, minorities.

We wrote an exemption in for the Amish here a few years back, who could not enter into the Social Security Act—just a small group; we could have ridden over them and said they do not amount to anything. But our Congress wrote an exemption in for them to protect their religious convictions.

Later on, the courts wrote an exemption in against compulsory attendance laws. And for the Jehovah's Witness, we say we are not even going to force those people to salute the flag or pledge allegiance, because it is against their convictions.

So, Mr. Chairman, it is not a matter of either hurting the unions or hurting these people. It is a matter of finding a way that the two can work together, that the two can cooperate. That is the old railroad principle. Sometimes there is just one track between two cities and two high-speed trains can be highballing it right towards each other on a collision course. What prevents the collision? A little side track is built in.

So, we are asking this committee if the right to refrain is withdrawn from the Postal Services, that a side track be built in that will protect the religious convictions of people who cannot either join or support. Our freedom is their freedom. If our freedom is jeopardized, the freedom of all Americans is jeopardized.

I think Martin Niemöller, of Germany, said it in a real wonderful way. He said that in Germany the Nazis first came for the Communists. He said, "I didn't speak up because I was not a Communist." He says then they came for the Jews. And this great Lutheran pastor, said "I didn't speak up because I wasn't a Jew." Then he says, "They came for the trades unionists," and he says, "I didn't speak up because I wasn't a trade unionist." And then he said, "They came for the Catholics." And the pastor said, "I didn't speak up because I was a Protestant. I wasn't a Catholic." Then in a dramatic way, he said, "Then they came for me and there was no one to speak up."

Freedom is not a one-way street. Freedom for the labor unions to negotiate and carry on their work must include freedom for the people with religion who cannot either join or support.

So, we appeal to this committee to write into this bill, a clause similar to what was written in and approved by both Houses in 1970, and by both committees in 1970, that will protect us.

Thank you.

Mr. HILLIS. It was a very good statement and we appreciate very much having you here and having your testimony in the record.

Let me ask just a couple of questions.

As I understand, with that language, the so-called conscience clause, this would satisfy your problem, is that correct?

Mr. ADAMS. That is correct, sir. And I cannot speak officially for these other groups because they did not empower me to. But I can say that in the past it also met their needs. That is, the Amish, the Mennonites, the Christian Missionary Alliance and some in the National Association of Evangelicals.

Mr. HILLIS. What generally do your members do in the event that they are, say, employed in an organization or by a company that has a nonunion shop but a union and there is a strike? What action do your members take under those circumstances?

Mr. ADAMS. You are talking about an open shop?

Mr. HILLIS. That is correct, sir.

Mr. ADAMS. Where there is an open shop but there is a strike called, our members try to stay out of conflict. And it partly depends upon what the situation is.

I would say in most cases they stay out and they go home because it usually is dangerous because of the emotions that are generated around a picket line for people to attempt to go through.

If it is a very peaceful situation and everything is on a very peaceful basis, they may work. They may continue to work. But in most cases, I think they refrain from work because of the possibility of an explosion of some kind at the picket line.

Mr. HILLIS. Does counsel have any questions?

Mr. GOULD. Yes, Mr. Chairman. For the record, H.R. 5312, as you know, would not establish compulsory unionism which is now against the law. The bill would allow the unions to negotiate a union shop. Under the National Labor Relations Act election procedures, 51 percent or more of the union members choose their leadership and then their leaders negotiate for a union shop with management.

What is your objection to an agency shop, in which an employee pays dues but does not participate in the union's activities?

Mr. ADAMS. I tried to choose my language carefully, but possibly I used some words that might have said otherwise.

I recognize this is not a compulsory union shop bill. I recognize that. But as you said, it provides the provisions which can be negotiated into union shop. And that is where we are caught on it.

Now, to answer you specifically in regard to the agency shop. Our position is, and you will find it in the documents in which you will find the Seventh-Day Adventist Church position is that we should not either join or support a labor union that includes the agency shop.

The support comes with an agency shop. It is the same as dues; it is the equivalent of dues; the only difference is a person does not have to take the oath; he does not have to attend meetings or something like that. But the support of the union is financially the same.

So, we are opposed to that. That hurts us just the same as a union shop would. That is no relief for us.

Mr. GOULD. Have you had any experience—of course we will ask the union leadership tomorrow on this—but have you experienced any difficulty with union leaders or management or in the Government identifying your followers? In other words, have there been any instances in which, frankly, employees use your religion or another religion as an excuse for not supporting the Union?

Mr. ADAMS. No, Seventh-Day Adventists are really not hard to identify because you realize that Adventists worship on Saturday and not Sunday. And that automatically makes it an easy identification.

They also have a historic background on this. Chances are they are working in a place where they have already had to request that for one reason or another they be put on a different shift so that they will not have to work on their Saturday or their sabbath. That is historic.

So, identification has not been a problem with this.

Mr. GOULD. Can you give the committee the number of members of your church that would be of an employable age, say over 18?

Mr. ADAMS. No, I cannot, but I can attempt to give you some pictures that might find it. The Seventh-Day Adventist Church membership in the United States and Canada is just short of one-half million. Now, that is everybody. Men, women and children down to about 10 years of age, because it is about that age that they join the church, that or a little bit older. So when you take that, less than a half-million for both the United States and Canada—you realize that there are a large number of professional people within the Seventh-Day Adventist Church, a large number of people have sought work which is in management, small business, in order to avoid these union problems—it brings the number down to a relatively small number. Now, I cannot give it to you in hundreds or thousands. But when you realize the large number of professional, the large number that have gone into their own business, small businesses in order to avoid this, and there are less than a half-million in the two countries, you can see there is not a large number. It is a relatively small number.

The same goes true for the Amish. The Amish only number 20,000 all told. The Mennonites about the same number, a little more. The Christian Missionary Alliance about 150,000, all told, throughout the United States, men, women, and children.

And so, it is really not large numbers, but it is sincere convictions of a small group.

Mr. GOULD. Thank you, Mr. Chairman.

Mr. HILLIS. Thank you, very much.

The committee will now call Mr. Reed Larson, executive vice president of the National Right to Work Committee.

Good morning, sir.

STATEMENT OF REED LARSON, EXECUTIVE VICE PRESIDENT, NATIONAL RIGHT TO WORK COMMITTEE

Mr. LARSON. Good morning, Mr. Chairman.

I am Reed Larson, executive vice president of the National Right to Work Committee. Our committee is a coalition of employees and employers with a single purpose, to defend the right of every working man and woman to work without being compelled to pay money to any private organization as a condition of employment.

Our members and supporters represent a cross-section of citizens from all walks of life, including rank-and-file wage earners, both

union and nonunion, businessmen, professional people and others who believe in the dignity of man and in his freedom of choice. The top officer of our committee, I think it is significant in the matter under discussion today, is a veteran member and former local president in one of the well-known Federal employee unions.

This bill under discussion, H.R. 5312, has only one purpose. It is designed to compel employees of a Government-authorized agency to pay money to a private organization for representation they do not want. This is pure and simple compulsory unionism. Bad enough in private industry, but totally indefensible in a Government agency.

Compulsory unionism such as that which would be sanctioned for 650,000 postal employees by this measure is sometimes called union security. That is a remarkably descriptive term since compulsory unionism provides security for the union and its officials at the expense of the employee who is compelled to pick up the tab.

Deprived of his freedom to decide for himself on the worth of the union and its benefits or damage to him, the employee actually becomes a servant of the union. The union is no longer a servant of the employee as it should be, and as it is when support of the union is voluntary.

Some advocates of compulsory unionism try to justify its coercion on the basis of majority rule, claiming that if 51 percent of the employees want to be represented by the union, the remaining 49 percent should be compelled to accept the union as their representative.

They go further as in H.R. 5312 by demanding that employees pay for representation which they feel is worthless or harmful to them. Nowhere else in our society is a private organization given the power to impose its will on those who do not voluntarily wish to associate with it.

The late President John F. Kennedy, recognizing the injustice of compulsory unionism for public employees, issued his famous executive order in 1962 clearly protecting all employees from compulsory unionism. He proclaimed, "Employees of the Federal Government shall have and shall be protected in the exercise of the right freely and without fear of penalty or reprisal to form, join or assist any employee organization or to refrain from any such activity."

Enactment of H.R. 5312 would repudiate this farsighted policy of the late President Kennedy.

You will recall that the postal reorganization proposal which was brought to the House floor in July, 1970, omitted this essential protection for the rights of postal employees. The House of Representatives, in its wisdom, corrected that error at the urging of Representatives Henderson and Gross. It inserted the language of President John F. Kennedy in that bill.

By a recorded vote of 226 to 159, the House of Representatives reaffirmed its belief in the policy laid down by President Kennedy, that while employees of the Federal Government should have the right to participate in union activities, they should also be protected in the right to refrain from any such activity.

That portion of the Postal Reorganization bill was debated at great length both on the Floor of Congress and by the citizens of our Nation. The action was not taken hastily, but after thorough debate and careful consideration.

In that debate, literally dozens of members of the House and Senate expressed themselves on the question of compulsory unionism for postal employees. I have recorded here just a few examples.

Senator Sam Ervin, Democrat of North Carolina said, I quote:

Mr. President, when I have to make a choice between tyranny, whether it is tyranny on the part of Government, tyranny on the part of the unions, tyranny on the part of big business or tyranny on the part of powerful political organizations, and freedom, I will take my stand with freedom.

Senator Howard Baker, Republican of Tennessee:

The idea that we must protect the right of Federal employees to join or refrain from joining a union is embedded in the fabric of the House version. It is one of the aspects of it that commends it most highly to me.

Representative Graham Purcell, Democrat of Texas:

For us to be in a position of sanctioning compulsory action to force these workers into a union would be highly inconsistent for a Government dedicated to protect the freedom of its people.

Senator Ernest Holins, Democrat of South Carolina:

I have swallowed all I can take in the name of reform. I cannot destroy the fundamental of public service and set in motion a concentration of power beyond the purview of the public.

Representative Edith Green, Democrat of Oregon:

Inequality in bargaining power inevitably will mean decisions that will be passed on to an unprotected public. I urge the adoption of the Henderson amendment.

Representative John Ashbrook, Republican of Ohio:

My chief objection to the postal reform bill is the provision which paves the way to compulsory unionism by authorizing the negotiation of a union shop contract.

Senator John S. Cooper, Republican of Kentucky:

I believe the loyalty of the employees of the Government must first be to their Government . . . No citizen should be required to be a member of any organization to become an employee of their own Government.

So, by whatever label, union shop, agency shop, union security agreement, employees are compelled to turn money over to a private organization which spends that money for a variety of purposes with which the involuntary dues payer frequently disagrees. The employee is thereby forced to pay his money to a union which he believes is perhaps useless, ineffective or even detrimental in representing his interests. Or that is promoting causes or ideologies with which he disagrees or, perhaps, supporting a political party of a particular candidate to which he is opposed.

Thomas Jefferson described the situation of the captive dues payer when he wrote, quote:

To compel a man to furnish contributions of money for the propagation of opinions which he disbelieves and abhors is sinful and tyrannical.

End of quote from Thomas Jefferson.

In a contemporary setting, Justice Hugo Black wrote in 1961 on the same principle, quote:

There can be no doubt that the federally sanctioned union shop contract here, as it actually works, takes a part of the earnings of some men and

turns it over to others who spend a substantial part of the funds so received in efforts to thwart the political, economic and ideological hopes of those whose money has been forced from them under authority of law. This injects Federal compulsion into the political and ideological processes, a result which I have supposed everyone would agree the first amendment was particularly intended to prevent.

And it makes no difference if, as is urged, political and legislative activities are helpful adjuncts of collective bargaining. Doubtless, employers could make the same arguments in favor of compulsory contributions to associations of employers for use in political and economic programs calculated to help collective bargaining on their side. But the argument is equally unappealing, whoever makes it.

The stark fact is that this act of Congress is being used as a means to exact money from these employees to help get votes to win elections for parties and candidates and to support doctrines they are against.

End of quote from Justice Hugo Black.

This is precisely the principle that is at stake here and the proposal in this bill is to extend to employees of the Postal Service the exact situation that Justice Hugo Black describes here as it works in private industry under this same kind of arrangement.

Now, continuing with the statement, the problem of compulsory unionism and employee rights becomes an even more sensitive one in the area of public employee unions.

Compulsory union contracts covering Government employees can become the most reprehensible form of "sweetheart agreements"—the term describing private sector union contracts written for the benefit of the union boss and the management boss at the expense of the employees.

With public employee unions, this can easily become a deal in which the incumbent officeholders obtain union campaign support in exchange for forcing all employees to fork over dues to union treasuries.

Professor Kurt Hanslowe, of Cornell University, himself formerly an assistant general counsel of the United Auto Workers Union, acknowledges that, and I quote:

The union shop in public employment has the potential of becoming a neat, mutual back-scratching mechanism whereby public employee representatives and politicians each reinforce the other's interest and domain with the individual public employee and the individual citizen left to look on while his employment conditions and his tax rate and the public policies generally are decided by entrenched and mutually supportive government officials and collective bargaining representatives over whom the public has a diminishing control.

In supporting political or ideological causes, the issue is not whether the union position is backed by a majority of the compulsory dues-paying members. If even one worker is forced to pay his money as a condition of employment to a union which uses its resources for candidates to whom that worker is opposed, then a grave injustice has been committed.

In the area of politics, certain fundamental civil rights should be inviolate, no matter how small the minority involved.

Let me digress here just to underscore the excellent statement made by the previous witness and to amend this statement to include not only politics but, more importantly, religious freedom. Certain

fundamental rights should be inviolate. As the U.S. Supreme Court said in *Barnette versus West Virginia Board of Education*, quote:

The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities. One's right to life, liberty and property, to free speech, a free press, freedom of worship and assembly and other fundamental rights may not be submitted to vote. They depend on the outcome of no election.

Gentlemen, the Post Office and its successor, the Government-sanctioned Postal Service, provides an essential service mandated by the Constitution. It must be responsive to the public need. The Congress must retain control over the quality of the mail service, labor management relations, employee working conditions and management of facilities.

Passage of H.R. 5312 would place enormous new power and influence in the hands of those officials who control the union treasuries. Besides violating fundamental rights of hundreds of thousands of Government employees, it would be an open invitation to union officials for further acts of agitation and irresponsibility.

The philosophy upon which this bill is based assumes that, unlike every other private organization in our society, unions are so unattractive that they can become strong and effective only by conscripting supporters. The very fact that such a proposal as this, H.R. 5312, is even considered is in itself an indictment of the attractiveness and usefulness of the postal unions under their present leadership.

We do not agree with those who think that unions are so objectionable that they can be successful only by compelling people to support them. Voluntarism, and the discipline of being required to provide an attractive service to willing dues payers enhances the constructive role of labor union leadership. Compelling support of the organization works in exactly the opposite direction. It tends to weaken and corrupt the quality of union leadership.

An overwhelming majority, 68 percent of the American people, think there is too much power concentrated in the hands of labor leaders of the big unions in this country. By a ratio of approximately 2 to 1, our citizens believe a man should be able to hold a job whether or not he belongs to a union.

These are the findings of a survey made by the Opinion Research Corp., less than a year ago. I have a copy of the findings here and ask they be made a part of the record of this hearing.

The fact that 226 House members voted shortly before the 1970 elections for voluntarism in postal unions is in itself a significant indication of how a majority of the members of the House of Representatives believe the public feels in this issue.

The key vote on right to work for postal employees came just 4 months before the 1970 general elections. Each House Member understood that his vote on this amendment would influence the outcome of his bid for reelection. The election results proved the correctness of that action by the House Members. Not a single 1 of the 226 Members who voted for the freedom of choice, against the concept embodied in this bill, H.R. 5312, was defeated by a challenger who made an issue of this support of the right to work principle.

The responsibility to decide whether or not a man is better off belonging to a union is up to the man, not the Congress. Congress' responsibility is to see that the man has the right to make that decision.

In the Postal Reorganization Act of 1970, Congress saw to it that postal workers had the right to decide whether or not to join a labor union. Their dignity and individual rights are no less important today than in 1970. There is no moral, legal, or ethical justification to undo what so rightfully was done then.

Mr. Chairman and members of the committee, we urge that you reject H.R. 5312. Thank you.

Mr. HILLIS. Thank you, Mr. Larson.

Mr. Rousselot?

Mr. ROUSSELOT. Mr. Larson, thank you for your statement.

It is amazing, sometimes, to see how Congress in its efforts to do good for some group may do damage to other great numbers who wish to remain free; and, how we try to legislate certain things and then deny freedom to others.

We have a great clamor around here for discussion about protection of minorities' rights; but, in this kind of legislation, evidently that has been forgotten.

In your closing statement on page 7, you talked about how compelling support of organizations works in exactly the opposite direction. It tends to weaken and corrupt the quality of union leadership.

Though you did not do it, could you provide for the record some case histories of that kind of thing?

Mr. LARSON. We certainly can and we appreciate the opportunity to do it.

Mr. ROUSSELOT. I think it would be important to show that when you have a compulsory membership that that tends to weaken the vitality of leadership and limit it.

If you could provide some case histories to back up that statement, I think it would be helpful.

Mr. LARSON. We certainly would be glad to do that. And we will do it. But it is human nature. When relieved of the necessity to answer to your supporters or constituents for the effectiveness of your stewardship, human nature is just such that people will forget intentionally or unintentionally the real interest of the people they represent.

And that is what happens when they get compulsory support locked into a union contract. The union agent is no longer responsive; he does not have to be responsive to those captive members. His intentions may be the best, but it just runs against the nature of human beings to remain as responsive as you are when that man has a right to quit paying money to the union without losing his job.

[See items furnished, at end of today's proceedings.]

Mr. ROUSSELOT. The argument so often used is:

Well, if I do not have the right to make an individual pay dues to the union, he will not support the efforts of the union. In other words, everybody will take the easy way out, if they do not have to pay dues or if they do not have to belong to the union in order to get the job.

Do you know of any case histories to disprove this allegation?

Mr. LARSON. We certainly can provide some examples of how unions have operated under voluntary membership. And I think the postal unions are an example. They have done a pretty effective job of organizing a larger percentage of the postal workers. And the record is clear that unions do not have to have compulsory unionism to succeed.

But it makes life easier for a union official if he does not have to worry about whether or not his constituents can pass judgment on his stewardship.

[See items furnished at end of proceedings.]

Mr. ROUSSELOT. We also have another bill before this subcommittee, a bill on the right to strike.

Would you care to submit a statement on that, also?

Mr. LARSON. Well, we really are not qualified or competent to speak in that area. We do not profess to have competence or expertise on the question of the right to strike. Our organization is devoted solely to the problem of compulsory unionism. And we believe that the retention of voluntary unionism will provide a degree of responsibility that will affect all other union activities favorably.

Mr. ROUSSELOT. I ask the question because we are going to consider that legislation, also.

Mr. LARSON. Well, we really are not authorized to comment. Our organization limits its concern to the problem, we feel a very basic problem of compulsory unionism.

Mr. ROUSSELOT. I have no further questions; thank you.

Mr. HILLIS. I take it from your statement that your organization is also opposed to what is known commonly as an agency shop?

Mr. LARSON. That is correct.

Mr. HILLIS. Where a person is not compelled to join but does pay dues?

Mr. LARSON. Yes.

Mr. HILLIS. What is your answer to the argument that is made that if there is a union that negotiates wages, working conditions, things that affect not only its members but all of the workers, that some workers get a free ride, that they get these benefits and give no guid pro quo in exchange for them?

Mr. LARSON. Well, throughout our society there are many private organizations whose benefits reach far more widely than just those who contribute to them.

We can cite many charitable organizations. The farm organizations, veterans' organizations, chambers of commerce, all types of interest groups that affiliate together voluntarily and provide benefits which advance all members of that particular category of persons, even those who do not support the organization.

So, we think that the loss of freedom and the loss of organizational responsibility that goes with compulsory unionism is not justified in exchange to eliminate the so-called free ride, because this compulsion introduces a whole range of bad affects that have bad results. And there is no other organization in our society, private organization, which asks for or has been granted the privilege of taxing people who it claims to benefit, but who do not agree that its activities are beneficial.

Now, the argument that was raised, as is frequently raised, and was discussed by the previous witness: union officials try to justify compulsory unionism by relying on the provision in law that says they will bargain for all the employees in the bargaining unit, including those who do not want to be represented by the union.

Well, this was a privilege for unions put into the law at the request of union officials. They want to bargain for these people. Many of those people that are not members think the union is detrimental to them. And we think the individual is best able to decide whether a union is beneficial or not.

Mr. ROUSSELOT. In that regard, do you know of employees who have been represented by a union and who consider the bargaining work to be detrimental?

Mr. LARSON. Yes. There are all kinds of situations where this can happen. The one that is most common is the involvement of unions in politics.

An employee is forced to pay money into a union, and then that union works and uses its organizational resources on behalf of candidates who that particular compulsory dues member thinks will be of great detriment to our nation.

Mr. ROUSSELOT. Well, I can understand that. There have been court tests, of course, on that issue.

As far as the bargaining goes for employee benefits, have they found that the bargaining effort on behalf of the employee was detrimental?

Mr. LARSON. This certainly can be the case when you are talking about a marginal industry that is just on the brink of bankruptcy, just operating on the thin edge of solvency. A union may be making demands that some of the employees feel are sufficiently costly that it will put the company out of business and destroy their jobs. And this happens sometimes. That is a judgment that the union makes. They make a judgment on just how much they can demand, and they make a judgment perhaps that demands too much and the company will be forced to close down.

So all of the members, if it is a compulsory union shop, have been forced to pay for that benefit of having their jobs destroyed. That is one example where there is a very clearcut possibility that the interests of members may not be served by the decisions of union management.

Mr. ROUSSELOT. If you have some clearcut examples of that kind of thing, I think it would be worthwhile to provide it for the record. If a bargaining unit, on behalf of employees, has achieved given objectives that were detrimental to other employees, I think we should know about that.

Mr. LARSON. Fine.

Another area in which employees that are compelled to accept a union's representation may feel rightly or wrongly that the union is damaging to them is in the case of the more highly skilled workers in a particular unit.

An individual may feel that he can advance more rapidly on his own merit. He is above the average in the bargaining unit. But under a union contract, by and large, everybody is treated the same and the individual loses his opportunity to advance himself on what he feels is a more favorable basis.

This has occurred in the automobile industry over the years. You have probably read about some of the efforts by the skilled machinists and some of the more highly skilled groups to carve out separate bargaining units which they have sometimes been successful in and sometimes not, so that they can represent themselves and gain a higher level of compensation.

[See items furnished at end of proceedings.]

Mr. ROUSSELOT. Do you think that would occur if we were to pass this bill; that kind of inability of a more highly skilled person to better represent himself in achieving various job levels would occur in this particular bill?

Mr. LARSON. Well, the concept of exclusive representation is already in the law.

Mr. ROUSSELOT. I know that.

Mr. LARSON. So that everybody is represented by the union in the bargaining unit. Even those who feel the union is holding them back are already compelled to accept the union's representation.

All this bill does is try to force them to pay for representation which they feel is holding them back.

Mr. ROUSSELOT. And you think what you have just described would be a detriment if this bill were passed to some employees who might achieve a better level of employment if they were not forced to pay dues?

Mr. LARSON. No. The factor already exists where the union has exclusive representation. There are bound to be some employees who feel that the contract that the union gets shortchanges his particular group or his particular category. He may be right in it or he may be wrong. But that will be the opinion of some employees. We say that it is wrong to compel a man to pay for representation that he thinks is damaging to him.

We are not challenging the concept of exclusive representation. We are just challenging the idea that this can be used as a basis to compel people to pay for representation that they think is harmful to them.

It is ironic that those who promote compulsory unionism turn around and use the exclusive representation argument as an excuse for taxing these people. They liken these union dues to taxes. They like to say that, well, you have to pay taxes to your government, and how come you oppose paying money to a union? It is the same thing, according to them.

Well, this exposes the basic fallacy in compulsory unionism. The power to tax is an exclusive power of government. But it has been delegated here to a private organization, and thereby has created a whole range of abuses including many of the things we have discussed here today, the problem of compulsory political support—but that is only one of many.

Mr. ROUSSELOT. I thank you.

Mr. HILLIS. At this time I recognize the counsel of the committee for some questions Mr. Wilson has asked be submitted for the record.

Mr. GOULD. To begin with, Chairman Wilson wanted to thank you for accommodating our scheduling requirements. We recognize it was at some sacrifice to you and we appreciate very much your being with us this morning.

Mr. LARSON. Thank you.

Mr. GOULD. Mr. Larson, I assume that you accept the proposition that the majority should rule and I do not mean that the majority should suppress, but the majority, if chosen in a democratic manner should make the policy for the group it is representing?

Mr. LARSON. This is correct. But as I said in my statement, we think that it is not necessarily correct that a private organization should be given the power to extend its influence to individuals who do not wish to associate with that private organization.

This is exclusive representation. The next step, then, and the step that we oppose, is the concept of compelling those people to pay money, too. Even if they are a minority in a bargaining unit, they still are not part of the organization. They have chosen not to be part of the organization.

Mr. GOULD. Isn't it a fact that many private organizations such as the chamber of commerce, American Medical Association, and the U.S. Bar Association, not only require dues payments but actually can fine a member if he does not support the actions or the policies of that organization?

Mr. LARSON. But those organizations do not extend that power to regulate the professional or business lives of people.

Mr. GOULD. You mean, as an example, if the AMA in Los Angeles County decided to put economic and professional pressure on a particular doctor because he was not cooperating with their policies, that it would not have some effect?

Mr. LARSON. I am not familiar with the particular situation in Los Angeles, but by and large, the AMA is a private organization. And a doctor is not required to pay dues to or submit to the discipline of the AMA in order to practice medicine. Doctors are licensed by the State or the unit of Government. And it is the Government who decides whether or not he can practice medicine.

Now, the things that happened in the professional associations and the societies are a matter for those who are voluntary members of the society to decide. But they do not reach out and extend their domain over any doctors that have not voluntarily associated with that organization.

But unions do. They have asked for the right to extend their domain over workers in a bargaining unit who do not want any part of the union.

Mr. GOULD. As you recognized in your statement, under the National Labor Relations Act, an election is held. If a majority of those working in a shop decide that they want to be represented by a union, the union leader can then negotiate for a union shop. Under a union shop agreement, a man is hired by management and then required to join the union 30 days after he is hired. He is not required to join the union before he is employed. The union does not hire him; management hires him.

The union feels at that time he is being represented by the union, he is deriving benefits therefrom, and he should contribute by financially supporting the activities of that union.

You are saying that that is totally different from other private organizations that require their memberships to financially contribute to their wellbeing?

Mr. LARSON. It is totally different. There is no other private organization that has the power or asks for the power to regulate any group of individuals who do not voluntarily associate with that organization.

Now, when we extend it to union officials, the privilege of exclusive representation, we extended to them a form of sovereign power, actually. They carved out a little sovereignty in the bargaining unit which they claimed to have dominion over and that they are going to impose rules and act on behalf of individual citizens who do not want to be a part of that particular domain, the union domain.

And we are not challenging that concept. But we are challenging the next step which is based on that concept, and that is that these people who do not want to be a part of the union are compelled to pay money for a service that they do not want.

Mr. GOULD. Thank you, very much, for your assistance.

Mr. ROUSSELOT. I would like to comment.

I do not think that the right of majority rule is absolute in this country. I think it has been a misnomer in some cases. For instance, a lynch mob; the one guy that was against it was the guy that was about to be hung. Now, there is no absolute parallel between a fine union that operates and tries to represent its people and a lynch mob; but to say that the rule of majority is an absolute thing in our society is not a fair statement.

We have clear indications in our Declaration of Independence that prevents government from taking actions against people who are in a clear minority.

Mr. LARSON. Excuse me, Mr. Chairman. I may not have been fully responsive to your question about majority rule. You said do I believe in a majority rule.

I believe in a majority rule subject to the limitations of the Bill of Rights.

As I quoted from the Supreme Court, and I agree with this very much, "The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy to place them beyond the reach of majorities."

In imposing the will of the majority in Government, it is imposed with the very stringent limitations inherent in the Bill of Rights.

But we are not even talking about Government here. We are talking about a private organization which has very questionable power to impose its majority will on people that do not even want to be a part of that organization.

Mr. HILLIS. Thank you, Mr. Larson.

At this time, I would like to announce that the hearing will continue tomorrow and we will hear at that time from Mr. James Rademacher, president of the National Association of Letter Carriers, and Mr. Francis S. Filbey, general president of the American Postal Workers Union.

The hearings will begin at 9:30 a.m. in this room.

The subcommittee stands adjourned until that time.

(Whereupon, at 11:15 a.m., the hearing was adjourned.)

[The information which follows was submitted by Mr. Larson, for inclusion in the record.]

ORC **CARAVAN** INC.
SURVEYS

**THE U.S. PUBLIC'S
ATTITUDE TOWARD
RIGHT-TO-WORK**

The material in this report presents the findings of a personal interview research survey conducted among 2,209 men and women 18 years of age or over living in private households in the continental United States.

Interviewing for this Caravan survey was completed during the period May 13 through May 28, 1972, by members of the Opinion Research Corporation's national interviewing staff. All interviews were conducted in the homes of respondents.

The most advanced probability sampling techniques were used in the design and execution of the sample plan and the results, therefore, may be projected to the total U.S. population of men and women 18 years of age or over.

Only one interview was taken per household, regardless of the number of people 18 years of age or over in the household. Weights were introduced into the tabulations to ensure proper representation in the sample.

Research Findings

Prepared for

NATIONAL RIGHT TO WORK COMMITTEE

Do you think the platform of your political party should or should not have a statement that says each person has the right to get and hold any job whether or not that person belongs to a labor union? (Asked only of Republicans.)

	NUMBER OF INTERVIEWS		YES, SHOULD	SHOULD NOT	NO OPINION
	UNWTD	WTD			
TOTAL REPUBLICANS	442	1462	73	16	11
MEN	197	669	73	18	9
WOMEN	245	793	74	13	13
18 - 29 YEARS OF AGE	91	282	73	12	15
30 - 39	78	238	70	21	9
40 - 49	82	296	74	17	9
50 - 59	53	191	78	12	10
60 YEARS OR OVER	138	456	73	16	11
LESS THAN HIGH SCHOOL COMPLETE	129	569	71	18	11
HIGH SCHOOL COMPLETE	135	485	71	14	15
SOME COLLEGE	177	406	80	13	7
PROFESSIONAL	81	204	81	18	1
MANAGERIAL	60	171	85	11	4
CLERICAL, SALES	49	142	73	15	12
CRAFTSMAN, FOREMAN	66	267	65	20	15
OTHER MANUAL, SERVICE	60	237	62	17	21
FARMER, FARM LABORER	21	73	83	17	0
NON-METRO -- RURAL	45	184	51	26	23
URBAN	88	374	71	16	13
METRO -- 50,000 - 999,999	145	441	77	15	8
1,000,000 OR OVER	164	464	80	12	8
NORTHEAST	127	423	81	9	10
NORTH CENTRAL	134	408	65	24	11
SOUTH	87	303	66	14	20
WEST	94	329	81	14	5
UNDER \$5,000 FAMILY INCOME	74	392	76	12	12
\$5,000 - \$6,999	52	164	71	16	13
\$7,000 - \$9,999	87	243	68	22	10
\$10,000 - \$14,999	97	306	71	17	12
\$15,000 OR OVER	122	325	81	13	6
WHITE	432	1419	74	15	11
NONWHITE	9	39	80	14	6
NO CHILDREN IN HOUSEHOLD	243	847	74	14	12
WITH CHILDREN UNDER 18	198	612	73	17	10
WITH TEENAGERS 12 - 17	96	319	76	13	11
OWN HOME	346	1132	73	17	10
RENT HOME	94	322	76	10	14
UNION MEMBERS	42	141	62	28	10
UNION FAMILIES	106	370	62	23	15
NONUNION MEMBERS	333	1087	78	13	9
STOCKOWNERS	166	476	80	14	6
NON-OWNERS	244	890	70	16	14
REPUBLICAN	442	1462	73	16	11
DEMOCRAT	0	0	0	0	0
INDEPENDENT	0	0	0	0	0

Do you think there is or is not too much power concentrated in the hands of the labor leaders of the big unions in this country?

	NUMBER OF INTERVIEWS		YES, THERE IS	NO, IS NOT	NO OPINION
	UNWTD	WTD			
TOTAL U.S. PUBLIC	2209	8221	68	14	18
MEN	1053	3969	73	15	12
WOMEN	1156	4252	62	13	25
18 - 29 YEARS OF AGE	592	2130	67	15	18
30 - 39	410	1315	71	11	18
40 - 49	396	1579	69	15	16
50 - 59	318	1290	65	18	17
60 YEARS OR OVER	493	1908	65	13	22
LESS THAN HIGH SCHOOL COMPLETE	738	3532	60	16	24
HIGH SCHOOL COMPLETE	757	2888	69	15	16
SOME COLLEGE	704	1775	79	10	11
PROFESSIONAL	341	969	77	11	12
MANAGERIAL	247	805	80	9	11
CLERICAL, SALES	210	707	71	13	16
CRAFTSMAN, FOREMAN	388	1408	64	19	17
OTHER MANUAL, SERVICE	486	2087	61	17	22
FARMER, FARM LABORER	88	326	81	5	14
NON-METRO -- RURAL	257	987	63	17	20
URBAN	397	1801	65	14	21
METRO -- 50,000 - 999,999	736	2504	69	15	16
1,000,000 OR OVER	819	2930	69	13	18
NORTHEAST	548	1962	72	11	17
NORTH CENTRAL	653	2294	72	16	12
SOUTH	643	2578	54	17	29
WEST	365	1388	79	11	10
UNDER \$5,000 FAMILY INCOME	378	2347	61	15	24
\$5,000 - \$6,999	276	963	59	15	26
\$7,000 - \$9,999	498	1523	62	19	19
\$10,000 - \$14,999	494	1788	75	14	11
\$15,000 OR OVER	506	1398	81	9	10
WHITE	2009	7261	72	13	15
NONWHITE	191	933	36	25	39
NO CHILDREN IN HOUSEHOLD	1093	4248	69	12	19
WITH CHILDREN UNDER 18	1112	3961	65	17	18
WITH TEENAGERS 12 - 17	536	2133	67	18	15
OWN HOME	1547	5488	70	14	16
RENT HOME	653	2700	62	14	24
UNION MEMBERS	312	1184	62	29	9
UNION FAMILIES	651	2353	62	26	12
NONUNION MEMBERS	1538	5781	70	10	20
STOCKOWNERS	627	1918	83	8	9
NON-OWNERS	1450	5802	63	16	21
REPUBLICAN	442	1462	77	9	14
DEMOCRAT	1001	4020	61	19	20
INDEPENDENT	743	2641	74	11	15

Which one of these arrangements do you favor for workers in industry?

1. A man can hold a job whether or not he belongs to a union
2. A man can get a job if he doesn't already belong, but has to join after he is hired
3. A man can get a job only if he already belongs to a union
4. No opinion

	NUMBER OF INTERVIEWS		1.	2.	3.	4.
	UNWTD	WTD				
TOTAL U.S. PUBLIC	2209	8221	62	27	4	7
MEN	1053	3969	61	30	5	4
WOMEN	1156	4252	63	25	3	9
18 - 29 YEARS OF AGE	592	2130	67	26	3	4
30 - 39	410	1315	62	27	2	9
40 - 49	396	1579	60	29	4	7
50 - 59	318	1290	58	29	6	7
60 YEARS OR OVER	493	1908	60	26	6	8
LESS THAN HIGH SCHOOL COMPLETE	738	3532	57	30	6	7
HIGH SCHOOL COMPLETE	757	2888	61	28	3	8
SOME COLLEGE	704	1775	73	21	2	4
PROFESSIONAL	341	969	77	19	*	4
MANAGERIAL	247	805	73	22	*	5
CLERICAL, SALES	210	707	65	26	2	7
CRAFTSMAN, FOREMAN	388	1408	54	33	6	7
OTHER MANUAL, SERVICE	486	2087	57	31	4	8
FARMER, FARM LABORER	88	326	77	19	0	4
NON-METRO -- RURAL	257	987	60	28	5	7
URBAN	397	1801	61	27	3	9
METRO -- 50,000 - 999,999	736	2504	64	27	4	5
1,000,000 OR OVER	819	2930	61	27	5	7
NORTHEAST	548	1962	61	28	3	8
NORTH CENTRAL	653	2294	55	36	5	4
SOUTH	643	2578	70	17	4	9
WEST	365	1388	61	30	4	5
UNDER \$5,000 FAMILY INCOME	378	2347	59	25	8	8
\$5,000 - \$6,999	276	963	64	24	2	10
\$7,000 - \$9,999	498	1523	58	31	4	7
\$10,000 - \$14,999	494	1788	60	33	2	5
\$15,000 OR OVER	506	1398	73	21	2	4
WHITE	2009	7261	63	28	3	6
NONWHITE	191	933	52	25	10	13
NO CHILDREN IN HOUSEHOLD	1093	4248	63	26	4	7
WITH CHILDREN UNDER 18	1112	3961	61	29	4	6
WITH TEENAGERS 12 - 17	536	2133	61	27	5	7
OWN HOME	1547	5488	63	27	4	5
RENT HOME	653	2700	60	28	4	8
UNION MEMBERS	312	1184	34	54	6	6
UNION FAMILIES	651	2353	41	48	5	6
NONUNION MEMBERS	1538	5781	70	19	4	7
STOCKOWNERS	627	1918	73	22	2	3
NON-OWNERS	1450	5802	59	29	4	8
REPUBLICAN	442	1462	70	22	3	5
DEMOCRAT	1001	4020	58	31	5	6
INDEPENDENT	743	2641	64	26	3	7

NATIONAL RIGHT TO WORK COMMITTEE

1900 L St., N.W. • Washington, D.C. 20036

July 18, 1972

Spotlight on Ruth Johnson

HOST OF INDIVIDUAL FREEDOMS ARE AT STAKE, MISSOURI WORKING GRANDMOTHER SAYS

When Ruth Johnson came in good faith to appear before the Missouri House of Representatives' Labor Committee to discuss the need for Right to Work legislation, she knew almost anything could happen.

But she didn't expect to become a target for the verbal abuse of black union militant Rep. Leo McKamey of Kansas City, nor did she expect a tumultuous ovation from the several hundred voluntary unionism advocates who filled the Missouri House Chamber to overflowing.

On the night of March 5, 1973, she got both.

To Ruth Johnson, mother of six, three times a grandmother, voluntary unionism is a matter of individual freedom. It's not specifically a black matter—though she recognizes the discriminatory hiring hall abuses which plague the construction industry—and it's not specifically a white matter; it's an American matter. And as an American, with a family full of concerns about the future of her country, it's a matter of the uppermost importance which has brought Ruth into the limelight of the Missouri Right to Work movement as an employee member of the Board of Directors of Missourians for Right to Work.

So when Representative McKamey looked her in the eye and wildly asserted that "some Right to Worker" had slain "a black friend in Alabama," Mrs. Johnson took the Labor Committeeman to task before the hundreds of onlookers, and explained in no uncertain terms that the friend (Dr. Martin Luther King)

"was doing what the union bosses should have been doing. The (AFL) CIO didn't go for it until Dr. King was dead."

To the awestruck McKamey, who was finding out the hard way that he was picking on the wrong lady, she added: "It's embarrassing to me for you to try to make a race problem out of it."

ACTIVE FOR SEVERAL YEARS

Mrs. Johnson has been taking union boss henchmen to task for several years now—ever since the plant she works at was taken over by big city union officials who refuse to give workers any say in the operation of the local, its dues structure, or any other important matter.

Probably as a result of her strong religious convictions, Ruth maintains a strong faith that other unions aren't run the same way as hers. "I guess there are some good ones. I hope there are. Or they're making a fool of us all over the country."

A compulsory member of the meatcutters union, Local 576 at Ralston-Purina's poultry processing plant in her hometown California, Mo. (population 3,105), Ruth says, "The way this union is—they've been in there five years—and if they were to hang me today I wouldn't know how much (money) the union bosses have taken out in forced dues."

Ruth doesn't condemn, however, she asks only for a fair shake. This, she believes, rests with the enactment of a state Right to Work law which would give every citizen the right to join good unions and the equal right to refrain from joining those they don't think are being properly run.

"This union we have is not worth it. It looks to me like the officials are just taking advantage of small town people. We do not discuss money at meetings. We might just as well not have meetings.

"This plant does not participate at all. They just send us letters telling us when they raise our dues—they never ask."

Ruth says, "We can't have by-laws; we can't have secretaries; we can't discuss dues or money; they dictate to us. They have meetings as often as they want, not when we want. I'm not saying all unions are wrong. But I don't see why I should be forced to belong to such organizations."

DISSATISFIED

There can be no question in anybody's mind that Ruth Johnson is not a satisfied union member. A Right to Work law would give her the opportunity to express her dissatisfaction by quitting the union she doesn't want to belong to without losing her job.

Ruth has been employed at Ralston-Purina for nine years. The last five of those years she has been a forced member of the union which she doesn't feel is serving her in any way.

FOR EVERYONE

But it's not just for her own self that Ruth opposes compulsion. It's for the benefit of everyone.

First and foremost, she believes voluntarism is a matter of principle. "Can you imagine what would happen to a minister if he wrote to the people telling them how much he is raising their dues?" she asks. The answer, of course, is that the congregationers would set the minister straight "but quick."

Ruth believes in voluntarism because she feels it's the youngsters of her community who suffer most as a result of compulsory unionism.

"This plant is a lot of help to our school kids," she says. "Yet, while the union bosses are so sure to take the kids initiation fees and even retroactive dues for the month they work but aren't union members, the officials discriminate against and completely ignore the youngsters. Kids have no vote; no rights. They get no benefits . . . but they still have to pay.

"One hundred percent nothing but dues is all I've got today that I didn't have before. The same for the kids."

As a mother, as a grandmother, as an American, Ruth Johnson demands the right to join private organizations of her choice, whether they're church organizations, civic groups, labor unions, or the Missourians for Right to Work organization. She doesn't see why any of these affiliations ought to be forced upon her.

Echoing the sentiments of hundreds of thousands of other Americans, Ruth says, "Good unions don't need compulsory unionism and bad ones don't deserve it."

FREE CHOICE, March 1973

Spotlight on Elbert Hill

ST. LOUIS AUTO WORKER FIGHTS USE OF COMPULSORY DUES FOR POLITICS

Elbert Hill of St. Louis has been a member of United Auto Workers Local 25 for 23 years.

During that time he has held various offices in the local. He's been an active union member, not one to take membership for granted.

When he first joined the union, membership was voluntary. It's not any more; to work, you've got to pay dues.

Being a staunch union supporter, Hill and most other local members did not object when the International insisted on a compulsory union shop several years ago. "Few of us objected," he says. "It seemed logical at the time."

Now Local 25 members, he says, are seeing the disastrous effects of compulsory unionism.

"Believe me, many of the rank and file members would welcome the right to threaten resignation from the union," Hill says.

"With this economic threat we could command the services we are entitled to and are not getting from union officials. The members would once again control the union."

Hill says, with a note of bitter disappointment in his voice, "We, the members, no longer have a voice in matters that affect us directly."

"Orders are handed down from the top on strikes, dues increases, local officer changes, and local internal matters — with never a question as to the desires of the local members."

"Our only protection against the overt power of the International and its chosen few would be the right to resign from the union without losing our jobs."

DUES FOR POLITICS

Hill, who is employed at the St. Louis Chevrolet plant, is particularly disturbed by the use of compulsory union dues money by union officials to promote causes and candidates of the officials', not the members' choosing.

There is strong resentment among union members because union funds, dues money, are being used for many things besides collective bargaining.

"Without consulting us," he argues forcefully, "the officials authorize use of millions of dollars of our money to support ideological causes and candidates we personally oppose."

"What has happened to our political freedom?" he asks.

When they use dues money this way they actually hurt the members "doubly," Hill says. "First, we are compelled to support candidates we oppose. Then, we do not have the use of that money to support candidates we favor."

He wants such use of his money stopped.

In order to see that it is, Hill and several other Local members are challenging the use of compulsory dues for politics in court. Giving them legal assistance is the National Right to Work Legal Defense Foundation, an organization that was established in 1968 to assist employees who are suffering injustices resulting from compulsory union arrangements.

The Foundation is complementary to, but completely independent of the National Committee.

FLAGRANT ABUSE OF FREEDOM

"From personal experience," Hill says, "I can tell you that compulsory unionism is a most flagrant abuse of individual freedom. It is a reflection on the intelligence of every working person — as though we cannot decide for ourselves the value of union services or the detriment of their abuses."

Compulsory unionism "must be eliminated forever," he says.

"Then let the officials convince me why I should join. If they make a good case, I probably will."

"But if they don't, I want to be free not to."

Ed. Note: Elbert Hill was one of the several employee supporters of Right to Work who testified before the Democratic Party's Platform Committee during its across-the-country public hearings during the summer of 1972.



CHAUFFEURS, TEAMSTERS AND HELPERS
LOCAL NO. 492

108 1/2 YALE BLVD., S.E.
ALBUQUERQUE, NEW MEXICO 87106
PHONE (505) 255-8614



March 8, 1973

Members of the 31st
New Mexico Legislature
Santa Fe, New Mexico 87501

Ladies and Gentlemen:

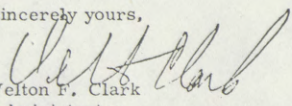
As much as it might surprise you, I wish to advise that I am presently Administrator for the Trustee of the International Brotherhood of Teamsters and presently in charge of Teamsters Local 492 as such Administrator upon behalf of our International Union and that I believe the State of New Mexico should have a Right To Work law.

I came from the State of Arizona which has a Right To Work law and has had such a law for quite a number of years. It has been my experience, and I firmly believe, that where a State has a Right To Work law, it is to the benefit of the working man in general, to the unions, and more particularly to the union membership. The basic reason for this being a fact is that where Right To Work laws exist and individual employees have a choice, the unions through their elective and appointed officials, business agents and other representatives have to get off of their duffs and do a better job of representing their members than is the case in a State, such as New Mexico, which does not have a Right To Work law and the unions don't have to produce results and satisfaction to their members to be able to voluntarily attract their membership and financial support.

I strongly urge you to pass in this Session of the Legislature such a Right to Work law and would particularly urge your support of HJR-29.

I would request an opportunity to speak in support of this Right To Work Bill at such time as any of your Committees have a hearing in connection therewith.

Sincerely yours,


Velton F. Clark
Administrator

Seven Year Progress Report

"COMPELLING AN AMERICAN WORKER TO JOIN AND PAY DUES TO A UNION HAS GOT TO GO"

To summarize seven years of solid progress for the Right to Work cause, capped by the first serious drive in history for a national ban against compulsory unionism, is a difficult task.

But as member and former officer in a public employee union, I've been proud of my association with the National Right to Work Committee. This movement, founded in large part by workers, is dedicated to one principle: Protecting the nation's workers in their right to join or not to join and pay dues to a union.

We have seen dark days, such as in 1965 when union professionals and their Congressional allies came very close to wiping all state Right to Work laws off the books through repeal of Section 14(b) of the Taft-Hartley Act.

But an aroused American public wouldn't let that happen. And workers such as you and I played a key role in that victory. As Sen. Everett Dirksen said at the time, "Now you can expect mail from people who are not members of unions, but to have union members by the thousands write in here saying, 'don't let them repeal 14(b),' that is something!"

Repeal didn't happen and the tide had turned in favor of voluntary unionism. 50 Congressmen favoring compulsory unionism went down the drain in the 1966 elections; significant employee lawsuits challenging the use of compulsory dues for politics were filed in 1967; a threat to Federal employee Right to Work protection was turned back in 1968 by the National Committee; in 1969, the union bosses' untaxed political spending loophole was openly attacked in the Senate; and in 1970 the Congress wrote Right to Work legislation for the nation's 750,000 postal employees. (Pictorial highlights of these developments are shown inside).

Now we come to 1971 and the introduction of National Right to Work legislation. A turning point in the battle has truly been reached in behalf of the nation's 80,000,000-member working force and Congress must ultimately re-examine the national labor policy that now encourages compulsory unionism.

This is sensed by the working people of the country, who have already started to flood Rep. Sam Steiger's office with mail expressing their support for his National Right to Work bill. His office has released the contents of a small sampling of those letters:

From Ohio: "I work for the Norfolk & Western Railroad as a brakeman and conductor. You have my support for this bill not only for the benefit of the working man but also for the citizens of the U.S." And Illinois: "I have written to the representatives of my area and also to several others. I will urge my fellow employees to do the same."

Pennsylvania: "Thank God for someone who will stand up for the working man."

Oklahoma: "I am a member of the CWA . . . but I feel a person should choose for himself."

That bright day when individual freedom for the American becomes a reality is indeed coming. You can help hasten it by writing to Rep. Steiger (126 Cannon Office Building, Washington, D.C. 20515) and letting him know you support his efforts. Identify yourself as a worker — whether you're a union member or not.

It's your best credential.

Raymond C. Losmer

Chairman of the Board, National Right to Work Committee
Former President, Local #386, National Federation of Federal Employees

FREE CHOICE

November-December 1971

Spotlight on Clayton Mitchell

AFTER NEARLY 30 YEARS VOLUNTARY MEMBERSHIP CLAYTON MITCHELL NOW IS "PRISONER"

Clayton Mitchell, an employee of the New York Telephone Company in Glenn Falls, N.Y., has been a member in good standing of the Communications Workers of America since 1944.

Before transferring to New York in August 1972, Mitchell was a union job steward at Southern Bell System in Asheville, N.C., and a member of Local 3601.

Now, however, Mitchell considers himself a prisoner of a union he doesn't want anything to do with, but he has no choice. He either continues to pay dues under the terms of the company's contract with CWA, or the company would be forced to fire him.

Unfortunately for Mitchell, who had previously worked for the New York Telephone Company, at the time of his transfer a strike was in progress across the state—a strike which lasted for months and was called primarily to enforce union officials' demands for a compulsory agency shop.

Having just transferred, Mitchell at first went to work, but after being fined for working at his job he stopped. Since he and his family had no other means of support, Mitchell soon went back to work. He did, however, resign his membership before returning to work the second time.

The work for which he was fined, incidentally, was in Hudson Falls, N.Y., where there was no picket line.

Without a hearing from the union to which he no longer belonged, Mitchell was fined by the local one week's salary. He was also harassed and called names, including "scab."

For working January 3, 1972, through February 17, Mitchell was fined more than \$509, which he has refused to pay.

Says Mitchell of his situation, "Compulsory contribution to an organization that does not represent me and the company's expectation that I will willingly assign a salary portion for the continuance of that malfunctioning organization, would seem to be contrary to the exercise of human rights."

Mitchell says of the lengthy New York strike that it is estimated that each member who stayed out for the time of the strike would have to work 33 years to get back what he lost.

"The gains over the rejected July 1971 contract were not worthy to offset the damage to morale, health and mental attitude suffered by union members and other employees in the seven months of unemployment. The strike was ill-advised and highly inappropriate to promoting decent employee-employer relationships. Too many of us wanted to return to work in the beginning to have our voices be ignored by union officials."

This is at the crux of the problem as Mitchell sees it. Union officials have their list of demands, but the wishes of the members count for nothing. He says that what's needed is "a more just resolution of individual rights in relation to the general union movement."

"We need unions that represent us—not in a power struggle, but in a valid, workable labor-management structure."

Contemptuous compulsory unionism and the powerful leaders it breeds won't do anything to return the control of unions back to the workers. The answer, says Clayton Mitchell, is the right to voluntarily join, resign or refrain from joining without penalty.

FREE CHOICE

December 1972

Spotlight on John Waldum

"I'M NOT GOING TO PAY TRIBUTE TO ANYBODY FOR MY RIGHT TO WORK"

Bills were approved by Committees of both Houses of the Florida legislature in March to put teeth into the Sunshine state's constitutional ban against compulsory unionism. And the outlook for their enactment into law is increasingly bright.

Things like this don't "just happen" — as John Waldum of Lake Park, Florida, will be the first to tell you. An ex-shop steward with the United Auto Workers, a former voluntary member of the Machinists union, and now a machinist at Pratt-Whitney Engine Corp., John fought hard in behalf of this legislation.

He testified before the House Committee which approved the bill, he wrote letters-to-the-editor and swamped members of the Committee with informational material and kits outlining his position on the legislation it ultimately approved.

In short, John is doing what he's done tirelessly for years — fighting for the basic Right to Work principle. A member of the National Right to Work Committee's Board of Directors, he traces his interest in voluntary unionism back to late 1964 when repeal of Section 14(b) of the Taft-Hartley Act was threatened. 14(b) permits states to enact Right to Work laws.

Says John, "At the time I was outraged Congress could even be *considering* legislation that would strip away such a fundamental right from its citizens. So I wrote a two-page letter-to-the-editor to the *Palm Beach Times*. Much to my surprise, the whole thing was printed."

Big Labor's No Law-Respecter

Legislation in support of Florida's Right to Work Law is once again the target of Big Labor's money and influence as H.B. 57 is dissected by a House committee on March 1.

Union leaders are incensed at the thought of being punished for destroying businesses, threatening and coercing non-union workers and systematically ravaging the peace and tranquility of the people. This practice, though alien to many citizens of our state, is becoming commonplace.

To the citizens of Florida who are fearfully apprehensive of Big Labor's total disregard for life, property and law, H.B. 57 is the first step.

JOHN WALDUM, JR.
Lake Park

MIAMI HERALD
February 25, 1971

After the letter appeared, John was put in contact with the National Right to Work Committee. Eager to help, he agreed to appear before the House Special Subcommittee on Labor in 1965.

He testified: "I consider this a rare and long-sought privilege because I have, for several years, attempted to recount before some responsible body such as this, my experience in states which permit compulsory unionism and those which do not."

John was referring to his experience during a violence-riddled 10 week strike in Kansas City. A UAW member at the time, he recalled the strike in non-Right to Work Missouri was disastrous to the workers. "We lost an average of \$800 per man for the period we were out of work and, for this privilege, we received a 3-cent an-hour pay increase," he noted.

On the other hand, John has been working in Right to Work Florida since 1960. "This period has been notable," he says, "for its responsible labor-management relations, excellent working conditions and the highest type of production output."

"No longer is there a bitter contest over compulsory unionism between union bosses and management that results in so much industrial strife in non-Right to Work states."

But John knew that Florida's constitutional bar to compulsory unionism needed teeth so it could be properly enforced by state authorities.

So John, typically, rolled up his sleeves and went after the measure that has now cleared Committees in both Houses. After testifying on the bill, he walked up to state AFL-CIO boss Charlie Harris and told him point blank: "I got my job on my merits, I'm going to hold it that way, and I'm not ready to pay tribute to anybody for it." The thunderstruck Harris didn't know how to retort to that one!

It took courage — but that's one thing John Waldum has plenty of.

NEGOTIATING EQUALITY FOR POSTAL EMPLOYEES AND UNIFORMITY IN LABOR RELATIONS

WEDNESDAY, APRIL 11, 1973

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL FACILITIES,
MAIL, AND LABOR MANAGEMENT,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 9:40 a.m., in room 210, Cannon House Office Building (Hon. Charles H. Wilson) chairman of the committee, presiding.

Mr. WILSON. We call our subcommittee meeting to order at this time. I can't rap the gavel. It was stolen yesterday. We had some young future voters in here yesterday, and they got away with it.

The Subcommittee on Postal Facilities, Mail, and Labor Management is holding its third hearing on legislation that, if enacted into law, would give the postal workers the qualified option to strike and the opportunity to negotiate for a union shop.

This legislation should not be taken lightly, and it should not be supported or opposed blindly. I especially consider the right to strike for postal employees landmark legislation which could affect every citizen in our country.

While there are no reliable data available that would provide a basis for measuring the total effect that a mail stoppage would have on our economy, a substantial portion of our gross national product would be affected by a long term Postal Service strike.

A mail stoppage could penalize citizens who are dependent on the mail for their pensions, welfare or other government assistance checks. For example, each month State agencies mail an estimated 6 million welfare checks with an aggregate value of approximately \$830 million. Various Federal agencies require the Treasury to mail out monthly about 35.5 million checks having an estimated aggregate value of \$5.6 billion. In addition, it is estimated that each month payroll checks having an aggregate value of \$2.6 billion—before payroll deductions—are mailed to about 2.7 million employees. This data shows that over 44 million people could be adversely affected, financially, by the nondelivery of mail.

Because of the serious nature of the right to strike issue I was particularly disappointed in Postmaster General Klassen's testimony before this subcommittee on Monday. Not so much that the Board of Governors opposes the right to strike for postal employees—when one considers the professional allegiance of each board member,

their decision comes as no surprise—but that General Klassen was neither able nor willing to offer any constructive alternative to the present archaic, unworkable, and delusory law.

I had hoped that the Postmaster General would have taken this opportunity to discuss means by which the postal worker could obtain equal negotiating rights with management and at the same time protect the public interest. As an example, my own bill applies the Taft-Hartley provision of the National Labor Relations Act which provides for the 80-day cooling-off period. To this safeguard we could add additional protections such as allowing the President to prevent a strike for another 30 days. Still more to the point, a special service system could be set up by which the Postal Service would continue, during a postal strike, to deliver urgent mail such as Social Security and veterans checks.

Instead of hearing testimony which came to grips with the reality of the postal workers' demand for the right to strike and service to the public, we were told by the Postmaster General that the status quo was a solution, which, of course, is no solution at all.

Labor history in our country has demonstrated that when the workingman feels that he is not receiving a fair shake from his employer, he will strike regardless of the law. While the correctness of such action can be debated, that it happened and will happen again, is reality.

A recent example is the March 1970 postal work stoppage which affected 671 post offices during the period from March 18 through March 25, involving 250,000 postal employees and costing the Post Office Department \$20 million.

Therefore, the question is how are we going to intelligently deal with a postal strike or a work stoppage—not whether we will allow a postal strike. We cannot afford to stick our heads in the sand and hope that the right-to-strike issue will disappear. We need to face the issue and cope with it in a way that will benefit all those concerned; otherwise, we are inviting disaster.

Today we will hear from the leaders of the two largest postal unions. Hopefully they will present testimony more meaningful than we have been exposed to thus far.

I want to welcome you, Mr. Filbey, and the representatives who are with you. You have Mr. Nilan, your legislative director; Mr. Edward Bowley, legislative aide; David Silvergleid, executive vice president; and your counsel, John Black. We welcome each of you to the meeting this morning, and we will let you proceed with your statement.

STATEMENT OF FRANCIS S. FILBEY, GENERAL PRESIDENT, AMERICAN POSTAL WORKERS UNION, ACCOMPANIED BY PATRICK J. NILAN, LEGISLATIVE DIRECTOR; DAVID SILVERGLEID, EXECUTIVE VICE PRESIDENT; EDWARD L. BOWLEY, LEGISLATIVE AIDE; AND JOHN BLACK, COUNSEL

Mr. FILBEY. Thank you, Mr. Chairman. Legislative Director Nilan will present the testimony.

Mr. NILAN. I am particularly pleased that our president is with us. He didn't mention it, but he left Honolulu yesterday morning

and got into Dulles at 6:30 this morning, so he hasn't gotten much sleep, but we are delighted that he made this long trip to be with us this morning.

Mr. FILBEY. I might add, I had the pleasure of going through your hometown.

Mr. WILSON. We are very happy that you were able to come here, Mr. Filbey, and I know it was a sacrifice to make this long trip.

Mr. NILAN. Mr. Chairman and members of the committee, I am very pleased to appear before the committee this morning with our general president, Francis S. Filbey, general executive vice president, David Silvergleid and legislative aide, Edward L. Bowley of the American Postal Workers Union (AFL-CIO). For the record, I am Patrick J. Nilan, national legislative director of the American Postal Workers Union (AFL-CIO), with offices at 817 14th St., NW, Washington, D.C.

We speak in behalf of more than 400,000 postal workers for whom we are the exclusive national representative for labor-management relations and collective bargaining with the U.S. Postal Service. Our membership is employed in post offices and postal facilities in all 50 States, the District of Columbia, Puerto Rico, Virgin Islands, and Guam.

The American Postal Workers Union (AFL-CIO) is a merged labor organization comprised of five former national postal unions, namely, the: National Association of Post Office & General Service Maintenance Employees; National Federation of Post Office Motor Vehicle Employees; National Association of Special Delivery Messengers; National Postal Union; and United Federation of Postal Clerks.

We would like to express our appreciation, Mr. Chairman, to you and members of your committee for scheduling these most important hearings concerned with legislation proposing to amend the "Postal Reorganization Act of 1970" and grant postal workers the right to strike and the right to negotiate the union security with our employer, the U.S. Postal Service. We are also pleased that you and many other members of the 93d Congress recognize that a need may exist for amending the Postal Reorganization Act, namely, Public Law 91-375.

This need certainly exists, Mr. Chairman, insofar as the American Postal Workers Union (AFL-CIO) is concerned, and we hope to convince you, the committee and the Congress of the need for immediate and favorable action on several amendments presently pending before this committee in the form of bills to which we will address ourselves this morning.

Our testimony this morning will be presented in two parts in support of amending Public Law 91-375, to grant postal workers: (1) the right to strike, and (2) the right to negotiate union security with the U.S. Postal Service.

We are most appreciative of the number of bills sponsored by members of the House Committee on Post Office and Civil Service proposing to grant postal workers the right to strike which is the subject of these hearings. Included among these bills are: H.R. 1282 which you have introduced, Mr. Chairman; H.R. 4312 by Representatives Jerome R. Waldie, Frank Brasco, William D. Ford and Wil-

liam Clay; H.R. 5030 by Representative Dominick V. Daniels and H.R. 5725 by Representative Robert N.C. Nix.

We have included as "Exhibit A" a complete listing of all bills sponsored by Members of the House of Representatives as of April 4, 1973, for the information of the committee. All of these bills are similar or identical to the legislation being considered by your committee, Mr. Chairman.

Mr. Chairman, the first recorded strike in history happened to be a strike of public employees. Somewhere in the neighborhood of 1170 B.C., the workers at the necropolis, in Thebes, walked off their jobs because the Government of Egypt had not paid them for 2 months. History does not indicate what the Egyptian Pharoah's reaction was, but I suspect that it was somewhat similar to that of most governmental bodies in this country today when their trusted civic employees choose to exert themselves to the point of concerted action in support of their demands.

The response of the Government of Egypt was probably something to the effect that they had no right to strike against the sovereign. This is, in fact, the response of our Government today when any suggestion is made that its employees be entitled to band together in concerted action in an attempt to obtain the employment benefits to which they are entitled.

Recently, a member of your sister body had occasion to point out that the divine right of kings no longer exists. I am here today to submit to you gentlemen that the basic rights of employees do exist. It is time the legislative body of our country recognized these rights and allowed the government employees at least the protection in the free exercise of them that is granted employees in private industry.

In testimony before the committee last year, I started out by pointing out that there were only two major groups of workers in our country who do not have a government protected right to strike. One of these is the farm worker, or migrant laborer, and the other is the government employee. At least the farm worker is free to strike even though he is without legal enforceable protection if he does so. The other group is made up of people who are civil servants who, not only have no enforceable rights, but also can be deprived of their means of livelihood and even punished as criminals if they strike.

The history of the strike in the United States is the history of organized labor, and it has been an extremely arduous history indeed. The laboring man's struggle to attain his natural right resulted in an unbroken pattern of legal and economic repression. The first strike of record in this country was in 1786, when the Philadelphia printers struck for a minimum wage of \$6 a week.

Under ordinary circumstances it was lawful for any employee to request his employer for an increase in wages or better working conditions. It was also legal to withhold the benefits of his labor by walking off the job if such requests or demands were not met. Employees also possessed the right to join with other employees in a fraternal or otherwise common association among themselves.

The courts, however, beginning first in England and carrying over to a more limited extent in this country, started out holding that these factors, when combined, constituted criminal conspiracy. This

theory was most lucidly enunciated for the first time in this country in the case of the Philadelphia Cordwainers of 1805.

Thereafter there was a series of strikes and cases which further buttressed the heavy economic fist of the employer upon the proud, but the over the years, stooped shoulders of the working force.

In fact, the first hundred years of struggle by organized labor in this country is an unbroken record of violence, brutality and the complete frustration of all its hopes. The history of the 19th century labor movement is a chronicle of defeat and bloodshed. Its grim landmarks of such battles as the Homestead lockout, the Pullman strike and the Haymarket riots, not only emphasize that the forces of the courts controlled by employers could be brought to bear to break the backs of the laborers, but that on occasion not only could private armies, but indeed the Federal Armed Forces be turned loose to literally lay out in the streets the bodies of strikers.

The conspiracy doctrine has long since been laid to rest. The rights of employees in almost all sectors of the community have long since, not only been recognized, but have been protected by statutory enactments. Through such legislation as the Railroad Labor Act, Norris-LaGuardia Act and the National Labor Relations Act these protections were rendered.

As early as 1932, this Congress recognized the inherent evils in the labor injunction. By passing the Norris-LaGuardia Act it outlawed such with respect to employees in the private sector. The fact remains, however, that the labor injunction can still be used against postal employees.

The Federal Government, as you well know, in the last several years, has experienced strikes of Postal Service employees, of employees in the Federal Aviation Administration and a slowdown in the Government Printing Office.

The argument is frequently used that government employees are essential to the public interest. But private employees working on government contracts, many of which are engaged in supplying absolutely essential goods and services to the government, nevertheless possess the right to strike. In 1970 there were approximately 1.5 million employees in industries obtaining more than 50% of their income from government contracts, all possessing the right to strike and governed only by the machinery in the Taft-Hartley Act.

Those same provisions would govern postal employees if the bill before the committee was enacted. Now, admittedly, these provisions may need revision and various changes are now being considered by the Congress. However, if enacted, these too would apply to the employees in the Postal Service.

The right to strike as previously stated is an integral part of labor management relations in the private sector. Unfortunately, it has been arbitrarily prohibited in the public sector. Strikes where they have occurred in the public sector have been met by various responses ranging from taking the strike to seeking injunctive relief and penalties against strikers, strike leaders, and the unions involved.

Last year the Fortieth American Assembly, a respected conservative organization expressed concern that government should not set either unrealistic or unfair prohibitions against its employees. The

Assembly finally concluded in a recommendation that at least a limited right to strike be granted public employees. In reaching that conclusion, the Assembly pointed out a total prohibition of strikes by public employees was bad for the following reasons:

Such a ban gives rise to unequal treatment of public and private workers doing similar tasks. It relies on the mistaken view that every strike by government workers affects public health and safety. It does not recognize the realities of public employment labor relations in that a strike may often result in lost wages and no real discomfort for public employers whose revenues continue unimpaired. Therefore, if all public workers are prohibited from striking, disrespect for law is encouraged and a feeling of lesser status is unnecessarily fostered. Finally, a ban on strikes does not guarantee there will be no strikes.

It is interesting to note that most of our neighboring and closest allied countries expressly permit strikes in the public sector, either by constitution or statute. For instance, the Italian, German and French Constitutions expressly guarantee the right of public employees to strike, while Sweden, Norway, and Denmark authorize such by statute. It is even more interesting to note that in Latin America, generally considered an underdeveloped area of the world, the right to strike by government employees is recognized by most countries. This is particularly true in Mexico, our closest neighbor, where the right exists by constitutional amendment.

I might add, Mr. Chairman, another very close neighboring nation of ours, Canada, since 1967 or 1968, has had the similar right of its postal workers to strike under certain conditions.

I might add also that it is interesting to note that, though the political and governmental laws and philosophies of Russia, for example, and this great democracy of ours, are at great variance, nevertheless we do share with Russia the one common denominator in that both American and Russia are the only two large powers that restrict strikes by their federal and public employees. So we do have a common denominator with Russia.

Probably the most telling factor with respect to strikes is found in Everette M. Cassalow's book entitled, "Trade Unions and Industrial Relations: and International Comparison." His comment on strikes is equally applicable to both the public and private sectors:

Although generalizations are hazardous, it does appear that strikes vary inversely with the acceptance of unionism as an institution by the society, and especially by the managerial classes. The more firmly the labor movement is institutionalized and 'accepted', particularly in this sphere of labor-management relations, the greater likelihood that there will be fewer strikes. The persistently higher incidence of strikes in France and Italy, as well as in the United States and Canada, as compared with Scandinavia or Switzerland seems to support this thesis.

A result of the 1970 strike in the Postal Service was the enactment of the Postal Reorganization Act. That act sought to make the Postal Service an independent establishment and to create conditions for the postal employees on a parity with employees in the private sector of the economy. However, it continued in force and effect the repressive measures which deny the workers their most fundamental right, that is, the right to strike.

The 650,000 rank-and-file employees of the U.S. Postal Service were told by Congress that they were going to be denied most of the

protections of the Civil Service laws received by the other employees in the Federal Government, but were going to be allowed to bargain collectively like private employees. However, on the other hand, they were denied the major tool—the absolutely essential weapon—possessed by private employees to use to attain their rightfully due benefits through collective bargaining.

The constitutional argument raised by the defense in the Philadelphia Cordwainers' case has never been resolved by the courts for either public or private employees. The Supreme Court has never ruled on whether the right to strike is protected by the First Amendment of our Constitution. Judge Wright recently stated before a three-judge District Court panel in a case involving postal employees in this union, that:

It is by no means clear to me that the right to strike is not fundamental. The right to strike seems intimately related to the right to form labor organizations. . . . A union that never strikes, or which can make no credible threat to strike, may wither in ineffectiveness. That fact is not irrelevant to the constitutional calculation.

We submit, Mr. Chairman, that a greater truism has never been stated. We ask this committee to rectify this wrong. We are not seeking special privileges or some exception to the rule. We are under an exception presently. We are only seeking the same right that every employee group which authentically bargains collectively possesses—the right to strike.

The question occurs as to just what the results are when employees have that right which is recognized by all trade unions and free governments in the world. How often does the strike occur? Are employees prone to walk off the job at the drop of a hat as some of our government administrators would have the public believe whenever the suggestion of a government strike is raised?

The statistics concerning this are very revealing. In the mid-1960's, out of 150,000 collective bargaining agreements only 2 percent were affected by strikes. Only two-tenths of 1 percent of the total U.S. work time was lost by strikes. About 40 times that much was lost from unemployment and at least 8 times as much was lost from accidents and illness.

It is interesting to note that Mr. Herbert Stein, presently the head of the Nixon administration's Council of Economic Advisors, in a book published with Edward Denison in 1960, estimated the effect of lost hours of employment on the national growth rate. At that time they stated that illness and accidents lowered the potential national product by about 4 percent. Seasonal changes in industry cost another 3 percent. Crime, which caused imprisonment, amounted to approximately 0.7 percent. Long-term unemployment caused about 0.6 percent. But work stoppages, resulting from labor disputes, cost the growth of our economy only 0.3 percent.

Unfortunately, Mr. Chairman, we are dealing with a dual system of standards. The government of the United States exercises one set of standards when dealing with the populace at large, and an entirely different set of standards when dealing with its own employees. In the private sector it guarantees, through legislation, that all employees shall have a legally enforceable right to strike. In the

public sector it says to its own employees, You must depend on my benevolence.

Advocating one set of rights for most of the workers in our economy while denying them to the one worker in every six who is employed in government represents, I submit, is the most crass hypocrisy. This is done, of course, in the name of sovereignty, but such sovereignty means only that insofar as government is concerned, the boss will call the shots. The Chairman of the Civil Service Commission even went so far in recent years to assure top union leaders that the administration would veto any labor management law it felt would tie the hands of management.

Last year, as I mentioned earlier in this statement, the 40th American Assembly expressed concern that government should not set either unrealistic or unfair prohibitions against its employees. It concluded that public employees were at least entitled to a limited right to strike. Less than a month after this testimony, the Western Conference of that same Assembly called for full collective bargaining rights, including the right to strike, for all employees at all levels of government.

We submit, Mr. Chairman, that the Postal employees are even more justified in demanding a right to strike than the employees who make up the Civil Service of our Government. Under the provisions of the "Postal Reorganization Act of 1970" they are removed from the umbrella of government protection under the Civil Service laws. They are placed out in the hard, cruel, and demanding world of collective bargaining in order to achieve a contract from their employer governing their wages, hours, and other working conditions. We submit that placing them on this footing, pitted against the employer Postal Service, and yet depriving them of the most fundamental and most basic weapon in the ever-diminishing arsenal of union retaliatory measures constitutes the grossest injustice. They were denied the right to strike.

The head of the U.S. Postal Service, Postmaster General Klassen, recognized this recently in testimony before committees in both the House and the Senate. He even went further. He stated that he believed the Postal Service employees should have the right to strike and that postal management should have the right of lockout.

Mr. Chairman, this statement of ours, as you know, was prepared before the Postmaster General appeared before you Monday, April 9. We did not question his sincerity and we don't today. We are hopeful that perhaps if it was up to him, he would support this proposal, but we were, as you mentioned also, very disappointed in his turning 180 degrees around, probably as a result of action by the U.S. Postal Service Board of Governors, who as you so well pointed out, really don't have a background which would encourage them to be more liberal in their thinking.

We submit that the right to strike is the most fundamental right of the trade unionist. As Congressman Waldie stated on the floor of the House:

*** without this right, the union is, for all forms and purposes, a paper dragon and has no means of bringing any economic pressure whatsoever on the employer.

I submit that, without this right, the employees of the Postal Service are well-justified, better characterizing this kind of "collective bargaining as collective begging."

I might add, Mr. Chairman, in the past, some leaders have said, when we appeared before Congress, in salary legislation, and other beneficial legislation affecting our people, that we were participating in "collective begging" before the Congress.

I submit that was not my opinion, but certainly it is a similarity with our present system with the Postal Service on collective bargaining, which without the right to strike is "collective bargaining."

There are those, of course, who will say that the Postal Reorganization Act provides an alternative for this right in the form of binding arbitration. We submit that this is a less than adequate alternative. Former Secretary of Labor, W. Willard Wirtz, probably best summed up the reasons why it is an inadequate alternative in his book, "Labor and the Public Interest," in which he said:

Experience, particularly the War Labor Board experience during the forties, confirms that a statutory requirement that labor disputes be submitted to arbitration has a narcotic effect on private bargainers, that they turn to it as an easy and habit-forming release from the obligation of hard, responsible bargaining.

The difficulty is that in virtually every dispute one bargainer or the other feels that his chances are better, or that he can evade responsibility for a hard decision, if he lets the issue go to arbitration. No effective way has yet been devised or suggested of limiting the availability of such procedures to cases in which "collective bargaining processes . . . have been exhausted." The record is that if arbitration is assured, the collective bargaining processes are never really used at all.

It is easy to agree that the public interest will be most fully served in a particular case by prohibiting a strike and requiring the parties to submit their dispute to a third party. *There is also the public interest in leaving as many decisions as possible to private processes.*

We submit, Mr. Chairman and members of the committee, that what former Secretary of Labor Willard Wirtz stated many years ago is exactly what happened in collective bargaining with the U.S. Postal Service in 1971, when hundreds and thousands of union proposals nationally and locally were left unresolved because only costly and time consuming binding arbitration was available at the "end of the road"! As a result postal workers and their unions throughout the Nation have become angry, frustrated and disenchanted with the alleged equality, but realistically the total inadequacy of postal union rights, prerogatives, and alternatives, when confronting postal management at the bargaining table!

True equality for postal workers and their unions can only result when Congress enacts legislation similar to the bills pending before this committee and grants our workers and unions comparable rights with our brother and sister trade unionists in the private sector.

Mr. Chairman, members of the committee, the bills pending before the committee would amend the Postal Reorganization Act of 1970 and grant Postal workers the right to strike as follows:

Section 2(a), by striking the reference to Sec. 3333 would remove the requirements that every Postal employee take an oath not to strike. By adding the proviso at the end of the subsection, the applicability of Sec. 7311 is removed insofar as Postal employees are concerned. This is the prohibition against striking. The section contains various other prohibitions but the courts have invalidated all but the strike prohibitions.

Section 2(b) removes Postal employees from the applicability of criminal penalties (Sec. 1918, Title 18 U.S.C.) which may be imposed against employees of the Federal government for striking. The remainder of that section has also been invalidated by the courts.

Section 3 would repeal that portion of Chapter 12—"Employee-Management Agreements" entitled 'Labor Disputes' and which sets forth the machinery for mandatory arbitration in the event of an impasse between labor and management which in an ordinary non-governmental situation might, but not necessarily, lead to a strike. Since this was inserted in the Postal Reorganization Act as an alternative to the right to strike, it is logical to eliminate it when the strike restrictions are removed.

In striking Sec. 1207, the provisions for mediation were also removed. Section 4 would merely make the general law provisions of conciliation applicable to the Postal Service. Please note that it also contains the Taft-Hartley provisions for handling "National Emergency" strike situations.

Section 5 would remove the prohibition against postal employees being affiliated with a labor organization which imposes upon them an obligation to engage in a strike against the government.

I simply want to conclude, Mr. Chairman, by stating that the American Postal Workers Union urges that this committee to favorably report the pending legislation sponsored by yourself and other members of this committee, and grant to the postal worker that which is his natural birthright, the right to withhold his labor from his employer, the U.S. Postal Service.

Thank you very much, Mr. Chairman, and members of the committee.

[The attachment follows:]

Exhibit A

RIGHT TO STRIKE LEGISLATION FOR POSTAL WORKERS

H.R. 857 by Rep. John M. Murphy (D-N.Y.).

H.R. 1282 by Rep. Charles H. Wilson (D-Calif.).

H.R. 2791 by Rep. Mario Biaggi (D-N.Y.).

H.R. 4312 by Rep. Jerome R. Waldie (D-Calif.) and the following co-sponsors: Rep. Joseph E. Karth (D-Minn.); Rep. Jonathan B. Bingham (D-N.Y.); Rep. Frank J. Brasco (D-N.Y.); Rep. Michael Harrington (D-Mass.); Rep. William D. Ford (D-Mich.); Rep. Gus Yatron (D-Pa.); Rep. Benjamin S. Rosenthal (D-N.Y.); Rep. Robert O. Tiernan (D-R.I.); Rep. Manuel R. Lujan, Jr. (R-N.M.); Rep. Shirley Chisholm (D-N.Y.); Rep. Henry Helstoski (D-N.J.); Rep. August F. Hawkins (D-Calif.); Rep. William Clay (D-Mo.); Rep. John D. Dingell (D-Mich.); Rep. Parren J. Mitchell (D-Md.); and Rep. James C. Corman (D-Calif.).

H.R. 5030 by Rep. Dominick V. Daniels (D-N.J.).

H.R. 5725 by Rep. Robert N. C. Nix (D-Pa.).

H.R. 6472 by Rep. Jerome R. Waldie (D-Calif.) and the following co-sponsors: Rep. Louis Stokes (D-Ohio); Rep. John E. Moss (D-Calif.); Rep. Joshua Ellberg (D-Pa.); and Rep. Fernand St. Germain (D-R.I.).

H.R. 6609 by Rep. Fred Rooney (D-Pa.).

Mr. WILSON. Thank you, Mr. Nilan. That is a very fine statement.

You have some information included in your statement that, with your permission, I'm going to make reference to from time to time. I think some of the statistics and figures that you have presented to us are certainly worthy of being repeated whenever we get the opportunity, and I intend, unless you have some serious objection, to quote from it in one of my upcoming newsletters.

Mr. NILAN. Mr. Chairman, we have no pride in authorship and would be delighted to have you use it.

Would you like us to continue, or discuss the first statement first? The second statement is on union security.

Mr. WILSON. Fine. Why don't you complete your statement, and then we can ask questions.

Mr. NILAN. Mr. Chairman and members of the committee, The American Postal Workers Union (AFL-CIO) desires to take this opportunity to commend Representative Charles H. Wilson, the chairman of this committee, and also express the appreciation of our membership for his sponsorship of H.R. 5312. This legislation is also a subject of this hearing and is another paramount issue of our union for the 93d Congress. H.R. 5312 would grant postal workers the right to negotiate "union security" with the U.S. Postal Service.

The original postal reorganization bill, H.R. 17070, as reported by the House Committee on Post Office and Civil Service in May of 1970, would have permitted postal workers to negotiate union security provisions in collective bargaining agreements with the Postal Service. Unfortunately, in our opinion, when the legislation was considered by the House of Representatives on June 17, 1970, an amendment was offered and approved by a teller vote which has been interpreted as restricting the postal unions and the U.S. Postal Service from negotiating union security through free collective bargaining procedures which are available to workers and employers in the private sector.

We believe, Mr. Chairman, that now, almost 3 years later, the time has come to remove this yoke from around the necks and backs of postal workers and their unions, as well as the U.S. Postal Service. The time is now—to make postal workers whole, insofar as the labor laws of this great Nation are concerned, and grant us the right to negotiate union security, as well as the right to strike.

The time is now to make us the equals of management at all levels of labor-management relationships. And, the time is now to once and for all destroy our present "neither fish or fowl" status as employees of the U.S. Postal Service, with no one, including the Congress, to date, being able to decide whether we are supposed to be Federal employees or more correctly identified with our fellow workers in the private sector.

Mr. Chairman, we respectfully suggest that the Postal Reorganization Act be amended by approving the provisions of H.R. 5312 in order to provide further parity to postal employees in the same uniform manner as is provided for employees in the private sector. We firmly believe that postal employees should have the same right under existing law to negotiate union security agreements in the form of the union shop as private sector employees now process in those States which do not prohibit it.

Whenever the question of the union shop is raised concerning employees of the United States, it invariably raises the spectre of a huge big bogie man. For reasons known only to themselves, there appears to be a sizable contingent of the Members of both bodies in the Congress that absolutely refuse to believe the clear evidence of what experience has taught us. They appear to believe that the majority of the American working men and women oppose the provi-

sions contained in any decent union contract negotiated in any free country in the world to provide for union security.

They apparently never go back and look at the experience in this country immediately following the Taft-Hartley amendments of 1947. These were passed on the theory that there was a division between the rank and file on the one hand and the labor bosses on the other hand. These amendments required the National Labor Relations Board to conduct a secret-ballot election on the issue of the union shop and required an affirmative vote by the membership before the union could even enter into negotiations on this subject with the employer.

Experience taught that this requirement was needless and it was repealed a scant 4 years later. Up to 1951 some 46,146 such elections were held. During this period over 6 million employees voiced their views about the desirability of the union shop agreement; 97 percent favored the union shop. We have no reason, at this point in time, to believe that the view of the average working person has changed so substantially as to indicate a different result.

Mr. Chairman, there has been so much loose talk about compulsory unionism that it is time to set the record straight on just what the union shop is all about; what it permits, and what it prohibits. First of all, a union shop agreement does not:

- First, deny anyone the right to work;
- Second, force anyone to join a union in order to get a job;
- Third, force anyone to picket or to go out on strike;
- Fourth, prevent anyone from working while his coworkers go out on strike;
- Fifth, deny any employee his right to compete on the job, to win promotion rights and higher pay;
- Sixth, deny any employee his freedom of speech, press or assembly;
- Seventh, deny any employee the full enjoyment of his religious beliefs;
- Eighth, force any employee to support political parties or programs against his will; or
- Ninth, create compulsory unionism.

What section 8(a)(3) does is to permit unions and management, in free collective bargaining, to agree that all employees, 30 days or more after they are employed, or 30 days after the agreement is signed—whichever is the later—must pay their fair share of the collective bargaining expenses in the form of periodic dues and initiation fees.

There are many safeguards written into the act by Congress and judicial construction.

First, the union must be elected by a majority of the employees in a secret ballot election, or otherwise be selected by equally valid techniques;

Second, the union must then persuade the employer at the bargaining table that a union shop agreement is desirable;

Third, the periodic dues and initiation fees collectible under the agreement may not be excessive or discriminatory under any circumstances;

Fourth, employees denied rights within the union for any reason—political, racial, religious, or personal—are exempted from the contractual requirement that they pay the union dues; and

Fifth, a majority of the affected employees may vote in an NLRB secret ballot election to rescind the union-shop agreement;

With these limitations and safeguards, it is not surprising that the “union security” agreement is popular with all segments of those affected.

Mr. Chairman, it has been pointed out that Business Week many years ago made a nationwide survey on businessmen and reported that:

Employers who had had it (union shop agreements) longest find the most advantage in it. Fifty-eight percent declared that net effect on management of the elimination of such security would be bad.

The employers gave these reasons for favoring the union shop:

(1) It seems to give the union an incentive to settle disputes quickly rather than drag them along for purposes of recruiting new members,

(2) Whenever there is trouble in the plant or some question arises, we know whom we can hold responsible, and

(3) It gives employees a greater feeling of responsibility and interest in their jobs.

The National Planning Association reported that:

In all the cases studied, the employers saw strong advantages in bargaining with a strong and well disciplined union, and were convinced that they should take steps to encourage workers to join and support the organization which represented them.

Some have claimed the United States is the only country outside of the Iron Curtain where a union shop is permitted. I submit Mr. Chairman, this is not the case! Union shop agreements are a normal part of labor management relations in most of the free world:

Mexico permits a union shop.

Canada permits a union shop and/or a closed shop, that is an agreement that the employer hire only union members.

New Zealand permits agreements requiring membership in unions as a condition of employment.

Australia permits preference to union members in hiring, dismissal or promotion.

Great Britain permits strikes to compel the employer to hire union men only; and as a matter of tradition, union men in England refuse to work along side of “black legs” or nonunion employees.

Sweden permits unions to negotiate either union shop or closed shop agreements with the employers.

Norway gives legal sanction to a trade union resolution adopted in 1934 prohibiting union members from working with nonunion members.

Denmark permits union shop agreements.

Switzerland permits a union shop “solidarity levy” which represents an “agency shop” agreement similar to that permitted by the Taft-Hartley Act.

In short, Mr. Chairman and members of the committee, there is nothing unique about a union shop, or about allowing such at least

to be negotiated upon and agreed to in the free market of collective bargaining.

Under the provisions which I am advocating here today the employee need not join the union. He need not even support the union. All he's required to do is pay his fair share of the cost of operating the union which in turn negotiates and achieves for him most of the benefits which he may receive. Who can question, Mr. Chairman, that this is not fair. Who in this Nation, purportedly built upon the concepts of free enterprise, can oppose the principle that each individual should shoulder his fair share of the burden.

Mr. Chairman, before we conclude we request the approval of yourself and the committee to include our exhibit A at conclusion of this statement which is a reprint of your excellent statement entitled "The Cardinal Right of the Majority" published in the Congressional Record of March 7, 1973, when you introduced H.R. 5312. Your statement documents the need for this legislation much better than do our efforts here this morning, and also explains the legislation.

Thank you, Mr. Chairman and members of the committee, for the courtesy and attention given to our testimony here this morning. We urge your favorable consideration of H.R. 5312.

[The exhibit referred to follows:]

Exhibit A

From the Congressional Record, Mar. 7, 1973

THE CARDINAL RIGHT OF MAJORITY RULE

(Mr. CHARLES H. WILSON of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. CHARLES H. WILSON of California. Mr. Speaker, the Postal Reorganization Act of 1970 was passed, in part, in order to put the employees of the postal service in the same basic posture with their employer, the U.S. Postal Service, as employees in the private sector of the economy stand with their employers.

There were, however, two very serious omissions, the absence of which vitally affect the bargaining power of the employees and put them at a severe disadvantage in their dealings with the employer. One of these is the prohibition against postal employees striking. Myself and many of my colleagues have already introduced bills during this session of Congress which would guarantee these employees the right to strike.

The second omission concerns the fact that the employees, through their unions, are forbidden the right to seek to negotiate union security provisions in their collective bargaining.

Although the act purports to recognize the need of collective action for workers, it stresses the rights of the individual workers at the expense of the collective-bargaining power. While the union designated by a majority is entitled to be the exclusive representative of the workers and, in fact, is required by law to represent all the workers, the law makes specific provision for prohibiting the negotiation of a union-security clause.

Since the strength of a union usually comes from the numbers it represents, from its cohesiveness, and from its financial position, the act provides a basic for undermining that strength. Under the slogan of protecting the rights of individuals, the act outlaws union-security provisions in collective labor agreements. Obviously, without a union-security clause a union is not in as favorable position to protect its members and will thus lose a considerable part of its strength.

For reasons known only to themselves there appears to be a sizable contingent of Members of both Houses of Congress who absolutely refuse to believe the clear evidence of what experience has taught us. They appear to believe that the majority of American men and women oppose the provisions contained in any decent union contract negotiated in any country in the world; that is, the provisions for union security. They apparently never go back and look at the experience in this country immediately following the Taft-Hartley Amendments of 1947. These were passed on the theory that there was a division between the rank and file employees, on the one hand, and the "labor bosses," on the other hand.

Among other things, the amendments required the National Labor Relations Board to conduct a secret ballot election among the employees before the union could even enter into negotiations on the subject of a union shop with the employer.

Experience, however, taught that this requirement was needless and it was repealed a scant 4 years later. During that period of time almost 47,000 such elections were held. More than 6 million employees in voting voiced their views about the desirability of a union shop agreement; 97 percent in favor of a union shop. Mr. Speaker, I submit that there is no reason at this point in time to believe that the view of the average working person has changed so substantially as to indicate a different result today.

Union security has played a significant role in the development of labor unions in this country. From their very inception, unions looked upon these provisions as a source of security for their existence. The strength of the union could almost be judged from the degree of unionization it exacted in its collective agreements with employers.

Labor reasons, as do I, that since the union, as the bargaining agent for all the workers, helps to determine the wages, hours, and working conditions for all workers that apply equally to all employees—it is only fair and reasonable that all workers who share in the benefits should also share in the burdens—and hence the justification for insisting that union membership be made a condition of employment. It is the view of the unions that the rights of individual workers under collective bargaining become analogous to those of a citizen in a political unit. The worker becomes a member of an economic society when he takes employment. The unions, therefore, consider the requirement of union membership, as a condition of employment, indispensable to their security and to their ability to discharge their functions as unions.

Mr. Speaker, the bill I am introducing today merely removes the prohibition against the unions attempting to negotiate union security provisions with their employer and puts them on an equal footing in that respect with all the employees in the private sector. It would allow union security clauses to be negotiated to cover those employees in all States which do not prohibit such provisions. To do less is to perpetrate a very hypocritical injustice upon the employees of the U.S. Postal Service.

I am inserting a short explanation of the bill in the RECORD at this point:

EXPLANATION

Section 1209(c) of Title 39, U.S.C., provides that an employee of the Postal Service has the right to join or refrain from joining a labor organization and that the employee will be protected in the exercise of this right.

By striking this provision from the law then the applicable law will revert to those rights set forth in the National Labor Relations Act, made applicable to the Postal Service by Section 1209(a) of 39 U.S.C. Specifically, it will make applicable the provisions of Sections 7, 8(a) (3) and 14(b).

Section 7 sets forth the rights of employees to join or refrain from joining a labor organization subject to the provisions of Section 8(a) (3).

Section 8(a) (3) sets forth the terms and conditions under which a union security agreement can be negotiated.

Section 14(b) provides that a union security agreement can be prohibited by state law.

These provisions do *not* provide that employees must join a union as a condition of employment. Rather, that in the event the employees chose a union to represent them in a National Labor Relations Board secret ballot election, that the union chosen may then seek to negotiate a union security agreement in collective bargaining with the employer.

A bill to amend the Postal Reorganization Act of 1970, Title 39, United States Code, to provide for uniformity in labor relations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress duly assembled: That Title 39, United States Code (84 Stat. 719) is amended by striking out subsection (c) of Section 1209 in its entirety, effective upon enactment.

Mr. WILSON. Thank you again, Mr. Nilan, for a very fine statement.

Mr. Nilan, or Mr. Filbey, do you feel that my legislation concerning the right to strike for postal employees, and the right to negotiate for a union shop would be adequate for your needs and at the same time protect the public interest?

Mr. FILBEY. Yes.

Mr. WILSON. You can't think of any qualifications or anything else that would be required as a result of some of the comments that have been made by previous witnesses?

Mr. FILBEY. As I understand the legislation, Mr. Chairman, it provides provisions roughly similar to the Taft-Hartley Act, which permits cooling off periods, emergency powers to the President of the United States, et cetera. I would think it would be sufficient to protect the public interest.

Mr. WILSON. Would you oppose any or all of the following qualifying elements to the right to strike legislation:

First, a provision that would allow the President to prevent the continuation of a postal strike for an additional 30 days beyond the Taft-Hartley 80-day cooling-off period? Do you think such would be necessary, or would you have any serious objections to it?

Mr. FILBEY. We would have no serious objections to any system which would enable us to sit at the bargaining table clothed, where we now sit at the bargaining table almost naked. Obviously, we would prefer a right to strike bill. But certainly the wisdom of this committee, and yourself, in drafting this legislation, indicates that we should follow the National Labor Relations Act situation, and the Taft-Hartley Act situation. If, in the judgment of the President of the United States, whomever he might be at that time, it was desirable for an additional 30-day cooling-off period, a merge period, we would have no objection.

Mr. WILSON. How about a provision that would eventually apply binding arbitration, which, of course, you have now? Do you think that you should include anything like that, to eventually work up to that?

Mr. FILBEY. I would see no objection to, after the use of the provisions of the Taft-Hartley Act, the provisions of your proposed bill, that if it seemed to be that we could reach an agreement through a voluntary choice of arbitration, availing ourselves of arbitration.

Mr. NILAN. This would, of course, be available—voluntary arbitration would be available as another means of resolving disputes.

Mr. FILBEY. That's right.

Mr. WILSON. Now, a lot of the people say, well, they are sympathetic to your problem, they would like to help you, yet I don't

know whether they are sincere about supporting you or whether it is just an excuse for opposing right to strike legislation, but they do bring up the question of social security checks, and veterans checks. How about a provision that would guarantee during a postal strike continuing delivery of certain mail, such as social security and veterans checks?

Mr. FILBEY. On behalf of the union we represent—of course, we don't deliver mail. The letter carriers deliver the mail. On behalf of our union, we would be perfectly willing to have a provision which would allow us to make available to letter carriers, this kind of material for delivery.

Mr. WILSON. Fine.

Mr. FILBEY. We would not agree with the Postmaster General's statement that it should include all financial transactions, however.

Mr. WILSON. Well, I think you're right on that.

Have you been able to make a determination as to the feeling of your rank and file concerning the possibility of postal work stoppages this summer?

Mr. FILBEY. Mr. Chairman, I have a feeling if we are not successful in negotiating a contract which is satisfactory to the membership, to the majority of the membership of the American Postal Workers Union, that with or without our leadership, there will be a strike.

As you know, our constitution now provides that when a tentative agreement has been reached between the American Postal Workers Union and the U.S. Postal Service, that tentative agreement must be presented first to a 48-member rank and file committee for their consideration. If they agree that it should be agreed to, it is then submitted to a referendum of the total membership of the American Postal Workers Union. Should the membership, the majority of the voting membership of the American Postal Workers Union, determine that that contract should not be signed, we would then have to make a determination as to whether we could go back to the bargaining table, continue bargaining, or whether we would exercise the arbitration procedures of the existing law, or whether we would engage in an illegal strike.

I would not be in a position to state at this time what action the American Postal Workers Union would take.

I would add this, however: If our membership in a referendum were to reject a tentative contract, I would consider it as the General President of the American Postal Workers Union as a mandate to consider calling a strike.

Mr. WILSON. In connection with H.R. 5312, providing the postal workers the opportunity to negotiate a union shop—we heard testimony from the National Right to Work Committee. Their representative maintains that the postal unions have been so successful in recruiting members of the unions, it is not necessary for them to have the additional benefit of the union shop.

Would you please respond to this observation?

Mr. FILBEY. Well, I think postal unions are perhaps the best organized unions of Federal or any other group of Federal employees. Nevertheless, they are not 100 percent organized. We have the re-

sponsibility under the existing law to represent every person in our bargaining unit regardless of membership, even including arbitration, which is an expensive procedure. While we are proud of the results we have obtained through voluntary unionism, we still feel that those people we must represent who do not belong should be required to at least pay equal dues. If they don't want to belong to the union, that's up to them. But they should be required to pay the same fee as an active member of the union pays.

Mr. WILSON. That brings us to the testimony of Mr. Adams, of the Seventh Day Adventist Church, who also presented testimony to the subcommittee yesterday. Mr. Adams requested the union shop bill be amended so that members of his religion could not be forced to join or support a union. He made a couple of alternative suggestions; one, that an amount of money equivalent to the union dues be deducted and given to the treasury to be used for non-union activities, such as charities.

Now, would you please give me your views on this request? Would this present any great problem?

Mr. FILBEY. Not having had the advantage of hearing Mr. Adams' testimony, or having had the opportunity to read it, I would refer that question to Legislative Director Nilan.

Mr. NILAN. Well, on that question, Mr. Chairman, our experience has been that at different times, different religions try to have special considerations made available to them by law for the particular people they have within their religion. I think, for an example; I'm a Catholic. As a Catholic, I would like to have every Sunday off. As a new employee in the Postal Service, I don't get every Sunday off. I've got to take care of my religious responsibilities in line with my employment.

The same thing is true of our brothers in the Jewish faith, on their observance of Saturdays. The same thing to a large extent is true here. They are making a proposal for a special class or distinction among all other workers of the Postal Service.

We feel that when an employee comes into the Postal Service, he or she should know the conditions of employment. At that time they make their own determination as to whether or not they want to be employed within that particular activity or Government agency.

They have the same problem the private sector has, as far as taking employment in a shop or a plant, which may have a union shop agreement. What I'm trying to say is that while we all respect religion, at the same time, I think the religion has to recognize the facts of life insofar as the best interest of overwhelming majority of the employees whom may express a desire to have such agreement.

So, therefore, we would be opposed to their position.

Mr. WILSON. As you know, I was rather disturbed and surprised at the testimony of Mr. Klassen on Monday. Particularly the part where he indicated that one of his objections to the right to strike was the immaturity of the postal employees and their union leadership.

Now because I recognized what he was trying to say, I tried to get him to use some other word other than immaturity. Maybe the word inexperience or some word like that.

So I'll use inexperience. He indicated that he felt that because of the lack of experience of postal unions in negotiating he felt more time should elapse before you got the right to strike.

What is your feeling on that? Do you feel that you do lack experience in negotiating, and that you are unable at this point to really perform in an experienced manner in negotiations with the Postal Service?

Mr. FILBEY. Well, Mr. Chairman, I would respond, as far as the immaturity of the general president of the American Postal Workers Union is concerned.

I have served 8 years as the president of the Central Labor Union, in the city of Baltimore, both under the AFL, and ultimately after merger, under AFL-CIO, where I participated in negotiations from time to time in contracts in the private sector, representing unions.

The Baltimore Central Labor Union, the Baltimore Council of AFL-CIO union, its official name, represents 121 unions, with better than 150,000 members in the city of Baltimore.

I have been a member of the former National Federation of Post Office Clerks, which was succeeded by the United Federation of Postal Clerks, and now succeeded by the American Postal Workers Union.

I now participated in the negotiations under Executive Order 10988, with the former Post Office Department, which brought about four contracts, which we thought were relatively good in the limited field in which we were able to negotiate.

On the management side, I think it was very aptly and ably pointed out by you and other members of the committee that the top managers of the U.S. Postal Service today have a long history of coming from companies which have had negotiations with labor unions for a long period of time. There should be no allegations of immaturity on either side.

Mr. WILSON. Well, I certainly don't feel so, either, I was rather surprised, and I hope that when people oppose something, they would have more intelligent reasons for opposing it than what was given to us.

Mr. NILAN. Mr. Chairman, may I make a comment also on that, since I was here?

Mr. WILSON. Certainly.

Mr. NILAN. Frankly, we were very surprised that the Postmaster General made that statement, because we have been impressed with his apparent sincerity and his relationship with the American Postal Workers Union.

I would like to believe that he was in the very difficult position of trying to grasp at straws in an effort to defend the no-strike decision which I don't think he made. I think it was obviously made by the Board of Governors. He had to retract his position and turn 180 degrees around, because the Board of Governors apparently had made a decision for him.

So I would like to believe that was the basic reason for his statement. I can't believe he would suggest that we are not mature on his own.

I might also say about the Board of Governors, Mr. Chairman, it has been our experience that they have been in operation now for over a year; and this is probably the first time they have ever overruled a Postmaster General, and really made any important decision of any kind affecting the U.S. Postal Service. So I am surprised they took this opportunity to speak out the way they did.

Mr. WILSON. I agree with you. I felt sorry for Mr. Klassen. It appears that he lacks the necessary influence with the Board of Governors. Also, he does not have the quality of staff assistance that you obviously do. As an example, he didn't know of any country other than Canada which allows their government employees the right to strike.

Mr. NILAN. Mr. Chairman, I might point out that the allegation of immaturity, too, on the part of the postal management, doesn't hold very much water when you consider that the chief negotiator for the U.S. Postal Service in our last negotiations was one James T. Blaisdell, a man with great reputation in the field of labor relations in the private sector. The Postmaster General was at one time the vice president for Industrial Relations of the American Can Co. His chief negotiator now was his successor in the American Can as the vice president for Industrial Relations.

And I understand they have recently taken on the board, Mr. James Gildea, formerly assistant to Mr. George Meaney, President of the AFL-CIO, who will be, as I understand it, a bargaining team. Sounds to me like there is plenty of maturity there.

Mr. WILSON. A lot of talent there.

Mr. Hillis, do you have any questions?

Mr. HILLIS. Mr. Nilan, I'm very impressed with the statements on both of the subjects that you've brought before us this morning.

I am concerned, however, about the public interest here, in that we are dealing with an area that is probably even more sensitive to the public than that of transportation strikes, should they occur, and we know how Congress has had to act in the past in the case of a general strike of Penn Central most recently.

We've also seen the turn of the steelworkers away from the so-called right to strike and toward binding arbitration.

Do you feel this is a weather vane in labor-management relations, or how do you characterize that, or do you feel that doesn't apply here at all?

Mr. NILAN. Let me respond in this way: I am sure you are well aware, Mr. Hillis, that this is strictly an experimental effort by steel and labor to see if another avenue cannot be opened up to help resolve their disputes.

However, a unique situation exists in the steel industry, where prior to the end of a contract, buyers stockpile in anticipation of a steel is down to a minimum, and as a result workers must be laid off strike. Consequently, if there is no strike, related demands for new because steel has been stockpiled, and it has a certain impact on the question of striking in lieu of a contract.

However, I'm sure we all realize you can't stockpile the mail service. I mean, the mail service is a continuing thing.

Mr. HILLIS. I think we've tried that.

Mr. NILAN. However, I think that what we are missing here is a most important point with regard to this pilot operation between steel and the unions, and that is that this was agreed to freely by both sides in lieu of striking. Both labor and management by free choice agreed to try this. We have no free choice ourselves. We have no opportunity to explore other ways because we do not have the legal right to strike as steel does. So that's the only way I can respond. We have no alternative. And we are watching this very carefully, because labor doesn't enjoy striking. We would not enjoy striking but do want the right.

One of the reasons that we are proposing this legislation is that it's our honest, sincere opinion, if Congress gave us this right under the restrictions, and the rights of Taft-Hartley, we would be in a better position to control any strikes than we may be later this summer. We saw what happened in 1970. Our general president did everything he could to get our postal workers back to the job. It was impossible until an agreement had been reached. And we had no strike authority or responsibility in that case.

We honestly believe that if Congress should include us with all other persons in the private sector, under Taft-Hartley and give us this right. We are mature and we are responsible. We know the cost of a strike to our people. We know the responsibilities that we would have. We would better be able to deal with any crises which might occur.

For example, if under Taft-Hartley, a wildcat occurred, the injunctive process could be applied. The Presidential emergency powers could be applied. All the law states now is that a postal worker shall be fined \$1,000 and or a year in jail. There's no other mechanism for us to resolve a strike. So that's why we are saying hopefully Congress will give us, and management, the tools we need to hopefully avoid any strikes. As I mentioned in my testimony, the instances of strikes in the private sector, where it has been compared over a lengthy period of time, shows that it is the least nonproductive area as compared to other lost work-hour reasons.

So this is the way we respond.

Mr. HILLIS. I am impressed with the statistics, and I'm certainly impressed with the maturity of your leadership. I think you'll do everything possible to avoid a strike. However, the only parallel to draw back to is the transportation situation, and, of course, there, I know the parties follow the terms of an agreement they made in the private sector. Finally they reach an impasse, finally there is a strike, and the next thing you know, someone is running here to the Congress to settle the labor dispute for them right on the floor over there.

Do you anticipate that could happen here, if a strike erupted, and in the cry of the public interest, Congress would be brought in as one of the final arbitrators? That's one of the things that concerns me.

Mr. NILAN. Let me respond this way, Mr. Chairman. If the Congress does not in its wisdom decide to enact legislation which would set up procedures for the protection of the public then if a strike would take place, looking at it realistically, we would have no way

of protecting the public or the service or the members of our organization if, say, in July or August of this year, our people suddenly decide to walk off the job again.

The point I am trying to make is that we have no way of effectively representing or attempting to control our own membership, even if we wanted to. So I'm saying that Congress and ourselves may have to face up to this situation in the next 4 or 5 months and enact legislation to resolve potential disputes where we have no law to protect us in this area. You should make these decisions yourselves, right now, instead of sometime in the future.

Mr. HILLIS. I think I understand your position. Then basically you are in support of those provisions of Mr. Wilson's bill that do protect the public interest.

Mr. NILAN. Yes, sir.

Mr. Chairman, we have in our constitution, our priority, our responsibility to the American public, as far as the mail service is concerned, and this, we feel, is a great responsibility. We certainly would protect it to the maximum extent possible.

Mr. HILLIS. That's all.

Mr. WILSON. Thank you, Mr. Hillis.

We are very pleased to have Mr. Nix with us this morning. He formerly chaired this subcommittee. He has done a tremendous job, and has been a great friend, I know, of postal workers through the years.

Mr. Nix, do you have any questions that you would like to ask?

Mr. NIX. I would just like to make the observation, Mr. Chairman, that this is one of the most eloquent, most lucid, the most logical presentations that it has been my privilege to witness, and since I am irrevocably committed to the right to strike, I feel that I need to say nothing further.

Thank you, Mr. Chairman.

Mr. NILAN. May I thank Congressman Nix. We certainly appreciate that statement, Congressman, and also your sponsorship of H.R. 5725, which is the legislation we support.

Mr. WILSON. Thank you very much.

Do you gentlemen have anything further you care to state?

Mr. FILBEY. Mr. Chairman, while Pat was presenting the testimony, I was running through some testimony on some notes of Postmaster General Klassen's testimony the other day, and I noticed that both you and Mr. Waldie continually tried to find out from the Postmaster General exactly what action the Postal Service would take should there be a strike similar to the one which occurred in 1970 this coming summer.

And I was very much surprised to note that the Postmaster General seemed to indicate that the Postal Service has no plans should such an unfortunate event take place.

It so happens that there exists in the United States Postal Service a document called "A Contingency Plan for Strikes."

It is a rather lengthy document, and I suggest it might be of interest to the committee were they to request the U.S. Postal Service to furnish them a copy of same. It is not a document which is made

available to the postal unions. However, we have an uncanny knack of being able to get our hands on documents from time to time.

Mr. WILSON. You say there is a document that—

Mr. FILBEY. There is a contingency plan that goes down to the individual post office, the individual postmaster.

Mr. WILSON. This is not the contingency plan that they used in 1970?

Mr. FILBEY. This is one, to my recollection, the copy I saw, indicated that it was updated to January 1973, if I remember correctly.

Mr. WILSON. We will see what we can find out.

Mr. NILAN. I might add, Mr. Chairman, that that obviously was another indication—Mr. Klassen before this committee and on the Senate side, both, has suggested that his people aren't telling him everything. This is another classic example of it. When he made that statement, I sat there thinking to myself that he ought to clean house and get some people in there that will tell him what is going on. I mean that in the very nicest sense. I don't mean that at all nasty. I mean that very sincerely. He ought to have people there that will inform him and let him know what is happening. He's in a very difficult situation.

The man sincerely, in our opinion, wants to do the right thing, but obviously the people around him are trying to shield him, so we offer that only as a commentary.

Mr. WILSON. Well, I would have to agree. I think Mr. Klassen is basically a very fine person, and I think that he has a strong feeling for what we're trying to do. But I think he unfortunately is surrounded by either some incompetent people in the top positions, or people who are not as loyal to him as they should be.

I hope that something can be done to get them straightened out to where they can all work together for the benefit of the American people.

Thank you very much.

Mr. SILVERGLEID. Just one comment, Mr. Chairman.

This is on the union security issue. Our legislative director emphasized, and very capably, that we have to negotiate a contract for nonmembers, and our general president said we have to represent them.

You would be amazed at how much more frequently now we are being afflicted with complaints to the NLRB by nonunion members that we are not according them proper representation, and certainly they ought to be compelled to pay the freight if they want that type of representation.

Mr. FILBEY. I might add, however, that the National Labor Relations Board hasn't found us guilty as yet.

Mr. NILAN. Thank you, Mr. Chairman.

Mr. WILSON. Thank you very much. You presented a very fine statement.

We now have Mr. James Rademacher, president of the National Association of Letter Carriers, and he's accompanied by his executive vice president and legislative director, Mr. J. Stanly Lewis. Would you identify the other gentlemen, Mr. Rademacher.

STATEMENT OF JAMES RADEMACHER, PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS, ACCOMPANIED BY J. STANLEY LEWIS, EXECUTIVE VICE PRESIDENT AND LEGISLATIVE DIRECTOR; JOSEPH H. JOHNSON, NATIONAL BUSINESS AGENT; AND AUSTIN B. CARLSON, NATIONAL SECRETARY-TREASURER

Mr. RADEMACHER. Yes, Mr. Chairman. As you mentioned, our very able vice president and legislative director, J. Stanley Lewis, is on my right. And on my left is our national business agent, Joseph H. Johnson. On his left is Mr. Austin B. Carlson, our national secretary-treasurer.

Mr. Chairman, before I proceed with my statement I would like to just preface my remarks by commenting on the discussion heard.

The U.S. Postal Service has been contemplating a strike for some time, because they have been stockpiling mail for 20 months.

The second thing I would like to say is that I do not share the sympathy that has been expressed here this morning for the Postmaster General. When the Postmaster General of the United States can arbitrarily reduce the Postal Service, remove collection boxes, eliminate delivery service, on his own, without going to the Board of Governors, then why does he go to the Board of Governors and say, "Now, can I go up and testify for the right to strike?" I just can't share that sympathy at all.

I think that if he's going to run the Postal Service, he should tell the Board of Governors, although I don't agree that he can tell the Board of Governors what kind of service we're going to have, but certainly in a matter of this importance, where he has already told this distinguished committee early in the year that he would support the right to strike, that he certainly ought to express himself as vehemently before his own Board of Governors as he has before the Board of Governors of the U.S. Government.

Mr. Chairman, with those opening comments, I will now present our formal statement.

Mr. WILSON. You may proceed.

Mr. RADEMACHER. This witness represents more than 200,000 active letter carriers employed in some 6,000 cities throughout the United States and its possessions.

We support the legislation under consideration by this subcommittee today—H.R. 1282—which would eliminate the archaic and discriminatory laws which prohibit postal workers from striking and H.R. 5312 which would amend title 39 of the United States Code to permit the negotiation of a union shop within the Postal Establishment except in those States where local laws ban such conditions of employment.

The first major postal strike in history occurred for a period of 10 days in March 1970, for the reason that postal employees had been denied the right to strike. Perhaps that statement could bear some expansion. For many years, with living costs soaring and postal wage increases failing to offset these rising costs, more and more career workers left the Postal Service—in 1 year, 1969, there were more than 100,000 postal workers involved in turnover.

They were replaced by a younger more impatient group of workers. These were young family men who saw their wages evaporate with higher taxes, higher costs for providing mere essentials and their employer, the U.S. Government, using them as inflation scapegoats who were charged with raiding the Treasury each time they sought a living wage.

In those days, our union had demanded wages comparable with salaries paid for commensurate employment in the private sector. We were constantly promised that comparability was coming although the Budget Bureau admitted postal worker wages were truly behind. The younger, new postal employee could not understand how he was admittedly entitled to a living wage but yet was denied it. He was unfamiliar with subcommittees, full committees, floor action, possible vetoes and the usual lengthy legislative process. So he blew his cool and took things in his own hands—and engaged in a wildcat strike which subsequently affected more than a third of all postal employees in most major cities.

If postal workers had the right to strike in their deliberations for wage increases in those days, I personally feel there would not have been a strike in March 1970.

Under the same reasoning, there could be a recurrence of a wildcat strike and more possibly, a total organized withholding of services by postal workers. Laboring people of this generation just will not tolerate the abuses which are now associated with postal employment.

In fact, the situation is so bad at the present time, I would not hesitate polling my members on the subject of a nationwide postal strike, irrespective of the law which forbids same, if it were not for a similar poll being planned with the procedures governing ratification of our soon-to-be-negotiated contract.

At that point, let me back up and say, although I have indicated that irrespective of the law which forbids same, I find no law anywhere in the books that forbids me from calling a national postal strike. I find a law which forbids the people I represent from striking. I don't find where there is any law which says that any harm can befall me because I would call out the Postal Service, the employees of it, but there is management's problem of finding sufficient jails to jail all those 600,000 people that would follow the combined union-called-for national work stoppage.

I feel our members would suddenly become very ill if they were encouraged with some of the astonishing statistics we have had revealed to us in the past few weeks.

Because of the tremendous pressure upon our members to absorb additional workloads of retiring workers, we have had 42 members in small- and medium-size towns die on the job in the past year and another 436 have suffered heart attacks. This is three times the number of similar casualties during any previous year.

As you know, Mr. Chairman, litigation in the form of a multimillion-dollar class action is now being prepared against the U.S. Postal Service. It is our union's contention that the failure of postal management to take remedial action on grievances complaining of overloads is responsible for heart attacks and deaths.

The fact that such overburdened assignments are condoned and that the U.S.P.S. remains aloof of these tragedies is supporting our charge that our employer is violating the Occupational Safety and Health Act.

The greatest lesson we have to learn from so-called no strike laws imposed upon public employees—including Federal Government employees—is that they don't work. This is obvious to anyone who reads the daily newspapers, the weekly news magazines or who watches the news on television. I cannot argue against the necessity for reasonable laws to protect the general welfare. A repressive law, however, cannot prevent the problems it was enacted to prohibit. If anything, an unreasonable and repressive law serves only to make the crime more tempting and leaves the law open to mockery.

An example is the 18th amendment to the U.S. Constitution which was supposed to stop the consumption of liquor in this country. This amendment was such a failure that another constitutional amendment, repealing prohibition, had to be legislated.

Strikes will continue until legislators realize that collective bargaining laws must include provisions that allow Government employees to withhold their services as a last resort in resolving impasses. It may be a bitter pill to swallow, but it is nevertheless the truth that when Government employees feel that they have reached the end of the line in negotiations, when their needs are desperate and they see no other possible way out, they will strike. They will strike no matter how harsh the consequences or how severe the penalty.

This is an observable fact which can be confirmed from the communications media. And this situation will continue as long as meaningful collective bargaining is denied to Government employees.

Extreme penalties will only encourage employees to go out on longer and longer limbs to obtain economic justice. The more extreme the penalties, the more union members will try to prove their militancy and loyalty to the cause, until such mechanism is found to provide adequate protection to governmental employees in their disputes with management.

The common law and the statute law both prohibit governmental employees from striking in the United States. While a few States have comparatively recently enacted legislation which permit Government employees to strike under certain circumstances, the Federal Government's position, up to this time, is adamant.

Although Postmaster General E. T. Klassen recently stated that he has no qualms about giving the strike weapon to postal employees, he qualified this statement to say that the postal unions, in order to obtain and keep the right to strike, should refrain from lobbying for postal employee benefits before Congress.

Of course, as this subcommittee knows, the Postmaster General retracted that statement.

Perhaps if postal management negotiated in an attempt to reach prompt agreements on matters under negotiations, the postal unions could then afford to give up their lobbying activities.

But so there be no misunderstanding on that point, I know of no union that has the right to strike or that is denied it, that refuses to

come to Capitol Hill. All unions come here, whether it is for national health insurance, amendments to the Social Security Act, or whatever it might be. All unions come to Capitol Hill, and I don't see where that's a crime, and I certainly believe that it's in accordance with the Constitution of the form of government that we live under.

In spite of injunctions and harsh penalties, the number of work stoppages among Government employees in America has been steadily growing. In 1958 there were 15 strikes by public employees at all levels of Government in the United States, involving 1720 workers and 7520 man-days of work lost. In spite of injunctions and additional repressive laws, in 1968 there were 254 work stoppages involving 201,000 employees and 2,545,200 man-days of work lost.

A term of settlement of the 1970 postal strike was support by the unions for total reorganization of the Postal Service, creating a U.S. Postal Service to replace the former Post Office Department.

Public Law 91-375 was signed into law by President Richard M. Nixon less than 5 months after that postal strike. the act provided for a change in philosophy concerning postal habits including matters relating to dealing with unions, appropriations, revenues, politics, and other related matters.

The act established for the first time the right of postal unions to engage in collective bargaining with the employer with disputes being settled by final and binding arbitration.

However, this act contained provisions preventing postal unions from negotiating to obtain a union shop in the Postal Service and also provided for severe penalties for engaging in any form of strike or slowdown by employees against the new U.S. Postal Service.

It is my contention that the collective bargaining provisions of the Postal Reorganization Act cannot work unless the no-strike provisions applicable to postal employees are repealed. The no-strike law applicable to the U.S. Postal Service is contained in 5 U.S.C. 7311; the penalty for striking against the U.S. Postal Services is a maximum of \$1,000 fine and/or 1 year and a day in jail, as stated in 18 U.S.C. 1918.

So far, postal management has not gotten the message that no matter how repressive the laws or the penalties, postal employees will take the risk of striking in order to obtain their full measure of collective bargaining rights.

One well-known arbitrator, Theodore W. Kheel, wrote in the July 1969, Monthly Labor Review in an article on public employees strikes:

For better or worse, the conclusion is inescapable that collective bargaining cannot exist if employees may not withdraw their services or employers discontinue them. This is not a statement of preference, but a statement of fact. But it is now also evident that collective bargaining is the best way of composing differences between workers and their employers in a democratic society even though there is much room for improvement in the process. So, if we believe public employees should have bargaining rights, we must accept the possibility of a strike and consider how best to guard against it. If we believe the case against strikes by public employees is so overwhelming that all such strikes must be prohibited, let us then say frankly that public employees cannot be given bargaining rights and that the use of such euphemisms as collective negotiations cannot alter the basic structural differences the strike ban entails.

But if we believe that the case for collective bargaining even for public workers is persuasive . . . then we should try, it seems to me, to grant public workers bargaining rights while still protecting the public at least as much as it is protected in the private sector against strikes that threaten health or safety. I think this can be done by using the formula of the Taft-Hartley Law for emergency disputes. But let us not deceive ourselves. When all strikes are barred, collective bargaining or joint determination is out except to the extent that express or implied threats to violate the law create a bargaining atmosphere which is hardly the way to encourage respect of law.

I believe that Mr. Kheel is right and that until an atmosphere of good faith bargaining is established, which would require a major change in attitude by U.S. Postal Service management up and down the line, the postal employees must attempt to change the law so that they have the legal right to strike. Postal employees do not want to strike. But the fact remains that under the most extreme provocation or as a last resort, when U.S. Postal Service management acts in an irresponsible manner, there is no other solution.

You may have noticed that in spite of the prominence given to it in the Postal Reorganization Act, that I did not mention arbitration as an alternative to the right to strike. The reason for it is that, in my opinion, there is no substitute for the right to strike.

Postal management under the present setup doesn't have the incentive to reach prompt and fair agreements with the representatives of their employees. Management has more to gain by delay than they have to fear from an arbitrator's decision which fixes contract terms. Postal management has always in the past loaded the arbitration deck by insuring that too many contract details will go to arbitration at one time so that the arbitrators will be overwhelmed and unable to carefully consider and render prompt decisions on the hundreds of disputes handed to them.

It has been shown in private industry through many years of experience that where good faith bargaining is absent and one of the parties could profit from delay—and such is the case with the U.S. Postal Service today—that the only effective counterbalance to restore equality at the bargaining table and encourage the peaceful settlement of disputes is the right to strike.

I believe in summing up our position on the right to strike, it would be appropriate to restate the position taken by President Nixon when he addressed the AFL-CIO executive council in February of this year at Miami Beach. At that time, the press reports the President expressed this theory:

Your job and mine are very similar. You cannot go into a bargaining session with management "unless you have the right to strike." I could not end the Vietnam war unless I, too, had the right to strike (a reference to his highly successful December bombing of Hanoi and Haiphong).

The President then drew an analogy with his need for new trade legislation, saying that he could not possibly deal with the flood of imports from Japan and West Germany "unless I have the right to strike" by imposing higher tariffs and other protectionist devices.

Mr. Chairman, and members of this committee, it has been said before by experts on the subject and it will undoubtedly be repeated again and again. "All workers should be granted the right to strike so they would have at their disposal the motive power which makes collective bargaining work."

As we have stated at the outset, granting postal workers the right to strike can very well be the preventative medicine being sought to avoid any future strikes—wildcat or total.

H.R. 5312—THE UNION SHOP

We today ask Congress to repeal the current provision of the law which prohibits postal employees from negotiating union security clauses, such as the union shop, with our employer, the U.S. Postal Service.

By way of background, this issue arises from the enactment of the Postal Reorganization Act of 1970, which continued the restrictions against the union shop as stipulated in the two previous executive orders. That law placed postal employees and their unions under the National Labor Relations Act as amended.

Thus, postal workers and their union bargaining agents were covered by all the rights, obligations and protections of those labor laws which govern employer-employee relations in general and collective bargaining in particular—all the rights and protections that is, except the right to strike and the right to negotiate union security clauses. But alas, with no such exclusions relative to their obligations.

In addressing ourselves to this inequity, between postal and private employees, we are actually talking about the disparity between first and second-class citizenship. In this respect, this so-called right to work proviso, while deceptively simple in language, has become a welcome mat for free riders, a union-busting weapon for professional union haters and a refuge for the employer who is bent upon a policy of divide and conquer.

Therefore, at the outset, it should be pointed out, that however harsh may be our judgment of such union shop restrictions, those who oppose our position are not above being promiscuous with semantics. Euphemistic misnomers such as the "Right to Work" couched in the standard open shop rhetoric denouncing "compulsory unionism" could as easily be enged in by we who are its proponents. For we could counter that the official "Right to Work" position of forbidding union security clauses, in actual fact, guarantees no one any right to any job, merely the dubious right to work for longer hours at lower wages under lousy conditions.

But perhaps the most classic satirical definition of what we in the labor movement would call the "compulsory open shop" was offered by Historian Peter Finley Dunn through his well-traveled creation Mr. Dooly who characterized this norm of nonsecurity as the place where they keep the doors open to allow those coming in to take the places of those being put out.

Notwithstanding this demonstration that two can play the game of semantics, for us to simply denounce with righteous fervor, the "Right to Wreck" brings us no closer to a diagnosis of the problem, much less its solution. Indeed, there has been so much nonsense about this ogre called compulsory unionism that it is time to set the record straight on just what the union shop is all about; what it permits and what it prohibits.

First of all, an agreement voluntarily entered into between union and employer to include a union shop provision in their contract does not:

First, deny anyone the right to work;

Second, force anyone to join a union in order to get a job;

Third, force anyone to picket or to go out on strike;

Fourth, prevent anyone from working while his co-workers go out on strike;

Fifth, deny any employee his right to compete on the job, to win promotion rights and higher pay;

Sixth, deny any employee his freedom of speech, press or assembly;

Seventh, deny any employee the full enjoyment of his religious beliefs;

Eighth, force any employee to support any political party or program against his will; or

Ninth, require compulsory unionism when the employee as beneficiary to the benefits he receives—and eagerly accepts—is excused from the membership requirements and instead pays his fair share of the cost of the union's bargaining efforts on his behalf, a responsibility which some are not so eager to accept.

So much for what a union shop does not do. What is it that a union shop does?

The type of union security which postal workers seek and which is so widely accepted in so many stable collective bargaining relationships in the private sector and for a growing number of State, county and municipal workers in the public sector, does instill a sense of responsibility in those who are otherwise willing to allow fellow workers to carry them as free riders, parasites, leeches, and sponges, accepting all the benefits won for them, without ever a thought of paying their fair share of the cost of providing these benefits costs which cannot be weighed only in dollars and cents, considerable as that may be, but also in staff input, time, energy, sacrifice, and just plain hard work.

Accordingly, with regard to the existing permissive provision of the law, from which postal workers are excluded, all that this does is to permit unions and management, in the free give and take of collective bargaining, to agree that all employees, 30 days or more after they are employed, or 30 days after their agreement is signed—whichever is the later, shall pay their fair share of the collective bargaining expenses incurred on their behalf as a condition of continued employment, in the same way that an employee may be similarly required to buy certain tools or uniforms; or conform to other rules agreed upon by union and management in the collective bargaining process; or in the same way that one must become a United States citizen and accept certain responsibilities before he may reap certain benefits, services and rights.

Thus it is that we feel there is no good reason why postal employees should not have the same right under existing law to negotiate union security agreements, such as the union shop, as private sector employees in 31 States have enjoyed for nearly 40 years.

Indeed, among employees who have collective bargaining rights, to continue to deny only postal workers the same union shop right enjoyed by millions of employees in both the private and public sectors is to categorically single out a particular group in a way that no other group of American workers have been so discriminated against.

This inequity becomes all the more glaring when one considers that the Congress has never seen fit to similarly outlaw the closed shop practices of those medical and bar associations, which with complete impunity, require their respective practitioners to join and financially support their organization as a precondition to practice in hospitals and courts in most States and counties.

Neither is there any comparable restriction between the signatories to commercial contracts, who remain free to negotiate any provision consistent with antitrust and other laws.

This disparity between the first-class citizenship to which letter carriers and other postal workers aspire, and the second-class citizenship to which they are willfully or unwittingly relegated by law, becomes all the more apparent when one examines the original preamble to the National Labor Relations Act which 38 years ago spawned the basic labor law of the land.

We all talk about the National Labor Relations Act, but somehow there has been avoided reference to the preamble, which I would now like to read.

It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstruction to the free flow of commerce and to mitigate and eliminate these obstructions *** by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization and designation of representatives of their own choosing for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

In accordance with this noble, yet practical commonsense principle, it is our union's contention that to allow employees to bargain collectively on the one hand, while on the other, restrict the union's ability to do so as effectively as possible—by shackling them with union shop prohibitions—is to take back with the right hand what the left hand has granted.

Hence, by prohibiting the union for maximizing its membership potential, the union is effectively precluded from fully utilizing the very collective bargaining rationale which the law was intended to foster and encourage.

We cannot believe that such an inherently unfair and self-defeating proposition was truly the intent of those who enacted this law.

For just as the rational of "taxation without representation" was considered so flagrantly unjust as to constitute one of the grievances which precipitated the American Revolution, so too is the validity of the other side of the same coin, "representation without taxation." To put it more succinctly, since the fiddler must play for all who attend the dance, why shouldn't those who dance pay the fiddler? This is no more than to say that an employee who elects to work for a given employer is not unlike a citizen who elects to live in a given community. Once such a decision is made, then in return for the re-

sultant benefits which accrue to that citizen—that is public schools, trash collections, library, parks, playgrounds, and so forth—he is expected to pay his fair share of the cost of providing them. Should he attempt to avoid such obligations, when he has the means to comply, he is rightfully denounced by his neighbor as a freerider who shuns his responsibilities, thereby requiring his fellow citizens to dig that much deeper into their own pockets in order to support his free use of the facilities which their taxes make possible. More than that, such a parasite who is ever willing to take from the public trough, but never willing to contribute to it, is subject to substantial legal sanctions.

Why then should postal workers in the collective bargaining community be held to a different standard than that of the citizen's community—much less the many millions of others who enjoy union security rights in the private and the non-Federal public sector? Since the law requires the union as bargaining agent to represent, protect and bargain for, all employees in the bargaining unit, union members and nonunion members alike, under penalty of having an unfair labor practice charge lodged against it for failing to do so, shouldn't those who thus benefit be similarly required to help defray the costs incurred in securing such benefits?

For example, since our union won the right to enjoy final and binding determinations of grievances by arbitrators, we have spent several thousand dollars to secure justice and equity for letter carriers who have never paid dues dollars to our union. Does this not smack at perhaps being somewhat unconstitutional to order by law a bargaining agent to represent members and nonmembers alike—and then by law deny that agent the right to negotiate with the employer for compulsory membership as a condition of employment?

Whoever heard of a stockholder who allowed the fruits of his investment, his dividends, to be dispersed among nonstockholders who elected not to share that risk? In the same way, doesn't the dues payer have the same right to expect a full return on his investment of dues without having that return watered down? Should the dues-paying investor be forced to dig still deeper into his pocket to kick back a portion of his return to cover those operating costs which remain yet unpaid, only because some of the employees who have received their full share of such return have refused to invest the necessary covering funds?

Doesn't it seem incongruous that while every other right carries with it a corresponding responsibility, this so-called right to work—without paying union dues—is really nothing more than an escape hatch which encourages an employee who is willing to free load from the efforts, skills and expenditures which his peers provide and expend on his behalf, to avoid his responsibility to provide his fair share of the cost of such effort, skills and expenditures? There is nothing very new or radical about this principle of equity. As long ago as 1905 when unions were still in their infancy, Samuel Gompers recognized this relationship between responsibility and union security when as President of the American Federation of Labor, he said:

The union shop in agreement with employers, is the application of the principle that those who enjoy the benefits and advantages resulting from an

agreement shall also equally bear the moral and financial responsibilities involved.

Accordingly, the legislative mechanics of amending the Postal Reorganization Act so as to permit postal unions to negotiate a union security provision with the U.S. Postal Service, could be accomplished merely by striking out in its entirety, subsection (c) of section 6, title 39, section 1209.

Lest this proposal resurrect once again the haunting specter of the bogeyman, I hasten to call to the committee's attention, the many safeguards written into the act by both Congress and the courts, which should adequately reassure any objective observer:

First, in order to be duly certified by the NLRB as the bargaining agent, a union must be elected by a majority of the bargaining unit employees in a secret ballot representation election supervised by the Labor Board, or otherwise be selected by some procedure approved by the Board;

Second, the union must then propose the union shop at the bargaining table and try to persuade the employer to agree;

Third, the periodic dues and initiation fees collectible under the agreement may not be excessive or discriminatory under any circumstances;

Fourth, should any employees be denied rights within the union for any reason—political, ethnic, racial, age, sex, religious or personal—the union by thus defaulting its obligation to provide full and fair representation, could be decertified thereby releasing all employees in the bargaining unit from the contractual requirement that they pay such dues; and

Fifth, a majority of the affected employees may vote in an NLRB supervised secret ballot decertification referendum to vote out the union as their bargaining agent or to bring a different one in. All that is necessary for the Board to hold such an election is for 30 percent of those in the bargaining unit to indicate their showing of interest for such an election. This particular safeguard merits further comment. According to figures compiled by the National Labor Relations Board, more than 5,000 such elections have been held since 1948, nearly 68 percent of which resulted in the union being decertified as the employee's bargaining agent. Such limitations and safeguards as these should satisfy even the most dedicated sceptic as well as the unreconstructed cynic.

But perhaps the most singularly significant tribute to the endorsement of union shop protection by the vast majority of American workers who are covered by union contracts may be found in the experience in this country immediately following the Taft-Hartley Amendments of 1947. These were passed on the assumption that there was a division between the rank and file and their so-called "labor bosses" who were presumed to be exploiting them for some sort of ulterior and devious purposes. These amendments required the National Labor Relations Board to conduct a secret ballot poll on the single, isolated issue of the union shop, and required an affirmative vote by the membership before the union could even enter into negotiation with the employer on this subject. Experience demonstrated that this requirement was unnecessary and was, therefore, repealed 4 years later at the urging of its author, Senator Taft. The

reason was obvious. According to figures compiled by the NLRB, until 1951 more than 46,000 such referendums were held. The result was that the union received the required affirmative vote to negotiate for a union shop in 97 percent of such referendums. Furthermore, as to the magnitude of this clear mandate from the rank and file to their would-be "labor bosses," it should be noted that over 6 million employees were eligible to vote in these referendums of which more than 5½ million cast valid ballots; and of these, a resounding 91 percent registered their desire to be covered by a union shop clause. Is it any wonder why that provision was repealed? Likewise at this point in time, we have no reason to believe that the view of the typical postal worker differs from the millions then and now who have so decisively registered their vote of confidence in this form of union security and their loud and clear desire to be protected by it.

Before I continue, I would like to advise this committee that it is true that nonmembers are taking advantage of a good thing for them.

I was unable to get the exact dollar amount because of some book-keeping problems, but I can assure the committee that we have spent thousands of dollars of money provided through per capita tax of union members to represent nonmembers, all the way from the initial step of the grievance procedure, through and including arbitration, which is a very costly process, and I say to the committee, in the absence of the exact rounded-out figure, we have spent thousands of dollars, because we are not permitted to deny representation rights to any letter carrier employed in the Postal Service.

And yet, notwithstanding the record on overwhelming approval of the union shop there appears to linger among some members of both congressional bodies an unexplainable refusal to accept the clear and uncontroverted evidence of what experience has taught us. They apparently persist in the belief that the majority of American men and women oppose the provisions contained in any decent union contract, negotiated in any free country throughout the world, which provide for such union security.

This popular fallacy seems to be rooted in the notion that the union shop is somehow un-American and undemocratic and beyond that, coercive and therefore bad. From such a spurious premise flow many myths and misconceptions which warrant careful scrutiny:

Myth 1: The union shop is un-American and constitutes a denial of personal freedom by violating an individual's right of association to join or refrain from joining an organization as he sees fit.

This argument is most often used to support the contention that it is no more proper for an individual to be forced against his will to join a union, than a church, club, or a fraternal order—or the American Red Cross.

The fact: This argument has at first-blush an appealing civil liberties ring until one discovers in it one of the characteristic weaknesses of so many analogies; namely that it embodies a fundamental dissimilarity which grossly outweighs whatever other similarities it may have.

For the inherent fallacy here is that unlike a union which is required by law to represent all bargaining unit employees, regardless

of union membership or nonmembership, no church, club, fraternal order, or service organization of any kind is under any similar legal compulsion to represent or bargain collectively, for all the people in their communities, nor are they so required to serve anyone who is not a member of their organization. Their scope of responsibility—legal or otherwise—extends only to their members.

Indeed, is an analogy of any kind is in order, we offer one of our own; this by William Green, Mr. Gompers' successor as president of the American Federal of Labor. Mr. Green has said that the illusory right of an employee to refrain from union membership

*** is somewhat similar to the right of a lamb to remain outside the fold at night, unobjectionable in theory, but small comfort to lambs. Where this negative right is enforced at the expense of the more positive right of lambs to avail themselves of the protection of the fold the only interest which is served is that of the wolves. This proceeds from the false assumption—to carry the analogy a little further—that the lambs have grown so formidable that the welfare of the wolves is in jeopardy.

Myth 2: To permit the union shop would be a denial of minority rights. This argument closely resembles the previous but is generally put forth as an additional objection and thus will be rebutted in like manner.

The fact: Inasmuch as any union bargaining agent comes into being or goes out of existence, only through an NLRB supervised representative election or decertification petition as the case may be, in which a majority vote prevails, since when does the minority prevail over the majority?

When we elect Congressmen and Senators, does our American Constitution allow those who supported the losing candidate to likewise proclaim their minority right to be represented for legislative purposes by the defeated candidate whom they would have preferred?

Isn't the democratic machinery for establishing or abolishing the union shop precisely the same as that traditionally employed by both bodies of Congress in their daily deliberations?

As a matter of fact, there is absolutely nothing in the type of union security clause which we seek that prevents the open shop advocate from exercising his freedom of speech to persuade the union shop proponents that they should become converts to the open shop position which he espouses and which, if successful, will result in a majority of employees opposing the union shop and voting it out. As I have previously cited, the NLRB has compiled abundant and conclusive data to demonstrate that this form of union security in no way inhibits such an expression of majority will.

Myth 3: Compulsory membership in a union, or in lieu bargaining fees, are neither necessary nor desirable, for if the union leadership is doing a good job, then there should be no need for compulsion because employees will thereby flock to join the union.

This is the argument most frequently put forth by some employer organizations, the National Association of Manufacturers, the U.S. Chamber of Commerce, the National Right To Work Committee, and the various right wing extremist groups.

The fact: Quite apart from the immediate observation that these organizations have never distinguished themselves for their endear-

ment to the goals of American workers and their unions—whether at the bargaining table or in their congressional lobbies—this argument completely ignores the many lessons of history which are replete with instances where the majority has democratically decreed that compulsion was essential for the common good of all.

Isn't this the very rationale which guarantees that our taxes will be paid, our draft laws obeyed, our public education system supported, and our Social Security System insured?

Isn't this the underlying philosophy of compelling—and where necessary, coercing—the citizen to pay his fair share of the public benefits which he derives, as alluded to earlier in this testimony?

Myth 4: The United States is the only country outside of the Iron Curtain where a union shop is permitted.

The fact: This is not so. Union shop provisions for both public and private sector employees are a normal part of labor-management agreements throughout most of the free world.

Mexico permits a union shop.

Canada permits a union shop and/or even a closed shop, that is an agreement that the employer hire only union members.

New Zealand permits agreements requiring membership in unions as a condition of employment.

Australia permits preference to union members in hiring, dismissal or promotion.

Great Britain permits strikes to compel the employer to hire union men only; and as a matter of tradition, union men in England refuse to work along side of "black legs" or nonunion employees.

Denmark permits union shop agreements.

Sweden permits a union to negotiate either union shop or closed shop agreements with the employers.

Norway gives legal sanction to a trade union resolution adopted in 1934 prohibiting union members from working with nonunion members.

Switzerland permits a union shop "solidarity levy" which constitutes an "agency shop" agreement similar to that permitted by the Taft-Hartley Act.

All things considered then, there is nothing very unique, much less sinister or undemocratic about a union shop, or about allowing such a provision to be negotiated upon and agreed to in the free market of collective bargaining. But if the Congress still feels that it cannot support the union shop, then at the very least we ask that you approve an "agency shop." Such a provision would not insist that an employee join the union. He need not even support the union.

All he would be required to do is pay his fair share of the cost of operating the union which, in turn, negotiates and achieves for him most of the benefits which he may receive. Who can credibly maintain that this is not fair? Who in this Nation, purportedly built upon the concepts of free enterprise, can oppose the principle that each individual should shoulder his fair share of the burden?

So much for the myths of union security provisions versus their realities. In the final analysis, who is it that actually opposes the union shop? Having already answered this question in part by

pointing to certain employer and extremist organizations, it becomes manifestly clear, that whoever else may be against the union shop, it is certainly not the typical letter carrier, nor the typical postal employee, nor the typical American worker; but rather those who stand to benefit by "keeping the employee in his place" by preventing his union from maximizing its effectiveness on his behalf.

Even the National Right To Work Committee, which boasts of having union members in its ranks who oppose our position on the union shop, is unable to produce a single union official of any stature or influence in the entire American labor movement.

Similarly noteworthy, is that conspicuous by their absence from those groups which most loudly denounce the union security principle, and prophesy the doom and gloom which they somehow conclude must inevitably follow in its wake, are the basic industry employers—steel, rubber, auto, etc. who deal with some of the strongest unions of all. The reason is obvious. Each enjoys a mature, healthy, and stable collective bargaining relationship, which for these many years has remained unharmed by the union security agreements which they freely entered into with their employee's elected bargaining agents.

Similarly, many of the Nation's top employers in widely differing industries have repeatedly testified that unions are good for business, and that when weakened by union shop restrictions, cannot perform responsibility in society. This conclusion was borne out some time ago by Business Week which, of course, is published by the United States Chamber of Commerce—hardly acclaimed as a champion of the union shop principle. It seems that the chamber made a nationwide survey of businessmen and reported that:

Employers who had had it [union shop agreements] longest find the most advantage in it. Fifty-eight percent declared that the net effect on management of the elimination of such security would be bad.

The employers gave these reasons for favoring the union shop:

1. It tends to give the union an incentive to settle disputes quickly rather than drag them along for purposes of recruiting new members,
2. Whenever there is trouble in the plant or some question arises, we know whom we can hold responsible, and
3. It gives employees a greater feeling of responsibility and interest in their jobs.

The National Planning Association reported similar findings:

In all the cases studied, the employers saw strong advantages in bargaining with a strong and well disciplined union, and were convinced that they should take steps to encourage workers to join and support the organization which represented them.

J. Irwin Miller, chairman of the board of the Cummings Engine Corp. had this to say:

The classic argument against the union shop is the right-to-work argument. Actually, the really valuable man to management is not the fellow who stays out of the union, but rather the one who gets into the union, participates in the union organization and tries to bring to bear a factual point of view instead of an emotional one. In all the labor controversies that I have ever been involved in, the man who stayed out of the union and merely collected benefits was no help to management's cause.

The late Prof. George Taylor of the University of Pennsylvania, a nationally prominent neutral in the field of labor-management dispute settlement in both public and private sectors has said:

In the overwhelming majority of collective bargaining relationships, the contemporary accommodation recognizes the union's claim to at least financial support from all of those whom it legally represents. Thus, neither stated public policy nor the increasingly prevalent private practice support the position . . . that individual freedom of choice in the matter of union membership or support should be regarded as an absolute right.

And another well-known neutral observer who writes extensively in the field of public sector collective bargaining, Prof. Michael Dudra, director of graduate programs in industrial relations at Saint Francis College, Loretto, Pa., has stated:

To an objective observer the agency shop seems to be the most equitable type of "union security." As long as we have the principle of majority and exclusiveness in collective bargaining—and nobody is seriously proposing the abolition of this principle—unions should have the right to impose certain dues on all workers covered by and benefiting from collective agreements, so that there are no free riders.

Even the Nation's leading religious leaders of all major faiths have declared the union shop to be morally and ethically sound. Declared the Rabbinical Council of America:

Right to Work laws make the non-union worker a moral parasite in a democratic labor force,

And the Reverend William J. Kelley, former chairman of the New York State Labor Relations Board, has charged that:

Right to Work laws are immoral according to Catholic social teaching.

The Right Reverend Bernard J. Shiel, Catholic bishop has declared that:

Clearly such non-union employees are eating the fruits of other's efforts. The workers in the union shops *** pay monthly dues to keep it going. It is a categorical injustice for non-union employees enjoying the common benefits, to refuse to carry their share of the common burden.

On the same issue the National Council of Churches had this to say:

Union membership as a basis of continued employment should be neither required nor forbidden by law; the decision should left to agreement by management and labor through the process of collective bargaining.

Distinguished members of the committee, that last statement most succinctly sums up our position. That's all we ask; nothing more—nothing less.

Mr. WILSON. Thank you very much, Mr. Rademacher. This is a very fine statement, and certainly includes, as Mr. Nilan's did, a great deal of information that is going to be extremely helpful to us.

Just about everything we asked Mr. Filbey, we could probably ask you.

First, do you feel that the two bills that we are considering do the job that you think has to be done, or do you feel that somewhere in the right to strike bill there should be some qualifying language to the right to strike?

Mr. RADEMACHER. Mr. Chairman, first of all, we feel that the two bills are related. Maybe not directly, but they are related.

Secondly, our union is in a little different position than the unions consisting of members who construct automobiles or homes or drive trucks on highways.

We are serving all of the American people, not a select clientele that make certain purchases. And, therefore, in accordance with the mandate of our own constitution, which has remained since 1889, we continue to be, although the employer doesn't let us be, a service institution. Therefore, we can't just come before you and say that we just have got to have the right to strike, period; and then believe that if we were given that right, with the same kind of a period, take that right and offend the very people that we serve, because we are not only loyal to our employer and to our Government, but we are loyal to the people that we serve. We don't want to strike against those people. If we ever strike, we want to strike against our employer, who would be deserving of that kind of action, and who promulgated the cause for the strike, not the American people.

We do not come to you today and say, give us the absolute and total unequivocal right to strike, period. I couldn't in good conscience come before this committee and say that.

Mr. WILSON. How about your union, Mr. Rademacher? Have you gotten any feeling for what might happen this summer concerning a strike or a work stoppage?

Mr. RADEMACHER. It's very difficult to judge.

Mr. WILSON. Maybe we ought to ask Mr. Johnson over there.

Mr. RADEMACHER. Yes. We could ask Gus Johnson, who is in the audience.

It's difficult to judge the motivation and thinking of people today, but we union leaders try to keep our thoughts and our hands on the pulsebeat of the membership. And perhaps I'm mistaken, but I feel that there will not be, at least this year, a wildcat strike. I cannot assure the Congress that there will not be a national authorized work stoppage. But I think that our people now are realizing, now that we are under the new rules of collective bargaining, to what extent that is, that we've got to do things collectively also, and that nothing will be accomplished that they want to have accomplished by isolating themselves in certain areas of the country and withholding their services.

Now, that statement is contradicted by what was going to happen just this past Monday.

The Postal Service just doesn't care about people, and yet the Postal Service is people. There wouldn't be any Postal Service without people. But there was threatened to take place in Brooklyn last Monday a total absenteeism brought about because of the total absence of feeling on the part of postal management, who are more concerned in their search for reduced costs than they are in their search for improved morale.

We have today a very serious problem, and I'm not here to express our grievances, but I want to respond to your question: The Postal Service is now losing one of the most valued assets that it has ever had available. That is the retentive memory of every letter-car-

rier in the business. Any mail that comes to the letter carrier's possession in the morning that is mail addressed to someone who has moved from his route, requires a new address to be affixed. Because of his retentive memory, the letter carrier, when he completes casing his mail, sits down and forwards an average of 86 pieces per person every day. He does that himself, by striking through the old address and by placing the new address on from that retentive memory, which I say is much superior to any computer in the business.

Now, the Postal Service had decided that it would be more economical to bundle up all of that mail and to turn it over to another employee who maybe a week or 2 or 3 weeks later will forward that mail.

In the meantime, while they are going ahead with this new plan—which in the experimental stage was proven to be more costly. In fact, the postmaster at Charlotte, N.C., said it cost him \$70,000 more last year in the experiment to handle the mail that way than letting the carrier handle it. But we were told it's going to save \$31 million and it's going to be adopted around the country.

Now, to get to the point of the planned work stoppage last Monday in Brooklyn. Instead of the Postal Service going ahead with the program, in an intelligent manner, recognizing the rights of people, Mr. Chairman, they arbitrarily hired some unexperienced people from the street to do the typing, and the employees in the Brooklyn post office said, "If that's the way it's going to be, we are just sick about it, and we're going to be so sick that we undoubtedly can't make it Monday." Well, the girls didn't do the typing. There wasn't any sickout in Brooklyn Monday.

So again I say that example contradicts my statement, and I cannot judge in advance to what extent my members will express themselves in the event this unilateral action continues on the part of the postal management. I can't sit in my office and tell the people in any area—you can't express yourselves if you are so thoroughly disgusted with the way you're being treated.

So I say generally speaking, in answer to your question—and it's the long way around it—there will not be a wildcat strike of letter carriers this year, but there could very well be a collective nationally organized strike of letter carriers this year. It could be this week if we hadn't plans already scheduled for a test vote later this year.

Mr. WILSON. I sometimes wonder if the top management in this Postal Service, isn't in a program to disintegrate the Postal Service as we've known it. As an example, OMB has told the Postal Service they can't use the Corps of Engineers any longer to construct their buildings. The Postal Service has told us that they are probably not going to reestablish a bureau of facilities to handle their own construction in-house the way I think it should be done, to do it properly. They are going to go out and pick out five major contractors in different areas of the country, and give them the responsibility of constructing their facilities. In their rush to modernize, they are ignoring postal employees—they seem to believe that machines can do all the work.

On the drawing boards, it looks good to them, and I'm sure that they are sincere, but I think they are disintegrating the service.

If they are going to keep using these private contractors for this type of thing, then pretty soon we'll see the whole system being run by the private contractors.

Mr. RADEMACHER. Mr. Chairman, you have a keen insight on the future, because on a CBS Sixty Minutes program which has been taped by the very distinguished Mike Wallace, and which will be shown either next Sunday, or Easter Sunday, I have said that the Postal Service is being driven into the ground and will be taken over, undoubtedly, by the A.T. & T. That is on the drawingboard, in my opinion, and further on what you have said, with your keen insight and foresight, there have been, as Congressman Waldie learned the other day, and Congressman Rousselot also pointed it out, 200 private firms, and not just the independent postal system which is in 200 cities. I'm talking about 200 firms, the independent postal system of America is one firm, and 199 others are thriving today in 40 States, and they are all ready to take over the mail service. They've taken over a great deal of it, as I said in my earlier testimony before the committee chaired by the distinguished Congressman Hanley: That for the first time since the depression, the per capita mail volume for the United States has decreased, for just the reason the chairman stated. The private firms are waiting for the business, and because the Postal Service is giving the public the business, the private firms are getting the business.

Mr. WILSON. Mr. Hillis, do you have some questions?

Mr. HILLIS. Thank you, Mr. Chairman. I would like to begin by saying, Mr Rademacher, I will read your statement in its entirety, and what you've discussed here I've found to be very elucidating, and very informative. You always do a good job when you come before the committee, and I think you've done a good job this morning.

I have some questions. Touching on the point you just made, wouldn't you feel that a postal strike would quickly nurture these private firms where they would grow into a much larger share of the mail, mail that couldn't be retrieved back? In other words, you recognize that there is really competition. This isn't a monopoly service, is it?

Mr. RADEMACHER. Well, Mr. Hillis, let me say at the outset, I certainly commend your concern about the Postal Service, and the introduction of your legislation, along with others on the committee, concerning establishing standards. I think for the first time in history that this is being forcibly brought to the attention of the Congress, and that legislation is the only answer, and whether you pass it this year or 5 years from now it's going to happen. If you want a postal service it's got to happen. But to answer your question:

If our members voted to strike, they would do so out of principle, because they know two things, which if they don't know, I will emphasize to them, not in trying to skirt the issue, but in being honest with them. The two things, one of which you've pointed out so well:

I would suggest there are vultures waiting on the sidelines to pick up our business, and our members who would withhold their service must understand that there are such firms, and undoubtedly the Postal Service would attempt to break the strike by contracting out as much as they possibly could.

That's the first problem we've got when we withhold our services. But so do the union members at the Ford Motor Co. know that if they strike long enough, that there will be more people that will be buying Chevrolets. They know that.

The second principle involved is that if the letter carriers struck, nobody is going to pay them, because our union doesn't have a dime for that. We just aren't built that way yet. We're going to reach that point, because if you give us the right to strike, we better start building up a fund to associate ourselves with that right; otherwise, we're telling our people, go ahead and strike, but also go to the welfare.

So, in answer to your question, I say there are two things involved, but on the other hand, our people have had it. They are so sick of the abuse. And, as I told the Hanley subcommittee, morale has never been so bad, and I'm extremely bitter, yet I'm trying to be objective here at all times about what has happened. But Congressman Hillis, when I see the statistics coming into my desk that 42 of my members, who were alive a year ago, before they were asked to absorb additional loads, I have to be a little bit bitter; at the same time, trying to be responsible and objective.

Mr. HILLIS. Now, on that point, will this be an issue of bargaining—in other words, the health of your membership, the working conditions? In other words, would morale and service come into the contract negotiations this summer?

Mr. RADEMACHER. The service aspect is not going to enter into it as much as I would like it to. I hope some day, as preposterous as it may sound to some people, I think that because of the uniqueness, the very nature of our business, that we have to somehow have some rights concerning the service. If there's a complaint against an automobile, the people can write the company, but if there's a complaint against the Postal Service, the only guy that gets it is that letter carrier, with a load of mail on his back, and the load of complaints thereto.

So we're a little bit unique. For that reason, I hope sometime to have injected in our contract some union rights concerning service. I don't want any management rights. But there ought to be some union rights concerning the kind of service that we give. Because here is a situation where we want to give more, and we can't.

Mr. HILLIS. I'll move along quickly here.

How many contracts will be negotiated? Are there five unions, as I remember, that will be negotiating?

Mr. RADEMACHER. There are now four.

Mr. HILLIS. Any one of them, then, by causing a strike, could close down the whole system? Would that be correct?

Mr. RADEMACHER. I cannot speak for the other unions. I can tell you what happened the last time. When the letter carriers went out in New York City under the leadership of Mr. Johnson, who sits in this room today, they were followed by other workers, because there's a loyalty there, a brotherhood there, and in addition to that, the second day of the strike, the post offices closed. So there wasn't any work for them. It would be a coordinated strike in the future in my opinion.

Mr. HILLIS. Yes. I wouldn't ask you to cross the picket line.

Let me ask you this: I know there were a lot of problems last year, or 2 years ago, over local agreements at local offices.

Do you see the right of strike extending that far, or would it be limited only to the national negotiation level?

Mr. RADEMACHER. Well, perhaps I'm being politically in error in making this statement, but I would hope that we could, first of all, have the right to strike nationally.

I think that we would be opening a "Pandora's box" to ever agree that any one of our 6,000 branches can suddenly withhold services, without at least prior approval of the national body.

So I don't anticipate any horrible situation developing where if a carrier can't get a day off, he calls everybody out in the street. We're more professional than that.

Mr. HILLIS. I know you are, but some of these local problems were really serious.

Mr. RADEMACHER. They were serious. I'm glad you called it to the attention of the committee, because I was in the room the other day when my name was mentioned, and the statement was that I sat in silence when Mr. Meany said that's all we wanted at the time the AFL-CIO was supporting postal reform.

Well, my answer to that is that reminds me of the story of the young boy that never said a word for the first 7 years of his life, and suddenly one morning at breakfast, he says, "The toast is burned," and his parents looked up, and they were so happy he could speak, and they said, "Well, what has happened all this time, you haven't said a word?" He said, "Up to now, everything has been okay."

And that's how it was up to then.

It would be most ridiculous to sit before this committee, whether George Meany is on my right, or whoever is on my right, and say, "Now we are going to tie up this legislation by the demand for the right to strike." But since 1970, when we have tasted collective bargaining, with management acting in any way other than in good faith, at a time even then the unions filed charges of bad faith bargaining against the Postal Service, and where in 500 cities, letter carriers filed unfair labor practices against the Postal Service, I have to come in here today and say we have got to have another answer. There's got to be another avenue if bargaining is to be meaningful.

And so to get back to your question, I don't envision, nor at this time would I support the right to strike to permit every letter carrier in the country to just walk out.

I think in the beginning, it ought to be associated with the national union, and there couldn't be any stoppage without authority granted by the parent union.

Mr. HILLIS. And in your opinion, all of the national organizations are strong enough to exercise their restraint to carry out their terms that they bargain collectively for?

Mr. RADEMACHER. I hope they would be.

Mr. HILLIS. Let me ask you the same question I asked the previous group: Do you support the protection of the public interest provisions that are in the bill?

Mr. RADEMACHER. We certainly do. I want to make it clear on this point. Certainly pension checks are important. All mail is important, because they are very meaningful to the recipients.

I think, if the Chair would permit, at this point, very briefly, I would like to do something that was not done by postal management, in offering some suggestions to the committee, to try to be helpful, instead of just sitting here and arrogantly saying, you know, they just don't want the bill.

Very briefly, and this is not new—I've said this before—if we got the right to strike, we would also like to continue to have the right of arbitration, and we don't want any misunderstanding on that point. We don't have compulsory arbitration. We don't want it. We have arbitration where the union feels there's a dispute and can demand arbitration.

So what I would like to envision at this point—and I'm not speaking of any union except the National Association of Letter Carriers—is to have two routes. One is the arbitration route, and that is voluntary arbitration, and the other is the right to strike. And then the union would have to decide through referendum, whether the principle is so strong that the members want to withhold services with those two problems in mind I mentioned to you, or is it one that an arbitrator can decide. We would have two routes. The right to strike route naturally should provide a cooling off period, at which time I would hope that any law would provide that management and the unions would sit down and negotiate what happens to that preferred mail. Preferred mail, and I repeat, all mail is important, or it wouldn't be in the mail stream, but preferred mail, we're talking about the pension checks, and I can't think of any other preferred mail at this time. You can buy magazines on the street corner. You can buy newspapers there, too. I would hope that a bill would provide that management and labor would negotiate what happens to this preferred mail. And I can tell you that our people would go to a post office to identify recipients of checks. I don't envision them walking up and down the streets delivering them. I don't know. I haven't given it a thought. The only thought we have given to it is what I said earlier:

We don't intend to strike against the American people. The letter carrier is part of the family of the American people. He would be striking against his own family. But there certainly could be some accommodations made—we would bend over backwards, not to please the employer at all, and not for pay, but to see to it that those checks were distributed, whether they were delivered to a bank, and a letter carrier went there to identify the people. There would be some provisions made to accomodate these pensioners.

But I would hope that whatever legislation you approve would have a provision where management would be required to negotiate with the union in our particular type of relationship. What happens to that preferred mail, and have Congress identify what is preferred mail.

Mr. HILLIS. Thank you.

I have two questions, finally, on the agency or closed shop area.

First, do you have objection to a conscience clause?

Mr. RADEMACHER. Well, I have to say yes. I like the language that Congress tried to insert in 1971; that a man, for conscience reasons, does not want to join a union must pay his dues to the U.S. Treasury. I think that is just opening the door to let people avoid paying dues, which really destroys our very purpose here.

I am sympathetic with people who feel that for religious reasons that they shouldn't do this, or they shouldn't do that.

At the present time, I'm a victim of one of those people. I'm being sued in a North Carolina court personally, and the union is being sued, because the employee has to work on Saturday.

I'm not going to argue the merits of religion, because I believe strongly in everybody's right. I have mine, and everybody should have their own. If they don't want to have a religion, that's up to them. But I think if we open the door, at all, we are destroying the very purpose of the legislation under consideration today. Somebody can come into this committee and say, "I'm not religious at all, but I just feel as strongly as a religious man does that I shouldn't belong to that union."

Now, what is the difference? I say that to myself. What is the difference, whether it's the Constitution or what it is, between saying, "My church tells me that I can't belong to a union, or my feelings about unions tell me I can't belong to a union"?

I honestly believe, as sympathetic as I am to it, we could do no more than President Meany promised to do in 1965, give every consideration to this situation. We would do that if we had the right to negotiate a union shop.

The parties could do it at the bargaining table. Don't forget, Congress isn't going to give us a union shop. Congress is going to give us the right to negotiate a union shop. The employer can negotiate standards about the conscientious objector.

Mr. HILLIS. Thank you very much.

Mr. WILSON. Thank you, Mr. Hillis.

Mr. Waldie.

Mr. WALDIE. Mr. Chairman, since I find myself in full agreement with Mr. Rademacher's presentation, and since it's difficult for me to understand how a reasonable person could disagree, I yield to an unreasonable person and listen to him for a minute.

Mr. WILSON. It's your turn now, John.

Mr. ROUSSELOT. Now you can see why some of us wonder what kind of a Governor we have.

Gee, that's the best introduction I've had all week, my good friend from California.

Mr. RADEMACHER. Maybe you can prove he's wrong, Mr. Rousselot.

Mr. ROUSSELOT. I have no desire to undertake a contest with my colleague from California. We stay in our own districts. Besides, he's very capable, even though he's ornery sometimes.

Mr. Rademacher, the newspapers informed us, when the postal reorganization bill was before us, that you were highly active in its design, is that correct?

Mr. RADEMACHER. Yes.

Mr. ROUSSELOT. So actually you now realize that legislation wasn't too good, and why some of us voted against it?

Mr. RADEMACHER. I realize that much of the legislation could be improved upon. I realize that the intent of the legislation has not been fulfilled by postal management.

Mr. ROUSSELOT. Are postal managers totally responsible for all mistakes under the bill?

Mr. RADEMACHER. Generally I would say so, because they promulgate the rules governing policies and service.

Mr. ROUSSELOT. Well, one of the clear provisions in this bill was no strike, and you are now saying that you shouldn't have compromised whatever you had to compromise in negotiation for that bill?

Mr. RADEMACHER. Are you asking me a question?

Mr. ROUSSELOT. Yes; do you now realize it was wrong to have compromised away that point?

Mr. RADEMACHER. No; I'm not realizing that at all, Congressman.

Mr. ROUSSELOT. You are saying today it is highly important to have that.

Mr. RADEMACHER. I'm saying, Congressman, that 3 years later we realize that we need an amendment to the law, perhaps several amendments to the law.

Mr. ROUSSELOT. Those of us who voted against the bill realized it was highly defective, and said so at the time. We were ridiculed, because my colleagues were telling us how wonderful it all was.

I appreciate what you said today, that the basic purpose of the people you represent is to provide the mail service, and having served in the Postal Service as a special delivery messenger, I'm very distressed by what I see occurring in the name of efficiency. I think this could have been foreseen.

Were the papers correct in reporting that you were a major participant in the designing of this legislation?

Mr. RADEMACHER. I already answered you. Yes, sir, very much so, before the strike.

Mr. ROUSSELOT. Right. I understand that, and that you were not helping the strike in New York.

Mr. RADEMACHER. No. I was trying to get them back to work.

Mr. ROUSSELOT. Mr. Meany has said that he was extremely proud of this product, and that it represented an excellent bill. Did you support him in that statement?

Mr. RADEMACHER. I was a party to it. My signature is on it. I would like to give you the background. We negotiated that with postal management following the strike. Now, there were a lot of goodies we would like to have put in there, too. But in negotiating any agreement of that importance, you don't succeed in putting in everything that you feel is desirable, and I have said earlier today, that we now realize in view of management tactics, that we made a serious omission, and even if it meant holding up that reform bill until we got the right to strike. But you saw what happened by merely putting in the right to negotiate a union shop. We held up the bill for a couple of weeks.

Mr. ROUSSELOT. You mention antitrust and other laws in your statement. In the name of equity, would you be willing to apply antitrust laws to yourself?

Mr. RADEMACHER. In what manner, sir?

Mr. ROUSSELOT. Well, in all respects?

Mr. RADEMACHER. I don't see any reason why the union should be exempt.

Mr. ROUSSELOT. Good. I'm glad to hear that. In all respects?

Mr. RADEMACHER. In any respect.

Mr. ROUSSELOT. In other words, we could put a provision in this bill to make sure that antitrust laws, across the board, apply?

Mr. RADEMACHER. Well, I perhaps should clarify my position. There are some questions in my mind in regard to the application of the antitrust laws to the U.S. Postal Service.

Mr. ROUSSELOT. About the same time we were considering the Postal Reorganization Act, there were dock strikes going on the west coast. As you know, certain exclusions are allowed under the antitrust laws. In that strike, two unions prevented goods from being delivered, and the goods rotted on the docks. Many of us felt that those exclusions maybe should be looked at. Would you be willing to have antitrust laws applied across the board?

Mr. RADEMACHER. As it relates to the Postal Service, not to the dockworkers or anything else. There are some questions about the right to strike and the position of USPS if we were placed under antitrust laws.

Mr. ROUSSELOT. Well, I appreciate hearing that.

You mention in your statement on page 14 freedom of association. I know that you have discussed that in other parts of your statement, and have gone into it fairly thoroughly in your discussion about myths and the hard facts.

One of the things you mentioned is that the union is legally required to represent even those who don't wish to be represented in the bargaining unit. If you were not legally required to represent those who didn't wish to be represented, would you then be willing to allow them freedom of association? In other words, not have to join, if by free choice they didn't wish to?

Mr. RADEMACHER. I think in all fairness, if Congress does not enact Congressman Wilson's bill, that in fairness, especially to postal employees, that they ought to amend the labor laws so that we represent members only, and I would like a further amendment so that nonmembers don't share in any benefits that were accomplished by the union.

Mr. ROUSSELOT. Fine.

So when you do discuss, as you do on page 14 of your statement, by going into the preamble which talks about workers or protecting the exercise by workers of full freedom of association, you would have wanted to apply that evenly. And, if you were not legally bound to represent all, then you would be willing to let some negotiate on their own.

Mr. RADEMACHER. Well, you must understand that negotiations are permitted with the unions that have won the right to represent the majority. If postal management wanted to recognize the nonmembers, that is a problem we would have to resolve at the time. All I'm saying is that if we're going to be denied the right, not have the union shop, but the right to negotiate a union shop, Congress should also, in fairness, then not require us to represent the nonmember,

and not permit him to enjoy the fruits of our labor. That's all I'm saying.

Mr. ROUSSELOT. The steelworkers have just negotiated a rather extensive contract which has a nonstrike provision.

Do you believe that there are any alternatives to just having the right to strike? In other words, are there other things that could be provided so that a strike would not be the only means of deciding the ultimate issue?

Mr. RADEMACHER. No, we must go back. The steelworkers' agreement on the subject becomes quite interesting to those in labor, and those that are interested in seeing the end of strikes.

Mr. ROUSSELOT. I think Mr. Meany is among that group who says that we should find a better way.

Mr. RADEMACHER. Right.

Mr. ROUSSELOT. Do you agree with that?

Mr. RADEMACHER. We agree with that. But first let me say this, Congressman: That before that agreement was reached by steel and the steel union, the steel union had a right to strike at that bargaining table. That's the first thing. I sit here and I say to my fellow officers, and any other member of mine in this room: we just want the right to strike, we don't want to strike.

Mr. ROUSSELOT. If you can avoid it.

Mr. RADEMACHER. On April 19, we're going into negotiations.

Now, at that bargaining table, management knows all that we can do by law in the end is to go to arbitration. They know that. It gives us a pretty weak position. And steel: I can tell you this, that in half the time that the steelworkers have enjoyed the right to strike, we will be accomplishing the same benefits. Give us the right to strike so that we can accomplish what steel has up to now, and we'll be making the same settlement with management maybe three or four contracts from now.

Mr. ROUSSELOT. Maybe that's what I'm asking. What is the list of those accomplishments which you think need to be achieved so that you could go into the same kind of agreement as the steelworkers have on a nonstrike basis?

Mr. RADEMACHER. Well, Congressman, all we're asking for would be comparability, and unless you care to have us prepare a list—

Mr. ROUSSELOT. I would like you to define that so we can know what it is. You don't want to strike against the patron or the customer, your main complaint would obviously be with the employer.

So how do we prevent a real disruption in service as occurred in New York and find the alternative methods? That's what I'm asking. If you can define that for us, maybe there—as George Meany says—is a better way if those other things can be met.

Mr. RADEMACHER. Well, all of labor is maturing today seeking a better way, and so is management at the same time. But because of having the right to strike, other unions, and we shouldn't just deal with steel, have been able to secure many benefits. The reason we came back to Congress last year, after our negotiations for the first contract, was because we didn't have the right to strike, and we couldn't force management then to abide by what they had agreed to

abide by, on the health benefits bill, and I don't want to belabor that point. You are very much aware of what happened last year.

If we had had the right to strike at a bargaining table, we would have either accomplished that or we wouldn't have. We wouldn't have come back here and say, now, even though we got the right to strike, and we lost it, we didn't do that; now, you help us out. There are many avenues that are left open to us through the Congress because you can't divorce Congress from a Postal Establishment that affects the welfare of every citizen of this country.

Mr. ROUSSELOT. I think we made a mistake in separating ourselves as much as we did.

Mr. RADEMACHER. You mentioned my participation in postal reform.

In the legislation that I was a participant in preparing, there were five members of Congress on the Board of Governors. I don't find you there, not today.

Mr. ROUSSELOT. You don't find us where?

Mr. RADEMACHER. On the Board of Governors of the Postal Service.

Mr. ROUSSELOT. I don't have anything to say about that.

Mr. RADEMACHER. But the legislation you referred to that I supported, the reason I was so gung ho on it, was first of all to provide collective bargaining, but secondly, it provided that five members of Congress are going to serve on that Board of Governors, and the mistake there was, and there are many people regretting it today, especially on this committee, was in not giving Congress sufficient authority and participation in the Postal Service.

Mr. ROUSSELOT. I agree with your latter statement. I think it was a mistake to separate ourselves the way we did. That's another issue.

Well, I would be interested in knowing your reasoning as to what you mean by comparability, and what would be necessary to agree to a nonstrike concept. I think that would be an interesting alternative. I think all of us are trying to find a way to make the service improve. I know that your letter carriers are taking the heat of complaints, and I think that's wrong. They are totally frustrated and can't do anything about it. By the way, some of us are hearing complaints, too.

If there is a better way than going to a strike provision, I would like to at least explore that. And, if you can contribute meaningfully to discussing the alternatives, let's do it.

Mr. WALDIE. May I take part of my time for a moment here just to suggest that whatever better way there might be, John, it would be my understanding, at least my personal belief, and I think my understanding of Mr. Rademacher's testimony, that that better way ought to be the product of a negotiated agreement, and that product can only be obtained if there is the ability to have a true collective bargaining situation, which in turn depends upon the ability to withhold services. If there's a better way for the ability to withhold services. If there's a better way for the duration of a particular contract, and a no-strike clause in a particular contract for a duration

in time, it's a fairly common thing. It is always negotiated at the table. Not compelled by law.

Mr. ROUSSELOT. Well, I agree with Mr. Meany, and Mr. Rademacher's statement, that the union leaders themselves are discussing, very thoroughly, better ways than going to a strike, because a disruption, especially a long strike, doesn't really benefit anybody. It certainly doesn't benefit the customers.

Mr. WALDIE. It hurts the employees. They are the last ones to have recourse from that.

Mr. ROUSSELOT. So if there is a better way, I think we ought to discuss it. I'm not saying that's what happened. I have explored it now with some five or six union leaders in other areas, and there must have been some good reason that the U.S. Steelworkers were willing to do that.

Mr. WILSON. This is a proposal which has not been ratified by the membership yet.

Mr. RADEMACHER. You are correct, sir.

Mr. WILSON. It is something that the union leadership is going to present to the rank and file, and we are talking as though it were a foregone conclusion. It may not be accepted by the members.

Mr. RADEMACHER. Yes.

Mr. ROUSSELOT. All I am saying is if it is a better way, let's explore and find out how it is better. You said in your testimony the strike is an ultimate weapon which you don't won't to have to use, because of the disruption to the customers you serve.

Mr. RADEMACHER. Mr. Chairman, so that the record will not indicate any misunderstanding in my position, I want to say this after listening to the colloquy: Union leaders, are concerned in trying to find a better way than striking. But there is no union leader I know of that is trying to eliminate the right to strike. I want that very clearly stated in the record, that I am not for a moment saying here give us the 13 weeks sabbatical leave that a steelworker gets every 5 years, give us that, give us 15 holidays, give us a true cost-of-living clause, give us real wages, and we don't want the right to strike, absolutely not. That's not what I'm saying. If it was understood that way, then I'm sorry. I meant in answer to the question, I'll be happy to supply our feelings on what has been gained in the private sector with the right to strike, and then after we have gained those benefits, including continuing the right to strike, we will be happy to negotiate with management whether there's a better things to do than strike, but only after we achieved those benefits. But never will I ever say that in all of our deliberations, if you give us this, or that, we don't want the right to strike, because that right must always be there, or management can absolutely take advantage of the situation, as they will starting April 19, when they say to each other—"Here come the lambs to slaughter. They can't strike, unless they want to do it illegally."

Mr. ROUSSELOT. I don't think anybody here would accuse you of being a lamb.

Mr. RADEMACHER. You've cut me short. You cut off my water with that.

Mr. ROUSSELOT. No. I think you're a real tiger. I would be interested in the comparability concepts.

Mr. RADEMACHER. I'll be happy to provide it. Mr. Chairman, if you so desire, I'll send it to the committee.
[The following letter was submitted:]

NATIONAL ASSOCIATION OF LETTER CARRIERS,
Washington, D.C., April 18, 1973.

HON. JOHN H. ROUSSELOT,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN ROUSSELOT: During the hearings on the right of postal employees to strike, at which I appeared, on Wednesday, April 11, 1973, you asked me what would be necessary for the National Association of Letter Carriers to agree to a no-strike concept in its relations with the U.S. Postal Service. Later, you asked me to put my views in writing, and I am glad to do that.

I believe I made it clear in my testimony that it is my position and the position of the National Association of Letter Carriers, that there is no substitute for the right to strike.

I also stated at that time, speaking on behalf of letter carriers throughout the United States, that we don't want to strike.

We are concerned about the problem of striking, just as everyone is. Perhaps, the solution is to have representatives of management and of labor, sit down and seriously study the problem, so that, hopefully, we can make strikes a thing of the past.

In my opinion, a committee, composed of representatives of the U.S. Postal Service and of the unions in the postal service, should be set up to see what new devices can be used to achieve this end. This could be a continuing study, similar in some respects, to the exploration made by the United Steelworkers of America and the steel companies which some observers have called "continuous bargaining". This serious study in the steel industry resulted in the recent "no strike" contract. I think a similar study in the postal industry might very well have a comparably profitable outcome, but, it will take time and a lot of effort. I am certain, however, that if both sides approach the problem in a spirit of good faith, with the intent to reach agreement, that the results will be beneficial, not only to the parties, but, also, to the people of the United States of America.

I want to reiterate statements I have made many times in the past:—We believe in the right to strike, but we don't believe in striking. The long history of our organization's relations with the U.S. Post Office Department, and the U.S. Postal Service, I think makes that statement very clear.

With good will on both sides, and careful study of the needs of all concerned, I am sure that a *modus vivendi* could be found to protect the interests of both the employees and management. Speaking for myself, I would be willing to explore the interesting possibilities you raised in your question to me during the hearings.

Yours cordially,

JAMES H. RADEMACHER,
President.

Mr. WILSON. On this matter of you having different thoughts now than you did 3 years ago, I'm sure that Mr. Waldie does—and I know I do—have different thoughts on the Postal Service than we did 3 years ago.

Mr. WALDIE. Mr. Klassen has different thoughts now than he had 3 weeks ago.

Mr. WILSON. I think he has some different thoughts on why he took the Postmaster General's job, too.

Of course, in my own case, and I so indicated on Monday—I consider the vote for the Postal Reorganization Act the worst mistake I've ever made in my 18 years of public service.

I would like to have the opportunity to start over again. But I don't. We just have to do the best we can with what we have, and we hope we can improve that legislation with amendments such as

we are considering here today, and others like Mr. Gross' amendment, which would call for an authorization bill to be approved by the committee. Mr. Hillis' standards of service and conduct bill that he's introduced is certainly worthwhile. And I think when we accomplish a few of these things, then we'll have a good Postal Service Act, and we can all get together and do the job that has to be done. But I'm going to fight any effort to break up the Postal Service, and to turn it over to A.T. & T. or any other private corporation.

Mr. ROUSSELOT. I hope A.T. & T. is not going into the postal business.

Mr. RADEMACHER. Mr. Chairman, on May 1, the Postal Service in six cities will experiment with the delivery of telephone books by letter carriers.

I do not object to mail volume. We're looking for it. But I'm just saying, however you want to take that statement, we're going to start delivering telephone books on May 1 in six cities.

Mr. WILSON. I think it was interesting that the Postal Service had to rescue Western Union and put them on their feet.

Mr. Waldie, do you have any questions?

Mr. WALDIE. Yes, in regards to the competitors of the Postal Service. I would presume most of these competitive systems will be organized, if they are not already, and they will have in the National Labor Relations Act the right to strike. They already undoubtedly have had work stoppages, I presume, somewhere in the system.

Has there been a work stoppage in the private sector yet that is delivering mail? If there is a work stoppage where they have taken from the market mail that our service has been delivering, and they then strike, do we perform the function of a strikebreaker by delivering that mail then to the Postal Service?

Mr. RADEMACHER. Well, I would classify it as that, but the Postal Service would say they are just taking in whatever business is available. There has been a United Parcel Service strike in many cities. What happens then is the people then come back to the Postal Service, but the Postal Service then doesn't try to prove to the people that they are a better service, because they say to the people, "We know United Parcel Service delivered on Saturday, but we are not able to." They have had every opportunity then to show those that are using the competition, we've got equal or better service, but we can't deliver on Saturday.

Mr. WALDIE. Well, what troubles me about that is that the Postal Service really is in reserve to be used to break any strike that would happen in the private sector. I can't see how a private strike could ever succeed as long as you people are sitting there anxiously awaiting, or reluctantly receiving, whatever is a more accurate description, the product that the private firm is dependent upon. Its customers are in no way inconvenienced, are they?

Mr. RADEMACHER. No; and you can imagine, Congressman Waldie, how a letter carrier feels when he's told, "You'll work overtime today delivering parcels that were to be delivered by the United Parcel man who's on a strike." You can imagine how a unionized

letter carrier feels in that position. And it's very true what you're saying. It's a new thought that has not been exposed before.

Mr. WALDIE. I don't know the answer to it. I just came across the periphery of a similar effort where there was a mail firm or a large mail order operation on strike. The charge of the union that was striking this firm was that the U.S. Postal Service, in fact, participated as a strike breaker by pulling its trucks into the plant and assisting the struck plant in getting its product out of the premises. Prior to the strike the allegations were that that Service was never within the premises. It was only once the picket line was put up that the Postal Service brought its trucks within the plant to accommodate the employer. The facts are somewhat in dispute. I'm still conducting a personal inquiry into it. It's a practice that seem to me to be disturbing and ought not to be a function of the Postal Service in any situation to break a strike. They seem to be encouraging contracting out, which is a policy that has certain problems with it. But when they contract out, they contract out to private industry whose employees are entitled to all the rights of private employees.

If the private employees then strike, the services that heretofore have been contracted out, I presume, would be then provided by the Federal employee who's not entitled to strike, giving everyone but the employee the best of all possible worlds.

Well, in any event, this opens up a whole avenue for a further examination of what will the Postal Service be used for as we begin expanding the private delivery system. I suspect that is the trend that would be encouraged. If it's used as a reservoir of people to break strikes, if strikes occur, that is a relationship that ought to be examined. It is not one that I would think would create a great deal of problems for the postal people.

I have no further comments, Mr. Chairman.

Mr. RADEMACHER. Mr. Chairman, before we leave, may I just express the appreciation of two hundred and some thousand people that carry the mail all over this great country for the fact that you and your subcommittee are exposing some of these things for the first time, and are interesting yourselves in this very important subject matter.

I would conclude with this thought: There are those who feel we are now going to April 19 to engage in collective bargaining. That is far from the truth. Because first of all, there is no bargaining unless there is a right to strike at that table. Secondly, it can't be collective when we are not represented—when we are representing everybody, but they are not paying their fair share.

Mr. WILSON. I recognize the cost of bargaining and the attorneys you have to hire. The specialists in this field that you have to have in order to adequately represent your people is something that certainly brings benefits to all employees, and I wouldn't have introduced H.R. 5312 if I didn't agree that it's absolutely necessary and certainly something that you should have.

Thank you very much, Mr. Rademacher, and those who are with you. I appreciate your coming here. You have contributed greatly to the meeting.

Mr. Nilan, I believe you had a further comment.

Mr. NILAN. Well, I got very nervous, Mr. Chairman, with some of the questions directed to our brothers here. If the Congressman wants our position on some of those questions, particularly the anti-trust coverage, we would be delighted to give an answer.

Mr. WILSON. Would you prepare something for the subcommittee?

Mr. NILAN. I didn't quite follow the direction of the questions.

Mr. ROUSSELOT. The basic question was on the antitrust laws—because it was mentioned in his testimony—if it is fair to one, should it apply to all?

Mr. NILAN. We just want to give that a little more thought before we say we're in favor of it.

Mr. ROUSSELOT. Okay.

Mr. WILSON. Thank you very much.

The meeting will be adjourned.

[Whereupon, at 12:05 p.m., the hearing was adjourned.]

NEGOTIATING EQUALITY FOR POSTAL EMPLOYEES AND UNIFORMITY IN LABOR RELATIONS

TUESDAY, APRIL 17, 1973

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
SUBCOMMITTEE ON POSTAL FACILITIES,
MAIL, AND LABOR MANAGEMENT,
Washington, D.C.

The subcommittee met, pursuant to adjournment, at 10:30 a.m., in room 210, Cannon House Office Building [Hon. Charles H. Wilson] chairman of the subcommittee, presiding.

Mr. WILSON. The subcommittee meeting will come to order. I want to apologize to the people who have been waiting for our hearing to start. We have practically every subcommittee and the full committee meeting simultaneously, and I am late because of an Armed Services Committee meeting. I hope my tardiness has not inconvenienced any of you.

This is the last of the first series of hearings relating to pending legislation on negotiating equality for postal employees, which includes the right to strike, and uniformity in labor relations, which, of course, is union recognition for negotiating.

In the current series of hearings we have heard from Postmaster General E. T. Klassen; Mr. W. Melvin Adams, assistant director, Department of Public Affairs and Religious Liberty of the Seventh Day Adventist Churches; Mr. Reed Larson, executive vice president, National Right to Work Committee; Mr. Patrick Nilan, legislative director, and Mr. Francis S. Filbey, general president, American Postal Workers Union; and Mr. James Rademacher, president of the National Association of Letter Carriers.

The testimony of Mr. Nilan and Mr. Rademacher detailed the numerous countries which allow their government employees the right to strike and the right to negotiate a union shop. Mr. Nilan, in his testimony, said:

*** most of our neighboring and closest allied countries expressly permit strikes in the public sector, either by Constitution or statute. For instance, the Italian, German, and French Constitutions expressly guarantee the right of public employees to strike, while Sweden, Norway and Denmark authorize such by statute.

In regard to the establishment of union shops, Mr. Rademacher stated: "Mexico permits a union shop, Canada permits a union shop and/or even a closed shop."

Other countries mentioned by Mr. Rademacher as having union shop agreements for government employees are New Zealand, Australia, Great Britain, Denmark, Sweden, Norway, and Switzerland.

Of course, it was quite significant that one of the countries that prohibits the right to strike is the Soviet Union.

The testimony of these labor leaders was in contrast to the Postmaster General who was unaware that other countries, with the exception of Canada, had this type of labor freedom.

As announced earlier, members of this subcommittee plan to visit Canada next week during the congressional Easter recess. We wish to obtain information firsthand on Canada's right-to-strike laws, and its law pertaining to union recognition. We intend to question leaders of management, labor, government, industry, and the public about the effects of this form of legislation.

Also, since Canada has suffered a postal strike, we should be able to obtain information about the effect of this strike upon the public and the unions involved.

Today we will hear from Mr. Robert L. White, national president of the National Alliance of Postal and Federal Employees, and Mr. James J. LaPenta, Jr., director of the National Association of Post Office Mail Handlers, Watchmen, Messengers, and Group Leaders, affiliated with the Laborers International Union of North America.

I want to welcome Mr. White with us today. And if you would like to proceed, Mr. White, and introduce those who are with you, we'd appreciate it.

STATEMENT OF ROBERT L. WHITE, NATIONAL PRESIDENT, NATIONAL ALLIANCE OF POSTAL AND FEDERAL EMPLOYEES, ACCOMPANIED BY JOHN W. WHITE, LEGISLATIVE AIDE; AND JAMES B. COBB, PRESIDENT EMERITUS

MR. ROBERT WHITE. Thank you very much, Mr. Chairman. Mr. Chairman, and members of the Subcommittee on Postal Facilities, Mail, and Labor Management of the House Post Office and Civil Service Committee, I welcome this opportunity to appear before you, to express the views of the National Alliance of Postal and Federal Employees on H.R. 1282, and H.R. 5312.

With me today is my legislative aide, Mr. John W. White, of Baltimore, Md., to my left. I am very pleased to have on my right, the National Alliance's president emeritus, Mr. James B. Cobb.

Mr. Chairman, my statement will be brief because the position of the National Alliance remains constant and basic to the needs of our members.

First let me say that this union has always felt that the enactment of the Postal Reorganization Act was an unfortunate, though historic event. We completely opposed this legislation, not only because of what we knew it was designed to do to the National Alliance, but because we were fearful of the adverse impact it would have on postal employees and the American public on the whole. Some 2 years later we now see that our fears were well justified.

I feel that it was foolhardy for some unions to have supported legislation, which placed labor-management relations in the Postal Service, in the same category as is provided in the private sector, but did not provide the same weapon to these unions to be used for bargaining purposes as are provided to unions in the private sector.

A union at a bargaining table without the right to strike is like placing unarmed humans into a den of hungry lions. They would be quickly gobbled up, which is exactly what has already happened to the unions in the Postal Service.

The right to strike is a necessary tool for effective collective bargaining. Certainly it is preferable to compulsory arbitration.

Yet, we recognize the fact that the right to strike should be weighed against the public interest, and it is only to that extent that the National Alliance feels consideration be given to either curbing or denying its use.

Consideration of the public interest must also be of equal importance to the employer, when the issue of a strike is pending.

In most instances today, strikes are the result of a breakdown in negotiating differences in pay for employees. Other differences, such as working conditions, resolving complaints at the worksite, or failing to honor collective bargaining agreements, tend to be submitted more and more to arbitration.

This basis for dissatisfaction by employees as the primary cause for a strike, we feel, is rapidly diminishing. Employees are now beginning to become more aware that there are values to jobs that extend beyond monetary rewards.

The morale of the postal employees is extremely low. Inadequate pay, though still an important factor, is still not the basic cause of the extreme dissatisfaction of the majority of these employees.

Human dignity and employees rights, which has vanished from the scene, is the real cause of concern and the unrest of these employees.

The fact of the matter is that the majority of these employees are longtime Civil Service employees who for numbers of years had certain job rights and job protection. Almost suddenly, or at least since the passage of the Postal Reorganization Act, these job rights and job protections no longer exist.

More work is being placed on older workers, formerly permanent job assignments no longer exist, arbitrary and oftentimes unwarranted disciplinary action is a commonplace occurrence. Fear, distrust, and uneasiness now permeate throughout the entire Postal Service. Is there any wonder that the morale of the employees is so low, and resultingly the service so poor?

We are not saying that providing employees with the right to strike will necessarily correct all of the wrongs that we feel exist in the Postal Service. However, we do feel that this right will help to equalize the position of employees, through their selected union or unions, against unscrupulous actions on the part of postal management.

It is basically unfair to place public employees into the private sector and not provide them with the same protective rights that the private sector employees enjoy.

How and when the right to strike is to be used is of no consequences, under the circumstances. The basic questions to be considered are, we feel:

(1) Can there be effective collective bargaining between an employer and employees, unless the employees have the right to withhold their services?

(2) Should public sector employees, with collective bargaining rights, be treated any different from private sector employees, with bargaining rights?

We say no, to both questions. If it is believed that public employees should have bargaining rights, then it should be accepted that a possibility of a strike will exist.

Therefore, rather than continue making it a violation of the law for such employees to strike, thereby possibly encouraging violation of such law, we suggest that this law be changed, and that if it is deemed necessary, which we do, steps be taken to see that the public interest be protected during the period of any such strike by public employees.

THE NATIONAL ALLIANCE SUPPORTS THE PRINCIPLES OF H.R. 1282

As an alternative to a right to strike by postal employees we can only recommend that any unsettled differences, arising out of collective bargaining sessions between postal management and postal employees' elected representatives be submitted for mediation to a committee selected by Congress to deal with such issues.

These are public employees, and Congress is still appropriating considerable amounts of public funds to support the U.S. Postal Service. Therefore, we feel that Congress is the only body that is appropriate to settle these disputes.

H.R. 5312

The National Alliance of Postal and Federal Employees wishes to go on record as being unalterably in opposition to H.R. 5312.

This is a bill which will remove prohibition against postal unions negotiating union security provisions with the U.S. Postal Service. This in effect would mean that every employee would have to join the union in order to retain their jobs. This would be a requirement regardless as to whether or not employees felt that the union was properly representing them.

A historical review of the records of labor unions cause the National Alliance to emphatically say that the best interest of blacks and other minorities have not been properly represented by labor unions. This is the case in spite of the fact that in the private sector many blacks and other minorities are working in union shops, and dues which they must pay are oftentimes being used to support groups, politicians, legislations, or internal union decisions that are not in their best interest. Yet, in order to keep these much needed jobs, they must contribute part of their hard-earned dollars to such type unions.

As a labor union, which is keenly aware of the problems that blacks and other minorities face in the world of labor, we can say at this time that we are opposed to union shops, even in the private sector. Yes; it has fattened the treasuries of the labor unions, but in most instances it has not adequately enhanced the economic position nor the representation position of blacks and other minorities.

To consider enacting such legislation into the public sector, we feel is most inconsiderate to one of the fundamental principles of our democratic society.

We ask, what is wrong with freedom of choice? Why should employees have to pay dues to a union that is not properly representing them, or to one that in many instances is working to their detriment?

Let's take a look at the record of the postal craft unions, as it relates to representing the best interest of black postal employees.

The National Alliance of Postal and Federal Employees was founded back in 1913, because the postal union denied membership to black employees, and, in addition, refused to represent those black postal workers who were about to unjustly lose their jobs in the postal service.

When some of these craft unions did decide to accept the membership of a few black employees, such members were set apart in Jim Crow locals, without any real voice in the affairs of the union.

As a result, black employees were denied preferred job assignments and promotions for many years, in spite of their educational background and/or their years of satisfactory service.

This outright, blatant, discriminatory condition continued until President John F. Kennedy issued Executive Order 10988. This order, which prohibited racial discrimination in union membership, caused the postal craft unions to have to hastily amend their constitutions, in order to participate in this Federal labor-management program.

Also, we recall that, shortly thereafter, the Post Office Department embarked upon a positive equal employment opportunity program. An all-out effort was being made to promote a few well-qualified blacks into some managerial positions, something which was long past due.

Action was initiated in Dallas, Tex., to promote three black employees to supervisory positions in the Dallas Post Office. This was one of the many offices in which there were no blacks in any supervisory position, in spite of the quantity of experience and education that was possessed by many black employees.

However, when these three promotions were made, a postal craft union not only had a Texas Congressman to hold an investigation, but preparation was made to file suit in court, to reverse these promotions. Believe it or not, these promotions were reversed, and yet many black employees were paying dues to this postal craft union.

This union could go on and on relating incidents, similar in nature, of instances where postal craft unions have failed to properly represent the best interest of black Postal employees, and they have used funds that were partly contributed by black employees to finance such actions.

From the racial point of view, the historical record of the postal craft unions is extremely bad. It is so bad that it would be outright stupidity for the National Alliance to say yes, we support a union shop in the U.S. Postal Service. We just do not believe that leopards change their spots, and the present leaders of the large postal craft

unions are the same individuals who were serving in official positions at the local level when, just a few years ago, black employees were being denied membership in locals, or were placed in Jim Crow locals.

These are the same union leaders who are urging support for H.R. 5312, and it is their union and not the employees that will benefit mostly from this legislation.

We abhor the blatant brashness of these postal craft unions to seek legislation to require members of the National Alliance and other postal employees to pay dues to a union not of their own choosing. These are the same unions that at the present time have conspired with postal management to deny postal employees the opportunity to select representatives of their own choosing to represent them in grievances during the Postal Reorganization Act designated transitional period, and the right to vote for their exclusive bargaining agent at the end of this period, both of which are in violation of the Postal Reorganization Act.

I would just like to go off the record for just one second—not off the record, but I mean off the copy of my text here—to make reference to what the unions and postal management have done as a result of the Postal Reorganization Act.

Now, I think you will recall that the Postal Reorganization Act provided for a transitional period during which time those labor unions that were a part of the labor-management program with the Post Office Department were to enjoy the same rights as they had enjoyed prior to the Postal Reorganization Act. During this transitional period, the contracts which were in effect at that time were supposed to remain in effect. As stated before, all the rights that the unions had as far as representing their members were to be continued.

However, during the negotiating sessions, craft unions got together with postal management and negotiated into their agreement a provision which would prohibit any union other than those that were signatory to the agreement to handle grievances of any postal employee.

This, in effect, denied the National Alliance, and has denied the National Alliance, the right to represent its members, or any other postal employees who might have wanted us to represent them, during this transitional period. It placed the National Alliance at a very severe disadvantage during this period, because what was intended—or at least what we felt was intended—during this transitional period was for all of the unions to have the same opportunity to present themselves in front of the postal employees so that, at the end of this transitional period, or whatever time the NLRB established the units, the employees would have a freedom of choice to select from some of the viable unions that were placed in front of them.

Now, based on the action which postal management has worked out with the craft unions, the National Alliance has been denied this right, and even as of now we are waiting for the NLRB to hold a hearing based on unfair labor practice charges which they have placed against the Postal Service for permitting these craft unions

to—for not allowing postal employees, rather, the right to select whomever they want to represent them in grievances.

As I said, this has put us at a severe disadvantage. We believe it was not the intention of Congress that this should happen. We have made all types of attempts to have it corrected.

At the present time, the craft unions are talking about negotiating another agreement, which we feel is somewhat in violation of the intent of the Postal Reorganization Act. We say that the act only provided for the unions to negotiate the transitional or interim agreement, and prior to the end of this time the NLRB was supposed to have established these units and let employees elect the union they want to represent them.

We think it need to be corrected. We have brought it to the attention of various members of the committee. We are still hoping something will be done to correct this inequity before a new bargaining agreement is established between the Post Office and craft unions.

We feel we have been treated unjustly. We are asking for what we feel the Reorganization Act guaranteed the unions that were a part of the labor-management program, which was the right to continue during the transitional period in the same manner as prior to the Postal Reorganization Act, and give employees the right to select or elect the union of their choice at the end of such period.

Mr. JOHN WHITE. President White, Chairman Wilson, in connection with the explanation that President Robert White has just given, it may be of interest to the committee to know that when we appeared in court protesting what we call an illegal contract, and they are dealing with representation, that the exclusive unions and the Postal Service, the Justice Department, called the NLRB into court as a friend of the court.

And on that occasion, the NLRB, without dealing with the merits of our complaint, took the position that they possess the original and primary jurisdiction over the question which we had raised.

Therefore, when the court ruled against us, in part, we took the tedious process of attempting to convince the NLRB that we were right, and we did succeed. They agreed that we were right.

They said that the Postal Service was guilty of unfair labor practices in dealing with the alliance. They took the reverse position—instead of saying the alliance had the right to represent, they said that the rights of the employees to choose a representative had been violated.

They went to the Postmaster General and attempted to get him to drop the bar to permitting people to choose us as their representatives and to go ahead. This the Postal Service refused to do.

The same people who had been invited in as their friend said, now, as a friend, we see that you are wrong. They refused to heed.

Thank you, Mr. Chairman.

Mr. ROBERT WHITE. What is truly at issue now is the right of Postal employees to be free and independent. We take exception to those union leaders who believe that total union membership can only be obtained through union shop agreements.

However, if one is seeking a monopoly on employee union membership, this would be the method to use. It should be worth noting

that there are certain disadvantages to this system. A coerced membership may not be a loyal membership; an automatic membership may not be an understanding membership; an unsolicited membership may not be an active membership; a membership without opinion may be a membership without opinion.

The National Alliance feels that the best union members are the ones who join voluntarily, because they believe in it and not because it was pressed upon them. In addition, competition keeps a union on its toes and promotes better representation of the employees.

We feel strongly that there is no need for a union shop in the U.S. Postal Service. At the present time, some 86 percent of all postal employees belong to unions on a voluntary basis. This percentage probably could be increased with better representation on the part of all unions.

In conclusion, I repeat, the National Alliance of Postal and Federal Employees is absolutely opposed to H.R. 5312. We do not feel that there is any justification for it in the public sector, particularly after observing how poorly blacks and other minorities have fared in the private sector under union shop and closed shop contracts.

The National Alliance realizes that the position that we have taken may not be consistent with some alleged labor union philosophy; however, we want it to be clearly understood that we do not believe in some labor unions practices that grow out of their adopted philosophy. Therefore, we reserve the right to adopt our own labor philosophy.

The right of postal and Federal employees to join or refrain from joining a labor union should be protected. Neither should these employees be forced to pay any type of fee to any labor union except through a freedom of choice, and upon effective and satisfactory representation on the part of a labor union.

I wish to thank this committee for granting this union an opportunity to present our views on the two proposed bills. We have spoken exactly the way we feel, and now we will be pleased to answer any questions that you may wish to ask.

Mr. WILSON. Thank you very much, Mr. White. Before I start asking questions, I would like to acknowledge our very good friend, Mr. Parren Mitchell, who, while not a member of this committee, has been invited to sit with us. He has a large constituency here from Baltimore, and we are pleased to have Mr. Mitchell join with us today and participate in our hearings. We will extend him every courtesy.

I like the first half of your statement, Mr. White. However, I am a little disappointed in the second half.

I wish we had followed the recommendations of the alliance when we were considering the Postal Reorganization Act. I recall that then the National Postal Union and your organization, and I think the supervisors, were in opposition to the legislation. The letter carriers favored it, and the Federation of Clerks had difficulty making up their minds.

Mr. ROBERT WHITE. Right.

Mr. WILSON. I think the clerks were opposed to the legislation more than they were for it.

Do you feel, in speaking to the right to strike legislation that my bill H.R. 1282 has sufficient safeguards to protect the public's interest.

Mr. ROBERT WHITE. I think it is, to say really the right to strike is an absolutely necessary weapon for a union to have at the bargaining table. I just don't think they should be at a bargaining table without such a weapon.

I realize, as stated in my statement, that the public interest must be considered. I think that if there are any limitations to be put on this right to strike, that it should only be in giving consideration to whatever protection you should give for the public interest. Other than that, I have no opposition to any of it.

Mr. WILSON. As you are probably aware, one argument that is advanced by who are opposed to the right to strike, is that the person who receives a Social Security check or a Veterans Benefits check will be penalized.

How do you feel? You indicated in your statement that public service is paramount and this had to be kept in mind. In the event a strike was conducted, how do you feel we should handle this type of problem?

Mr. ROBERT WHITE. I think the limited type of services that could be provided for seeing that social security checks and other types of business—not so much business—but certainly checks that are due to the elderly, and what not, could be provided, and would be willingly provided by the unions that may be participating in the strike.

Just how much participation would be given, I am not at liberty to state at this moment. But I am almost sure that every postal employee would do whatever necessary to make sure that these types of services are provided.

Mr. WILSON. Now, as I recall Mr. Rademacher's statement the other day, he did not indicate that he favored the letter carriers actually delivering mail while a strike is in process. We didn't actually get down to how he would operate. They recognized that this was something that had to be taken care of.

Now Mr. Stan Lewis, Executive Vice President, National Association of Letter Carriers is here. If I am misquoting your president Stan, or if there is something later on that you might want to add to this matter, why, I'd be more than happy to have you present it.

But I gather that he felt that perhaps window service should be available to persons who receive social security or veterans' checks.

Do you think window service for these people would be sufficient, or do you think in this case we would have to include actual delivery of mail?

Mr. ROBERT WHITE. I don't think window service could cover the needs for the delivery of some of the pension and social security checks. You have many people who are not able to even get out. I was a letter carrier myself for quite a number of years, and I know that people are very, very dependent upon receiving these checks on the first of the month.

I don't think that we, as public servants, can afford to, you might say, have the public against us in issues such as these, and certainly those who are aged and disabled should be provided the necessary

services at this particular time of the month so that they would have their checks.

At this moment, I couldn't say whether the carriers should do it, or what. I wouldn't try to interfere with Mr. Rademacher's business. But, speaking personally for my members, I can say that I certainly would favor my members doing whatever was necessary to see that these types of individuals did get the service they needed.

Mr. WILSON. Now, in connection with my bill H.R. 5312, your statement sounded very much like Mr. Larson's of the National Right to Work Committee. And yet, I can appreciate the frustration that your organization has felt with the history of discrimination which was in practice for so many years in the Postal Service.

Now, I come from a rather enlightened area. I have been a Congressman for 10 years, and during this 10-year period, I have felt that, in the Los Angeles area, there has been very little discrimination against blacks, in the Postal Service, or any other Government service.

And at the same time, I am aware of the Texas case that you made reference to. I recall that very vividly. And I am wondering, Mr. White, what is the record in the South at the present time? Has it improved, or is there still some areas where Postal Service promotions are denied, based upon racial discrimination?

Mr. ROBERT WHITE. It's not only in the South, Congressman Wilson. I would have to disagree with your statement as far as Los Angeles is concerned. We have more discrimination charges filed in Los Angeles than almost any post office in the country, even at the present time.

So what we are talking about now is not something that is a part of history. We are talking about what is still going on, discrimination in the Postal Service, which we believe is going to get worse under the postal corporation.

Evidence of it is very clear. We look right now at the provisions for moving facilities out of the inner city. They are moving postal facilities out of the inner city because they claim there is lack of space for putting up post offices in the cities, and the availability of getting to the facilities from the airports.

But we stated before that we don't believe this is a basic reason that they are moving these facilities into the suburban area. We still don't believe it. We know that in most of these cities there are large numbers of blocks, large areas where there are abandoned buildings or land where houses and buildings have been torn down, on which they can build postal facilities in the inner city.

We actually believe that they are moving these jobs to the suburban areas because in most of these areas there is a large number of blacks who are working in the post office, and most of these places where they are moving into the suburban areas are places where there is not adequate housing or where no blacks could live at all. There is inadequate transportation, or no way of getting back and forth to these areas for employment.

Now it means that the blacks who are losing these jobs in the city, or will lose these jobs in the city, will either have to move with the job to the suburban areas, or commute back and forth, which also

will mean a large amount of outlay of money if it's a long distance, and most times it is.

Also, as you note, when they start moving and working in the suburban area, that means they are going to hire from the suburban area. So, as the blacks are removed from the Postal Service, and these facilities are built in the suburban area, it means that, systematically, the blacks are going to be eliminated out of these jobs in the Postal Service.

Now, as a black controlled labor union, and based on our experience, we believe this is by design. We just cannot believe that the reasons they are giving are proper reasons. When you speak in terms of promotion throughout the post office, we still say that blacks are not being promoted in proportion to their numbers in the Postal Service, in spite of their educational background and their experience.

And it's not only in the South. It's in every post office throughout the country. You realize, at the present time there is not a black heading a major post office in this country. And there was a time when we had one or two. We had one in New York, Chicago. At one time we had one in Los Angeles, I believe. At the present time we don't have any.

I was invited to the meeting which Mr. Klassen had here, I believe in January or February, where he invited his top management people throughout the country. And I went there. And, surprisingly enough, of all of the 200 or 300 top management people that were at that meeting, I only saw two blacks. Two blacks. And the only other blacks there were myself and one of my aides who was with me.

We made note of this to the Postmaster General, and we made reference to the fact that the image which we saw there did not look too good, based on their statement that they were going to promote and fill jobs on merit, and all of these other types of things.

Well, we say that it hasn't happened that way. We say politics is still in the Post Office. The only difference is it's changed from, you might say, the legislative branch to the executive branch. No one can make me believe that there is not someone deciding who are going to get these top jobs, from the Postmaster General, and Deputy, and all the others.

And as a result, we are still on the short end of the stick.

They are also getting ready now to give another supervisory promotion examination. Now in the past, these examinations were given and those who made the higher grade were placed at the top, and it was a matter of selection, whereby you select maybe out of the top 10, or something like that.

Under their new promotion system, they can select anywhere they want on a list. They can even go outside of a list, if necessary, to promote.

Mr. WILSON. They check to find out whether they work for American Can or Union Carbide.

Mr. ROBERT WHITE. That seems to have been what has happened so far.

But based on this, and the history of the past, we just cannot see where we can go to get a fair shake with these promotions that are

being made. They have not happened yet, and we still don't believe they are going to happen.

So all of these things are things that are going on right now, not in the past, which makes us still leery of the activities that are taking place in this great country of ours, where they are saying that discrimination is a thing of the past. We say it is not.

And if you don't mind, Mr. Cobb wants to say something.

Mr. WILSON. Certainly.

Mr. COBB. Mr. Chairman, I hope that I will not be unduly repetitious, but I would like to speak to something, I think, that is far more basic.

In the first place, I am aware that no system can be devised, in Government or out of Government, that cannot be beaten. But we can make it difficult to beat it.

Number one, I question the constitutionality of this whole thing—it's very presumptuous on my part—because the Constitution says that the Congress shall be in charge of post roads and establishment of—and so forth.

And then, under the Civil Service Act, it has set up certain means of protecting the employee and the patron from arbitrary and capricious action on the part of those in power. Bargaining is a strictly economic thing. And I do not believe it was intended, when the Constitution was formed, that a private citizen or any organization could be placed in a position of bargaining with Her Majesty, the Government.

It was conceived that communications was a very important part of Government, in order for the democracy to be strong. And the framers of our Constitution were aware of the French Revolution, when the common people could not communicate with one another. Only the royalty could communicate. And the result was the commoners could not get together, could not become strong, and the result led to the French Revolution.

And I think the framers of the Constitution had that in mind in the laws that they passed, that books were sent through the mail at a very cheap rate so that the people would be encouraged to read and know about their Government, be it North, East, West, or South. Newspapers, once upon a time, in my time—and that has been 44 years—newspapers could be sent through the mail at 1 cent for every 2 ounces, for the purpose of encouraging the lay people to read and be informed about their Government.

And so I question the intent that the Postal Service should be taken out of control of the Congress.

The second point—and I knew most of the founders of this organization, I knew how it was started in 1912 and 1913, when men were taken off the railroad and lynched because they didn't bow their heads when they talked in the car to a clerk in charge. Men got together in Texas, in Houston, and formed this organization.

The only reason blacks were on the railroad cars then was because they were all wooden, and every time there was a wreck, that mail clerk was the one that was killed. Then, after the advent of the steel car, it became a more desirable job, and then the other organizations began to prohibit blacks from getting those jobs by shifting

them to short feeder runs instead of long runs such as Washington to Atlanta, New York to Washington, and you name it—New York to Chicago.

One organization even put a Caucasian clause in their constitution, which was only removed less than 10 or 15 years ago.

That same condition can develop again, with the loopholes for arbitrary and capricious action. When things went wrong, we could come to the Congress, and before this very Committee, and it did relieve some of those evils. Now we can't come to the Congress and the National Labor Relations Board or either—or we got to go to the court, which is expensive.

Now, we had a built-in thing, although it could be beaten and was beaten in a lot of instances. We did have disciplinary actions, grievances, you name it. And if they were not fair, we could appeal. Whether there was not a fair hearing, or whether there was new evidence, we had the opportunity to examine some of those secret charges, see whether the evidence supported it or not.

And there were many things, even under the old, that we had redress that we do not have now.

And I think there was a morale that existed in those days and I'm very glad to be an oldtimer because we had a pride. A carrier—you never saw a carrier on the street that he didn't have his tie and his cap and his suit pressed and shoes were shined, not because he had to but he had a pride in the service and he knew he had redress at an administrative hearing and would be protected by his organization, even in going to court.

The blacks had to do it separately, although we did cooperate with other organizations, when it was fair. We testified on salary, fringe benefits, and you name it, we had done our part, and we feel with the movement of nonrecognition, with the arbitrary and capricious power on the part of management places us at the bottom of the totem pole and we do bitterly oppose any sort of legislation that would take that right away from us and we have had since 1913, it sounds good on paper but that employee in the service knows that he has got to be careful when the boss happens to kick him or call him all kinds of names that wouldn't be permitted in print, because he has a wife and babies at home and he doesn't have the protection of the grievance procedures that he once had, a fair administrative hearing, being able to examine the evidence to see whether it is consistent with the finding of fact, and decide also—challenge if the decision was based on something arbitrary, and with that in mind, if I may go on a little bit further than our president, but I have been through it. I know when it was national news, when we had a black foreman appointed in the Post Office downtown in the sub-basement shaking bags, national news, and we didn't get it because some other organization fought for it.

I know of an instance where an employee was sick in Philadelphia and the supervisor had a row with him and it wasn't too long before that employee laid down and died on the floor because he was trying to hold his job and there are men being appointed in positions of management and I don't think I am going too far—some of who have not finished high school that are placed over men who have fin-

ished college and some of them are suspicious of alcoholics and mental cases and yet under this new system we do not have the right to peacefully contest this under the law and under the Constitution, and with that in mind we are bitterly opposed to this whole proposal.

Mr. WILSON. Well, not the whole proposal; you support the right to strike.

Mr. COBB. No.

Mr. WILSON. You don't support the right to strike?

Mr. COBB. It's—well, let me say this. If it's going to be a government organization, no. If it's going to be a private, yes, because it's economic. We do not have the administrative redress.

Mr. WILSON. Is this the position of the Alliance?

Mr. COBB. It's the economic thing.

Mr. WHITE. The position of the Alliance is as stated here, sir, which is that we will support the right, the legislation dealing with the right to strike based on what we know already exists as postal organization.

Mr. COBB. That's right.

Mr. WHITE. So we have no choice. We certainly support the right to strike based on the postal corporation, that's right.

Mr. COBB. Let me make sure I make myself clear. It worries me. If it's going to remain a corporation, yes, we must have a right to strike because it is economic, but I also said under the old idea of the Postal Service being as it was before the Reorganization Act, I certainly will not recommend strike there because we have our redress in administrative hearings and—to the court.

Mr. WILSON. Well, I go further than you. I, of course, support the right to strike of all Federal employees, whether they belong to the postal corporation or whether they are employees of another branch of the Federal Government.

I think it is very significant there is only two major countries in this world that don't allow public employees the right to strike, the equal right to negotiate, and that is Russia and the United States. Almost every other major country allows their government employees the right to strike and the right to negotiate for a union shop.

Mr. NIX. Thank you, Mr. Chairman. What you mean is that in principle, you support the right to strike—

Mr. COBB. That's right.

Mr. NIX. But specifically, you are opposed to this particular legislation because of the structure of the corporation; is that correct?

Mr. WHITE. That is more or less correct, sir.

Mr. WILSON. Now, again, Mr. Nix, are we talking about both bills or just 5312?

Mr. WHITE. We are opposed to 5312, which is the union security one.

Mr. WILSON. But you support the other one?

Mr. WHITE. We support 1282 based on the era that we are in dealing with the corporation, that's right.

Mr. NIX. Now, I, of course, recognize the inequities and the injustices. They do exist. It is a fact of life. What I am equally interested in learning is what challenges are you making to the injustices

that we both know to exist; specifically, what is the status of your case at the NLRB?

Mr. WHITE. All right, sir. We have, as you know, gone to court. We questioned the constitutionality of the Postal Reorganization Act. The court ruled that the Postal Reorganization Act was probably constitutional. This is what the ruling more or less gave. They also pointed out that our redress as far as the right to represent must be obtained from the National Labor Relations Board, so we went to the National Labor Relations Board. The National Labor Relations Board filed charges against the Post Office Department charging it with unfair labor practices for denying employees the right to select a representative of their own choosing in grievances. They voluntarily tried to get the unions and postal management to go along with their ruling which they refused to do.

The National Labor Relations Board went into court in January and attempted to obtain an injunction against the Post Office Department to bring about immediate relief for the postal employees and the National Alliance. The court, the judge at the request for injunction took the position that they had already resolved the problem of the rights of the National Alliance in their earlier decision and refused to grant the NLRB the injunction which they sought.

The NLRB at the present time has filed an appeal to the appellate court. The hearing has not come up, we are waiting on that at the present time, but in the meantime, the transitional period is about to come to an end or at least the existing contract is about to come to an end and there is discussion as far as negotiating an additional contract.

For the 1½ years we have not been permitted to represent postal employees which has caused us an awful lot of embarrassment and distress. We have not been able to put the proper image in front of the postal employees so that whenever the Board establishes these units that we will be in a good position to take part in the election. We are not saying that we can win any election but we believe that it was the intent of the Postal Reorganization Act that we have an opportunity to participate in an election as a viable unit and we are not saying that we could not win some of these elections provided we are given this chance up under a better climate than we have been able to operate in during the past year.

Now, what we need now more than anything is some type of action and we only feel that now it can be brought about through legislation which will provide the National Alliance with the right to represent postal employees for a given period of time before the Board establishes these units and holds elections. If this doesn't happen, then we have been severely injured, severely injured.

Mr. NIX. Let me ask you this: Recognizing the eminence of these negotiations and recognizing the fact that you have had no final decision from the court, has your legal department made an effort to speed the hearing on the appeal?

Mr. WHITE. Yes, sir. We have already gone to the National Labor Relations Board and we have asked them to expedite the hearing. This has been done. We have also gone to the Board to see what position the Board would take if we went into court and tried to stop

negotiating at this time. I want everyone to understand, we are not trying to stop negotiation per se. We feel the employees have a right to have a better contract negotiated for them if it is possible but we still say that the postal employees should have a right to elect their own representatives in accordance with the law. They have not had this right.

The National Labor Relations Act provides that only employees can elect their exclusive representative. Congress, in an emergency situation, just went on and conveyed to these unions the right to negotiate a contract but they did not convey on them exclusive recognition because according to the law only employees can select their exclusive representative.

Now, we are saying that the employees have not had that right and they should have that right.

Mr. NIX. What answer did the National—the NLRB give you when you sought their opinion as to whether or not it would be agreeable to them if you intervened and sought to protect yourself by court action?

Mr. WHITE. We have already, as you know, filed petitions on various segments of the Postal Service. The big problem that we are faced with, Congressman, is the fact that the law states that the Board shall establish the appropriate units. Now, until we know what the appropriate units are going to be it is going to be difficult for us to try to petition for any particular segment of the postal employees. In the meantime, the only thing that we can do which we have done, we have filed petitions, we have brought about the hearing in front of the Board which took place last year in New York City and carried on for almost 1 year. All of this material is now in front of the Board. The Board still has not established the units. We don't know when they are going to establish these units but whenever they establish the units we don't feel that it is going to be in time for the expiration of this contract, which is July 20th.

Mr. NIX. Well, it would seem to me that since—because of the inaction on the part of the Board, it would be proper to take—to anticipate that the hearing will be held before any specific action has been taken. Therefore, it would seem to me that legal action would be the answer in that—

Mr. WHITE. Well, when we asked the Board, Congressman, about whether or not we should go into court and if we did go into court, what position would the Board take, would they come into court and take a position of jurisdiction and their answer to us was they probably would have to.

Now, this puts us in the category of trying to decide whether we should go into court at this time when the Board has already taken a position that we should have the right to represent our members and go into court against them and have them come in and state that they still have jurisdiction on this question, which would mean just an expenditure of money if the court recognizes that the Board does have the jurisdiction.

Mr. NIX. Well, the point I make is the Board has reached a decision as to your organization.

Mr. WHITE. That's true.

Mr. NIX. That has been done.

Mr. WHITE. That's true.

Mr. NIX. I would conclude, therefore, that there is no reason why you should not go into court on your own, seeking to get the redress that you feel that you are entitled to and I don't think the decision should be delayed.

Mr. WHITE. I don't know, Congressman, whether or not we can go into court at this time because the way I understand it the Board is in the court. The Board has already appealed the decision which was rendered by the justice here in January.

Mr. NIX. I think I'd better go back into the practice of law.

Mr. WHITE. And the way I understand it now, there is no provision for us to go into court on this same question at this time. That's the way I understand it.

Mr. NIX. Well, let me ask you this final question. Do you have a unit in your organization charged with the responsibility of rooting out injustices and inequities in the service and having done that, do you have your legal department to take action in these instances?

Mr. WHITE. We do have—are you speaking now of discrimination or of the—

Mr. NIX. That is correct. You spoke of inequities and injustices in appointments, jobs, that sort of thing.

Mr. WHITE. Yes. We have, if you—to bring you up to date, Congressman, we filed a complaint against the Post Office Department in the filling of the postmasters position. You remember the Postmaster General stated that there were some 5,000 vacancies and they were going to be filled based on merit. We asked the Post Office Department to give us the names of any Blacks that were being promoted to any Postmaster position in the country. They refused to give it to us. We went into court. The court took the position that we had not exhausted our administrative remedies.

We were trying to file—we did file this complaint moreless under the Civil Rights law as against the Equal Employment Opportunity law because the Equal Employment Opportunity law, as you know, is a long, drawn out process which is also—it must be handled on an individual basis which means that it would be the next 500 or 1,000 years before we could ever process any cases of discrimination successfully and up to the court under EEO, but the court has ruled the EEO is what we must use and that we had not exhausted our administrative remedies and we had to go back and do that so this is where we are there.

We still feel that this is unfair. We still feel there should be some way that we could file blanket discrimination throughout this whole country based on what we know is happening to blacks so that it will take the pressure off this organization or any organization having to handle these cases on an individual basis. You correct something in one post office and it will be going on in the next city and the Post Office Department will not do anything about it so it's an endless, you might say, task of trying to resolve these injustices.

Mr. COBB. May I add that in the meantime, with these administrative delays, it is causing irreparable harm to a labor union where it wouldn't hurt possibly a corporation which isn't composed of so

many people, so irreparable harm within itself is an injustice and I think this is the thing that organization-wise we are complaining about, too.

Mr. NIX. And the final answer would be for the Congress to repeal this act that we have passed almost 2 years ago creating the Postal Service. You would back that, wouldn't you?

Mr. WHITE. We certainly would back it 100 percent. We feel our chances with Congress were much better than we have had so far with the corporation but to say we are not asking for any favors as such. We are only asking for what we believe we are entitled to. We are asking for justice based on what the law states and I believe in all fairness we should have that opportunity. If we are able to participate in elections and lose, we will not have any complaint to make, but to have been denied an opportunity to keep ourselves viable, to represent postal employees and let these craft unions more or less just boot-strap themselves into an exclusive position such as they have without even having to compete in an election we feel is unfair, and we feel that since Congress is the one that created this, then we have come back and we are asking Congress to at least do something about that portion of it and we need it as quickly as possible.

Certainly, if these unions are permitted to negotiate another contract, which they more than likely will, which will extend for 3 years this time, then that means the employees will be bound again by contract for a 3-year period. The NLRB may move, may decide that the contract serves as a contract bar which is one of the questions already in front of them based on the original contract.

There are many questions there which have not been ironed out but which have really left the National Alliance in a very, very bad position. I say again, we are not asking for this to be done because we are a black-controlled labor union again, because we are just asking for a right, an opportunity to do what we feel we can do along with the other unions and based on the law. That's all we are asking.

Mr. NIX. Thank you, Mr. Chairman.

Mr. WILSON. Mr. Mitchell, do you have any questions or comments to make? We'll be happy to hear from you.

Mr. MITCHELL. No, Mr. Chairman, I don't have questions. I do want to make a comment. I appreciate your kindness in letting me sit in on these hearings. I certainly was most interested in the testimony.

I want to make three points. Number one, let's get rid of the Postal Reorganization Act. I think it was a ghastly mistake. In retrospect, we now know it was a mistake. Anything any management person has the sheer audacity to tell one of my constituents he can't come to me as his Congressman because, under the Reorganization Act that is verboten, then the act is no good I told my constituents, "You come in and see me, and if anybody tries to prevent you then they will have to deal with me."

I think we made a mistake on the act and let's get rid of it if we can.

On the matter of the right to strike, I certainly agree with you, Mr. Chairman. This is a basic right of labor. Without that weapon,

labor is rendered impotent. I certainly hope that we will do all that we can to assure that organized labor is not rendered impotent. This is the one strength that we have.

The last comment is with reference to both union groups before this committee. It is kind of a sad commentary that we now see parts of the trade union movement fighting other parts. The trade union movement should have learned during the last 4 years that we are dealing with a climate that does not have the best interests of labor at heart and every bit of division that occurs within the trade union movement is seized upon by the administration to hold the whole trade union movement down. All that you have got to do is look at what happened at wages under the Wage/Price Stabilization Act. Prices went up and wages were held.

We saw the shenanigans that went on when certain labor unions were courted by the administration. That courting paid dividends to the administration but caused denial to other trade union movements.

Now, I would suggest the way to do this thing is the fair and equitable way in which labor has always acted. Let the competing unions slug it out. That's the way it's supposed to be done. Give president White his fair chance. That's the way it's got to be done, but the National Alliance of Postal and Federal Employees won't get its fair chance if there is any kind of collusion between management and any trade union movement.

Now, I say that is unethical to the prostitute of the trade union movement. It is inimical over the long run, to the best interests of the trade union movement. I am making an appeal, really. Let's slug it out and whatever determination is made, as President White has indicated, let all involved accept that. Don't let us get caught in the mistake of one union battling the other and the net result being we slip back in terms of the strengths in trade union movements rather than move forward.

I thank you, Mr. Chairman, for letting me participate.

Mr. WILSON. Thank you, Mr. Mitchell. You have made a very significant statement. I am in complete agreement with it. I agree that we should repeal almost all of the Postal Reorganization Act. We can't repeal it, though, until we get a new president. The President is committed to the U.S. Postal Service and as we now know it.

Insofar as your comments on the divisions in labor, I think you are right. We are seeing further evidence of this discord now with Mr. Nixon's appointment of Mr. Brennan as Secretary of Labor. He is getting labor fighting one another insofar as wage controls are concerned. Mr. Brennan was appointed Secretary of Labor not because he was a great labor leader but because he led a parade in New York City supporting the war in Vietnam.

We have another witness. Do you gentlemen have anything further you would like to comment about before we hear from the other witness?

Mr. WHITE. We thank you very much for the opportunity to appear before you.

Mr. WILSON. Thank you very much for your statement and answers to our questions. We appreciate your being with us today.

We are happy to have Mr. James J. LaPenta, of the National Association of Post Office Mail Handlers, Watchmen, Messengers and Group Leaders, affiliated with the Laborers International Union of North American of the AFL-CIO.

Mr. LaPenta, we are very, very pleased to have you with us today. I'm sorry for the time that got away from us and I hope you will be able to summarize your statement as well as possible so that we may have an opportunity to question you after the presentation of your statement.

STATEMENT OF JAMES J. LaPENTA, JR., REPRESENTING THE NATIONAL ASSOCIATION OF POST OFFICE MAIL HANDLERS, WATCHMEN, MESSENGERS AND GROUP LEADERS, AFFILIATED WITH THE LABORERS' INTERNATIONAL UNION OF NORTH AMERICA, AFL-CIO

Mr. LaPenta. Mr. Chairman, thank you very much. My name is James LaPenta and I am the director of the Federal-Public Service Division of the Laborers' International Union of North America. The Mail Handlers Division is a division of the Laborers' International Union. I am here representing the Mail Handlers Union which represents 47,000 mail handlers having exclusive recognition in the Postal Service.

I understand your problem with time and I came prepared to summarize my statement for the record. Without any further ado, I will get into the summary of my paper. I would like, however, to present the entire statement for the record.

Mr. WILSON. Yes; your entire statement will be made a part of the record, Mr. LaPenta.

Mr. LaPenta. This paper summarize and reviews the evolution of labor relations in the public sector. It attempts to etch out for your perusal those laws that have been adopted by the Federal Government and the States in the area of the public sector; not only in the Federal Government, but in the other political sub-divisions, like the State governments, municipal governments. and so forth.

For the committee's perusal, I put into the paper a number of citations of court cases which deal with labor relations in the public sector. I have cited both those cases that have been pro and contrary to the basic labor relations concepts that have been established and are now evolving in this country.

Now, what does this point up? It points up one thing which I think you have to take into consideration and that is, contrary to what some people might have thought over the years, what has happened in the public sector has slowly followed the basic concepts that have been developed by law and otherwise in the private sector and has followed very closely the National Labor Relations Act, which was passed almost 40 years ago. I say to you, Mr. Chairman, that while the process has been slow and workers in the public sector are 40 years behind the times, the fact of the matter is we are moving inexorably toward the adoption of these concepts that have been established by law and otherwise in the private sector.

Now, what are these basic concepts? These basic concepts are a declaration of public policy that the workers, whether they are private workers or public workers, have: (1) The right to organize; (2) A system of giving recognition to the majority organization (this is some of the dialogue you got into with the alliance—if we have time I might elaborate on that); (3) a procedure to certify a majority union as the exclusive bargaining representative—through their exclusive representative—a right to enter into collective bargaining contracts with the employer. The exclusive union has a duty to bargain which I think, again, was not fully explored in the dialogue back and forth between the alliance and the subcommittee; (5) a right to negotiate union security including dues checkoff. This gets to the point of one of your major pieces of legislation; maintenance and membership, commonly called union security; and (6) the right to negotiate grievance procedures which include binding arbitration as a final step; and (7) the right to strike over collective bargaining issues.

In the past 40 years, public employees have experienced a constant struggle with various political jurisdictions, courts, and other public officials in fighting their right to achieve these seven basic concepts. As my paper will show you, 40 years ago it was against public policy, supposedly, for workers in the public sector to have the right to organize.

That first barrier was taken down. The second barrier, the third barrier, the fourth barrier, the fifth barrier, the sixth barrier followed in many jurisdictions but not all. It's not universal, as yet, but these barriers have been knocked down and right now, today, we are confronted with the last barrier—the right to strike. Just a short year and a half or two years ago, two State jurisdictions passed laws to give employees in the public sector a limited right to strike. Those two jurisdictions were Pennsylvania and Hawaii, and I make reference to them in my paper.

It is the position of our union that reasonable limitations on the right to strike, especially as they provide for machinery of mediation and factfinding, should be made available. Our complaint is that most of the no-strike legislation that you see around and that people support is completely void of any constructive solution short of punitive action by court orders.

Now, in spite—and I think this is extremely important—of the number of States adopting no-strike policies, some with severe restrictions and penalty provisions, the number of strikes in the public sector, gentlemen, has increased in the last 10 years to the point that public sector strikes are the area of major disruption in the work force today. Therefore, the solution is not penalties, but providing machinery for resolving impasses in these particular situations.

The Mail Handlers Union supports H.R. 1282 and H.R. 5312. First, and foremost, we remain firmly committed to the necessity that Congress recognize that postal workers are entitled to the right to strike. Why? Because Congress informally, in its resolution of the postal strike of 1970, recognized that. The time has come for Congress to take formal action to grant this right. For the fact of the matter is, I repeat again, that the absence of the right to strike

is one of the reasons why the unions continue to seek redress in Congress for some of the ills of the Postal Service.

Now, let me briefly sketch out that postal strike. When the postal strike occurred in March of 1970, President Nixon instructed the Postmaster General to enter into immediate negotiations with the postal unions. The President played the role of a cool employer when he issued orders for the Army to take over the function of distribution of the mail and, at the same time, offered to postal employees negotiations with no reprisals for their so-called unlawful actions. In spite of the fact that the Federal Government considers it a felony to strike against the Government and subjects the offender to a possible year and one day in jail and a \$1,000 fine, neither of these weapons were used against the striking employees. The result of the strike was meaningful collective bargaining on wages; a subject up to that time that was not considered negotiable under Executive Order 10988 or Executive Order 11491—that series of Executive Orders that was enacted in the Sixties.

The Postal Reorganization Act was passed to resolve the striking issue which was—pay. The whole business of the strike, I think, points out the need for having all of these concepts that I have laid out in my paper enjoyed by Federal workers. I appreciate your remarks where you make no distinction whether a worker is a Federal employee or is an employee of the so-called public corporation.

Let me call something else to your attention which I think has gone by the boards without too much notice. There is no question that Federal agencies are now better prepared legally and otherwise to take a strike whether it's at the national level or at the local level. Most Federal agencies, including the Postal Service, have drafted contingency strike plans so that activity may continue on a limited basis through the use of supervisors and other managerial-type employees.

This gets back to one of your first questions concerning your dialogues with Brothers Rademacher and White today, that is "What do you do in a situation where you do have a right to strike?" A limited right to strike would take care of that kind of situation that you have described, Mr. Congressman.

The Federal Times, I believe in a March edition, reports that the Army at Ft. Belvoir, Va., is ready for a strike and while the document is not for official or general distribution, it offers suggestions on the way management could handle a work slowdown or work stoppage. In this way, the Federal agencies and the federal managers are prepared; they are not sitting on their back sides so to speak, waiting for things to develop. They have an idea about what is going on.

Now, let me add another reason which has not been sufficiently explored why we are in the situation we are in today vis-a-vis the Postal Service, why we need the right to strike, and why we need equality at the bargaining table. The Postal Service has failed to play by the normal collective bargaining rules and has sought to undermine our collective bargaining relationship by one action, particularly, and a series of other acts. The principal act was the initiation of the hiring freeze. This caused a multitude of contractual vio-

lations in the area of manning, leave, compulsory, and excessive overtime and a whole host of other violations. I will not elaborate before this committee except to say that the hiring freeze is the type of violation that even the most sophisticated labor relations arbitration process would have difficulty in remedying. It is an action which brought about irremediable wrong and which has done extraordinary damage to employee morale, productivity, and efficiency. This action is responsible for your getting all these complaints about the Postal Service. That's why the Postal Service is in such bad shape that it's in today.

There are a couple of other areas that deserve statutory consideration and I will run through them very quickly. For one thing, under section 1207 (a) and (b) of the Postal Reorganization Act, if the parties fail to reach agreement by the termination of their present contract, the unions are forced to work without a contract until there is a settlement. This means that the dispute settlement machinery of the statute is incapable of guaranteeing that a contractual settlement will have been arrived at before arbitration is completed. You will recall, again, that it was working without a contract that also was one of the causes of the postal strike in 1970. Part of the Act should be amended so that fact-finding, arbitration, etc. is completed prior to the termination of the contract.

Now, another vital area is an amendment required insofar as union security is concerned and I am not going to be lengthy on this. Congress has thrust upon the incumbent postal unions a vast responsibility for protecting the rights of more than 600,000 postal employees, yet it has not given them the wherewithal to advance and protect those rights. As this subcommittee knows, the unions are under a statutory duty to represent employees within their bargaining units fairly, honestly, in good faith and without hostile discrimination, and they have to represent everybody whether they belong to the postal craft unions or not. It's costly for them to perform these duties and, under the present structure, the financial burden of meeting these obligations is met on a voluntary basis by those employees who see fit to contribute to the unions' resources.

Therefore, as you know, we are in favor of a maintenance of membership arrangement, a union security provision, an agency shop provision, or any of the many kinds of provisions that could be structured in this way. In other words we are not wedded to just one. There is a number of ways I think the subcommittee can explore in order to do this thing fairly and squarely.

Finally, we want to make a recommendation which, if adopted, would amend the Postal Reorganization Act. We think this was probably an oversight. In the preparing of the Postal Reorganization Act, the draftsmen failed to include a critical provision of the National Labor Relations Act, as amended. This portion of the Act provides that:

The quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions of work at the place of employment of such employee or employees shall not be deemed a strike under this act.

Now, that provision has been in the National Labor Relations Act for years. It seeks to protect workers from the claim that their re-

fusal to perform hazardous work constitutes a strike. Its application to postal employees is particularly important, Mr. Chairman, because of the extraordinarily poor safety record of the Postal Service. The Postal Service has the worst safety record of any organization or establishment in this country. There is not an industry in the private sector that has as lousy a safety record as the Postal Service. The incidence of instances of unsafe acts and the instances of numbers of employees who have been hurt in the Postal Service, I repeat again, is the highest of any establishment in the country. We feel that it is extremely important that this amendment be put into the law when you get about the business of either appealing or amending the act and I say this because, personally, I do feel as other people feel that the Postal Reorganization Act, in retrospect, should have been rejected.

That concludes my testimony. I know that in previous hearings you have had some dialogue about the Sherman Antitrust Act. I don't know if we have time. I would be willing to answer questions about that Act and I know there are other items that have come before the subcommittee about which you may wish to question me.

Mr. WILSON. Well, I think if you would like to submit a statement on it, we would be pleased to accept it

Mr. LaPENTA. Yes.

Mr. WILSON. I kind of have an idea that Mr. Rademacher may have responded a little too quickly in response to Mr. Rousselot's questions on the antitrust laws applying to postal unions. I hope that you, as well as the AWPU and the Letter Carriers, will prepare a written statement on your views in connection with antitrust laws applying to postal unions.

Mr. LaPENTA. I will be very happy to do so, Mr. Chairman.

Mr. WILSON. And I want to compliment you, Mr. LaPenta, for your statement. It's a very complete and thorough statement and it's going to be extremely helpful to us.

I think that the one recommendation you made concerning safety will be seriously considered. I want to thank you for your contribution this morning in that respect.

Mr. LaPENTA. Thank you very much, Mr. Chairman.

Mr. WILSON. Thank you very much for being with us. I, again, want to apologize for the fact we were late and we didn't have an opportunity to visit with you more. You have contributed greatly to the hearing and I want to thank you for this.

[Whereupon, at 12:02 p.m., the hearing was adjourned.]

[The prepared statement submitted by Mr. LaPenta, follows:]

PREPARED STATEMENT SUBMITTED BY JAMES LaPENTA

Mr. Chairman and Members of the Committee, The suggestion that strikes are a legitimate method of bargaining in the public sector continues to cause many students and public officials to raise their eyebrows and, in most cases, to express a complete rejection of this concept. In order to more fully appreciate why strikes are a legitimate objective, it is necessary to review what has happened to collective bargaining in the public sector during the past 30 years.

The changes that have occurred are primarily the result of a change of atmosphere in the private sector that came about when the National Labor Relations Act (NLRA) ¹ was passed 38 years ago establishing the basic rights of employees in the private sector to organize into unions and to be certified as the exclusive bargaining representatives when a majority of the employees in appropriate units want such representation. The NLRA provided machinery for protesting the rights of employees through unfair employer practices which would be enforced by the National Labor Relations Board. The NLRA also recognized the right to strike as a legitimate tool in the collective bargaining process. The use of the strike in the private sector has never been a single-edged sword since the cost of work stoppages falls on the employee, except in those cases where the strike might be the result of an unfair employer practice.

The attitude about unions in the public sector is pretty well described in court decisions within the first few years following the enactment of the NLRA.

One of the landmark cases of this era involved the membership of some 22,000 postal clerks of the U.S. Railway Mail Service.² The issue was whether the postal clerks' organization was, in fact, a labor organization within the meaning of the New York Civil Rights Law which prohibited organizations to deny a person membership by reason of race, color, or creed. In finding that the Association was a fraternal insurance society, the court concluded that the Association could not be a labor organization because such organizations could not exist in the public sector. The court said in part:

To tolerate or recognize any combination of civil service employees in the government as a labor organization or union is not only incompatible with the spirit of democracy, but inconsistent with every principal upon which our government was founded. *** To admit as true that government employees have the power to halt or check the functions of government, unless their demands are satisfied, is to transfer to them all legislative, executive, and judicial power. Nothing would be more ridiculous. *** Much as we all recognize the value and necessity of collective bargaining in industrial and social life, nonetheless, such bargaining is impossible between the government and its employees, by reason of the very nature of government itself. The formidable and familiar weapon in industrial strife and warfare—the strike—is without justification when used against the government. When so used, it is rebellion against constituted authority.

The tone and thinking in the *Railway Mail Association v. Murphy* case was carried over by a number of courts in decisions involving interpretation of constitutional rights to bargain collectively and in the application of these constitutional rights to state and local government employees. The principal decisions in this area were the *Miami Waterworks Local 654 v. The City of Miami*³ and *Springfield v. Clouse*.⁴

The basic concepts for a responsible system of labor-management relations were all rejected as illegal by the early public service court decisions. These include a declaration of policy on the right to organize; a system for granting recognition to a majority organization; a granting of exclusive bargaining rights to a certified labor organization; the responsibility of the exclusive representative to enter into collective bargaining agreements with the employer; the right to negotiate union security, including the checkoff of dues; a negotiated grievance procedure with final and binding arbitration as a final step; and the right to strike on collective bargaining issues.

Simple issues, such as recognition, became major stumbling blocks, even though a union might have been one hundred percent organized in a given division or department in the public sector. Most public officials resorted to the excuse that the request was illegal or there was no statutory authority supporting recognition, exclusive bargaining, written agreements, etc. Over the past 30 years, the general atmosphere has changed so that there is no question about the right of public employees to belong to a union.

¹ National Labor Relations Act, as amended, 29 U.S.C. 151, et seq.

² *Railway Mail Ass'n v. Murphy*, 44 NYC 2d 601; Reversed. *Railway Mail Ass'n v. Corsi*, 47 NYC 2d 404, affirmed 326 U.S. 88 (1945).

³ *Miami Waterworks Local 654 v. The City of Miami*, 157 Fla. 445, 26 S.O. 2d 194, 165 ALR 967 (1946).

⁴ *Springfield v. Clouse*, 356 Mo. 1239, 206 S.W. 2d 539 (1947).

The public employee's right to belong to a union has been declared by two federal courts as a constitutionally protected right.⁵ In the absence of law, many officials still reject the concept of exclusive bargaining and many still object to collective bargaining. Most public employers continue to oppose any union security. Grievance processes are acceptable, but arbitration as a final step is still a major obstacle.

The laws that have been adopted in the various states for public employee recognition and bargaining have followed the basic concepts of the NLRA. Some have included new concepts of recognition, such as the Kansas Law of 1971⁶ which has formal recognition and completely ignores the exclusive recognition which is the distinguishing feature of bargaining relations as developed in the private sector. Most of the public employee collective bargaining laws have incorporated exclusive bargaining as the basis upon which employee organizations would be recognized and negotiate with public agencies. These laws also provide for written agreements, whether in the form of collective bargaining contracts, memorandums of understanding, or other unique names to define these types of bilateral documents. The relationship of equal parties at the negotiating table is the cornerstone of any public employee collective bargaining law.

Within the last few years, the concepts of union shop and/or agency shop have been adopted in several state laws and have been employed in some states even in the absence of specific authority. For many years, the idea of resolving disputes in the grievance process through final and binding arbitration was totally unacceptable. This was primarily based on a legal theory that a public official could not delegate to a third party arbitrator the authority to make decisions which would bind him in his relationship with employees.

The federal government, with Executive Order 10988, approached the question of arbitration by giving recognized employee organizations the right to negotiate "advisory" arbitration as a final step in the grievance process. Unions refused to even use advisory arbitration during the early years. Only after it was conceded that the agency head who had made the original decision would not also have the right to accept or reject the advisory award did the unions agree to use this procedure. The latest amendment incorporated in Executive Order 11491 accepts final and binding arbitration as it is practiced in the private sector.

It is obvious that there has been a complete swing in many areas of the public sector away from the approach suggested by the court in the *Railway Mail Association v. Murphy* case of 1943 to the general pattern established in the NLRA. Legal obstacles are no longer raised to questions of recognition, to granting exclusive bargaining, to establishing written agreements, to granting checkoff, and to negotiating grievance procedures.

The only area that continues to plague public officials, attorney generals, and even the courts, is the question of strikes. There have been a number of state laws granting the right to strike and even court decisions that suggest the legal obstacles on the right to strike in the public sector are no longer as real as they were a few years ago.

The public sector has made a full swing from the views of 1943 to the views and practices existing in 1973.

HOW THE PUBLIC SECTOR NO-STRIKE CONCEPT DEVELOPED

Within a very short period following World War II, the United States Congress, as well as many of the state legislatures, reacted to the militant efforts of organized workers to reestablish an economic balance due to the federal controls experienced over wages and prices. The resulting strikes produced political reaction for anti-union legislation. The Congress felt that the balance of power had swung too heavily in favor of organized labor so attempted by the provisions of the Taft-Hartley Law of 1947 to reestablish a balance and did just that through numerous restrictions on unions.⁷

⁵ *AFSCME v. Woodward*, 406 F.2d 137 (8th Cir. 1969). *Atkins v. City of Charlotte*, 296 F.Supp. 1068 (W.D.N.C. 1968).

⁶ Kansas Public Employee Relations Act, S.B. 333, L. (1971), amended by S.B. 509, L. (1972).

⁷ Labor-Management Relations Act of 1947, as amended by Public Law 86-257, (1959).

At the time the United States Congress was considering the Taft-Hartley provisions, the various state legislatures throughout the country were accepting the challenge of legislation which might dampen the spirits of organized labor under the state jurisdiction. The state legislative bodies soon determined that the United States Congress by its enactment of the Federal Labor-Management Relations Act had usurped all of the authority which states had traditionally exercised. The one remaining area left for the state legislature was the field of state and local government services. Following World War II, there had been in some states, teacher strikes, garbage collector strikes, and threats of strikes even by police and fire. The legislative bodies in eight states passed laws prohibiting public employees from striking against the state or its political subdivisions.⁸

Most of the state laws included strong penalty provisions for violations. The Michigan law did include some provisions for resolving disputes in the public service. All other state laws were merely designed to penalize and offer no solutions to disputes that might result in work stoppages or any other type of interruption of the public service. Unions have always considered the Taft-Hartley Act as being a strictly anti-union orientated act, but most of them are not aware or even concerned about the fact that in 1947, when employee organizations in the federal service were struggling insurance clubs or social societies, that the Congress saw fit to enact a provision in the Taft-Hartley law, even though all the other rights and benefits of the law did not apply to the federal or state or local government employees, which made it unlawful for any individual employed by the United States or any agency thereof to participate in any strike.⁹ The penalty imposed by this law required that violators would be discharged immediately from their employment, and would forfeit their Civil Service status, if any, and would not be eligible for reemployment for three years by the United States or any such agency.

The mere outlawing of strikes is not the answer. The penalty provisions of most strike laws have made it impossible to use the enforcement provisions or have made it impossible for the employees to return to work under the conditions imposed by the law. Secretary of Labor Willard Wirtz in commenting about the Condon-Wadlin Act¹⁰ of New York State said:

The Condon-Wadlin Act is a glaring illustration of the unfairness, the absurdity, and the ineffectiveness of outlawing the strike without any provision whatsoever for alternative procedures settling the honest and legitimate issues which might cause a strike.

The various state public employee relations laws adopted, beginning in 1959 with the State of Wisconsin, accepted the common law concept that strikes were illegal in the public sector. The Wisconsin law merely stated that strikes were against the public policy of the state, but outlined no penalties for employees or unions engaged in strikes.

New York State, through its Taylor Act,¹¹ modified the restrictive provisions in its Condon-Wadlin Act by continually outlawing strikes, but changing the procedures by which penalties would be imposed. Under the New York Taylor Act, unions and union officials could be found in violation and heavy fines imposed, as well as prison sentences.

The State of Michigan, in adopting a comprehensive public employee relations act, continued to outlaw strikes, but provided machinery for resolving collective bargaining or impasse disputes through mediation and fact finding.

The Wisconsin legislature recently adopted an amendment to its public employee bargaining law which permits recognized unions and employers to negotiate "a fair share" provision (agency shop). In order to obtain the necessary political votes for the fair share concept, the lobbyists and the unions agreed to an amendment to the no-strike section which would impose penalties of \$10 a day against each employee found to be in violation when an Injunction had been issued. Since the passage of the Wisconsin amendment, there has been no effort to impose or collect the \$10 fine, although a number of strikes have occurred.

⁸ Michigan, Virginia, New York, Ohio, Pennsylvania, Texas, Missouri and Nebraska had general no-strike laws. Missouri and Nebraska laws have been repealed.

⁹ Section 305 Labor-Management Relations Act 1947, as amended by Public Law 86-257 (1959).

¹⁰ Condon-Wadlin Act, S. 108 Civil Service Law, amended by Chap. 391 L. (1947).

¹¹ New York State Taylor Act, Ch. 392, (1962).

The most significant developments have occurred in the States of Pennsylvania and Hawaii where the legislatures have adopted public employee bargaining laws which authorize public employees to engage in strikes under certain conditions. These two states have recognized the fact that the outlawing of strikes has not been successful. These states accept the fact that if collective bargaining is to mean anything, the parties must have equal power in the bargaining process and that the dice cannot be loaded in favor of the public employer.

RESTRICTIONS ON THE RIGHT TO STRIKE ARE INEFFECTIVE

The federal government which has prided itself as a model employer is one that has had strong prohibitions against the use of strikes. Two major shut-downs have forced the government to concede that laws prohibiting strikes do not prevent them. The federal law, 5 U.S.C.A. 7311, provides:

An individual may not accept or hold a position in the Government of the United States or the Government of the District of Columbia if he—(3) participates in a strike or asserts the right to strike against the Government of the United States or the government of the District of Columbia; or (4) is a member of an organization of employees of the Government of the United States . . . that he knows asserts the right to strike against the Government of the United States. . . .

The United States Court of Appeals in the *NALC v. Blount* case¹² held that the oath requiring federal employees to assert that they would not strike violated the First Amendment of the United States Constitution. The court also held that public and private employees had no constitutional right to strike.

When the postal strike occurred in March of 1970, President Nixon instructed the Postmaster General to enter into immediate negotiations with the postal unions. The President played the role of a cool employer when he issued orders for the Army to take over the function of distribution of the mail and at the same time offered to the postal employees negotiations with no reprisals for their "unlawful" actions.

In spite of the fact that the federal government considers it a felony to strike against the government and subjects the offender to a possible year and one day in jail and a \$1,000 fine, neither of these weapons were used against the striking employees.

The result of the strike was meaningful collective bargaining on wages; a subject that was not considered negotiable under Executive Order 10988. The Postal Reorganization Act¹³ was passed to resolve the striking issues resulting in pay increases and a Congressional Act putting postal workers under the provisions of the NLRA.

The experience of the Air Traffic Controllers in conducting a strike was not quite as effective as the strike against the Post Office Department. The principal reason was because of the apparent lack of organization among air traffic controllers and the militant position taken by the federal government to break the strike. Efforts were made following the strike to destroy the union and to penalize individual employees for the violation of the no-strike law.

There is no question that federal agencies are now better prepared legally and organizationally to take a strike whether it is at the national level or in a local activity. Most federal agencies, including the Postal Service, have drafted strike organization plans so that the activity may continue to function on a limited basis by the use of supervisors and other managerial-type employees.

The *Federal Times* for March 14, 1973, reports that the Army at Ft. Belvoir, Virginia, is ready for a strike. The official document is not for general distribution, but offers suggestions on the way management could handle a work slowdown or work stoppage. Warnings are offered to those who refuse to cross over picket lines under "protective escort." Union officials will be questioned by management and their conversations will be recorded as well as a chronology of events. Detailed records of events that occur, conversations with labor officials and employees who participated in the work stoppage are to be made a part of the record for future actions. Supervisors will immediately suspend individual employees and management is instructed that it is "taboo" to negotiate with union officials for the purpose of ending the strike.

¹² *NALC v. Blount*, 305 F. Supp. 546 (1969).

¹³ Postal Reorganization Act, Public Law 91-375, (1970).

The State of Ohio, through its Ferguson Act,¹⁴ has one of the most restrictive no-strike laws of any of the 50 states. The law is similar to the former New York 1947 Condon-Wadlin Act prohibiting strikes, discharging employees who engaged in strikes, and, if they are reinstated, returning them to work without any increase in pay and probationary employ for a period of years. The strict limitations on the right to strike have not reduced the number of strikes. As a matter of fact, in the state and municipal services in Ohio there are as many, if not more, public employee strikes than in any other state in the country. At no time have the penalties of the Ferguson Act been applied against any striking employee. Probably the major reason for strikes in Ohio is that of establishing the right to be recognized and the right to enter into bargaining relations with the public bodies. The Ferguson Act does not address itself to these issues.

The Laborers' International Union, as a representative of employees in the City of Cleveland, Ohio, has in fact been invited by politicians to strike in order to make a case with the taxpayers for the necessity of increasing the municipal tax rate. In these situations, the subterfuge¹ of the "sick-in" and "blue-flue" was used to avoid any suggestion that the employees were actively engaged in a strike violation of the Ferguson Act.

THE TECHNIQUES USED BY EMPLOYERS TO STOP STRIKES ARE INEFFECTIVE

For many years strikes, whether in the public or private sector, were considered a part of an illegal conspiracy and, therefore, subject to injunctive restraints. With the passage of the Norris LaGuardia Act,¹⁵ the use of injunctions through the federal courts to prevent strikes was outlawed. The Norris LaGuardia Act only applied to employees in the private sector. In the past few years there have been a few cases where state anti-injunction laws have been interpreted to prohibit the issuance of injunctions in public employee strikes.

Public employees who resort to strikes to achieve recognition or economic benefits soon find that the common law concept prohibiting strikes in the public sector is the basis upon which restraining orders and injunctions are issued without hearings.

Some unions have attempted to reverse the effect of injunctions and the usual contempt orders which follow injunctions by making labor martyrs out of officers and members. The "Eugene Debbs" of the 1970's is the president of the Teachers' Union who is found in contempt of court and gladly serves a 60-day jail sentence to dramatize the cause of several thousand teachers who want fair treatment from the school board. The labor heroes in the public sector are leaders who are fighting for basic rights established by the NLRA for private sector employees 38 years ago. Public employers' major weapon after injunctions are issued is threatening striking employees with jail sentences and defiance of restraining orders against strikes.

Recently, the general counsel for a great mid-western university, which was refusing to grant employees of the university the rights provided by law, threatened to fill up all the jails in surrounding counties, if necessary, unless employees returned to work and dropped their demands.

It is apparent that the imposition of penalties, such as provided in the Wisconsin law or the severe penalties in the Ferguson Act of Ohio, do not prevent strikes and surely do not settle strikes.

Public employees and their unions generally have no relief in impasse situations other than withholding services. The public employer admittedly has no profit motive, but in most situations, the public employer is not hurt economically and welcomes a strike because it cuts down on the operating costs for the period employees are off the payroll.

In spite of the number of states adopting no-strike policies, some with severe restrictions and penalty provisions, the number of strikes in the public sector has increased in the last ten years to the point that public sector strikes are the area of major disruption in the work force. The solution to the issue is not penalties, but providing machinery for resolving impasse issues short of strikes.

¹⁴ Ferguson Act, Ohio Revised Code Sections 717.03, 4117.01-4117.05 (P. 1954).

¹⁵ Norris LaGuardia Act, 47 Stat. 70 U.S.C. 29, Sections 105-115 (1932).

GOOD FAITH BARGAINING IS THE ANSWER TO NO STRIKES

There is no question that collective bargaining, whether it is defined as collective negotiations, "meet and confer," or any other term, is the way of life for labor-management relations in the public sector.

Professor Archibald Cox, Harvard University, has suggested that the right to strike is the "... motive power which makes collective bargaining work." If collective bargaining is to replace collective "begging," or social clubs engaged in lobbying with Congress or the state legislatures, then we must develop the concepts essential to collective bargaining; namely, the right to strike.

Hawaii, facing the question of the right to strike in adopting the Public Employee Bargaining Act in the spring of 1970,¹⁶ conceded that recognized unions would have the right to strike, but that this right would be limited to the unions' exhausting mediation and fact finding through the Public Employee Relations Board. The Act specifically spells out certain "cooling off" periods, but upon exhaustion of the procedures set forth in the Act, the employees would have the right to conduct a legal strike. The Labor Board could determine whether the disruption would endanger the public health or safety and, if so, might issue an order to protect the public in this respect.

It is the position of our Union that reasonable limitations on the right to strike, especially as they provide for machinery of mediation, fact finding, and arbitration should be made available when the right to strike is granted. Our complaint is that most of the no-strike legislation is completely void of any constructive solution, short of punitive action by court orders, to completely destroy the union or to make bargaining ineffective.

Our Union vigorously supports H.R. 1282 and H.R. 5312.

First and foremost, we remain firmly committed to the necessity that Congress recognize that postal workers are entitled to enjoy "the right to strike." It did so informally in its resolution of the postal strike of 1970, and the time has finally come when it should take formal action to do so. For, just as in the case of railroad workers, truck drivers, and public employees in several states, we believe that the right to strike is an essential ingredient in making American industrial democracy work.

For the fact of the matter is that the absence of the right to strike is one reason why the unions continue to seek redress in Congress for some of the ills of the Postal Service.

Let me add that another reason, which has not been sufficiently explored, is that the Postal Service has failed to play by the normal collective bargaining rules and has sought to undermine our collective bargaining relationship by imposing a flat ban on hiring in the Postal Service.

This ban has caused a multitude of contractual violations in the areas of manning, leave, compulsory, and excessive overtime. These violations are presently being tried before an arbitrator and, therefore, I will not elaborate before this Subcommittee except to say that the hiring freeze is the type of violation that even the most sophisticated labor relations arbitration system would have difficulty in remedying. Rather, it tends to be an irremediable wrong which has done extraordinary damage to employee morale, productivity, and efficiency.

There are some other areas that deserve statutory considerations:

For one thing, under Section 1207(a) and (b) of the Postal Reorganization Act, if the parties fail to reach agreement by the termination of their present contract, the unions are forced to work without a contract until there is a settlement at the bargaining table or arbitration is completed. This means that the dispute settlement machinery of the statute is incapable of guaranteeing that a new contractual settlement will have been arrived at or arbitration completed by the time the existing contract expires. You will recall that it was working without a contract under Executive Order 11491, that had much to do with the occurrence of the 1970 postal strike. If the statutory timetable could be revised, a long step forward toward stabilizing labor relations in the Postal Service would be accomplished.

Another vital area where an amendment is required is with regard to union security. Congress has thrust upon the incumbent postal unions a vast respon-

¹⁶ Hawaii Public Employees Collective Bargaining Act, GERR No. 349, E-1 (May 18, 1970).

sibility for protecting the rights of more than 600,000 postal employees, yet it has not given them the wherewithal to advance and protect those rights. As this Subcommittee knows, the unions are under a statutory duty to represent employees within their bargaining units fairly, honestly, in good faith and without hostile discrimination. It is costly for them to perform these duties, and under the present structure, the financial burden of meeting these obligations is met on a voluntary basis by those employees who see fit to contribute to the unions' resources. Therefore, a statutory provision is at least required which would impose the equivalent of an assessment upon all postal employees who are within the bargaining units, to be used by the incumbent unions to protect the overall interests of the employees they represent. This would not require union membership but only financial support to the union. It is unfair to permit the present situation to continue with "free riders" who receive the benefits of traveling on the union train without having to pay any fare.

Finally, we want to make a recommendation which, if adopted, would amend the Postal Reorganization Act. In the preparing of the Postal Reorganization Act, the draftsmen failed to include a critical provision of the National Labor Relations Act, as amended. This portion of Section 502 provides that:

... the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions of work at the place of employment of such employee or employees [shall not] be deemed a strike under this Act.

The intent of this provision is clear on its face. It seeks to protect workers from the claim that their refusal to perform hazardous work constitutes a strike. This provision has been law in the private sector for more than 25 years, and has been an effective protection against unsafe and hazardous working conditions. Its application to postal workers seems to me to be critical in light of what is acknowledged to be an extraordinarily poor safety record on the part of the Postal Service and the fact that it is not uncommon for postal management to tell postal workers that they *must* perform ultra-hazardous work subject to their right to grieve later, which obviously may be too late!

(The statements which follow were received by the subcommittee for inclusion in the record.)

SULLIVAN & WORCESTER,
Boston, Mass., March 27, 1973.

HON. CHARLES H. WILSON,
*Chairman, Subcommittee on Postal Facilities, Mail and Labor Management,
Cannon Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: I have been asked to comment on a proposal to revise the Postal Reorganization Act of 1970 which would grant to Postal employees a right to strike in support of demands to improve wages and other conditions of employment. In doing so, my professional bias should be noted. It is based on 15 years' experience as a practicing attorney representing only the management side of labor disputes both in the public and private sectors, the last two of which have been with the Boston law firm of Sullivan & Worcester. While a bias of this sort may render my comments suspect, it should be noted that no professional representative of either management or labor can adequately represent his client without a complete understanding of the vital interests of both. I do not claim impartiality. But I do claim an understanding of the issues.

This issue of the right of public employees to engage in a concerted withdrawal of their services has become over the last decade an increasingly vexing one. Public employees, including fireman, policemen, postal employees, welfare workers, teachers and others, are no longer meek about their employment conditions. They have discarded the notion that there is something inconsistent with public employment and union organization. The cause of the current crisis is that public employees, now militant and now organized, are prepared to strike despite the clear federal and state prohibitions against it. Union officials representing public employees almost eagerly violate the inevitable labor injunction in order to secure the martyrdom that accompanies it. It is predictable that this pattern of employee organization and illegal strikes will continue.

It will continue for two reasons. Initially, there is no way to determine a fair level of employment benefits. No employee will ever concede that he is overpaid;

no employer will ever concede that he is paying too little. Employees will convince themselves, whatever the wage scale, that they are entitled to more. Secondly, once public employees are organized, the union officials must continue to agitate and press for improvements to justify the salaries which they receive for that very purpose. And no union official has ever found it hard to persuade his constituency that they are entitled to more.

But the other side of the coin is that strikes by public employees are intolerable. Public employees are no less entitled to increased employment benefits than their private counterparts. A procedure must be devised to compromise fundamental disputes of this sort without the deterioration into chaos which failures of resolution will invariably bring about. It is the purpose of my comments to suggest what I believe to be a rational balance between the right of public employees—here postal service employees—to the fairest ascertainable level of employment benefits with the equally valid entitlement by the public to the uninterrupted performance of critical services.

I. THE PROBLEM

The right to strike is universally established in the private sector. It is the most powerful weapon in labor's arsenal. In competitive industries, it would be a great social mistake to inhibit it. Barring the exceptional case of a benevolent management the fact is that only the fear of a concerted work stoppage will induce an employer to distribute to employees an equitable share of the enterprise income. An employee's needs are immediate. He is helpless to combat an employer without the strength which concerted action affords him. And this assumes without qualification the need for professional union representation to coordinate the concert of action which alone makes the strike effective.

This is true whether the employer is in the public or private sector. Private employers are impelled by balance sheet considerations and the fear of competition to maintain the lowest feasible wage and benefit levels. Public employers are impelled by budgetary considerations and fear of political superiors to maintain equally low levels. For these purposes there is no distinction between public and private employment. The need for organization of both groups is clear and convincing.

But it does not follow from an acceptance of the principle of public employee organization that the right to strike by such employees is an inevitable accompaniment. The question here is whether a right which is acknowledged as desirable in the private sector should be extended to the public sector. It is my view that it should not. Whether this view has merit will depend entirely on how significant are the differences between public and private employment, always assuming that the needs of public employees are as great and immediate as their private brethren.

We should not be misled by labels. "Public" and "private" do not define anything. In this context they are merely shorthand terms to designate the community need for the services performed. There are employees in the private sector, such as transportation and utilities, where continued services are critical. There are public employees whose services if withheld would cause little inconvenience. Accordingly, I use the term "public" and "private" to define not a legal relationship but rather the relationship which the employees' activity bears to the immediate needs of the community. In discussing postal employees, of course, the community is the nation. I turn therefore to the distinctions between public and private employment which in my judgment militate against extension of the right to strike to public employees.

1. *The Monopoly Enjoyed by Public Employees.* There is no alternative source for the services if public employees withhold them. Monopoly is not a vice enjoyed only by business interests. The evil of monopoly is that the power resulting from it will be abused. The mails are the circulatory system of the nation. Its continued blockage would be catastrophic. The wage and benefit settlements resulting in the inevitable abuse of the power thereby conferred upon postal employees and their representative will be unrealistically high. Accordingly, if the interest to be served in considering the extension of the right to strike to postal employees is to obtain for them a fair level of employment benefits, however that is computed, that objective will not be achieved. The wage and benefit level will not be fair; it will be unfairly high.

In the private sector, a stoppage of production at one company leaves operating competitors who eagerly take up the slack. There is no great impact upon the community because the classical theory of competition always assumes a

productive potential greater than the public need. Unlike the public sector, there is no private monopoly immune to the anti-trust laws which would generate a public clamor for settlement at any cost.

2. *Public Services Cannot Be Interrupted.* By definition, public employees render services whose interruption is intolerable to the community. The specialization of activity in a modern urban society contemplates a reliance by all that others will satisfy specific needs. Only the farmer who is also a carpenter and a weaver can assert any degree of independence. And if the service is vital enough the community will pay practically anything to assure its continuance. The combined effect of a) monopoly power over b) critical service will vest in those who control it a power which is completely inconsistent with democratic notions of responsibility.

3. *Public Employees Cannot Go Out of Business.* Collective bargaining in the private sector has worked in this country perhaps better than anywhere else because of the more than theoretically competitive nature of our economy. The private employer is induced to grant reasonable improvements in employment benefits on the demand of his organized employees because a strike will enable his competition to absorb his market share. But settlements are realistic because the employees—and the union officers whose jobs depend on the continued existence of the employment relationship—are aware that exorbitant demands supported by a prolonged strike will endanger the continuance of the enterprise. A successful conclusion of a strike which unrealistically elevates wage or benefit levels brings only bitter satisfaction to employees who learn that the jobs no longer exist because their employer can no longer compete. So the balance between high employment benefits and the ability to compete is struck and with grudging realism settlements are reached.

But this balance need not be struck in the public sector. The government will not go out of business. Public employees are as much obsessed with self-interest as those who employ them. Their concern is with the short run. They will extract unreasonable concessions for the simple reason that they are able to do so, and let the evil consequences await another day. The long run holds no fear for most of us if the short run looks good. The power conferred by the right to strike in the public field will be exercised without the chastening effect to which private employees are subject by the fear of a business fatality.

4. *Balance Sheet and Budgetary Considerations.* In the private sector, improvements in employment benefits rest on continued profits. Balance sheet considerations explain the reluctance by private employers to concede to union demands. Price increases to pay for improved wages and benefits are inhibited by competitive considerations. This is not the case in public employment. There are no profit levels. There is no competition. Public administrators simply turn to the taxing power. Our political system permits a substantial delay in translating a taxpayer rebellion into a defeat of their political representatives. Consequently, public officials are relatively immune from a protest by their constituency against the higher taxes necessitated by an increase in the cost of public employment. There is no balance sheet to restrain public administrators.

II THE PROPOSED SOLUTION

These differences between private and public employment militate strongly against extending to public employees a right which is concededly appropriate to private employees. The root consideration is that granting such right to public employees will confer upon their representatives a volume of power that will increase exponentially upon the inevitable successes which follow its exercise. The novelty of the American political experiment is that power is to be diffused. It is utterly inconsistent with that principle to vest control over vital functions of the economy in those whose immediate allegiance conflicts with the public interest. If the danger of concentrated power is that it will be abused, then we have good reason to fear its concentration here. The constituency of union officials is their membership. They are obligated to no other for their positions. They have every incentive to extract concessions supported by the strike power in order to please the membership who in turn will translate their gratitude into votes for reelection. Therefore the strike power must be withheld. Let no one doubt that if the strike power is granted, it will be exercised. Even if it were not true that the purpose of power is to use it, union officials will resort to it as an act of political necessity.

But public employees no less than private employees are entitled to the benefits which flow from organization and professional representation. The argument occurs that union organization is an empty benefit unless the unity which is its purpose can be effectively brought to bear. An initial response to this is that sophisticated union representatives are expert in the subtle part of extracting concessions from employers without resorting to the strike weapon, albeit less effectively than if the strike were available. But secondly the assumption here is that public strikes cannot be tolerated. Hence, there is little point to a discussion of compromise solutions unless the public strike is forbidden.

The solution is a form of compulsory arbitration modified to reflect industrial arbitration experience. Private industry generates thousands of labor contract disputes annually. For many years now, these disputes have been adjusted amicably by private arbitration. The reason for success, most observers agree, are 1) the availability of a pool of professional arbitrators whose livelihood depends on the wisdom of their awards and 2) the fact that the arbitrator is selected by the parties themselves. The arbitrator's sole allegiance is to the adversary parties. The quality of the award determines his selection in the future.

The fundamental issues separating management and labor are dealt with in negotiations. The construction to be placed upon their agreements is left to the arbitral process. The formalities of judicial pleading and procedures, and the burdensome delay that accompanies them, are avoided. The expense is minimal compared to court or administrative proceedings. Justice is almost always served and it is no longer open to question that the device works.

There is an obvious difference between a contract negotiation and the procedures to be followed when arguments arise over the meaning of the negotiated terms. While arbitration works best in the relatively minor disputes over the meaning of the words used, it can also be used effectively to fashion the contract itself. It is not uncommon in certain industries, such as public utilities, for parties to resort to an arbitrator to write the contract for them. The submission to the arbitrator is preceded by hard bargaining. The unresolved issues are submitted to the neutral for final and binding decision.

The contract arbitration alternative is workable. Indeed, I suggest there is no other. Postal and other public employees will no longer accept dictation by governmental administrators or legislators whose judgments are overridden by budgetary considerations and their own political welfare. The judiciary is unequipped to write the terms of a labor agreement, having neither the time nor the expertise to do so. Consequently, both sides must delegate the decision-making to professionals whom they select and pay themselves.

I propose a statute which would create a Public Employee Mediation Board with general jurisdiction over governmental employees both federal and state. Its function would be limited to a) the establishment of a panel of arbitrators drawn from the ranks of the professionals who are now engaged in private arbitration and b) an appellate review of the arbitrator's decision under standards presently applicable to review of trial court findings of fact. The contestants to a particular public employee dispute will first be admonished to resolve their own difficulties. Upon failure, they will select an arbitrator from the established panel. The arbitrator will first offer his mediation services to encourage agreement, much like the mediators now furnished by the Federal Mediation and Conciliation Service under Title II of the Taft-Hartley Act. If unsuccessful, he will don an arbitrator's hat, conduct hearings, receive evidence, and thereafter invite each of the parties to submit their best offer on all points litigated. In order to minimize the spectacle of farcical bargaining prior to the hearing, whereby the disputants maintain artificially extreme positions in the hope that the arbitrator will split them down the middle, the arbitrator will be directed to accept one of the two final offers. Subject to appellate review, the arbitrator's decision will be final and binding. In the event the arbitrator directs payments which would exceed the budget applicable to the affected group of employees, the legislative body will nevertheless be bound to comply with the award. In consideration thereof, the statute would prohibit strikes by public employees under penalties severe enough to deter them.

This brief outline, easily fleshed out by statutory drafting, removes the strike threat and substitutes a quasijudicial method of wage and benefit determination with the important difference that the parties themselves select and pay the arbitrators. The mediation process prior to conversion of the dispute from media-

tion to binding arbitration will be greatly enhanced by the parties' knowledge that the mediator may well become the adjudicator. His persuasive powers will thereby be multiplied considerably. I cannot emphasize too strongly that employees should not be expected to entrust their economic welfare to their employers, whom they understandably construe to include the postal administrators, Congress, and the judiciary. Under this proposed plan, the controversies will be determined largely by the economic data that ideally should govern disputes of this sort.

The needs of an ordered society require no less than this. It would be politically naive to think that the labor community in the growing field of organized public employment will voluntarily yield the strike power which they have heretofore been prepared to exercise illegally. Accordingly, the statute must offer a quid pro quo of encouraging the organization of public employee and enforcing an obligation on the part of public employers to bargain with the employees' designated representatives. This is the essence of the bargaining principle. There is good reason to conclude that its success in private industry will be repeated in public employment.

I wish to thank the Committee for allowing me to comment on this important matter.

Very truly yours,

EDWARD R. LEV.

STATEMENT OF ELDER, HARMON L., WASHINGTON REPRESENTATIVE OF THE SOUTHERN STATES INDUSTRIAL COUNCIL

The Southern States Industrial Council is an organization with approximately 3,000 member companies employing more than 3,000,000 people. Both the companies and their employees as citizens and taxpayers have a substantial interest in the proper functioning of the U.S. Postal Service and the effects thereon of collective bargaining by postal employees.

We are concerned about H.R. 5312 which would amend the Postal Reorganization act by striking out Subsection C of Section 1209, which guarantees postal employees the right to refrain from joining labor unions. We are likewise concerned about H.R. 1282 which would confer on postal employees the "right" to strike.

The American public does not like compulsion and believes each individual should have freedom of choice in the ordering of his own affairs, as well as freedom of speech and freedom of association. These freedoms are violated by forced union membership and the forced payment of dues and fees to labor unions as the price of being permitted to work at one's job. Survey after survey has shown the public's support of the Right to Work without being forced to join a union. This public antipathy to compulsory unionism was responsible for the action of the House in adding to the postal reorganization bill the provision that employees of the postal service shall have the right to form, join and assist labor organizations or to refrain from any and all of these activities.

Union officials had demanded the extension of compulsory unionism to postal workers as the price for their support of the bill and had succeeded in having a bill reported to the House floor without a "right to refrain" provision. But the House, responding to the will of the people, refused to knuckle under to union officials and by floor action added the important section guaranteeing to postal workers their freedom of choice. Now these union officials are back only two years later pressuring the Congress to deliver postal workers into their hands so they can force them to pay dues and fees into union treasuries.

Compulsory unionism for employees in the private sector is indefensible because of its violations of basic Constitutional, civil and human rights. Subjecting employees of the quasi-public U.S. Postal Service to compulsory unionism would be worse. These employees are entitled to the same protection against forced unionism as employees of the Federal government, whose right to join and assist unions and corresponding right to refrain was spelled out for the first time in an Executive Order by the late President John F. Kennedy. That protection has been renewed by Executive Order of each succeeding President.

There is great and growing concern among the people of this country about the excessive, monopolistic power of big labor unions. More and more they see that it is a major cause of the current critical imbalance in the American econ-

omy, inflated costs and prices, and inability of U.S. business firms to compete in world markets. The accumulation of union power has been made possible by the privilege given to union officials of obtaining contracts with private employers which require the payment of union dues and fees as a condition of employment. Authorizing compulsory unionism contracts covering postal workers would contribute substantially to the already excessive economic and political power of labor unions. Furthermore, it undoubtedly would be used as the opening wedge for extension of forced unionism to all government employees.

Conferring on members of postal unions a legal right to strike would flout the right of citizens and taxpayers to expect the maintenance of an essential service. Disruption of delivery of the U.S. mails because of a union dispute would work serious hardships on almost everyone. Normal operation of most business enterprises would become impossible. Old age pensioners and incapacitated persons, dependent on checks they receive through the mails for subsistence, would be among those hardest hit by a strike called by a postal union.

Those workers who think they must be able to walk off the job to get their way with an employer should not work for the U.S. Postal Service, but should seek jobs in private industry. No one is forced to work for the postal service, and those who do so should recognize an obligation for uninterrupted service to the public.

Giving postal unions authorization for compulsory unionism and the right to strike would make union officials the czars of the postal service. They would have the power to decide how and when the mails would be delivered, or if they would be delivered at all, and they could virtually dictate to the public the price for postal service.

The Southern States Industrial Council strongly opposes taking away from postal workers their right to refrain from union membership and giving postal union members the right to strike. We are convinced that rather than the improved postal service the people expected from the postal reform bill, the result would be further deterioration and the probability of complete disruptions at times of the postal service. The public would not long stand for it, and might well insist upon the complete withdrawal of recognition of postal unions by the U.S. Postal Service and prohibition of collective bargaining with these unions as representatives of postal workers.

CHAMBER OF COMMERCE OF THE UNITED STATES,
Washington, D.C., April 30, 1973.

HON. CHARLES H. WILSON,
*Chairman, Subcommittee on Postal Facilities, Mail and Labor Management,
Committee on Post Office and Civil Service, House of Representatives, Wash-
ington, D.C.*

DEAR MR. CHAIRMAN: The Chamber of Commerce of the United States opposes H.R. 1282, which would grant employees of the United States Postal Service the right to strike, and H.R. 5312, which would permit unions representing postal service employees to seek compulsory union security clauses in their collective bargaining agreements.

These two bills would remove from the law two carefully considered protections. H.R. 1282 removes the protection for all citizens' free access to continuous mail service. The second bill, H.R. 5312, removes the right to work protections which now guarantee that each postal employee can continue his employment without having to join or support any private organization, such as the private unions representing postal employees.

The postal service is fundamentally a service to all the people of the United States and should be operated in their interest. Whatever its form of organization, it remains a governmental entity, providing services mandated by the Constitution. These services should not be threatened or halted by labor disputes between the service and its employees. There is no place for strikes in the postal service, just as there is no place for strikes elsewhere in the federal service.

H.R. 1282, by granting postal service employees the right to strike, runs counter to the established pattern and tradition that the right to strike will not be granted to employees of the federal government.

Unlike the private sector, where many employers compete in providing the same types of goods and services, the postal service holds a monopoly on the

basic means of written communication. Thus, postal strikes would adversely affect much of the commerce and industry in the United States.

All citizens would feel the impact of a postal strike. In such a strike, the main pressure to settle would not be the competing economic hardships created between the parties, but rather the public pressure to return postal services to full operation. And, the main pressures would be on management to gain a settlement whatever the cost. This is, we submit, an unconscionable way to determine the proper allocation of federal tax resources, and to determine the operating costs and expenses within a federal entity.

We fully support Postmaster General Klassen's testimony before this Subcommittee in which he opposed both the grant of the strike privilege and the proposal to allow negotiation of a union shop. With respect to the strike issue, Mr. Klassen indicated that the existing procedures for dispute settlement should be made to work.

With this we must agree. Absent the right to strike, we do believe that reasonable methods should be provided to satisfactorily settle labor disputes in the postal service. Without endorsing the specific procedures now in the law for resolution of these disputes, we do note that the law provides such mechanisms which Postmaster General Klassen has said "should be made to work."

H.R. 5312 would permit unions representing postal workers to negotiate union security clauses in their collective bargaining agreements. These clauses would force all employees at least to pay dues to a private organization in order to retain federal employment. If permitted, this would be a step backwards in the cause of individual freedom.

The right to work—free from the compulsion of forced union membership or support—ought to be the universal rule in the United States rather than the exception it now is in all employment, private as well as public. But to permit the introduction of compulsory unionism into any portion of the public services, even in the corporate form of the postal service, would be an intolerable infringement on personal liberty. No citizen ought to be compelled to join a private organization in order to retain his job with his government.

The union proponents of H.R. 5312 assert that "free riders" gain benefits from union representation without paying for them. Yet almost 90% of all postal service employees represented by unions are voluntary union members.

No worker, in the public or private sector, ought to be forced to support any private organization in order to keep his or her job. That this is not universally true in the private sector is unconscionable. That attempts are now being made to undermine this freedom in the public sector is doubly unconscionable.

We respectfully urge this Subcommittee not to report either H.R. 1282 or H.R. 5312.

We will appreciate your consideration of these views, and we request that this letter be made a part of the hearing record.

Cordially,

HILTON DAVIS,
General Manager, Legislative Action.

THE METROPOLITAN WASHINGTON BOARD OF TRADE,
Washington, D.C., April 19, 1973.

Mr. JOSEPH T. MAHONEY,
Assistant Staff Associate, Subcommittee on Postal Facilities and Mail, Committee on Post Office and Civil Service, U.S. House of Representatives, Washington, D.C.

DEAR MR. MAHONEY: We appreciate your sending to us for comment a copy of H.R. 1282, a bill to amend the Postal Reorganization Act of 1970.

It was not possible for us to consider this legislation until a meeting of our Board of Directors held on just this past Monday. Our Board voted emphatically that I should transmit to you the position of the Metropolitan Washington Board of Trade that it is unalterably opposed to this legislation.

It will be appreciated if you will so register our opposition in the record of this legislation.

Sincerely,

WALTER F. McARDLE.

GOVERNMENT EMPLOYEES COUNCIL, AFL-CIO,
Washington, D.C., April 24, 1973.

HON. CHARLES H. WILSON,
*Chairman, Subcommittee on Postal Facilities and Mail, House Committee on
Post Office and Civil Service, Washington, D.C.*

DEAR MR. CHAIRMAN: The Council will appreciate very much your agreement to include in the record of recent hearings on bills according postal workers the right to strike and the right to negotiate union security arrangements, the enclosed statement supporting your bills, H.R. 1282 and H.R. 5312.

Achievement of stability in postal labor relations indicates a need for enacting these legislative proposals. Certainly, all of us desire to avoid serious labor unrest, which could result in a confrontation between postal employees and management. We believe enactment of your bills will contribute greatly to the establishment of mature labor relations, which will serve the needs of all parties, including postal patrons.

The Council is hopeful that the Subcommittee will approve the pending legislation at an early date.

Your cooperation in incorporating the GEC's statement in the hearing record will be most helpful.

Respectfully yours,

JOHN A. MCCART,
Operations Director.

Enclosure.

STATEMENT OF JOHN A. MCCART, OPERATIONS DIRECTOR, GOVERNMENT
EMPLOYEES COUNCIL, AFL-CIO

Mr. Chairman and members of the subcommittee, the Government Employees Council, AFL-CIO, desires to extend to you and your colleagues our heartfelt appreciation for arranging hearings on legislation dealing with fundamental rights of workers under a democratic form of government. The right of employees to discontinue their services to employers is thoroughly grounded in the philosophy of laws of our country. Although the ability of unions and management officials to bargain union security provisions into negotiated contracts is of more recent vintage, it has been an important part of our national labor relations law for more than 30 years.

These are the two basic issues highlighted in the bills introduced by the chairman of the Subcommittee, Representative Charles H. Wilson—H.R. 1282 and H.R. 5312.

The Government Employees Council supports both bills.

Approximately 30 members of the House have introduced measures dealing with these subjects. Some are members of this Subcommittee. Others serve on the House Post Office and Civil Service Committee. We are grateful to them for bringing to the attention of the public the need for enacting legislation to allow postal workers and the unions which represent them to bargain with their employer as equals.

RIGHT TO STRIKE

Enactment of the Lloyd-LaFollette Act in 1912 recognized the right of postal workers to maintain membership in unions which did not engage in or support a strike against the United States.

Even before Congress approved that legislation, workers in Federal activities found it necessary to use strikes to protest intolerable conditions. August, 1835, may seem far removed in time from the ban inserted in the Lloyd-LaFollette Act. But that is the date of the first recorded work stoppage in Federal service. In subsequent years, strikes of Federal workers occurred in the Navy, Army, Civilian Conservation Corps, Tennessee Valley, Government Printing Office, and Post Office Department.

Congress approved the Taft-Hartley Act in 1947. As amended, the statute governs labor relations as a matter of national policy. The 1947 law contained a provision (Section 305) requiring the discharge, loss of civil service status, and ineligibility for reemployment by the Federal Government for three years for a Federal worker who participated in a strike.

In 1955, Public Law 84-330 repealed the Taft-Hartley provision and made it a felony for Federal employees to strike or assert the right to do so, or knowingly to belong to an organization which claims such a right. The penalty is a fine of not more than \$1,000 or imprisonment of not more than one year and a day or both.

Such is the historical background of the legal sanctions against strikes by Federal employees.

Dramatic changes in the social structure of our society have occurred since postal workers were forced to plead with Congress in 1912 to approve legislation recognizing their right to organize unions. A substantial modification of the attitudes of the public and government bodies towards unions in the public service has developed in the past decade alone. The time has arrived for Congress to review the law prohibiting postal employees from striking, particularly in light of the labor management provisions of the Postal Reorganization Act of 1970.

That statute empowered unions possessing exclusive representation rights and officials of the Postal Service to engage in collective bargaining over a host of subjects, which were previously controlled by laws. It established an elaborate and cumbersome machinery for resolving negotiation disputes. A minute number of working conditions, such as retirement, compensation for injury, and political activity, continue to fall under the umbrella of statute. Even here, some of the subjects are available for limited collective bargaining.

However, the fundamental element required to establish equality between unions representing workers and Postal Service officials—the right to strike—is missing. When all of the machinery for settling negotiation deadlocks is utilized and proves ineffective, management continues to possess an undue advantage in the bargaining process. The purpose of the pending legislation is to correct the present imbalance by permitting employees as a last resort to refuse to continue working under conditions which they believe undermine the principles of trade unionism.

The core of the problem was discerned by Professor Archibald Cox of Harvard University when he characterized possession by employees of the right to strike as the "——motive power which makes collective bargaining work."

Related more directly to the application of this concept to the Postal Service are some observations offered by Theodore W. Kheel in 1969. Mr. Kheel is a recognized authority on labor relations and a noted arbitrator.

"For better or worse, the conclusion is inescapable that collective bargaining cannot exist if employees may not withdraw their services or employers discontinue them.

"When all strikes are barred, collective bargaining or joint determination is out except to the extent that express or implied threats to violate the law create a bargaining atmosphere which is hardly the way to encourage respect for law."

He was writing, of course, about strikes in public service.

In October, 1971, a group of 75 government, business, communications, legal, academic, and labor leaders discussed public service bargaining under the auspices of the American Assembly of Columbia University.

The majority of participants subscribed to this conclusion—

"Following lengthy discussions the Assembly recommended a limited right to strike after public unions have exhausted obligatory procedures. This was considered preferable to compulsory arbitration."

A geographical counterpart to the Assembly, the Western Conference, reflecting the same segments of society, in May, 1972, decided that public workers should possess the right to strike.

Viewed from the perspective of a century and a half of experience, the absence of laws governing public service labor relations or the existence of laws denying public employees the right to strike do not avoid strikes. Rather, they avoid the basic problem.

Some who do not understand or are unsympathetic to the goals of working people and the responsibilities they entrust to the elected union leaders attempt to portray their efforts as selfish grasping for power, regardless of the wishes of union members and the public good.

Bernard Stephens in an anthology titled "Sorry—No Government Today" (Beacon Press—1969) characterized quite aptly the attitude of unions about strikes—

"Union leaders in any area, public or private, know very well the cost and peril of a strike—the ultimate weapon. But often it is the only resort left open to the workers and their leaders, since the employer may well be taking positions that can be met only with a strike. In many cases the public official feels that he 'needs' a strike in order to show he had to give a raise. Of course, the public employees are always blamed. The fact is that strikes are rarely, if ever, 'called' by a leader over the opposition of the employees involved. It would be a pretty stupid leader who did that, since the strike's effectiveness would be severely limited or destroyed.

"A strike is a traumatic experience in the life of anyone who has experienced it; a strike is not taken lightly."

The purpose of the postal unions' seeking repeal of the statutory prohibition in their Service, then, is not to encourage and foment labor unrest, but to insure them an equal status in bargaining with their employer so that stable relations can be achieved. Hopefully, it will never again be necessary for postal workers to resort to a strike. The existence of the right to strike should aid in forestalling that possibility.

In the public service, the interest of citizens in the collective bargaining system cannot be ignored. Congress could appropriately decide that in the Postal Service special conditions would apply to strikes. Various mechanisms, such as a "cooling off" period, Presidential fact finding boards, insuring continuation of critical services, could be employed to safeguard the interest of the public.

UNION SECURITY

Despite the persistent attacks on the practice of agreements between unions and employers providing for union security arrangements, it has survived as a matter of national policy grounded in law. Our basic statutes sanctioning collective bargaining have contained a recognition that encouragement of stable relationships between workers and employers demands the ability of unions to insure their survival.

Roughly 80% of all union members work under some type of union security provision.

What seems to be at issue in the view of opponents of union security clauses in negotiated agreements is curtailment of the right of the individual worker to exercise free choice. That, however, is not the heart of the matter.

In any society, particularly the type we enjoy, each citizen assumes certain obligations to his fellows. Otherwise, there would be chaos. These relationships exist in the political order, in family life, and at the work site. Our day to day activities necessitate sharing rights as individuals so that all will be benefited.

The same rationale exists in the relationship between workers and employers. Employees band together and form unions to accomplish their mutual objectives in relations with management. Decisions are made by workers on a majority basis. Those in the minority, including individuals who do not share the commitment to the union, have an obligation to their fellow workers to attain the common good.

This is the substance of the philosophy of unionism and, more particularly, of the majority to seek union security arrangements. If all workers are to benefit from the efforts of the union in their behalf, then all must participate in supporting the organization which produces those benefits through collective bargaining.

Whether we in the union movement accept the situation, the fact is that our national labor policy—and the Postal Reorganization Act—require that a union acquiring exclusive bargaining rights represent all workers in the bargaining unit on an equal basis. All employees share the desirable features of the bargained agreement. All employees have a right to call on the union for assistance in adjusting grievances, whether they are members or not.

To insist that workers can refuse to bear their share of the cost of this representation is unfair to the majority who elected the union to act in their behalf, and, in the final analysis, threatens the continued existence of the organization.

These are the reasons underlying the support of the postal unions and the Government Employees Council for H.R. 5312.

One fact of this legislation cannot be overlooked. Approval by Congress of a law permitting union security arrangements in the Postal Service will not automatically entitle the unions to unilaterally install such a system. As in private industry, it will simply permit the unions and Postal Service management to negotiate the issue. The legislation does not commit management to accept a union security proposal, but only to bargain on the subject.

Contentions by organizations opposing union security create the impression that union bargaining proposals do not represent the will of the members, that "sweetheart" contracts result from ignoring the will of workers who disagree, and union funds are used for political purposes in defiance of employees' wishes. Such distortions display naivete about the operations of unions. In the entire process of maintaining relationships to employers unions insist that basic decisions be made by the members. This applies to the preparation of contract proposals, ratification of agreements reached by union and management representatives, and grievances. It must be obvious to anyone who studies the characteris-

tics of union organization that unions would not have survived without the support of their members in achieving their goals.

Finally, the existence of union security agreements in negotiated contracts helps to insure stability in labor relations. Numerous employers in private industry have attested to the desirability of such provisions in their contracts. From the management point of view, these arrangements stimulate expeditious settlement of grievances, establish the union as the focal point of responsibility for the workers, and enhance the interest of employees in their jobs.

The Government Employees Council recommends that the Subcommittee promptly approve H.R. 1282 and H.R. 5312.

COMMUNICATIONS WORKERS OF AMERICA,
Washington, D.C., May 7, 1973.

File: 1.14.

Mr. GEORGE GOULD,
Counsel, Subcommittee on Postal Facilities, Mail and Labor Management,
Cannon House Office Building, Washington, D.C.

DEAR MR. GOULD: Attached you will find testimony which the Communications Workers of America is submitting for the permanent written record concerning your recent hearings on H.R. 5312 and H.R. 1282, legislation to allow postal workers the right to strike and negotiate union security provisions.

Sincerely yours,

JOSEPH A. BEIERNE,
President.

Attachment.

STATEMENT OF THE COMMUNICATIONS WORKERS OF AMERICA, SUBMITTED TO THE
HOUSE SUBCOMMITTEE ON POSTAL FACILITIES, MAIL AND LABOR MANAGEMENT,
MAY 1973

The Communications Workers of America, which represents over 550,000 men and women in collective bargaining, endorses the enactment of legislation that would grant America's postal workers and letter carriers the right to strike and the right to negotiate union security provisions in their collective bargaining agreements with the United Postal Service.

Postal employees and telephone employees are both members of the same general family of workers, communications workers. Both of us are involved in transmitting messages that make it easier for American businesses to operate, for American government to function and for the American people to communicate with each other. Both postal workers and telephone workers play an indispensable role in linking America with the other nations of the world.

Currently postal workers are the victims of discrimination by the United States Government. Federal laws apply one set of standards to workers in the general population, another set to government employees, and a third set to those employed by the Postal Service. Postal workers have the obligations and responsibilities of private sector labor-management relations but are denied the fundamental right to strike and the basic privilege of negotiating union security clauses.

As a result, postal employees have become second-class citizens. They are deprived of the basic liberties enjoyed by other unionized working people.

To help remedy this situation, Representative Charles Wilson, of California, Chairman of the Subcommittee on Postal Facilities, Mail and Labor Management, has introduced H.R. 1282, a bill which would remove the existing prohibition against striking by postal employees. This bill would grant to postal employees the right already possessed, under federal law, by all other employee groups which engage in genuine collective bargaining.

At present every postal employee must take an oath not to participate in a strike. Any postal employee who goes out on strike may—under the law now in effect—be fined \$1,000 and sentenced to a year and a day in jail.

It is noteworthy that the head of the United States Postal Service, Postmaster General Elmer T. Klassen, formerly held the view that Postal Service employees should have the right to strike and that postal management should be permitted to exercise the right of lockout. Recently, however, the Board of Governors of the Postal Service, which itself is in need of revision as it contains not a single labor representative, opposed the right to strike for postal workers. Postmaster Klassen has recently hedged his position on this subject, presumably to reflect

that of his Board of Governors, but he is on record as having favored the right to strike for postal workers.

Opponents of the right to strike for postal employees frequently argue that the work of government employees is essential to the public interest. The plain fact, however, is that there are already more than one million private employees working on government contracts who have the right to strike. In 1970 there were one and one-half million workers engaged in supplying absolutely essential goods and services to the country in industries which receive more than half of their income from government contracts. These workers possess the undisputed right to strike. Their labor-management relations are governed by the machinery in the Taft-Hartley Act.

Most other Western nations expressly permit strikes in the public sector either by their national constitutions or by statute. Among these are France, Germany, and Italy, as well as Mexico, whose constitutions expressly guarantee the right of public employees to strike, along with Norway, Sweden, and Denmark, which authorize this basic right by statute.

Those who oppose the right to strike for postal employees also assert that postal employees would be prone to walk off the job if they possessed the authority to do so. Statistics, however, are very revealing on this subject. During the mid-1960's, less than 2 percent of 150,000 collective bargaining agreements in force in the United States were affected by strikes. Just two-tenths of one percent of the total U.S. work time was lost by strikes. Almost 40 times that much was lost because of unemployment. At least eight times as much was lost because of accidents and illness.

Representative Wilson is also the sponsor of another measure which would unshackle the postal worker in his dealings with management. This is H.R. 5312, which would remove the prohibition against attempts by postal unions to negotiate union security provisions with their employer. The bill would put them on an equal footing in that respect with unions in the private sector.

Under H.R. 5312, anyone who wants to be a postal employee need not either join a union or support it. He would simply be required to pay his fair share of the operating costs of the union which negotiates for him and ensures that he receives the benefits that are won by collective bargaining.

A union shop agreement of this kind would not force anyone to join a union to obtain a job. It would not force an employee to picket or go out on strike. It would not force an employee to support any political party or political program against his will.

Despite spuriously generated and erroneous opinion, unions that have union security do not normally want work stoppages. They want problems settled quickly because prompt and just settlements are best for both them and their members.

The advantages secured to workers by their membership in a union which possesses union security and recognition are numerous. Such unions can see that their members are paid a reasonable wage, compatible with the established and expanding American standard of living. They can see to it that grievances are taken seriously and that every aggrieved worker has his complaint examined judiciously by management. Unions can oversee compliance by employers with legal and contractual requirements of safety, health, comfort, and conveniences in the workplace. Unions can protect workers from unreasonable speedups and the imposition of unrealistic production quotas. They can obtain agreement that employees will receive supplementary benefits commensurate with those generally provided by employers, such as paid vacations, sick leave, holidays with pay, maternity leave, group insurance, recreational facilities and discounts on company products.

In addition, a worker in a union shop benefits by having his union negotiate for fair rules of seniority, compassionate layoff procedures, termination pay, improved pensions, work breaks, avoidance of dehumanized and debilitating monotonous labor, avoidance of discrimination, and improved communication between management and employees.

Employers also gain when a union shop is established. They know whom to go to when they want a responsible representative of their workers. They know that workers' decisions on relations with management will be arrived at by democratic methods. They gain by having a stable work force, which is secure in the knowledge that its interests will be looked out for.

The Communications Workers of America urges prompt enactment of H.R. 1282 and H.R. 5312, which would remove postal employees from their current status as second-class citizens and grant them their most fundamental rights, the right to strike and the right to union security.

FROM: United Steelworkers of America
And
Coordinating Committee Steel Companies

FOR IMMEDIATE RELEASE

PITTSBURGH, PA., March 29---An unprecedented preliminary agreement that guarantees uninterrupted production in the American steel industry through July, 1977, was announced today by I. W. Abel, president of the United Steelworkers of America, and R. Heath Larry, vice chairman of U. S. Steel and chairman of the negotiating committee for 10 of the nation's major steel producing companies.

In a joint statement, the union and the companies said they have agreed on an experimental basis to establish voluntary final and binding arbitration for unresolved collective bargaining issues in the 1974 contract negotiations. Additionally, the parties have agreed not to call a general strike or employ the lockout in support of their respective bargaining positions.

In making the announcement, Mr. Abel and Mr. Larry emphasized the need for a new approach for settling bargaining differences, pointing out that both the industry and employees have long suffered economic losses needlessly as a result of steel hedge buying in anticipation of deadlocked contract negotiations and the possibility of a general work stoppage.

"Cyclical swings in operations and employment reflected by accumulation and liquidation of inventories by steel consumers," they noted, "have had a devastating economic impact not only on the steelworkers and companies, but also on the communities where steel operations are located in virtually every state of the nation.

"Furthermore, the periodic potentiality of a shutdown of steel operations -- in spite of a history of harmonious settlements since 1959 -- has been largely responsible for attracting large volumes of foreign steel. These heavy steel imports have had a serious adverse effect on the U. S. balance of payments as well as on the employees and the domestic steel industry.

"Both parties feel sure that the action taken today will assure the nation and steel customers a constant supply of steel and an end to the 'boom-bust' cycles associated with past labor contract negotiations."

Under the new experimental negotiating procedure, approximately 350,000 employees in the Basic Steel Industry will be assured of minimum wage increases of 3 per cent on August 1 in each of the years 1974, 1975 and 1976. These pay increases will be added to the incentive calculation wage scale as well as to the non-incentive scale. The cost-of-living wage adjustment provisions in effect on July 31, 1974, will be continued.

Because economic advantages could accrue to the companies by elimination of the effects of hedge-buying and shutdowns, the agreement also provides for a one-time uniform bonus of \$150 for those who have employee status on August 1, 1974.

"The new agreement," Mr. Abel and Mr. Larry emphasize, "not only provides for additional wages and benefits for employees, but will also provide an opportunity for the companies to increase production through stability of operations and enhance the steel industry's competitive position."

Under the new agreement, the union has retained a right to strike at a particular operation over local issues unique to that operation.

Both Mr. Abel and Mr. Larry concur, however, that if such local plant strikes do materialize, the likelihood of any significant disruption of domestic steel production will be minimal.

Under the new bargaining arrangement, the parties will begin actual negotiations for new agreements no later than February 1, 1974. The contractual discussion will encompass all matters of wages, hours and working conditions, as usual.

The union and the companies agree to refer, by April 15, 1974, unresolved contract issues including wages, to an Impartial Arbitration Panel for decision on or before July 10, 1974. The panel, has the authority to decide all issues referred to it by the parties and to settle any questions about the implementation of its decisions which the parties cannot resolve, no later than midnight, July 31, 1974.

The 10 Coordinating Committee Steel Companies are:

Allegheny Ludlum Industries, Inc.
Armco Steel Corporation
Bethlehem Steel Corporation
Inland Steel Company
Jones & Laughlin Steel Corporation
National Steel Corporation
Republic Steel Corporation
United States Steel Corporation
Wheeling-Pittsburgh Steel Corporation
The Youngstown Sheet and Tube Company.

###

(#14019)

This Experimental Negotiating Agreement, dated March 29, 1973, is between United Steelworkers of America (hereinafter referred to as the "Union") and the Coordinating Committee Steel Companies (hereinafter referred to as the "Companies") and is applicable to Union-represented employees in the plants listed in Appendix A (hereinafter referred to as "employees").

It is highly desirable to provide stability of steel operations, production and employment for the benefit of the employees, customers, suppliers and stockholders of the Companies, and the public. To attain this objective requires that the Union and the Companies settle issues which arise in collective bargaining in such a way as to avoid industry-wide strikes or lockouts or government intervention. The parties are confident that they possess the requisite ability and skills to resolve whatever differences may exist between them in future negotiations through the process of free collective bargaining.

The parties believe that this Agreement will enhance the success of the 1974 negotiations, will avert a strike-hedge steel inventory buildup and will reduce foreign steel imports into the United States.

In view of the foregoing, it is agreed by the Union and the Companies that they will make every effort to resolve through negotiations any differences which may arise in bargaining. After thorough bargaining in good faith the parties may submit any unresolved issue (which is not excluded from arbitration by this Agreement or any subsequent agreement between the parties) to final and binding arbitration by an Impartial Arbitration Panel in accordance with the provisions hereinafter set forth. The submission of any issue to final and binding arbitration shall not preclude the parties from continuing to bargain on such issue prior to the issuance of a decision by the Impartial Arbitration Panel.

A. Strikes and Lockouts:

Except as otherwise provided in Paragraph 5 of Section D of this Agreement, the Union on behalf of the employees agrees not to engage in strikes, work stoppages or concerted refusals to work in support of its bargaining demands, and the Companies agree not to resort to lockouts of employees to support their bargaining positions.

B. Wage Increases:

1. Effective August 1, 1974, the rates in effect July 31, 1974 shall be increased as follows:
 - a. Each standard hourly job class rate for nonincentive jobs shall be increased by 3% of such rate.
 - b. Each hourly job class rate for incentive jobs shall be increased by the same cents per hour as the corresponding standard hourly job class rate for nonincentive jobs with no increase in the hourly additive.*
 - c. Each standard salary rate shall be increased by 3%.

2. Effective August 1, 1975, the rates established by B-1 above shall be increased as follows:

- a. Each standard hourly job class rate for nonincentive jobs shall be increased by 3% of such rate.
- b. Each hourly job class rate for incentive jobs shall be increased by the same cents per hour as the corresponding standard hourly job class rate for nonincentive jobs with no increase in the hourly additive.*
- c. Each standard salary rate shall be increased by 3%.

3. Effective August 1, 1976, the rates established by B-2 above shall be increased as follows:

- a. Each standard hourly job class rate for nonincentive jobs shall be increased by 3% of such rate.
- b. Each hourly job class rate for incentive jobs shall be increased by the same cents per hour as the corresponding standard hourly job class rate for nonincentive jobs with no increase in the hourly additive.*
- c. Each standard salary rate shall be increased by 3%.

4. For hourly paid employees covered by basic labor agreements containing base rates differing from the scales of rates in Appendix A and Appendix A-1 of the basic labor agreement between United States Steel Corporation and the Union covering production and maintenance employees in the steel plants, and for salaried employees covered by basic labor agreements containing base rates differing from the scale of rates in Appendix A of the basic labor agreement between United States Steel Corporation and the Union covering salaried employees in such plants, the base rates shall be increased each August 1 by the same percentage as set forth above.

* The adjustment each August 1 for an employee on a job covered by an existing incentive plan not based on the Incentive Calculation Rate Scale shall be made in the same manner as the adjustments that were made effective August 1, 1971.

C. Bonus:

In consideration of the contribution made by employees to stability of steel operations, each employee as of August 1, 1974, shall receive \$150.00 in the pay period next closed and calculated after September 30, 1974. Any dispute as to whether an employee is eligible for a bonus payment will be a proper subject for the grievance and arbitration procedure under the applicable basic labor agreement.

D. The Negotiations and Arbitration:

1. It is the intention of the parties hereto that all issues, except as otherwise provided herein, which arise in collective bargaining between the parties shall be either resolved by them or decided by the Impartial Arbitration Panel. In order to achieve this objective:

- a. The negotiating teams representing the Union and the Companies will begin negotiations not later than February 1, 1974 for new agreements applicable to employees. If, after the date of this Agreement, a Union-represented bargaining unit becomes covered by a basic labor agreement covering plants listed in Appendix A, because of a provision of such basic labor agreement making it applicable to such unit, such unit shall be added to Appendix A.

b. Not later than April 15, 1974, the parties shall:

- (1) reach a full settlement agreement on all issues; or
- (2) agree that certain specified issues are settled (through collective bargaining or special procedures) and certain other issues will be submitted to the Impartial Arbitration Panel (established in accordance with the provisions of Section E of this Agreement) for final and binding decision; or
- (3) withdraw all offers and counter-offers and, except as otherwise provided herein, submit to the Impartial Arbitration Panel for final and binding decision such issues as the parties respectively may urge upon the Panel.

2. If arbitration is required, the parties shall not later than April 20, 1974 submit to the Impartial Arbitration Panel an agreed upon list of issues to be submitted to the Panel or, if no agreement has been reached on such a list, their respective lists or formulations of such issues. Within twenty days thereafter each party shall submit to the Panel and to each other a detailed written statement supporting its position on the issues before the Panel for determination. Within ten days subsequent to the filing of written statements of position with the Panel, the parties may file with the Panel and exchange written replies to each other's statements, which shall be restricted to responses to the other party's written statement. Subsequent to the receipt of the written statements of position and replies, the Panel shall conduct hearings and shall render its decisions in accordance with Paragraphs 4, 5 and 6 of Section E of this Agreement.

3. Prior to the commencement of hearings by the Panel, representatives of the parties shall meet with the Chairman of the Panel and establish procedures to be followed at the hearings with respect to the following matters: (i) order of presentation, (ii) allocation of time for presentation, (iii) designation of persons to present and comment on parties' positions, and (iv) such other procedural matters as the Chairman and the aforementioned representatives may agree upon.

4. The Panel's decision shall be rendered not later than midnight, July 10, 1974. Subsequent to the issuance of the Panel's decision, the parties shall have until midnight, July 20, 1974, to reach agreement as to any contract language and any other steps required to implement the Panel's decision. Absent final agreement by the parties by July 20, 1974, as to such language or other implementing steps, either party may immediately refer any such unresolved questions to the Panel which shall make a final and binding determination on such questions on or before midnight, July 31, 1974.

5. Local collective bargaining issues:

a. Definition

A local collective bargaining issue is an issue entered at plant level, proposing establishment of or change in a condition of employment at that particular plant which:

(1) would not, if adopted, be inconsistent with any provision of a company agreement (as defined below) or involve any addition to or modification of any such provision or agreement;

(2) would not be an arbitrable grievance as defined in the applicable basic labor agreement; and

(3) does not relate to a grievance settlement or an arbitration award; provided, however, this subparagraph (3) does not apply to non-arbitrable grievances.

Subparagraph (2) above shall not exclude an issue which involves a local agreement or practice relying for enforceability on Section 2-B of the basic labor agreements between United States Steel Corporation and the Union and its counterpart provisions in the agreements of the other Companies.

The term "company agreement" means any basic labor agreement and all related appendices, understandings, or agreements, including those covering pensions, insurance, SUB or SVP, which contain the kinds of provisions, although not in identical language, included in such agreements between the International Union and the United States Steel Corporation. Any provision of a company agreement that is solely applicable to a particular plant and is not the kind of provision contained in such agreements between the International Union and the United States Steel Corporation shall not be considered part of a company agreement for the purpose of this definition.

b. Procedure for disposition

The parties shall make every effort to settle local collective bargaining issues and in order to achieve this objective shall proceed as follows:

(1) Discussions with respect to these issues shall commence at plant level at such time as the parties locally shall deem necessary but in no event later than April 1, 1974. This date shall likewise be the cutoff date and no additional issues, except for those issues which thereafter arise as a result of changed conditions, may subsequently be initiated by either party under the procedures of this Agreement at the plant level.

(2) Any local issue not disposed of by May 1, 1974 shall be referred to and dealt with by the respective Chairmen of the Union-Company negotiating committee.

(3) Should any such issue or issues initiated by the Union remain unresolved as of June 10, 1974, the Union Co-Chairman shall decide whether the issue or issues shall be withdrawn or put to a secret ballot vote available to all employees at that plant as defined in Appendix A, who worked or were on vacation in the last pay period closed on or before June 10, 1974. Such election, to be valid, must take place no later than June 30, 1974. Every such eligible employee shall be entitled to a ballot furnished by the International Union and appropriate ballot boxes, properly supervised, will be made available for the casting of such ballots. Such ballots shall be collected and counted by tellers selected in conformance with International Union procedures. If a majority of those voting vote in favor of a strike, and if the matter is not otherwise

resolved, the matter shall no later than July 8, 1974 be referred by the Union Co-Chairman to the President of the International Union along with a request for permission to strike the plant in which the issue or issues originated. His decision on the request for permission to strike shall be forwarded in writing to the Union Co-Chairman with a copy to the Company Co-Chairman not later than July 15, 1974. Should permission to strike be granted by the President of the International Union, he shall at the same time specify the date on which the strike, if it is to occur, must commence, which shall not be earlier than the first scheduled turn of August 1, 1974, and such strike shall be confined to the plant where the issue or issues originated and as defined in Appendix A. The right to strike pursuant to permission granted by the President of the International Union shall automatically be canceled and the issue between the parties deemed resolved if the strike does not commence on the first scheduled turn of the date specified by the President of the International Union except as the parties at the International-Company level shall agree to another date.

Should any local collective bargaining issue or issues initiated by a Company remain unresolved as of June 10, 1974, the Company shall decide whether the issue or issues shall be withdrawn or become the basis for a lockout at the plant involved. The requirements as to timetable and date of commencement of any lockout by any Company shall be the same as those set out above for strikes over local collective bargaining issues, as more specifically set forth in the balance of this paragraph. The Company's decision shall be forwarded in writing to the Union Co-Chairman not later than July 15, 1974. Should the Company decide to lockout at a plant in support of a local collective bargaining issue or issues, the notice shall specify the date on which the lockout, if it is to occur, must commence, which shall not be earlier than the first scheduled turn of August 1, 1974, and such lockout shall be confined to the plant where the issue or issues originated and as defined in Appendix A. The right to lockout shall automatically be canceled and the issue between the parties deemed resolved if the lockout does not commence on the first scheduled turn of the date specified in the notice except as the parties at the International-Company level shall agree to another date.

Any such strike or lockout shall cease upon the resolution of the local collective bargaining issue or issues because of which such strike or lockout commenced.

6. Issues excluded from arbitration

The Impartial Arbitration Panel shall not have jurisdiction of, and the parties shall not present to the Panel, any issue affecting or relating to:

- a. The Section 2-B Local Working Conditions provisions of the basic labor agreements between the United States Steel Corporation and the Union and counterpart provisions in the agreements of the other Companies.
- b. The Union Membership and Checkoff provisions of any such agreements.
- c. The Cost-of-Living Adjustment provisions of any such agreements, but the Panel shall consider the cost of such item in rendering its decisions on

wages and other issues presented to it.

d. The uniformity (or current relationship of parity, in the event that uniformity does not prevail) of wages and benefits between and among the various units, plants or operations covered by this Agreement. Nor shall the Panel make any determination which would result in a different application, than has historically prevailed, of the wage or benefit features of its award as among such units, plants or operations.

e. The wage increases and bonus granted under Sections B and C of this Agreement, but the Panel shall consider the cost of such items in rendering its decisions on wages and other issues presented to it.

f. The no-strike and no-lockout provisions of any such agreements.

g. The management rights provisions of any such agreements.

E. The Impartial Arbitration Panel:

1. Appointment.

The Impartial Arbitration Panel shall consist of five members, one appointed by the Union, one appointed by the Companies and three impartial members appointed by agreement of the parties. Two of the three impartial members shall be persons who are thoroughly familiar with collective bargaining agreements in the steel industry. The Union and the Companies will inform each other as to the identity of their respective members on or before February 1, 1974 and also on or before such date agree upon the three impartial members of the Panel and designate a Chairman.

2. Successorship.

In the event of refusal to serve, death, incapacity or resignation of any member of the Panel, a successor having essentially the same qualifications as his predecessor on the Panel shall be immediately appointed to fill such vacancy in the manner provided for the appointment of members in E-1 above.

3. Method of voting.

All matters presented to the Panel for its determination shall be decided by a majority vote of the impartial members of the Panel. The members representing the Union and the Companies shall not have a vote. The Panel, prior to a vote on any issue in dispute before it, shall, upon the joint request of the Union's and Companies' members of the Panel, refer the issue back to the parties for further negotiations, provided that such a request is made not later than June 30, 1974.

4. Time and place of hearing.

The Panel shall hold hearings at such times and places as agreed to by the parties for the purpose of developing those facts and additional arguments which the parties may desire to present or which the Panel may require. Each of the parties may invite to such hearings such members, employees, representatives

and staff as each may desire, who shall be provided with proper identification. The hearings shall begin not later than June 1, 1974.

5. Conduct of the hearing.

a. The record of the hearings shall include all documents, written statements and exhibits which may be submitted, together with a stenographic record. The Panel shall, in the absence of agreement of the parties, have authority to make whatever reasonable rules are necessary for the conduct of an orderly hearing. In the formulation of such rules the Panel shall be guided by the need to gather full information on all issues in an expeditious, orderly and informal manner. The impartial members of the Panel shall have the authority to limit the number of witnesses which the parties may call in support of their respective positions on any issue before the Panel, when, in their judgment, it is necessary to the expeditious inquiry into the dispute.

b. The Panel or any of its members may, at the hearing, call as witnesses such members, employees and representatives of the parties as may be necessary, and may participate in the examination of witnesses for the purpose of expediting the hearings or eliciting material facts. They may also request the parties to produce any evidence which they deem relevant to the issue before them.

c. The hearings may be conducted informally. The receipt of evidence at the hearing need not be governed by statutory or common law rules of evidence.

d. In order to encourage frank discussions between the parties during negotiations, those conversations which occurred and proposals made during such negotiations shall not be referred to in connection with the presentation of any issue to the Panel, except as the parties agree otherwise.

6. Decisions of the Panel.

a. All decisions of the Panel shall be in writing and shall set forth the facts and reasons for the Panel's conclusions with sufficient specificity to enable the parties to understand and implement the Panel's decisions.

b. Decisions of the Panel shall be effective as of August 1, 1974, and specific provisions of the award shall become applicable as of dates provided in the award.

c. Decisions of the Panel shall be final and binding on the parties.

7. Duration of the Panel.

The members of the Panel shall continue to serve until August 1, 1974 to assist the parties in the interpretation and implementation of the Panel's decisions.

8. Compensation and Costs of the Panel.

The Union's member of the Panel shall be paid by the Union and the Companies' member of the Panel shall be paid by the Companies. The compensation

and expenses of the impartial members of the Panel, as well as the costs incurred by the Panel in conducting the hearings, shall be borne equally by the Union and the Companies.

F. Term of the New Agreements:

The term of the new agreements shall be three years.

G. Continuation of Existing Agreement Terms:

Except as contained in or required by the award of the Panel or as agreed to by the parties, the provisions of the existing agreements (except for the Annual Cost-of-Living Adjustment Guarantees Section [Marginal Paragraphs 9.88, 9.89 and the last portion of 9.87, commencing with the word "subject," of the Agreement between the International Union and the United States Steel Corporation] which will no longer be applicable) will be carried forward in the new agreements. Should it become desirable to revise the cost-of-living formula (Marginal Paragraph 9.84 of the Agreement above and counterpart paragraphs of the agreements of the other Companies), the parties will negotiate in an attempt to reach agreement on such revision and, failing such agreement, either party may submit the issue of such revision to arbitration.

H. Term of Experimental Negotiating Agreement:

This Agreement shall become effective upon execution by the officers of the International Union and an authorized official of each of the Companies and shall terminate August 1, 1974, except to the extent that its continuation beyond that date is deemed necessary by the parties to achieve the objectives of this Agreement.

UNITED STEELWORKERS
OF AMERICA

By

[Signature]
[Signature]
[Signature]
Mitchell J. Maguire
William Wilson
John J. Johnis
John J. Johnis
John J. Johnis
John J. Johnis
John J. Johnis

ALLEGHENY LUDLUM
INDUSTRIES, INC.

By

J. E. Jones (132)

ARMCO STEEL CORPORATION

By

W. T. Maxwell

BETHLEHEM STEEL CORPORATION

By

[Signature]
[Signature]

INLAND STEEL COMPANY

By

[Signature]

JONES & LAUGHLIN STEEL CORPORATION

By

[Signature]

UNITED STEELWORKERS
OF AMERICA (Continued)

By

Charles H. Younglove

By

James P. Griffer
Howard Atholl

By

Roy H. Stevens

By

NATIONAL STEEL CORPORATION

By

S. B. McGuire

REPUBLIC STEEL CORPORATION

By

John R. Wall
W. E. Storer

UNITED STATES STEEL CORPORATION

By

Wm. L. Lipp
James H. Storer
W. E. Storer

WHEELING-PITTSBURGH STEEL CORPORATION

By

E. E. Graham

YOUNGSTOWN SHEET & TUBE COMPANY

By

John L. Graham

WALTER J. BURKE
INTERNATIONAL SECRETARY-TREASURER

I. W. ABEL
INTERNATIONAL PRESIDENT

JOSEPH P. MOLONY
INTERNATIONAL VICE PRESIDENT

United Steelworkers of America

AFL-CIO-CLC

1500 COMMONWEALTH BUILDING

PITTSBURGH, PA. 15222



PRINTED IN U.S.A.

PHONE: 471-3334
CABLE ADDRESS: USWA

April 16, 1973

TO: ALL USWA MEMBERS EMPLOYED IN THE BASIC STEEL INDUSTRY

Dear Member:

Your Union's Basic Steel Industry Conference met in Pittsburgh on March 28 and 29, and approved an understanding with the 10 major steel companies which, we believe, will enable us to negotiate satisfactory new contracts in 1974 without an industry-wide strike. It is important that you know the reasons which led to this understanding, the manner in which the new bargaining arrangement will work and why we think important gains can be made by our members and the companies if this new approach to collective bargaining works successfully.

Why a new bargaining arrangement?

Although there has not been a basic steel strike since 1959, the possibility that a strike might occur has led to a "boom and bust" production cycle every negotiating year. Customers, fearful that a strike may cut off their supply of steel, begin "stockpiling"—building large inventories of steel—many months before negotiations begin. They obtain some of this steel from American producers. The rest of the stockpiled steel comes from foreign producers. This opens the floodgates to steel imports, resulting in the loss of many jobs for our membership.

If we were to strike for new agreements, the huge inventories of stockpiled steel would prolong the shutdown. Steel customers would have no need for more steel for many months. Our members, under the circumstances, would have to prepare for a long strike.

But even when negotiations result in a settlement without a strike, our members pay a heavy price for stockpiling. After each of our successful negotiations in steel, production always drops dramatically. In fact, production slackened off in 1971 a whole month before the agreements expired.

The impact of this on our members is devastating. In 1971, 100,000 of our members were laid off, some of them before the old agreements expired. Many remained laid off for eight months or more.

The inroads made by the foreign steel producers during the stockpiling season tend to become permanent. In 1972, steel imports remained very close to their 1971 level of over 18 million tons. This indicates that the new customers won by foreign steel producers in 1971 continued to give them business.

This is a vicious cycle. Our members are hurt in two ways: (1) many suffer prolonged layoffs, demotions and reduced hours after negotiations are concluded, and (2) over the long term, the decline in employment in the American steel industry is significantly related to the expanded role of steel imports.

Because of our joint recognition of this problem, your Union officers and the Companies have been discussing possible solutions for many years. Recently, we were able to develop a solution—spelled out in an Experimental Negotiating Agreement. On March 28-29, the Basic Steel Industry Conference,

comprised of representatives from all of the basic steel local unions, met in Pittsburgh, considered the proposed understanding extensively, and overwhelmingly ratified it.

The Experimental Negotiating Agreement approved by the Steel Industry Conference applies only to the 10 companies that bargain together as the Coordinating Committee Steel Companies. (The 10 Coordinating Committee Companies are Allegheny Ludlum, Armco, Bethlehem, Inland, Jones & Laughlin, National, Republic, U. S. Steel, Wheeling-Pittsburgh and Youngstown Sheet & Tube). However, it is possible that other American steel companies will seek such an arrangement and will offer such terms and guarantees as will warrant the use of this new bargaining approach in our 1974 negotiations with such other companies.

The important features of this understanding are summarized below. (The full text will appear in a forthcoming edition of STEEL LABOR.) We urge you to study it carefully.

What are the terms of the Experimental Understanding?

Our current collective bargaining agreements in basic steel expire on August 1, 1974. Under the new experimental arrangement, we will renegotiate our current agreements. The new agreements will cover a three-year period from August 1, 1974 through July 31, 1977.

In our 1974 negotiations, under the Experimental Agreement, there will be no nationwide strike or lockout if the parties cannot agree on the terms of new collective bargaining contracts. Instead, they have voluntarily agreed that any nationwide bargaining disputes will be submitted to an Impartial Arbitration Panel. The Panel members will be outstanding persons chosen by the Union and the companies. There will, however, be a right to strike at the plant level on local collective bargaining issues, as described below. Because steel customers know there won't be a nationwide steel strike, there should be no stockpiling in 1973 and 1974.

In consideration of this understanding, the companies have agreed to important preliminary benefits for our members. The guarantees which are included in the Experimental Negotiating Agreement are as follows:

(1) Bonus.

Each member having employee status as of August 1, 1974, will receive a lump sum payment of \$150 in early October, 1974. The companies have agreed to pay this amount outright to each employee as a bonus in recognition of the production savings they anticipate from the avoidance of stockpiling. This will mean a pay-out by the 10 companies to our members in excess of \$50,000,000.

(2) A "guaranteed" wage increase.

The Experimental Negotiating Agreement does not limit the amount of wage increase (or indeed of any other benefit) that we can seek in our 1974 negotiations. It does, however, provide a guaranteed "floor" for pay increases which employees are assured of receiving regardless of what develops in negotiations. On August 1, 1974 (the starting date of the new agreement) the wage scales will be increased 3%. Additional wage increases of 3% will become effective August 1, 1975 and August 1, 1976. These increases will be fully reflected in the incentive calculation wage scales. We emphasize again that these are guaranteed minimums that do not prevent us from seeking greater pay increases in the negotiations.

(3) Cost-of-living adjustment.

The Experimental Negotiating Agreement assures that the cost-of-living escalator will continue to operate throughout the three-year term of the 1974 agreements. Thus, if living costs continue to go up, our members' wages will continue to rise as well. There will be no "floor" and no "ceiling" on the amount of cost-of-living adjustment which can become payable during the life of the new agreements.

(4) Protection of certain important contractual provisions.

There are certain fundamental safeguards in our existing collective bargaining agreements which each side wants to protect and preserve. Accordingly, the Experimental Negotiating Agreement

lists the following matters which cannot be submitted to the Impartial Arbitration Panel:

- (a) Section 2-B—the local working conditions provision of the U. S. Steel agreement, and the counterpart provisions in the agreements of other companies.
- (b) The union shop and checkoff provisions.
- (c) The no strike and no lockout provisions.
- (d) The management rights provisions.

How the negotiations will be conducted.

Under the Experimental Negotiating Agreement, there will be one bargaining procedure to resolve national issues and another to resolve local collective bargaining issues. Accordingly, we will explain them separately.

(1) National issues.

On or before February 1, 1974 the negotiating teams of the Union and the steel companies will begin negotiations at the national level. They will try to reach agreement on the terms of a new contract by April 15, 1974. To the extent that particular issues are not resolved by that date, either party can submit them to the Impartial Arbitration Panel, which will have authority to render a "final and binding decision" on such issues. This Panel will consist of one Union representative, one representative of the companies, and three impartial arbitrators selected by the parties, at least two of whom are persons thoroughly familiar with collective bargaining agreements in the Steel Industry.

The Panel will start to hear the disputes in May, 1974, and must render its decision not later than July 10, 1974. The balance of July will be available for implementation of the Panel's award.

(2) Local issues.

For the first time, we have won agreement that there can be legal strikes over local issues. Here is how the local issues bargaining procedure will work:

Negotiations of local issues may begin as early as the parties locally decide, but must start by April 1, 1974. Only local issues raised by that date will be considered in negotiations. However, issues which arise later as a result of changed conditions may thereafter be raised. Any local issues not resolved by May 1 will be referred to the appropriate Chairmen of the Union-Company negotiating Committee for company-level consideration. If any local issue remains unresolved and is not withdrawn by the month of June, the Union's Co-Chairman will submit such issue or issues to a secret ballot vote of the members at the plant level. Subject to a majority vote of the members voting and the authorization of the International President in accordance with the Union's Constitution, there shall be a right to strike on such local issue, if it is not otherwise resolved. (There will, of course, be a counterpart right on the part of the companies to lockout on local issues.)

The International President will, in granting authorization, indicate the date the strike must begin, which will not be earlier than August 1, 1974.

The above procedure applies to those issues which are defined as "local collective bargaining issues" in the Experimental Negotiating Agreement. Local issues do not include proposals which would conflict with or amend the company-wide collective bargaining agreement. Local issues also do not include proposals relating to past grievance settlements or arbitration awards, except where the subjects of such settlements or awards were not arbitrable grievances under the applicable collective bargaining agreement. Matters which can properly be arbitrated are not local issues, unless such matters arise under Section 2-B of the U. S. Steel agreement (and similar provisions in the agreements of the other companies).

In general, local issues will include the subjects which local unions deal with under past practice clauses or which are customarily matters of local agreement. In some of the companies, the company agreement relates only to one or two plants, and therefore deals with subjects which in the larger companies are handled by local agreement. The Experimental Negotiating Agreement makes clear that any provision of a company agreement that is solely applicable to a particular plant—and is not the kind of provision which would be contained in the U. S. Steel Company-wide agreement—will be subject to the local issue bargaining procedure.

The Co-Chairmen of each Company Negotiating Committee will develop more detailed guides as to what is and what is not properly a local bargaining issue.

A final note.

The Experimental Negotiating Agreement represents a completely new approach to collective bargaining in the Steel Industry. We have had only one prior experience with voluntary arbitration in resolving a collective bargaining dispute—the Incentive Arbitration of 1969. That Incentive Arbitration hearing produced significant gains for many of our members. There are always risks in venturing down a fresh path, but the immediate benefits our members will derive from this new bargaining arrangement convinced the International Executive Board and most local union officials comprising the Basic Steel Industry Conference that the risks are well worth taking. The Experimental Negotiating Agreement relates only to our 1974 negotiations. If it does not meet our expectations, we will be free to return to our old style of bargaining in future negotiations. However, let's approach the new bargaining procedure in an optimistic and hopeful frame of mind, for it is our firm belief that this new path will lead to success.

The unity and perseverance of our rank and file membership will as ever be a major factor in determining whether we succeed.

We thank you for your past support and we shall do everything within our power to continue to merit your continued confidence.

We commend the International Executive Board and the members of the Steel Industry Conference for their courage, foresight and leadership in helping us to develop this new bargaining arrangement. You are fortunate, indeed, to be represented at the Local Union and District level by leaders of such quality and dedication.

Fraternally yours,

J. W. Abel

International President

Robert J. ...

International Secretary-Treasurer

James ...

International Vice President

