

INVESTIGATORS' LEADS FILE
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HEARINGS

BEFORE A

C. House
SUBCOMMITTEE OF THE
COMMITTEE ON EXPENDITURES IN THE
EXECUTIVE DEPARTMENTS
HOUSE OF REPRESENTATIVES
EIGHTIETH CONGRESS
FIRST SESSION

TO MAKE INQUIRY AS TO THE AUTHORITY OF THE CIVIL SERVICE COMMISSION TO COMPILE AND TO EXPEND FEDERAL FUNDS TO COMPILE AND MAINTAIN AN "INVESTIGATORS' LEADS FILE" CONTAINING FACTS, RUMOR, AND GOSSIP BEARING UPON THE VIEWS, OPINIONS, AND ACTS OF INDIVIDUALS WHO WERE NEITHER FEDERAL EMPLOYEES NOR APPLICANTS FOR POSITIONS COMING UNDER THE JURISDICTION OF THE CIVIL SERVICE COMMISSION. ALSO TO LEARN FOR WHAT PURPOSE THE "FILE" WAS TO BE USED

OCTOBER 3, 6, AND 7, 1947

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CLARE E. HOFFMAN, Michigan, *Chairman*

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HELEN M. BOYER, *Clerk*

SUBCOMMITTEE INVESTIGATING THE CIVIL SERVICE COMMISSION

CLARE E. HOFFMAN, *Chairman*
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INVESTIGATORS' LEADS FILE

FRIDAY, OCTOBER 3, 1947

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON
EXPENDITURES IN THE EXECUTIVE DEPARTMENTS,
Washington, D. C.

The subcommittee met at 2:25 p. m., pursuant to call, in room 1501, New House Office Building, Hon. Clare E. Hoffman (chairman) presiding.

The CHAIRMAN. Let the record show that James E. Hatcher, Elliott A. Bartlett, and Leonard Konkel are here in answer to a subpoena from a subcommittee of the House Committee on Expenditures in the Executive Departments.

Mr. Hatcher, will you state your position with the Government and very briefly, your duties?

Mr. HATCHER. I am Chief of the central office, Investigations Division, of the United States Civil Service Commission. My duties are, in general, to supervise the staff of personnel in the central office, Investigations Division, and to plan and recommend to the Commission for approval, through the Executive Director and Chief Examiner, plans and policies pertaining to investigations that are to be conducted by the Civil Service Commission.

The CHAIRMAN. By this subpoena which was served on you you were requested to bring with you any and all files, cards, and records in your possession bearing upon the views, opinions, and activities of Members of the Congress, both Senators and Representatives, and also all material contained in your file designated "Investigators' leads." You did not bring any of that material?

Mr. HATCHER. No, sir. That is right.

The CHAIRMAN. Would you mind stating the reason or reasons?

Mr. HATCHER. I have two, sir. One is that the files are bulky and it would be physically impossible for me to bring them here.

The CHAIRMAN. Can you give us an estimate in pounds or bushels, or truck loads?

Mr. HATCHER. The files were just moved over to my office on September 30 and October 1, this year, and it is my understanding that six truckloads were moved.

The CHAIRMAN. What is the size of this file referred to in the subpoena and designated as "Investigators' leads"?

Mr. HATCHER. From hearsay—I have not had an opportunity to make a count—I understand that there are approximately 750,000 names; that is, cards, bearing names.

The CHAIRMAN. What I am asking for is your knowledge and information. But if either of these gentlemen here can supply, as I assume

INVESTIGATORS' LEADS FILE

MONDAY, OCTOBER 6, 1947

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON
EXPENDITURES IN THE EXECUTIVE DEPARTMENTS,
Washington, D. C.

The committee met at 2 p. m., Hon. Clare E. Hoffman (chairman) presiding.

Present: Mr. Hardy of the subcommittee, Congressman Busbey, and Mr. Snyder.

STATEMENTS OF HARRY B. MITCHELL, PRESIDENT, FRANCES PERKINS, COMMISSIONER, ARTHUR S. FLEMMING, COMMISSIONER, AND JAMES E. HATCHER, CHIEF, DIVISION OF INVESTIGATIONS, UNITED STATES CIVIL SERVICE COMMISSION.

The CHAIRMAN. The committee will please be in order.

I think perhaps we had better have the Chairman of the Commission speak first.

Mr. MITCHELL. Yes.

The CHAIRMAN. It came to our knowledge that there was in the files of the Civil Service Commission a file containing cards which purported to give information about Senators and Congressmen and some prominent individuals throughout the Nation, and that the statements on those cards were largely rumor, hearsay.

Friday morning I was advised that a sound record was about to be made which would carry statements made on the cards and inasmuch as there might be on those cards information about an individual named John Smith who was in no way known to the public, perhaps at least not known in certain sections of the country and there might be another individual of a similar name, it would be very unfair and very misleading to let that get out to the public.

For example, in my district, my name might be Smith or Jones or some other name and someone broadcast that information, and to those who do not know the name they may say that was information as to a Smith who was in no way related to me, or perhaps they might know of a John Smith, for instance, who was a Representative in Congress.

It was to forestall such a situation and to learn by what authority such a file was compiled, is now retained, and for what purpose it is to be used that we asked Mr. Hatcher and the other members of the Civil Service Commission to produce those files and to testify here. I do not know whether you have been advised of the situation.

Now what we would like this afternoon, Mr. Mitchell, is to get from you information as to who compiled that information, by what

Mr. SNYDER. As a matter of fact has the FBI searched those files?
 Mr. MITCHELL. Oh, yes.
 Mr. SNYDER. For that information?
 Mr. MITCHELL. I presume so.
 Mr. SNYDER. Do you not know as a matter of fact? I am interested to know.
 Mr. MITCHELL. I know because I have been told so; yes.
 Mr. SNYDER. But the Civil Service Commission made no independent use of that, independent of the FBI?
 Mr. MITCHELL. Oh, yes.
 The CHAIRMAN. What use did you make of it?
 Mr. MITCHELL. If anyone applied for a position in Government service we would search those files to see if his name was in the files.
 The CHAIRMAN. And suppose that you found that the man's name was there; suppose my name was there and that I had had a Communist fishing with me, what would that have to do with it?
 Mr. MITCHELL. That had nothing to do with it at all.
 The CHAIRMAN. With finding my name there, and I had gone fishing—
 Mr. MITCHELL (interposing). You had had a Communist fishing with you?
 The CHAIRMAN. Suppose I had.
 Mr. MITCHELL. Well, I do not know.
 The CHAIRMAN. That is one of the leads?
 Mr. MITCHELL. If it was shown in the files that you were a prominent friend of this man that might have been mentioned. I am not speaking of you particularly.
 The CHAIRMAN. I was, because I was free to use my name.
 Mr. MITCHELL. If it were found, for instance, that John Smith had applied, and John Smith had made some reference to John Brown and we were investigating John Smith, John Brown's name might go in this file.
 The CHAIRMAN. How do you account for the finding of the name of a Senator's wife in there?
 Mr. MITCHELL. I cannot account for it.
 The CHAIRMAN. You have two cards, I just happen to know, bearing on a Senator's wife. Can you conceive of any reason why they should have been in there unless she was a member of the Communist Party or signed a petition of a Communist, or something of that kind?
 Mr. MITCHELL. Well, she might have interceded for a Communist.
 The CHAIRMAN. Or might have appeared for example, before the Dies committee. Would her name be in here?
 Mr. MITCHELL. Her name would not be in there unless, we will say, there was a connection with—
 The CHAIRMAN (interposing). We were talking about people who have not applied for a Federal job and when their names are in the files. Now I ask you, for example, when the Dies committee was holding hearings and had someone come before it, or who came before the Un-American Activities Committee, would their names be there? Suppose I had appeared before that committee, would my name be there?

Mr. MITCHELL. Not if you had appeared before the Dies committee—we would have no record of that.
 The CHAIRMAN. But I cite this example: I find a card here where a Member of Congress is designated as a Nazi.
 Miss PERKINS. Mr. Chairman, may I ask you a question?
 The CHAIRMAN. Yes.
 Miss PERKINS. Do you actually have the cards?
 The CHAIRMAN. I have copies of them.
 Miss PERKINS. Because I have never seen them. They came from the files?
 The CHAIRMAN. I just got some of them.
 Miss PERKINS. Of course, we do not know of them.
 The CHAIRMAN. I find this on one of the cards: For more information see Friends of Democracy.
 I find another one here referring to the National Lawyers Guild, February 20–22, 1937, Washington, given as the source.
 Then here is another one, and this is on quite a few cards, stating that this was from the subversive files in the office of Attorneys Mintzer & Levy, 39 Broadway, room 3305, and the files were made up in cooperation with the American-Jewish Committee and the Anti-Defamation League, and also the information that this information must not be disclosed, that it is confidential and secret and under no circumstances to be divulged, and that further information about it may be secured by contacting the office of Mintzer & Levy.
 Mr. MITCHELL. No, I do not know about that.
 The CHAIRMAN. What disturbs me relates to two things: For example, you would agree that the Civil Service Commission has no authority to make any such investigation—
 Mr. MITCHELL. As to Members of Congress.
 The CHAIRMAN. As to Members of Congress.
 Mr. MITCHELL. Yes.
 The CHAIRMAN. Yes. Or Congressmen's wives unless they apply for a job.
 Mr. MITCHELL. Well, I should say the things would not apply unless they applied for a job, or unless they were involved in some investigation incidently. You must remember this, that there is no evidence against the names on that list.
 The CHAIRMAN. No, but it furnishes a most admirable smear list, do you not see, because, for example, if Mr. Busbey is running for Congress against me, or if somebody is running against him and they can get this information and say that it is in the files of the Civil Service Commission and can make a charge against Mr. Busbey, when it appears that the only source of the information is the Friends of Democracy or the Anti-Defamation League and it is all hearsay. Yet the people in the district in which he is running may not know any better than to say that it comes from the Civil Service Commission and must be true.
 Mr. MITCHELL. Of course, it does not come from the Civil Service Commission; it may have been in their files but it does not come from them.
 The CHAIRMAN. All of this did come from their files.
 Mr. MITCHELL. The Commission did not give it to anyone.
 The CHAIRMAN. But you made it available in the files, you had it there.

Mr. MITCHELL. We have, of course, to learn every day of things that come up in connection with names that go into the files.

The CHAIRMAN. Well, you can see what can come of it.

Mr. MITCHELL. Yes, I can appreciate that, but my point is that the public does not receive it.

The CHAIRMAN. May I ask you why you have in your files a statement that what cannot be found there can be secured from a firm in New York, or that they can get from the Friends of Democracy or from the Anti-Defamation League.

Mr. MITCHELL. I presume that is possibly something they got from the FBI or some other source.

The CHAIRMAN. Wait just a minute: This refers to this firm in New York. Now I want to ask you if you did not have, in 1943, a distribution of this file down here from the New York office?

Mr. MITCHELL. I cannot say.

Mr. FLEMMING. I think I can answer your question, Congressman, on one point: The files were maintained, the reference files, in this way: In order to make it possible for the files to be used most effectively all of the names were consolidated here in the fourth regional branch office, all of them.

The CHAIRMAN. And in New York you had at least 100 employees copying this stuff and putting it in, did you not?

Mr. FLEMMING. That I cannot answer.

The CHAIRMAN. Will you put that information in the record? You can surely find out.

Mr. FLEMMING. We can find out. We did consolidate it here.

(The information requested follows:)

For a period of approximately 60 days in 1943 there was a staff of 50 typists, 25 clerks, and 3 investigators working on the files in New York.

The CHAIRMAN. Will you answer the question whether you did not take information, and if you did not get reports from the Anti-Defamation League and Friends of Democracy, and other organizations, and from Leon Burkhead?

Mr. FLEMMING. That, of course, we would have to check for the record. That is what you are asking?

Mr. CHAIRMAN. Yes. That is what we want, is it not, Mr. Hardy?

Mr. HARDY. Yes.

The CHAIRMAN. Who instituted this procedure? Who collected the information, and where did they get it?

Mr. FLEMMING. I think right at this point I would like to say this—I think that we are all of the same mind as far as the names of the Members of the House or Senate being in the files—

The CHAIRMAN. Or citizens of the Republic against whom nothing has been said before.

Mr. FLEMMING. Mr. Chairman, I do not know whether we are of the same mind on that. I think that we have to put ourselves in the position of an investigator—

The CHAIRMAN. Before we go any further, that is a point that I would like to have determined, because I think the committee, and if Mr. Hardy disagrees with me he can so indicate, is entitled to know whether Federal funds are being used by the Civil Service Commission to put in their files information about prominent citizens

whose patriotism has never been questioned, and information which is purely hearsay?

Mr. FLEMMING. Mr. Chairman, in response to that question, we had a group of investigators during the war who were charged with certain specific responsibilities.

The CHAIRMAN. Which were what?

Mr. FLEMMING. The conduct of investigations of either applicants or persons appointed subject to investigation.

The CHAIRMAN. But no one else?

Mr. FLEMMING. That is correct, sir.

The CHAIRMAN. All right; if you confine yourself to that there will not be any trouble.

Mr. FLEMMING. If I may complete what I am trying to say, there were 9,700,000 people who came into the Government during the war, and if we can put ourselves in the position of an investigator who in the course of an investigation receives information about someone who is not at that time an applicant or who has not been appointed subject to investigation, or investigators who may be familiar with the general character of investigations and who have access to information which they know would be valuable information in the event any of those persons did file for positions in the Government, I think if they had not recorded the fact that that information had been called to their attention and if at some later time John Jones, one of the persons involved, came into the Government and was checked and there was apparently nothing at all against him and then it later developed that the Civil Service Commission had at one time access to information relative to John Jones but had deliberately ignored it, then I think the Commission would have been subjected to rather severe criticism because it once had information about a person who later became an applicant, or later was appointed subject to investigation and deliberately ignored it, so that when he came into the service there was not any lead at all. If the investigators had made a card and put it in the files they would have had a lead and that lead might have resulted in unfavorable action being taken—

The CHAIRMAN. Let us analyze that statement of yours. What it amounts to, then, is this—that you claim that it is the duty of the Commission, through its investigators, when it is making what we call a legitimate investigation, that is, as to the status or the record history of someone who has applied, and in that investigation my name, or anyone's name appears, it is your duty to keep a record of that so if at some future time somebody who has met me applies for a job and I happen to have done something subversive in its nature, you will have the whole situation before you. That is about what it amounts to, is it not?

Mr. FLEMMING. That is correct.

The CHAIRMAN. What that means is you claim the right to list in your files the name of anyone and everyone in this country. Is that not correct? That is what it amounts to, in the last analysis?

Mr. FLEMMING. Would you say that if John Jones had signed a Communist Party nominating petition—using that as an example because that was the source of a lot of information—and that fact was called to our attention and we were reasonably sure of the accuracy of the information, that it would be unwise for the Commission

go with those individuals who were searching the files, and see that they do not get information that they should not get, but the Commission did not have the money to pay for those people.

The CHAIRMAN. I suppose that is Congress' fault.

Mr. MITCHELL. I did not say; you said that.

The CHAIRMAN. I was supplying the obvious answer. It is always the answer that you get, that you do not have the money to do the job.

Mr. MITCHELL. We will be very glad to make a statement that we have taken them out of the file.

Mr. HARDY. If we had asked you on Thursday of last week how many you had over there, you would have said "None," would you not?

Mr. MITCHELL. Yes. And I would have said that we had no business with them in the files.

Mr. HARDY. And you might make the statement tomorrow that they are all out of the file and you might be incorrect about that; is not that right?

Mr. MITCHELL. Well, I hope not.

Mr. HARDY. I should hope not, too.

Mr. FLEMING. Mr. Congressman, I am confident of the fact that a system can be set up which would make it possible for us to answer that question "No" in the future, and be sure.

Mr. HARDY. There would not be any way in the world that we would know or you would know except by relying on some employees who have proven untrustworthy somewhere, is that right?

Mr. FLEMING. We are not going to rely necessarily on those same employees.

Mr. HARDY. But there can be no assurance that confidence will be placed in anyone more trustworthy?

Mr. FLEMING. If we approached all of our problems in that way it would lead to the result that the only way to solve them would be for the members of the Commission themselves to do the work. And certainly we do have employees who can be trusted, and in whom we have implicit confidence, and we know that they can and will do the job.

Mr. HARDY. Apparently some of that confidence has been misplaced.

Mr. FLEMING. Let me say for the record that I am confident of the fact that under the direction and supervision of Colonel Hatcher the job will be done and will be done properly.

Mr. MITCHELL. And Colonel Hatcher can make affidavit to that effect.

Mr. BUSBEY. I would like to ask Colonel Hatcher if when he went through the files he found my name in the files?

Mr. HATCHER. No; I did not.

Mr. BUSBEY. Will you make a very deliberate search tomorrow, search all of the files, and report to me all information given on all cards on which my name appears?

Mr. HARDY. And how many of them.

Mr. BUSBEY. Yes. I do not know how many times my name may appear in the files, or what is on the card. Could you do that for me?

Mr. HATCHER. I will be glad to do that.

Mr. BUSBEY. I want a full disclosure of everything on my card.

As long as the chairman has made public the fact that his name was in the file, I will state mine is in the file.

The CHAIRMAN. Did I do that?

Mr. BUSBEY. You just said that.

The CHAIRMAN. That is not why I am going into this. I want to put that on the record, that it is not because my name is there, because others might want to have the benefit of equal publicity.

All right, Colonel Hatcher, you may proceed. We have interrupted your statement.

Mr. HATCHER. I think perhaps by inference at least there might be some thought among the members of the committee about my being trusted with the files, and I should like to say—

Mr. HARDY (interposing). There was nothing personal meant in the inquiries on the part of the members of the committee. But I think no one would have much difficulty in inferring that somebody had certainly not been trustworthy.

Mr. FLEMING. Pardon the interruption, Colonel Hatcher, and so the record will be straight. Colonel Hatcher served in the armed service and with distinction during the War and as he has explained the file has been in the fourth regional branch, and it has only been within the last week or two that it came to him.

The CHAIRMAN. And you did not know what was there until we called up here. Is that not right?

Mr. HATCHER. That is right.

Mr. FLEMING. We have, Mr. Chairman, complete confidence in the fact that the whole situation will be handled according to instructions.

The CHAIRMAN. Yes, but what hurts is that you do not want the Congressmen to go down there and see if their names have been taken out.

Mr. HARDY. Or to see how much is there on the cards.

The CHAIRMAN. Yes. How about it, Colonel Hatcher, are you going to take care of the other steps?

Mr. HATCHER. We will be glad to do so.

The CHAIRMAN. And are you going to take the necessary steps with reference to the file in the office of Mintzer & Levy in New York?

Mr. MITCHELL. Concerning Members of Congress, both branches of Congress.

The CHAIRMAN. Yes.

Mr. MITCHELL. Yes.

The CHAIRMAN. Colonel, you may proceed.

Mr. HATCHER. That is all I had in mind to say to you; that clears it up.

Mr. BUSBEY. I have just one other question: I would like to know by what stretch of the imagination the Civil Service Commission has accepted this information from the Anti-Defamation League and the Friends of Democracy in its files.

Mr. MITCHELL. That is a matter for the individual investigator. I cannot answer that. I do not know what connection the individual investigators might have had with these organizations, or other organizations. They try to get information wherever they can, and if they can get it out of these organizations—

Mr. BUSBEY (interposing). You are in effect saying that no member of the Commission, that is anyone connected with the Civil Service Commission, with its permission, accepts this information and puts it in the files from these two organizations?

★ M. MITCHELL. No member of the Commission; no member of the Commission gave the investigators any such instructions. The instruction of the Commission is to get whatever information they can concerning disloyalty, and I am quite certain that no member of the Commission gives instruction to any investigator to—

Mr. BUSBEY. Whether there is a release of that information or not?

Mr. MITCHELL. Well, of course there are not adjudicated cases.

Mr. BUSBEY. What is going to be the attitude of the Civil Service Commission in the future regarding names being put in its files by the Anti-Defamation League or Friends of Democracy, out of the files of these organizations?

The CHAIRMAN. They are not going to be put in the files.

Mr. MITCHELL. They will not go in the files.

The CHAIRMAN. Certainly not, Mr. Busbey, they are not going to be put in the files; neither the names of Senators or Congressmen.

Mr. MITCHELL. No.

The CHAIRMAN. In the future.

Mr. MITCHELL. No.

Mr. BUSBEY. What if you get a communication with information from either of these two organizations, would you put it in your files?

Mr. MITCHELL. We would not put it in the files.

Mr. BUSBEY. In the future. Have you not complied with such requests in the past to put such information in your files?

The CHAIRMAN. He said he did not know anything about that.

Mr. MITCHELL. I cannot say—that came under the Investigation Division—I cannot say to you that they did not get some information from them; but so far as the future is concerned, names of Members of Congress and the Senate will not be in it.

The CHAIRMAN. And that includes the candidates for the Presidency?

Mr. MITCHELL. Or any candidate.

Mr. BUSBEY. Do you consider the information from these two organizations as unquestionably reliable?

Mr. MITCHELL. I would not think so. I presume they are Communist organizations; I do not really know.

Mr. BUSBEY. No, to my knowledge they are not Communist organizations, and I would not want anybody to get any impression that I am accusing either one of them of being Communist organizations.

★ The CHAIRMAN. I will tell you that they are smear artists.

Mr. SNYDER. I would like to know what is going to happen to these people whose names are in this file.

The CHAIRMAN. Thank you very much, gentlemen.

Mr. MITCHELL. Thank you, Mr. Chairman.

INVESTIGATORS' LEADS FILE

TUESDAY, OCTOBER 7, 1947

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE OF THE COMMITTEE ON
EXPENDITURES IN THE EXECUTIVE DEPARTMENTS,
Washington, D. C.

The committee met at 2 p. m., Hon. Clare E. Hoffman (chairman) presiding. Congressman Porter Hardy and Congressman Fred E. Busbey were also present.

The CHAIRMAN. When you were here yesterday, Mr. Flemming, I inadvertently overlooked asking you one or two questions. Now, you are speaking today, as you were yesterday, for the other members of the Commission?

Mr. FLEMMING. That is correct, sir.

The CHAIRMAN. It appears from the record that you and the other members were subpoenaed and were asked to produce certain files and records in so far as they relate to information concerning Senators and members of the House.

Mr. FLEMMING. That is correct, sir.

The CHAIRMAN. And that you refused to produce those files, or the commission refused?

Mr. FLEMMING. That is correct.

The CHAIRMAN. As I understand it—and if I am not correct you may correct me—the refusal was not based upon the ground that either the committee or the subcommittee did not have authority to issue the subpoena, or that there was any defect in the proceedings of the committee or subcommittee, but upon the ground that your department was not required under the law to disclose information similar to that, or information that we sought?

Mr. FLEMMING. That is correct, sir.

The CHAIRMAN. So there is no question about a lack of jurisdiction, because this is not a full committee meeting?

Mr. FLEMMING. That is right.

The CHAIRMAN. Nothing of that kind.

Mr. FLEMMING. We did not raise any such question.

The CHAIRMAN. And do not now.

Mr. FLEMMING. That is correct.

The CHAIRMAN. That is the point that I wanted made clear.

Because of some subsequent events, there are some other questions I would like to ask.

Now, the Commission and you as an individual member of it disclaim all authority for the collection of information such as that to which we have referred—information relating to Senators and Congressmen?

you do not know what is in your own files and there have been leaks from your files which you say should never have occurred.

I cannot understand the attitude of a Federal employee, drawing Federal money, that he will not permit the people's representatives, who have appropriated that money, to help him do what he should do.

Mr. FLEMMING. I think, Mr. Chairman, under our form of government, that is our responsibility. That matter having been called to our attention, I think it is our responsibility to get that information out. And we will get it out. I do think we are responsible, likewise, in the interest of giving the Government adequate protection of the confidential character of our files, to do as we have done, and I do not believe we can cross the line. If we did, we would be in for trouble.

The CHAIRMAN. Why have you allowed other investigators to go in there?

Mr. FLEMMING. We have permitted them to do it in the way in which I have indicated, as far as the legislative branch is concerned.

The CHAIRMAN. No. Mr. Fuller has a book down there that these investigators have signed. Did you know about that?

Mr. FLEMMING. I understand that a list is kept of the people who have obtained information.

The CHAIRMAN. Approximately how many people have signed that book; how many have had access to that file?

Mr. FLEMMING. We will have to supply that for the record, Mr. Chairman.

The CHAIRMAN. Why is it that you permit these other folks to go in there, let them sign that book, and you will not permit members on this committee to go in there? Why the discrimination against us?

Mr. FLEMMING. The only authorized way of proceeding is the way I have outlined in response to the questions that various members of the committee have addressed to me. If any other procedure has been followed, Mr. Chairman, that was in violation of our policy.

The CHAIRMAN. But you did not know that?

Mr. FLEMMING. That is correct, sir.

The CHAIRMAN. You did not know that we had Fuller's book down there?

Mr. FLEMMING. I do not know who Fuller is. I understand a record has been kept of the people who have gone in, and if that file has been used in any way other than I have described, that is obviously contrary to the policy.

The CHAIRMAN. Your Commission has not prevented investigators for other committees going through there, signing Fuller's book; why will you not let us do it?

Mr. FLEMMING. I had no knowledge that such a procedure was followed.

The CHAIRMAN. These files were moved shortly before September 30; were they not?

Mr. FLEMMING. I think they were all moved September 30 and October 1.

The CHAIRMAN. Before that they were down in the basement room of the Tariff Commission south of the United States post office on G Street; were they not?

Mr. FLEMMING. That is correct. That is the fourth regional branch office.

The CHAIRMAN. Mr. Fuller's office was on the first floor of that same building?

Mr. FLEMMING. That I do not know.

The CHAIRMAN. How about you, Mr. Hatcher?

Mr. HATCHER. I do not know where Mr. Fuller's office is.

The CHAIRMAN. I wish you would find out if at that time investigators for other committees did not go through these files; and then tell us if you can think of any reason why this committee should be discriminated against, in not being permitted to go through those files?

You have no particular reason, have you, why this committee should not be accorded the privilege that has been granted other committees?

Mr. FLEMMING. No, sir. We endeavor to deal with the Congress of the United States in a uniform manner, Mr. Chairman.

The CHAIRMAN. That is all we are asking. Under the present procedure you are supposed to ascertain the loyalty of Federal employees; are you not?

Mr. FLEMMING. That is correct, sir. We have certain responsibilities in that area.

The CHAIRMAN. And you put out a form for that purpose?

Mr. FLEMMING. We put out certain blank forms as a part of that program.

The CHAIRMAN. Do you consider the Communist Party a subversive organization?

Mr. FLEMMING. We certainly do.

The CHAIRMAN. And as operated, you would not approve any member of that party getting a Federal position, would you?

Mr. FLEMMING. That is correct, sir.

The CHAIRMAN. On question 11 of this form—"Organizations with which affiliated other than religious or political organizations or those which show religious or political affiliations"—that question does not cover the Communist organization; does it?

Mr. FLEMMING. That is correct, sir.

The CHAIRMAN. Why not? Is that not a political organization?

Mr. FLEMMING. Yes, it is.

The CHAIRMAN. Why do you not list them?

Mr. FLEMMING. May I answer your question? I am delighted to have the opportunity of clearing up this matter. This blank to which you refer is a request for a report on loyalty data. It says:

This form to be used for incumbent employees and accepted employees -

And so forth. It is addressed to the Federal Bureau of Investigation, Washington 25, D. C. It also says:

The following information is furnished for identification purposes on the person named below.

This is the agency talking to the FBI. Kindly furnish a report on any derogatory loyalty information contained in your files--the fingerprints of this person are also made available.

This is a request from the agency to the FBI. On the back of the form it says:

Instruction on preparation of Standard Form 84

This form (Standard Form 84) is promulgated by the United States Civil Service Commission at the request of the Federal Bureau of Investigation for the purpose of carrying out the responsibilities with respect to incumbent employees under part VI of Executive Order 9835

The sole function of this particular form is to give the FBI sufficient information on an individual so that they can identify him properly in checking his name against their name files; so that they will not report on John K. Jones when the information is really on John A. Jones.

This is not a blank that the employees are required to fill out or to sign. The agency, if it has this information regarding the employee, can fill it out and send it in on their own. It is the agency requesting the FBI for a name file check. The FBI is simply, through us, asking for the information they feel is necessary in order to identify the people in these files. That is the sole function of it.

Now let us come to this specific question. It has been traditional in the Civil Service of the United States, Mr. Chairman, that employees have not been called upon to divulge their political or religious affiliations. I think if the executive branch of the Government at any time attempted to develop information on the political or religious affiliation of all of its employees, there would be very vigorous protest made, and properly so.

As to the practicalities of the situation, I think it is well known that—to those of us who have had any contact with this particular problem—to ask a question with the idea that we are going to get Communists to tell us that they are members of the Communist Party is purely futile.

The CHAIRMAN. I understand that.

Mr. FLEMMING. But again back to the fact that—and I am delighted to have this opportunity of emphasizing it, because there has been misunderstanding on it—

The CHAIRMAN. And there still is, because we cannot understand—at least, some folks cannot understand—why, if you are checking loyalty, when you admit as you do that the Communist Party has operated as a political organization, you do not ask the FBI to check on that.

Mr. FLEMMING. Mr. Chairman, we are not checking loyalty. The function of this—

The CHAIRMAN. Oh. You are not checking loyalty?

Mr. FLEMMING. The function of this form is to give the FBI the information which it needs in order to make an accurate check of its name files, to see whether it has any derogatory information bearing on the individual, and if it does, of course, it will go ahead and conduct a full field investigation.

The CHAIRMAN. Why do you not ask the FBI to tell you whether the applicant belongs to the Communist Party?

Mr. FLEMMING. The FBI, when it reports on an individual, will give that information. That will be in the report; no doubt about it.

Mr. HARDY. This form, then, only contains the information you have in your file; is that right?

Mr. FLEMMING. No.

Mr. HARDY. If you send that to the FBI—

Mr. MITCHELL. We send that information out only for our own employees.

Mr. HARDY. You give to the FBI information on which they may make a proper investigation; is that correct?

Mr. FLEMMING. If we do not have all the information that they feel they need in order to make a proper check, we will get it from the

employee and include it on the form. There are certain things that are necessary: Date and place of residence for the last 20 years, and so forth.

The CHAIRMAN. Let us get back to this: You were subpoenaed because we wanted you to bring up information pertaining to information in your files referring to Members of the Senate and the House?

Mr. FLEMMING. That is correct.

The CHAIRMAN. And you did not bring up that information, did you?

Mr. FLEMMING. That is correct.

The CHAIRMAN. And you will not, will you?

Mr. FLEMMING. No.

Mr. MITCHELL. No.

The CHAIRMAN. Until you get a court order?

Mr. FLEMMING. It is a legal question.

Mr. BUSBEY. May I ask whether or not that form you have before you has been changed since it was put out?

Mr. FLEMMING. No. That is the form that was printed and distributed throughout the Government.

Mr. BUSBEY. There is not any other form except that one form which you have there before you? I am referring to question 11 specifically.

Mr. FLEMMING. No. That is the way in which the form originally was issued.

Mr. BUSBEY. Has the FBI at any time made any suggestion as to changing question 11?

Mr. FLEMMING. Not to my knowledge.

Mr. BUSBEY. Who signs that data form?

Mr. FLEMMING. It is transmitted by the agency. The agency, of course, has got to show what agency its coming from. Then on the back of the form there is contained the report of the derogatory information developed. That is signed by the name of the reporting agency, which would be the FBI.

Mr. BUSBEY. The individual to whom the form pertains does not sign it?

Mr. FLEMMING. That is correct.

Mr. BUSBEY. Does someone authenticate the information on that form?

Mr. FLEMMING. The head of the agency under the executive order is responsible for supplying such information as may be needed by the FBI in order to make this check.

Mr. BUSBEY. That is not what I am getting at. You have a form there that asks for certain information.

Mr. FLEMMING. That is right.

Mr. BUSBEY. It seems to me somebody ought to be required to sign that form and be responsible for the information, so that whoever gets it—the FBI or any other agency could contact some individual to ascertain additional information, if necessary.

Mr. FLEMMING. One item here is name and address of requesting agency.

Mr. BUSBEY. I am not referring to that. That is the agency which makes out the report.

Mr. FLEMMING. That is right.

Mr. BUSBEY. But no one in that agency signs it or authenticates it to the agency requesting the report.

Mr. FLEMMING. That is right. We said very clearly, I think, that we did not regard it as our business to collect such information, or engage in an investigation of the Members of the Congress.

The CHAIRMAN. You stated very clearly several times, as did the other members, that the law did not give you any authority to do that.

Mr. FLEMMING. That is correct, sir.

The CHAIRMAN. And you did not know that that information was in the files.

Mr. FLEMMING. Correct.

The CHAIRMAN. And that you proposed to destroy it.

Mr. FLEMMING. That is correct, sir.

The CHAIRMAN. I think that completes the questioning so far as I am concerned.

Are there any other members who desire to ask any questions?

Mr. BUSBEY. There is just one thing that I would like to clear up, Mr. Chairman. Mr. Flemming made reference to the fact that if a newspaper article of some kind made reference to a Member of Congress, they might make some notation of that, but I am satisfied that these cards that list the Members of Congress in this lead file were not compiled from any such data or material. That is one reason I thought it was important that this committee be furnished the information and the names of the Members of Congress in order that we could ascertain that the source did not come from any articles that appeared in any papers, but was put in there by someone in the employ of the Commission.

Do you have any knowledge, Mr. Flemming, that these names were recorded from any articles in papers, or from any investigation of any other individual seeking employment in some branch of the government?

Mr. FLEMMING. We used that, Mr. Congressman, as an illustration of the manner in which the information was obtained. I think that reference was made to newspaper articles and magazine articles. I think that I also referred to the fact——

Mr. BUSBEY. That is generally speaking?

Mr. FLEMMING. That is one way; that is right. That applies to the way in which certain information regarding individuals was obtained and put on the cards. That is one illustration.

Mr. BUSBEY. But that does not pertain to these files on the Members of Congress.

Mr. FLEMMING. I am speaking of the total files. And as we indicated, we did not have knowledge until the matter was called to our attention that there was information in there relative to the Members of Congress. Now we are going to proceed along the lines indicated, but in building up the file that is one way in which the file was built up—the general file.

Another way it was built up was the way that I indicated. Our attention would be called to Communist Party nominating petitions, and in other instances from confidential sources.

Mr. BUSBEY. We did not have that under discussion. We were not interested in that.

Mr. FLEMMING. That is right. I am taking the various ways into consideration whereby the file was built up. I cannot testify from my own knowledge as to all the ways in which it might have been

built up, but I did give you what I regarded as a significant illustration of the manner in which it was done.

Mr. BUSBEY. Did someone make a search for my card in that file this morning?

Mr. FLEMMING. Not yet, to my knowledge. That will be done, as we indicated yesterday.

Mr. BUSBEY. I was in hopes that it would be done this morning and that the cards would be brought up here this afternoon at this hearing. I have been trying to get in touch with Colonel Hatcher, but have been unsuccessful.

When could I expect the cards?

Mr. FLEMMING. I will be very glad to check with him as soon as I go back, and I will be glad to let you know. I st to make the record straight there, as I understand it, that is a request concurred in by the committee that such information be supplied?

The CHAIRMAN. If Mr. Busbey wants it, I certainly have no objection. Have you, Mr. Hardy?

Mr. HARDY. No, indeed. I think if anybody is entitled to it he is. The whole situation is, Mr. Flemming, you do not know, or did not know, that this information was being collected, nor do you know the source from which it was derived; is that correct?

Mr. FLEMMING. That is correct; not all the sources. I could not sit here and testify as to all the sources from which it was derived. I have general knowledge of some of the sources, as I have indicated in my testimony.

The CHAIRMAN. Can you, and if you can will you, by letter, give us information as to who ordered the compilation to be made, by whom it was made, and when?

Mr. FLEMMING. To go back to the origin of the file, in other words—how it got started?

The CHAIRMAN. Yes.

Mr. FLEMMING. Yes.

Mr. HARDY. Do you mean with respect to the Members of Congress, or with respect to the general file?

The CHAIRMAN. I mean with respect to the Members of Congress and any individuals whose names appear there who have not yet applied for jobs.

I made it quite clear to you yesterday that the committee, at least as far as the chairman is concerned, objected to the practice of collecting and tabulating information on citizens who had not applied for jobs. My protest was not confined to Members of Congress, was it?

Mr. FLEMMING. I think that you made it very clear that you went beyond that. Although we agreed with you completely on Members of Congress, we did not agree on the second point.

The CHAIRMAN. That is right. So far as you know, is there any information in that file to which reference has been made which indicates that any Member of Congress is disloyal?

Mr. FLEMMING. The direct answer to that is "No." First of all, as we testified, we did not have any knowledge there was any information relative to Members of Congress in the files. In the second place, we testified that the fact that if there was a card in the file, it did not represent the adjudication of a case.

In response to one question addressed to me I described the procedure through which a case went before there was an adjudication.

Mr. BUSBEY. Just to bring the record up to date, I received a call from my secretary who within the last 10 minutes talked with Colonel Hatcher, and Colonel Hatcher informed her he made a search of the files today and did not find a card for me.

At the same time I wish to state that that is not in accordance with information that has been given me.

The CHAIRMAN. My information is that between the first examination of these files, or access to these files was had, and the subsequent examination, cards have been removed.

That is all. I want to thank you. I hope that it will not be necessary to inconvenience you any further.

The CHAIRMAN. Now, I think that Mr. McKelway has something to say. Will you identify yourself?

STATEMENT OF B. M. MCKELWAY, EDITOR OF THE EVENING STAR

Mr. MCKELWAY. I am B. M. McKelway, editor of the Evening Star. I have come here with Mr. John H. Cline, the chief editorial writer of the Star, and I merely wish to make it plain, sir, that both of us have come in response to the committee's invitation, and out of respect to a committee of the Congress. We have nothing to defend or explain, but Mr. Cline will be glad to help the committee if he can.

The CHAIRMAN. That is my understanding of it. Mr. Cline was invited, and I assume that he asked you to come along, which is very agreeable to us.

May I also say that there has been no charge made against anyone. We are merely seeking information. That is why Mr. Cline was asked to come. Will you give your name, please?

Mr. CLINE. My name is John H. Cline.

The CHAIRMAN. In last night's Star this editorial appeared captioned "Disloyal Congressmen." Did you write that, Mr. Cline?

Mr. CLINE. Yes; I did.

The CHAIRMAN. Now, the caption, in the opinion of some, leads to the conclusion that there are in Congress disloyal Congressmen. Was that your intention, to say that there are Members of Congress who are disloyal?

Mr. CLINE. No, sir. I think that the text of the editorial makes it very clear that I did not intend to say that, and in fact it does not say it.

The CHAIRMAN. Then the editorial continues:

Very few people share the reported indignation of certain Members of the House at the discovery that the names of disloyal Congressmen may have been filed away by the Civil Service Commission.

What do you mean by the expression "disloyal Congressmen"? Identify them, if you will.

Mr. CLINE. As I said, I do not know of any disloyal Congressmen. As I understand it, this hearing is based on the assumption that the names of certain Members of Congress appeared in this file, and that there has been a suggestion that they may have been affiliated with some Nazi, Fascist, or Communist organization.

The CHAIRMAN. Let me interrupt you right there.

Mr. Flemming, have you examined the files sufficiently to know whether the names of Senators and Congressmen are in the files?

Mr. FLEMMING. Mr. Chairman, I have not. The information that I have is the information that was divulged to me at the hearing yesterday.

The CHAIRMAN. Then, to make the record complete, I wish you would send us up a letter stating whether it is or not true the names of Senators, Senators' wives, and Congressmen appear in those files.

Mr. FLEMMING. I think, Mr. Chairman, we agreed yesterday after we had made a search of the files we would make such a report, and we will do that.

The CHAIRMAN. Well, in your opinion would not the average reader reading that first paragraph, and I will repeat it—

Very few people will share the reported indignation of certain members of Congress that the discovery that the names of disloyal Congressmen may have been filed away by the Civil Service Commission—

leads to the conclusion that you were stating that there were disloyal Congressmen?

Mr. CLINE. I certainly do not think so, and if you read the next sentence, I am sure that you will not think so.

The CHAIRMAN. And that paragraph standing alone does not state, in your opinion, that there are disloyal Congressmen?

Mr. CLINE. It conveys there may be, I will agree to that.

The CHAIRMAN. Not that there may be disloyal Congressmen, but the names of disloyal Congressmen—that is a statement of fact—may have been filed away. The word "may" relates to the filing away, do you not agree with me on that?

Mr. CLINE. I do not agree with you on that. If you want to construe it that way, you can.

The CHAIRMAN. I just want to construe it as the average reader would. You say that that sentence does not convey the impression that there are disloyal Congressmen?

Mr. CLINE. It would not convey it to me.

The CHAIRMAN. All right; and you say this:

It is not certain that the names of any Congressmen are in this file, but if there are any they got there in the course of investigations which the Commission has been directed to make.

Now, that is a statement that the Commission has directed the making of these investigations.

Mr. CLINE. No, it is not.

The CHAIRMAN. It is not?

Mr. CLINE. It is a statement that the names got there in the course of an investigation which the Commission was instructed to make. I refer there to the President's Executive order directing the Commission to make this investigation.

The CHAIRMAN. What order?

Mr. CLINE. I do not know the number of the order.

The CHAIRMAN. When was it made?

Mr. CLINE. Within the past few years.

The CHAIRMAN. But this file dates back to 1943, Mr. Cline, so that answer is not any good, is it?

Mr. CLINE. The Commission has been directed by the President throughout the war to make an investigation, a series of investigations.

The CHAIRMAN. You mean the Civil Service Commission?

Mr. CLINE. That is right.

The CHAIRMAN. If you know of any such order that applies to anybody in Congress we will be glad to have it.

Mr. CLINE. I did not say that it applied to anybody in Congress.

The CHAIRMAN. Yes, you do. You say—

Actually it is not certain that the names of any Congressmen are in the files.

Mr. CLINE. Why do you not read the whole editorial?

The CHAIRMAN. I will get to it in a minute, but I am getting to it sentence by sentence and paragraph by paragraph. You say—

But if there are any, they got there in the course of investigations which the Commission has been directed to make.

Now, you heard Mr. Flemming testify that the Commission has no authority to make any such investigation. Where did you get your information that the Commission had authority?

Mr. CLINE. The editorial says that the names, if they are there, got there in the course of investigations that the Commission should make.

The CHAIRMAN. In spite of the statement that Mr. Flemming said that they had no authority.

Mr. CLINE. I see no conflict between the two statements at all. The Commission was certainly directed to make investigations and in the course of those investigations these names may have gotten into the files.

The CHAIRMAN. It is a good thing that you reporters do not proceed by the same mental processes.

Mr. CLINE. That may be.

The CHAIRMAN. I will say it is.

Then you say—

The Commission, of course, does not investigate the Congressmen as such, but for example it does investigate Federal job applicants.

And now this is the important part—

In the course of such investigation it might discover that the applicant had signed some Communist or Fascist petition.

Of course, the members of the committee and the Congressmen generally conceive that it is their duty; that is, if the applicant had signed a Communist petition, that fact would be recorded in the files and the other names on the petition would go into what is called a lead file. I think that no one will disagree that the procedure is not correct, but assume that John Doe applies for a Federal job, over which the Civil Service Commission has jurisdiction and in support of his application he presents 10 letters of endorsement and that one of the letters is from a Communist. Is it your opinion that the names of the other nine letters writers should be placed in the files of the Commission with a notation to the effect that they had endorsed an applicant for a job who is also endorsed by a Communist?

Mr. CLINE. Do you ask is it my opinion that they should be put in?

The CHAIRMAN. Yes.

Mr. CLINE. I should not think so.

The CHAIRMAN: Here is another paragraph:

Why should immunity from an investigation, especially from what is purely an incidental investigation, extend to Congressmen and to no one else? What is there so sacred and untouchable about the position these gentlemen happen to hold?

Yesterday it was stated here, and I have never heard it questioned by any Member of either the Senate or the House, that the Federal Bureau of Investigation, the Committee on Un-American Activities, and the Police Department of the City of Washington, the state police, and any law-enforcing agency, has the right to investigate Congressmen or Senators, or even the President, if they want to. Where did you get the idea that this committee, or any member of it, was objecting to any investigation other than the one under discussion, the one conducted by the Civil Service Commission which admits that it had no authority to do it?

Mr. CLINE. This is the investigation that I am talking about.

The CHAIRMAN. Where did you get the idea that any Congressman or Senator claims immunity from investigation by any agency other than the Civil Service Commission?

Mr. CLINE. I did not say they did.

The CHAIRMAN. You do not think that editorial leaves that impression?

Mr. CLINE. I do not think so. This editorial is directed exclusively to this particular investigation.

The CHAIRMAN. If that is so, to what Congressmen were you referring in the caption "Disloyal Congressmen"?

Mr. CLINE. I was not referring to any particular Congressman.

The CHAIRMAN. Senator Claghorn?

Mr. CLINE. I was not referring to Senator Claghorn.

Mr. STONE. What is your authority to investigate the press? What is this all about? What authority does this committee have?

The CHAIRMAN. Put that man out if he does not keep still.

You are not objecting to coming up here, are you, Mr. Cline?

Mr. CLINE. No.

The CHAIRMAN. Certainly not, and the publisher has no objection?

Mr. McKELWAY. No.

The CHAIRMAN. As I have stated before, we are only trying to get this thing straight so that the Star editorial writers as well as the reporters will know what we are objecting to.

Mr. McKELWAY. We are anxious to find out.

The CHAIRMAN. For myself—and I think I speak for every Member of the House—I have no objection to the FBI, the sheriff, the policemen who are charged by law with making an investigation to make an investigation, but what I am objecting to—and I think the committee—is the fact that money has been appropriated by the Congress that has been used without authority of law to make an investigation, an investigation which was made by the Civil Service Commission which every member of the Commission says it had no authority to make, and who say that they did not know that the information was in the files.

Mr. McKELWAY. That is the only basis of your objection?

The CHAIRMAN. And the further objection that the information in there consists largely of rumors, hearsay, reports about this, that, or the other, some of which are from responsible sources and some of which are irresponsible sources, and are known the country over as being unreliable and smear articles.

Mr. McKELWAY. The editorial is not based on hearsay.

The CHAIRMAN. I thought that you were talking about the investigation that the Civil Service Commission made. That is what I

was talking about, not about your editorial. You say the editorial is not based on hearsay, but the editorial is captioned "Disloyal Congressmen." Maybe I am entirely wrong, but my thought was that the average reader would at once reach the conclusion that the Star and the editors of the Star were announcing it as a fact that there were disloyal Congressmen and that the Congressmen who had been referred to in this file were objecting to the publicity given them; is that clear?

Mr. McKELWAY. Your point is clear. The caption refers to the names of disloyal Congressmen that might be in these files.

Mr. HARDY. I think the key to that is this--the fact that there are names in that file does not indicate that the information contained on those cards is either accurate or justified.

Mr. McKELWAY. Would that apply to all names?

Mr. HARDY. I think that it would from the investigation yesterday, and the assumption that the existence of these cards in that file indicates that a Member of Congress or anyone else is disloyal is an erroneous concept.

Mr. McKELWAY. Yes; the same principle applies to all the names that might be in the file.

Mr. HARDY. Some of the information on those cards may be substantiated. Most of it, as I understood the testimony yesterday, was not substantiated information, and the thing that I objected to was the possible publicity of information contained on those cards, which information had not been authenticated in any way.

Mr. McKELWAY. You are speaking, sir, of Congressman only?

Mr. HARDY. I am speaking of Congressmen, and I am speaking of any other cards in there that contain information that is not verified.

Mr. McKELWAY. But in the case of Congressmen, there would be no opportunity to verify it because the Commission had no right to make such an investigation.

The CHAIRMAN. Then the answer to that is it has no right to receive a complaint as long as the individual name is not an applicant for a job.

Mr. McKELWAY. Has no right to receive a complaint against a Member of Congress?

The CHAIRMAN. Against anyone who is not an applicant for a job that comes under such Civil Service jurisdiction. Do you not see?

Mr. HARDY. May I say this? I am sure it is not the attitude of the chairman, and I know it is not my attitude, to shield anyone who is disloyal, whether he be a Member of Congress or otherwise; but it is not the function of the Civil Service Commission to indicate whether a Congressman is subversive or not, and it certainly is not a function of the Civil Service Commission, or any other agency of the Government, to possess unauthenticated information which might cast a reflection upon the loyalty of a Member of Congress.

Mr. McKELWAY. The only thing that I was thinking of, I think that there are cases where, as you say, information which has not been authenticated relating to other people than Members of Congress has been made public.

Mr. HARDY. From the Civil Service Commission's records?

Mr. McKELWAY. No, sir; from other records.

Mr. HARDY. That should not be done regardless of who the individual is.

Mr. McKELWAY. I agree with you.

The CHAIRMAN. You see, my point goes further than just to Congressmen. I mentioned names here yesterday. For instance, I think that I named Henry Kaiser and Fairless and half a dozen men who are prominent in our national industrial life, and my point was that if none of those gentlemen had applied and would not be apt to apply for a job, it was not right or fair to have their names in there on the cards, charges that they might be this, that, or the other, any more than it would be fair to you. Suppose that your name appears down there. Who says so? Oh, some Congressman said that I was such-and-such and so-and-so. It doesn't make any difference that a Congressman said it, but the fact that they put it in a Government file lends dignity to it and authority to it.

Mr. McKELWAY. I think that everyone will be glad to hear you say that.

The CHAIRMAN. That is it. The Congress is the judge of the qualifications of its Members. It is not the business of the Civil Service Commission whether I am a crook, disloyal, or anything else. It is the business of the FBI, the Committee on Un-American Activities, and it is your business as an editor to expose me, if you desire, and nobody complains about that. That goes with the job and that is not what we are complaining about. What I am complaining about here is the inaccuracy of this editorial and how it would be understood by the average reader, because when you put it in the paper some fellow will say, "Well, it appeared in the Star." For instance, a radio commentator said after the 1942 election, "What is the Congress going to do about the eight saboteurs in Congress?" He did not have any support for that. That was just smear.

Mr. McKELWAY. Of course, the editorial did not say that.

The CHAIRMAN. The editorial said "Disloyal Congressmen".

Mr. CLINE. On the point of how the average person might react to the editorial, might interpret the editorial, I have a letter from Congressman McDowell, whom I do not know. It came in this morning in the course of the mails. May I read it?

The CHAIRMAN. If you think it is pertinent.

Mr. CLINE. It reads:

OCTOBER 6, 1947.

Mr. B. M. McKELWAY,
Editor, Evening Star,
Washington, D. C.

DEAR SIR: I read with a great deal of interest the original story saying that somebody had made a fuss about a report of an investigation, in the files of the Civil Service Commission, that named some Members of Congress, and, subsequently, your editorial of Monday, October 6, entitled "Disloyal Congressmen." Your editorial is very good and very logic, and states the case exactly.

I doubt if very many people will be indignant in that Civil Service Commission has somewhere in its office information regarding Members of Congress. As a Member, I do not see why any Member of a legislative body of the Nation should mind being investigated. Without exception, each one of us campaigns vigorously for our seats, and it has become traditional in American politics that if your background cannot stand investigation, it would be very unwise to enter the political arena.

I do not know of any Congressman who is objecting to what may be in the files of the Commission, and I am inclined to doubt that any would make an objection. Most certainly, if the United States Congress has among its membership any individual who may be disloyal to his country in its traditions and its ideals, America should know about it. May I remind you, sir, that all Members

enforce—ent agencies in the Department of Justice, and that is their business. Now the Department of Justice can put your name or my name in without any criticism. For instance, if to get in a hotel you have to have your fingers finger-printed or a photostat, that is all right.

Mr. FLEMMING. Mr. Chairman, you know in these days we never know who is going to apply for a job in the Federal Service. A great many have applied over a period of years.

The CHAIRMAN. Senators and Congressmen may do so.

Mr. FLEMMING. Some have.

Mr. HARDY. From that standpoint, Mr. Chairman, I do not agree that they ought not to have names in there because of no immediate possibility they would apply for a civil-service job, and the thing that got me bothered about it is that such confidential files apparently are not confidential.

Mr. FLEMMING. That has me bothered.

The CHAIRMAN. The committee had information—at least I got the impression from what was said by some member of the Commission yesterday that—perhaps it was Mr. Hatcher—that there had been discussion that they were going to have the files ediphoned.

Mr. FLEMMING. Perhaps that term was used here.

The CHAIRMAN. Or whatever the sound record was.

Mr. FLEMMING. Some kind of a duplicate record.

The CHAIRMAN. I think I can give you the name of the member who gave us that information.

Mr. FLEMMING. I would be very happy to have it.

The CHAIRMAN. It may be that fellow would lose his job.

Mr. FLEMMING. I will be very happy to receive his name and very happy to follow through on the lead which you have received.

The CHAIRMAN. I wonder.

Mr. FLEMMING. We had no knowledge of that. And I would be glad to check on it if you would like.

The CHAIRMAN. We would not have started this on last Friday had we not been advised that was what was going to happen. There was no file here.

Mr. FLEMMING. I can assure you that never would have been done without being submitted to the Commission.

The CHAIRMAN. Thank you again for coming up, gentlemen.

(Whereupon the committee adjourned.)

APPENDIX

After the members of the Commission had appeared before the committee and it became evident that they were not willing to produce the information requested, a letter was written to the President asking that an Executive order be issued authorizing the Commission to disclose the information. That request, together with President's reply, is as follows:

OCTOBER 8, 1947.

The PRESIDENT,
The White House.

MY DEAR MR. PRESIDENT: Hearings held by a subcommittee of the Committee on Expenditures in the Executive Departments disclosed that there was in the possession of the Civil Service Commission a file containing statements bearing upon the views, opinions, and activities of certain-named Senators, Senator's wives, and Congressmen.

Members of the Civil Service Commission appeared before the subcommittee and stated the Commission had no authority to obtain such information, nor to maintain such a file. The members of the Commission voluntarily stated the information would be removed from the files. They also stated that prior to the matter being called to their attention on Friday, October 3, they had no knowledge that such a file existed, and that they had no knowledge of its contents.

Reliable information has come to the subcommittee that a permanent, sound record was to be made of this information which statements, in the file disclosed, were obtained from various organizations, some of which are admittedly subversive, and a number of which are unreliable.

The subcommittee asked for a subpoena to be issued calling for the production of this file insofar as it contains statements relating to Members of Congress. The request contained in the subpoena was refused by the Commission on the ground that the file was confidential and its disclosure could only be obtained by an Executive order.

The subcommittee also asked that a member of the committee, or its representative, or a representative of Congress, be permitted to go through that portion of the file which carried statements as to Members of Congress. This request was refused on the grounds above stated.

Will you kindly issue an order authorizing the Commission to open this file to the inspection of a committee member or their representative.

Faithfully yours,

CLARE E. HOFFMAN, *Chairman.*

THE WHITE HOUSE,
Washington, October 21, 1947.

The HONORABLE CLARE E. HOFFMAN,
The House of Representatives,
Washington, D. C.

DEAR MR. HOFFMAN: I have your letter of October 8, 1947, with respect to a certain file of the Civil Service Commission. Your letter states that the Commission has refused to make this file available to your committee.

I am advised that these records were maintained by the Civil Service Commission on a confidential basis. There is nothing in your letter which would indicate that the Commission was not justified in classifying them as confidential nor am I justified in overruling the Commission on the facts presented by your letter.

I believe that it is in the public interest to keep Civil Service Commission records confidential, in the absence of a compelling reason to the contrary in a particular case. In the circumstances presented, I do not believe that I should interfere with the Commission's refusal to make these records public.

Very sincerely yours,

HARRY TRUMAN.

Other correspondence, printed below, between the chairman of the committee and Mr. Harry B. Mitchell, President of the Commission, supplies certain material requested in the course of the hearings but which was not made available until some weeks later for the reason that some of the questions requested information which could not be made available until after more or less research and compilation by the staff of the Civil Service Commission.

The correspondence is as follows:

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., November 26, 1947.

HON. CLARE E. HOFFMAN,
Chairman, Committee on Expenditures in the Executive Departments,
House of Representatives, Washington, D. C.

DEAR MR. HOFFMAN: Further reference is made to your letter of October 9, 1947, in which you requested information regarding the Commission's investigators' reference file.

The second paragraph of your letter reads as follows:

"Unsolved is the question of who authorized the making of the investigation, the time when it was made, the sources from which the statements were obtained, the use which has been made of it, the place or places where it has been kept, and the steps which have been taken to remove from the files all statements having to do with Members of Congress who are not applicants for jobs coming under the jurisdiction of the Commission."

As your committee was advised on October 20, 1947, the Commission has been engaged in assembling the information pertaining to the origin, development, and use of the investigators' reference file. This information has now been assembled and in reply to your original request and to your letters of November 17 and 18, 1947, addressed to Commissioner Flemming, the following facts are furnished.

Your first request is for information as to "who authorized the making of the investigation" and "the time when it was made."

We assume that in referring to "the investigation" you are referring to the investigators' reference file. This file had its inception in the individual efforts of Commission investigators who, in addition to whatever time they spent on it during regular working hours, also devoted considerable voluntary overtime to the work of building it up for their use in conducting loyalty investigations.

Our records indicate that the investigators began to develop and maintain these cards for use in connection with loyalty investigations in the fall of 1940 or early in 1941.

The Commission was aware of this activity and considered it to be a legitimate and useful part of its investigative program.

Your next request information as to "the sources from which the statements were made."

The file is, as its name implies, essentially a reference file. It contains the names of persons who would be in a position to provide investigators with information relative to other persons under investigation. It likewise contains the names of persons allegedly affiliated with alleged Communist, pro-Nazi, and pro-Fascist organizations. The Commission is in no position to vouch for the validity of the information. No conclusions have ever been drawn from this information by the Commission until after investigation and adjudication of specific cases.

A considerable amount of information for inclusion in the file has been secured from various sources under a pledge of confidence; and these sources, therefore, cannot be revealed. The greater part of the information in the file comes, however, from public or semi-public sources such as Communist Party nominating petitions, Communist Party publications, organizational literature, newspapers, magazines, and reports of various congressional committee hearings.

The largest number of cards were added to the file in 1943. Of the total number added at that time, 56 percent were based on New York Communist Party petition signers and Communist Party petition signers of other States. Reports from various other governmental agencies (Federal, State, and local) comprise the next largest source of information. For example, one source of information was the Rapp-Coudert legislative reports for the State of New York in 1941 and 1942.

You next inquire as to "the use which has been made of it."

As indicated already, the Commission's own investigators checked this file for "leads" and for possible sources of information in connection with investigations for which they had responsibility. In addition, the file has been available to the Federal Bureau of Investigation, the Office of Naval Intelligence, the

Office of Military Intelligence, the Treasury investigative agencies, and the State Department. Also, where other agencies and legislative committees have desired information relative to specific individuals, such information as could be made available without divulging confidential sources of information has been supplied. In your letter you also request information as "to the place or places where it has been kept."

Files have been maintained in all of the Commission's regional offices except the fourth regional office at Winston-Salem, N. C. The cards in each regional office file are cards which have been inserted as a result of the work of employees attached to each regional office. Duplicate cards have been transmitted by each regional office to the fourth regional branch office in Washington, where the complete master file has been maintained.

On September 30 and October 1, 1947, this master file was moved to its present location in wing 4 of Temporary Building D, Fourth Street and Independence Avenue SW., Washington, D. C., where it was placed in the Commission's central office Investigations Division. From 1941 until September 30, 1947, the file was, as above indicated, maintained and operated by the branch office of the fourth United States Civil Service region, the present location of which is in the Tariff Building, Eighth and E Streets NW., Washington, D. C. When last under the management of the fourth regional branch office, the file was situated in rooms 38, 40, and 42 in the basement of the Tariff Building. The fourth regional branch office was moved to the Tariff Building on or about July 31, 1946, from the Old Police Building at 462 Indiana Avenue NW., Washington, D. C. In addition to the last two locations, the fourth regional branch office was likewise located at various times since early 1941 in the Mather Building on G Street between Ninth and Tenth Streets NW., in the Otis Building on Eighteenth Street NW., and on E Street between Eighth and Ninth Streets NW.

Finally, you request information as to "the steps which have been taken to remove from the files all statements having to do with Members of Congress who are not applicants for jobs coming under the jurisdiction of the Commission."

At the hearings before the subcommittee of the House Committee on Expenditures in the Executive Departments on October 6 and 7, 1947, we stated that we had no previous knowledge that any information relative to Members of Congress had been inserted in the files. A check of the files revealed the fact that some of the cards did carry the names of Members of Congress. We stated at the hearing that if we found this to be the case, such cards would be taken from the files and destroyed. This has been done.

Very sincerely yours,

HARRY B. MITCHELL, *President.*

DECEMBER 6, 1947.

Mr. HARRY B. MITCHELL,
President, United States Civil Service Commission,
Washington, D. C.

DEAR COMMISSIONER MITCHELL: Since receipt of your letter of November 26, and Commissioner Flemming's supplemental note of December 1, I have had an opportunity to read the complete record on our committee's October hearing relating to the investigator's lead file of the Commission.

There are still several questions of the committee unanswered in the record, which I am confident you will want to answer before the hearings go to the printer. It will expedite matters if you care to answer these questions in another letter so that the information may be inserted in the proper place in the hearing record.

On page 44 of the stenographic transcript, Mr. Flemming was asked specifically whether any of the material in this file was taken from the files and records of the Anti-Defamation League, the Friends of Democracy, or the files of one Leon Burkhead. In response, Commissioner Flemming said he would check the Commission's records and supply the answer. That answer is not included in your communication of November 26.

Another question still unanswered in the record also occurs on page 44: "Who instituted this procedure? Who collected this information, and where did they get it?" Substantially the same question is repeated on page 111: "Can you and, if you can, will you, by letter, give us information as to who ordered the compilation to be made, by whom it was made and when?"

Your letter of November 26 states that your lead file merely developed out of the routine operations of your own investigators, that as the material accumulated

it was assembled piecemeal in the index, which gradually became known as the investigator's lead file. Do I understand correctly from your letter that this statement is all the Commission desires the record to show as to the origin, source, and purpose of this file? If so, the material will be incorporated in that form; but it occurs to me that such a routine procedure hardly explains satisfactorily for the record the great task of transcribing some 500,000 cards in New York City to be incorporated in the file at Washington. If the Commission desires to insert additional material for the record on this point, I will be glad to have it.

The next unanswered question occurs on page 80, where Mr. Flemming was asked to supply from your registry the number of people who had signed up for access to this file. Mr. Flemming promised to supply that for the record.

On page 81 Mr. Flemming was asked if investigators for other committees of Congress had gained access to the index. The first part of that question is not answered in the record as it now stands, including your communications of November 26, and December 1.

On page 116 of the hearings Mr. Flemming agreed to supply a categorical statement whether or not the names of Senators, Members of the House, and at least one Senator's wife, appeared in this index.

Our subcommittee is at work on its report to the House and I am desirous of completing the record on these points before the report is submitted, if you are agreeable to supplying the material. On the other hand, if the Commission elects not to complete the record on these points, the subcommittee will proceed with its report on the basis that the questions remain unanswered by choice and decision of the Commissioners.

Sincerely yours,

CLARE E. HOFFMAN, *Chairman.*

UNITED STATES CIVIL SERVICE COMMISSION,
Washington 25, D. C., December 19, 1947.

HON CLARE E. HOFFMAN,
*Chairman, Committee on Expenditures in the Executive Departments,
House of Representatives, Washington, D. C.*

DEAR MR. HOFFMAN: Reference is made to your letter of December 6, 1947, in which you request additional information regarding the Commission's investigators' reference file.

The Commission's letter of November 26, 1947, was in reply to your letter of October 9, 1947, and to your two subsequent letters of November 17 and 18, 1947. It is stated in your letter of December 6, that you have now had an opportunity to read the complete record of the hearings held by your committee on the subject of the investigators' reference file and that "there are still several questions of the committee unanswered in the record." Your letter continues by stating that "it will expedite matters if you care to answer these questions in another letter so that the information may be inserted in the proper place in the hearing record." The paragraphs of your letter of December 6, 1947, which set forth the information desired regarding this file have been given careful study, and the following additional facts are furnished in the order in which you have requested them.

In the third paragraph of your letter, inquiry is made as to whether any of the material contained in the reference file was secured from the Anti-Defamation League, the Friends of Democracy, or from one Leon Burkhead. To enable your committee to understand more fully the composition of the file and the purpose it has served since its inception, the following additional facts are presented. It is believed that this detailed explanation will answer the questions contained in paragraph 3 of your letter referred to above, as well as the questions appearing in the two succeeding paragraphs.

The investigators' reference file had its origin in the latter part of 1940 or early in 1941. As the committee was advised in our reply of November 26, 1947, this file was begun by Commission investigators who, on their own initiative, considered it necessary to start compiling such a reference file to be used as a source of possible leads in connection with their investigations. The Commission desires to repeat that it was aware of this activity on the part of these employees, considered it a legitimate and useful part of its investigative program, and approved, therefore, the expenditure of funds necessary for its maintenance.

Some of the major sources of information for inclusion in the file were the published hearings of various congressional committees on subversive activities.

The investigators secured, in some instances, complete copies of these committee hearings, including all exhibits, and from such copies all information concerning individuals and organizations mentioned in the hearings were briefed and transcribed on index cards. It is desired to cite particularly the following congressional committee hearings, which were utilized in the formulation of the Commission's investigators' reference file.

Hearings before a Special Committee To Investigate Communist Activities in the United States, House of Representatives, June-November 1930, commonly referred to as the Fish hearings. These hearings deal with the subject Investigation of Communist Propaganda in the United States.

Executive hearings before a Special Committee on Un-American Activities, House of Representatives, April-December 1934, commonly referred to as the McCormack-Dickstein hearings. These hearings were on the subject Investigation of Nazi Propaganda Activities and Investigation of Certain Other Propaganda Activities.

Hearings before a Special Committee on Un-American Activities, House of Representatives, beginning in August 1938, commonly referred to as the Dies hearings. These hearings were held on the subject Investigation of Un-American Propaganda Activities in the United States.

The reference file, likewise, contains information secured from reports of investigation on subversive activities made by various State governments. Reference is here made to such reports as the Rapp-Coudert legislative reports in the State of New York; the McNaboe reports in the State of New York; and reports of the Legislature of the State of California, commonly referred to as the Tenney reports. In the expansion of the file, information was also secured by the investigators from various police departments and patriotic groups and societies who had assembled information on persons alleged to be disloyal. State police units were particularly helpful in furnishing information on Nazi, Fascist, Communist, and Pro-Japanese groups and their activities.

Another major source of information used for expansion of the file was Communist party petition signers from various cities and states throughout the Nation. Information was likewise secured from responsible investigative units of Federal agencies.

The greatest expansion and growth of the investigators' reference file, as pointed out in our letter of November 26, 1947, occurred in June and July of 1943, at which time 487,033 cards were indexed and added to the file. This project was accomplished in the Commission's regional office at New York City and the services of 3 investigators and 75 typist and clerical personnel were utilized. This undertaking was authorized and approved by the Commission. Of the total number of cards added at this time, 56 percent were based on New York Communist Party petition signers and Communist Party petition signers of other States. Likewise, the New York office of the Dies committee furnished material for approximately 11 percent of these cards, and the New Jersey State Police supplied source material from which approximately 8,000 cards were prepared.

Another source of information about which you have made specific inquiry was an organization known as Friends of Democracy, Inc. The Commission's records indicate that this organization had its offices at the time at 137 East Fifty-seventh Street, New York City. Their files were made available to the Commission's investigators. Information was taken therefrom, indexed, and the cards became a part of the investigators' reference file. The records disclose that of the 487,033 cards added to the file at the time in question, approximately 5 percent were derived from information furnished by this organization. Its director, at the time, was one Leon N. Birkhead, and presumably this is the same individual as the "Leon Burkhead" referred to in the third paragraph of your letter December 6, 1947.

In respect to your inquiry relative to the Anti-Defamation League as a source of information for the establishment of the file, the Commission's records disclose that this particular organization is not listed by name as a direct source in connection with the compilation of the 487,033 cards at New York City in June and July 1943. However, a careful check of records reveals that 6,000 or 7,000 cards were based on information secured from a confidential source, and such confidential source, according to our understanding, compiled at least some of its information in cooperation with the Anti-Defamation League.

As the Commission pointed out in its letter of November 26, 1947, the file is essentially a reference file to be used as leads by our investigators in connection with investigations for which they had responsibility. It was further pointed out that the Commission was in no position to vouch for the validity of any of the

Mr. FLEMING. That is correct.

Mr. BUSBEY. Then what is the value of the report?

Mr. FLEMING. It is simply to give the FBI the information that it feels it needs on this particular employee in order to check its files, that is all. That is the only purpose of it.

Mr. MITCHELL. That is all the information the FBI wants, when you come right to it.

The CHAIRMAN. In behalf of the committee, we want to thank you gentlemen for coming up, and I would like to express our regret and sorrow that you did not see fit to bring with you those books.

Mr. FLEMING. Mr. Chairman, to make the record perfectly clear, we will proceed to do immediately what we have said we would do.

The CHAIRMAN. That will be wonderful. But once more, let me say to you, to make the record a little more complete than it is, that I, for one--and this is only my personal opinion--have very little faith in the efficiency of that move; not because of any reason personal to you, but because the job is so big and you slipped so miserably before--and when I refer to you I am not making a personal reference--in permitting these leaks to people who are smearing Congress.

Mr. HARDY. Mr. Chairman, the thing that disturbs me is the fact there may be other sets of these files elsewhere.

The CHAIRMAN. Apparently there is a set-up in New York to which a firm of lawyers has access. As I said, I cannot understand why you would let a private firm of attorneys in New York City have access to these files and not permit the committee to have access to them.

Mr. FLEMING. If that has been done, it has been in direct violation of all orders and instructions.

The CHAIRMAN. But what can we do about it?

Mr. FLEMING. We can do something about it.

The CHAIRMAN. But you gentlemen have fallen down on the job. I say that your attitude is not fair, Mr. Fleming. If I had in my office files information derogatory to your loyalty, I should permit you to go through those files and take out what you wanted taken out, especially if I were dependent on you for my money.

Mr. HARDY. Mr. Chairman, the thing that disturbs me about it is that the Commission itself apparently knows so little about what is going on within its own agency. I do not know how many sets of these cards there are or how many Congressmen are involved, or how many other American citizens are involved. That is what disturbs me.

The CHAIRMAN. You do not even give the Members of Congress an opportunity to have a hearing and be confronted with the charges that have been made against them. Those cards may charge a certain Congressman with being a Nazi. You accept that and do not give us the opportunity to go down there and show you are wrong.

Mr. FLEMING. We have not accepted such statements.

The CHAIRMAN. You have; you have it in your files.

Mr. FLEMING. I know, but I think the record is perfectly clear. As far as the Members of Congress are concerned we did not know anything about it.

The CHAIRMAN. That does not excuse you.

Mr. FLEMING. I grant you that. But we have assured you that we will take it out.

Mr. HARDY. You know we are not going to have to put with continued poor administration such as that?

Mr. FLEMING. I hope not.

Mr. HARDY. I hope not.

The CHAIRMAN. If I went on the floor of Congress and called you a Nazi, I think I would be a skunk if I did not give you a hearing.

Mr. MITCHELL. Do you expect the members of the Commission to go down and go through this file every day?

Mr. HARDY. No, sir; but I expect you to employ competent people, whom you can trust.

The CHAIRMAN. And if it has been demonstrated, as it has, that they are not competent to do that, then I cannot understand your position, Mr. Commissioner, in not permitting us to send a man down there and check with you.

Mr. BUSBEY. Let me ask this question for the record. Is not your Commission charged with the responsibility of keeping these files confidential?

Mr. MITCHELL. Exactly.

Mr. BUSBEY. And they have not done it.

Mr. MITCHELL. I admit that. But you have been talking about individuals being smeared. Would that smear be any less if this committee were allowed to go down there and go through those files?

The CHAIRMAN. Yes; if we could take out that data. They try to justify it now by saying that the cases have not been adjudicated.

Mr. MITCHELL. You are concerned about private individuals who are also in that file. If your committee went down there, and investigated those files, you would find a lot of other people who may be accused of being Nazis.

The CHAIRMAN. We do not claim any jurisdiction over that. That is your business.

Mr. MITCHELL. But I am talking about the question of the smear. You are concerned about a smear.

The CHAIRMAN. That is right.

Mr. MITCHELL. And the more public you make the information, the more you smear those people. Supposedly nobody was permitted to see that file but our own investigators, but apparently somebody did.

Mr. HARDY. What you are saying is that the information you have in your files is safer in the hands in the rank and file of the Civil Service Commission employees than it would be in the hands of the Members of Congress; is that right?

The CHAIRMAN. That is what he is saying.

Mr. MITCHELL. No. I am saying that the more public the information is made in that file, the greater is the danger of a smear.

The CHAIRMAN. You do not know of any name that has been given out by this committee, except my own, do you? And I have done that myself? You do not know of anybody else's name that has been given you?

Mr. MITCHELL. No. I am not talking about that. I am directing my remarks to you, Mr. Chairman, and am simply saying that the more public you make the information, the more danger there is of a smear to individuals. That was the whole purpose of keeping this file confidential, to avoid a smear. I might call your attention of the fact that I got an explanation from the head of the fourth regional office to the effect that he tried to get some persons to go in there and

of Congress. We an oath to preserve, protect, and defend the Constitution of the United States and if there are any who withhold any mental reservation to that historic oath, they should not be here in the Capitol.

I commend you for your good editorial
Yours very truly,

JOHN McDOWELL, *Member of Congress.*

The CHAIRMAN. What he did not know was that the Commission has spent money which was appropriated for other purposes for this purpose.

Mr. CLINE. I do not think he misinterpreted the editorial in the way you seem to feel that other people will.

The CHAIRMAN. Of course he is one.

Have you any questions, Mr. Snyder?

Mr. SNYDER. No.

Mr. HARDY. I am inclined to agree with Mr. McDowell, insofar as a proper exposé of any Member of Congress is concerned, who is disloyal, but I do seriously object to the possibility of giving publicity to the unauthenticated statements that appear on these cards.

The CHAIRMAN. And may I say to the publisher of the paper, and the editors of the papers, that the Star has asked for a exercise of economy and a proper safeguard of public funds. Here is an illustration, and a case, where, according to the Commission's testimony, it has no authority to make this investigation, has no authority to have this file down there, and that the members of the committee know that a duplicate has been in New York and available to outsiders.

Mr. McKELWAY. Mr. Chairman, if in the course of the investigation the Commission had received information indicating that a Member of Congress was disloyal, should the Commission disregard that information?

The CHAIRMAN. No; it should turn it over to the FBI.

Mr. CLINE. Does not the FBI use this file continuously?

The CHAIRMAN. It does-- that is, it is available to them at any time they want to use it. But I still say that if I were to get up on the floor and say something about the disloyal editorials in Washington you gentlemen would not greet that statement with loud applause or approval.

That is all I have. Have you anything further, Mr. Busbey?

Mr. BUSBEY. May I ask who wrote the caption for the editorial?

Mr. CLINE. I wrote it.

Mr. BUSBEY. Mention was made of the fact that you did not get the information for the editorial on hearsay. What were the facts that you have and where did you get them, Mr. McKelway?

Mr. McKELWAY. The editorial was a comment on a news story in the Star.

Mr. BUSBEY. A comment on a news story in the Star?

Mr. McKELWAY. Yes.

Mr. CLINE. On Sunday.

Mr. BUSBEY. And it was just a reporter's story.

Mr. McKELWAY. It was the facts in the story.

Mr. CLINE. We can take the chairman's word that the reporters are very reliable.

The CHAIRMAN. I repeat generally that the reporters, as compared with editors and commentators, are extremely accurate. It is my understanding that editorials are expressions of opinion and that the reporters are supposed to get the facts.

Mr. CLINE. That is correct.

The CHAIRMAN. I think that is all I have today. I want to thank you gentlemen for coming up here.

Mr. CLINE. Thank you.

The CHAIRMAN. This question has just been handed to me: Do you mean the Civil Service Commission has no authority to make investigations of those who are job applicants?

Of course, they have authority to do that, and everybody concedes that they have authority to investigate anyone applying for a job, and that is their only jurisdiction, the only jurisdiction they have, is it not, Mr. Flemming?

Mr. FLEMMING. Mr. Chairman, in response to that question, and also in response to some comments that have been made: I think we made it very clear yesterday that we consider we do have authority to develop and maintain this investigators lead file. We agreed with you that we had no authority and no right to put in that file the name of Members of Congress. We do contend that the development and maintenance of the investigator's lead file is an essential part of an effective program in line with the responsibility which has been given to us.

Mr. HARDY. With which most of us could agree, at least I could, that a file should be very helpful, but the thing that I am particularly concerned about is the dissemination of information contained in that file that is not authentic or reliable.

Mr. FLEMMING. Mr. Congressman, I am just as much concerned about that as you are and that is the basis for our maintaining throughout the testimony yesterday that this was a confidential file and must be preserved as a confidential file. If you have the opportunity to read the opinion of Attorney General Jackson on confidential files in the executive branch, you will find one paragraph there in support of his contention that files must be maintained as confidential wherein he points out that in many instances information is put in files of this kind which must of necessity be put in the files and which has not been corroborated, which has not been checked on at that point, and that it would be very unfair to any individuals concerned to have it even known that their names were in such a file. That is one of the basic reasons why it seemed to us that the position of the executive branch on that is sound and that they must be kept confidential.

Mr. HARDY. If they had been kept confidential we would not have had this furor.

Mr. FLEMMING. I concur in that very emphatically and I can assure you that we believe that everything it is humanly possible to do should be done and must be done to preserve the confidential character of the files.

Mr. HARDY. I believe you would agree with me, Mr. Chairman, that such a file would be of value if properly safeguarded.

The CHAIRMAN. There is no question about it. The only place where I disagree with Mr. Flemming is here: He says that they have no business to investigate and should not keep files as to Senators and Congressmen. I go one step further and I say that kind of a file should not be in existence as to individual citizens unless they are applicants for jobs over which the Civil Service Commission has jurisdiction. Of course, there are two reasons for that: first, you have no authority; and, in the second place, we have the FBI and other law-

that individual was concerned at all. But if one of those individuals should apply for a position in the Government, and if it should happen that the Commission had the responsibility for investigating him, they checked the files and found out that he had filed a communist party nominating petition, and they might, as a result of that, conduct a full field investigation; so that actually the investigators are the ones who put the names in the files.

I think you can appreciate, of course, that we did not have any way of knowing who was going to file for a job in the Government and who was not. The turn-over was pretty high during the war period and the total employment was very high.

The CHAIRMAN. That is all right and very fine and I can understand it, but that does not have a thing to do with the file, for example, having the name in the file unless it was found that they had signed a petition, a nominating petition or something of that sort. Why would the file contain the name of a Senator or a Congressman, unless he has signed one of these nominating petitions showing that he was identifying himself with some subversive organization?

Mr. MITCHELL. I presume because his name was mentioned in the investigator's report, his name was mentioned in some connection.

The CHAIRMAN. What justification is there for finding in the list the name of a Senator or a Congressman unless his name was connected with some petition or his name was used in support of some nominee on the Communist ticket? I do not think that has a thing to do with a Senator or a Congressman, unless it was found that he had signed such a petition, and that gets us back to the original question I asked, and that is, what is the justification and on what authority do you have in the file, let us say, my name or the name of any Senator?

Mr. FLEMING. Mr. Chairman, I am in complete agreement with the statement of President Mitchell. We had no knowledge of the fact that there were names of the Members of the House or the Senate in that particular file, and if there are such names in the file they should be taken out.

The CHAIRMAN. There are, and it looks like a list taken from the New Republic back along in 1940, 1942, or 1939.

Mr. HARDY. I would like to find out how the names got in the file.

The CHAIRMAN. Maybe you can find out.

Mr. HARDY. There must have been other ways the names would get in the file besides being taken from some Communist petition.

Mr. MITCHELL. As I explained, they get the names of the persons from some investigation that was made. In some investigations, of Communists, let us say, concerning some particular person, they get the name of John Smith or of Tom Brown, and Tom Brown's name might be on that list.

Mr. HARDY. The next thing I would like to know is how would anybody find out that the name of a Congressman is on the list? Who has access to the files and for what purpose are they used?

Mr. MITCHELL. I know who has access to them; yes. I do not know who found out about the names in that file. Mr. Hatcher can tell you more about it because he is more familiar with it.

Mr. HATCHER. You refer to those persons having access to the file for information?

Mr. HARDY. I would like to know that. It has been said that there are names of Members of the Senate and the House there.

Now in the first place I would like to know who has access to the files and who could know about the names of Congressmen?

Mr. HATCHER. Let me answer the question insofar as I can answer it. These files came to me on September 30 and October 1 of this year and anything before that, of course, I can only give as hearsay.

Mr. HARDY. Who can give us that information? I do not think we need hearsay and certainly there ought to be someone in the Civil Service outfit that would know.

Mr. HATCHER. Prior to that the files were in the fourth regional office and they were under the control of the regional chief of the Investigation Division, Mr. Garson.

Mr. HARDY. Is he here?

Mr. FLEMING. He is not here, but Colonel Hatcher is familiar with the files and can answer the question as to who was authorized to use the files in connection with the investigation.

The Commission has a "release of information" policy. That does not specifically pertain to investigators' lead files, however. It pertains to other files, and I am not aware that there was any authorization for release of information from investigators' lead files.

Mr. HARDY. How was the release made?

Mr. MITCHELL. I might explain that the file has been used by the FBI, and by the Committee on Un-American Activities.

Mr. MITCHELL. They were given access to the files and any person who was conducting an investigation of the records had access to them; these various committees and the FBI, and, who ever they were, were given free access to the file, and were not watched. I was talking with the head of the fourth regional district branch prior to the hearing and he told me that was the situation.

The fourth region office was in Washington, but at the beginning of the war it had to go down to Winston-Salem in order to provide space for other agencies, but this is the branch that had charge of those particular files.

The CHAIRMAN. For the record it covered the States of Virginia, West Virginia, Maryland, North Carolina, and the District of Columbia.

Mr. SNYDER. And did this comprise just the names from the fourth region?

Mr. MITCHELL. Oh, no; the other regional-office files are in it.

Mr. SNYDER. They keep similar files?

Mr. MITCHELL. Similar files; yes.

Mr. SNYDER. About how many names do you have in this file?

Mr. MITCHELL. Someone said there were about 75,000 in that file.

The CHAIRMAN. No. Let me correct you there. Here is the record. Friday the question was asked of the number of names and Colonel Hatcher said 750, and the other gentleman, Mr. Bartlett, I think it was who said there was 750,000 cards. Not different names. Am I correct now as to the number of names? Go ahead, because the question was not answered then.

Mr. SNYDER. The cards, I would assume, comprise the lead on individuals or character of the individuals. Is that true?

The CHAIRMAN. Yes; but there might be three or four cards or more on some individual.

Mr. HATCHER. Yes.

information included in the file. No conclusions were ever drawn from this information by the Commission and no decisions were ever made until after investigation and adjudication of specific cases. Also, as pointed out in our previous letter, names were often included in the files because it was felt that they would be a good source of information in certain types of cases and not because of any unfavorable information received relative to them.

Since the 1943 project in New York City, there have been no systematic attempts to build up the file. The only additions made thereto have been sporadically through the efforts of individual investigators, using as source material, for the most part, newspapers and periodical literature.

Your next paragraph of inquiry reads as follows:

"The next unanswered question occurs on page 80 where Mr. Flemming was asked to supply from the registry the number of people who had signed up for access to this file. Mr. Flemming promised to supply that for the record."

After the close of World War II, the file continued to be used, although on a much smaller scale, by our investigators and by representatives of the Federal Bureau of Investigation, the Office of Naval Intelligence, the Military Intelligence Service, and the Treasury and State Departments Investigative Divisions. Information relative to specific inquiries was likewise released to other agencies of the Federal Government and to legislative committees. From January through September 30, 1947, when the file was transferred from the custody of the fourth region to the central office Investigations Division, our records show that 76 different individuals obtained information from the reference file at various times by appearing in person at room 156 Tariff Building, where the logbook was maintained. This number, of course, is in addition to Commission investigators who had occasion to use the file from day to day in connection with specific cases under investigation. The records disclose that 57 percent of all requests for information during this period were made by representatives of the State and Treasury Departments.

The next paragraph of your letter reads as follows:

"On page 81 Mr. Flemming was asked if investigators for other committees of Congress had gained access to the index. The first part of that question is not answered in the record as it now stands, including your communications of November 26, and December 1."

The records of the Commission disclose that information from time to time has been released from the investigators' reference file to representatives of one other committee of Congress, in addition to the House Committee on Expenditures in the executive departments. During the 9-month period ending September 30, 1947, information from the file was released to the House Un-American Activities Committee on 11 occasions.

Your final paragraph requesting additional information is as follows:

"On page 116 of the hearings Mr. Flemming agreed to supply a categorical statement whether or not the names of Senators, Members of the House, and at least one Senator's wife, appeared in this index."

Information on the above matter was supplied in the concluding paragraph of our letter of November 26, 1947. In that letter, it was stated that the Commission had no knowledge previous to October 6, 1947, that any information relative to Members of Congress had been inserted in the file. It was further stated that a check of the file revealed the fact that some of the cards did carry the names of Members of the House and Senate. We also found one card containing a name similar to that of a Senator's wife. As stated in our previous letter, we have, in accordance with the promise made at the hearings, removed the cards in question from the file and destroyed them.

Sincerely yours,

HARRY B. MITCHELL, *President.*

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afraid of him, Dale, always afraid of him. Admiration and pity I felt, but fear more than either."

48. DT to Frances Perkins, February 9, 1951, in the Sinclair Lewis collection, Macalester College Library, St. Paul, Minnesota.

49. DT, "The Boy and Man from Sauk Center." In an essay about SL ("Portrait of Sinclair Lewis") Barnaby Conrad wrote: "Sinclair Lewis died in Rome of alcoholism. I heard of a final macabre irony: a friend of mine went into the United States Embassy in Rome and saw a consular official down on her knees with a broom and pan. 'What are you doing?' he asked her. 'Sweeping up Sinclair Lewis,' was the answer. Red's ashes had been put in a safe pending final disposal and the urn had fallen out, its contents spilled" (*Horizon*, March 1979).

50. DT, "Novelist's Death Ends Tradition," undated clipping at SU. This was a special edition of "On the Record," twice as long as other columns in the series and not published by all of DT's subscribers.

51. DT to William R. Mathews, December 4, 1952, SU.

52. DT to Bruce and Beatrice Gould, July 2, 1951, SU; and to Helen Rogers Reid, August 13, 1951, in the Reid papers, Library of Congress.

53. DT to Jean Marie Richards, June 27, 1951, SU. She had stayed in close touch with Miss Richards, her former mentor at Syracuse, and helped raise a fund for her care when Miss Richards was dying of cancer.

CHAPTER SEVENTEEN

1. For DT and AFME, see DT's open letter to the *New York Times* of July 29, 1951; and the chapter on "Exploiting Anti-Semitism" in Alfred M. Lilienthal, *The Zionist Connection* (New York: Dodd, Mead, 1978), especially 418-420. A thoroughly hostile account of AFME's activities can be found in Hertzell Fishman, *American Protestantism and a Jewish State* (Detroit: Wayne State Press, 1973), 102-107. Fishman calls AFME "the most important pro-Arab group organized since the founding of the state of Israel." Even a number of DT's anti-Zionist friends were disturbed about its intentions. See, for instance, the reminiscences of Bruno Lasker in the Columbia University Oral History Project, page 518: "I found that the proposed organization was not, as I had thought, simply a committee to familiarize Americans more with the culture and economies of the people of the Middle East, but that Miss Dorothy Thompson and the clerical and other people who worked with her were definitely interested in supporting the Arab claims as against those of Israel. In other words, it was wholly political. Though I might have had a great deal of sympathy with it, I did not like to participate in something that I knew so little about. I only like to be connected with organizations in which I can be active myself. More especially, Miss Thompson refused to say where the funds came from, and that decided me to retreat at once, which I did."

It is worth pointing out that no one who knew her ever doubted that DT was honest in her espousal of the Arab cause. "It has not," she remarked, "in any way, been profitable for me. . . . It has lost me thousands of previous admirers and scores of personal friends. It has closed platforms to me which once eagerly sought me as a speaker. It has mobilized against me one of the most powerfully organized and zealous groups in American public life. It has contributed to diminish my income. And it has often filled my heart with tears." (DT, undated statement [ca. 1957], SU.)

For the CIA's involvement with AFME, see the *New York Times*, February 17, 1967; and the *Washington Post*, May 1, 1969. My FOIA request yielded nothing from the CIA but a stack of newspaper clippings and an outrageous bill for xeroxing. DT's papers contain no reference to the matter, nor was she ever concerned with the collection or distribution of funds within AFME.

2. Jack Wheeler to DT, December 8, 1956, SU.

3. DT to Ben Hibbs, December 29, 1950, SU.

4. Quoted in DT to Baruch Korff, January 13, 1954, SU. Rabbi Korff's remarks appeared in a letter to the *Manchester Union Leader* (New Hampshire), November 17, 1953.

5. See Joseph S. Shubow's "Reply to Dorothy Thompson" in the *Jewish Advocate* (Boston), March 3, 1949. Rabbi Shubow's attack was prompted by DT's comments on the film version of *Oliver Twist*, which Jewish groups in the United States had boycotted as anti-Semitic. "Rightly or wrongly," said DT, "I do not think *Oliver Twist* has contributed anything to creating anti-Semitism. It has been an English classic for a hundred years, during which Jews have enjoyed in England full civil rights and risen to posts of highest eminence. Regarding the film itself I cannot say, since Jewish pressures in this country have prevented it from being shown." (DT to the *Jewish Advocate*, March 9, 1949, SU.) She was severe in her condemnation of the Anti-Defamation League of B'nai B'rith: "The Anti-Defamation League exists to defame as anti-Semites everyone who treats the State of Israel as every other state of the world is treated, and blasts as 'anti-Semitic' every book in which a Jew appears in an unfavorable light." (DT to Paul Hoffman, April 27, 1953, SU.)

6. Combined from DT to JVS, January 27 and February 10, 1949, SU.

7. DT to Ben Hibbs, December 29, 1950, SU.

8. Throughout the war DT was ardent in her championship of Jewish emigration to Palestine. On June 26, 1941, she cabled Winston Churchill: "CONGRATULATIONS ON YOUR GREAT SPEECH. IN BROADCAST I MADE TO ENGLAND TODAY I WANTED TO SAY A WORD FOR PALESTINE COLONISTS AND PLEAD IN THE NAME OF HUMANITY THAT THEY BE FULLY ARMED FOR THEIR DEFENSE. I REFRAINED FOR OBVIOUS REASONS OF TACT YET WE IN AMERICA HOPE AND PRAY THAT THE PEOPLE WHO HAVE TRIED WITH THE WORK OF THEIR HANDS TO BUILD UP A REAL HOMELAND FOR THE RACE FIRST AND LAST TO BE PERSECUTED BY HITLER WILL NOT BE ALLOWED TO PERISH LIKE RATS UNABLE TO PROTECT THEMSELVES. YOUR WITHHOLDING WEAPONS FOR THEM FOR SELF DEFENSE IS HURTING YOUR CAUSE WITH MANY MILLIONS OF CHRISTIAN AMERICANS. I PLEAD WITH YOU IN HEAVEN'S NAME DO SOMETHING QUICKLY. FAITHFULLY YOURS," etc. (telegram in the British Foreign Office archives, reference No. FO 371/34456 114745 ["Dorothy Thompson"], London).

9. See her article in *The Outlook*, "The Hope of a New Palestine," September 8, 1920; and her speech at the "Balfour Meeting" in Carnegie Hall, November 1, 1943, transcript at SU: "No one has ever challenged the right of the Arabs to live in Palestine on terms of personal equality with the Jews and everyone else. . . . The right of Arabs to live in Palestine belongs to them not as Pan-Arabians, but as human beings. If western civilization is going to establish the theory that sections of the earth are to be set off for the exclusive use and development of persons descended from persons that have been indigenous there for centuries, then all civilization will stagnate and ours in particular will. Least of all can the British support such a concept. Least of all can we of the United States."