The voluntary control measures are applied by the Department of Commerce on the operations of American corporations in direct investments overseas; the operations of the interest equalization tax, which is the law concerning the making of overseas loans that might affect our balance of payments; and the voluntary program administered by the Federal Reserve Board in dealing with loans by banks and nonbank financial institutions overseas which you refer to as reflecting our balance-of-payments program, all include very specifically as a matter of national policy an exemption from those voluntary programs of activity in the less-developed countries of the world, which I do not need to name. It is a general category.

The concern of those programs with the flow of funds overseas and any limitations thereon in these programs have been to the so-called developed or the powerful financial countries.

Now, you may find a foundation that has spent a few dollars in one or another of the so-called developed countries. I think that of the list you read, Italy was the only developed country I recall. But by and large the activities overseas of these foundations have been concerned with countries like India, which is prominent in the listing you gave, which is a less-developed country which is exempt from these programs and which as a matter of foreign policy of the United States and foreign economic policy, we want to encourage our private foundations to help out, just as we encourage the private companies to invest in the development of those areas, and just as the Congress of the United States enact aid programs each year for making loans to these countries, their governments and their institutions.

So, the question and the comment about the overseas operations of foundations completely misses the point of our concern.

Mr. Patman. Thank you for your comment on that, but remember these are not the only ones. These are just typical of what has been done.

Secretary Fowler. The characteristic operation——

Mr. Patman. If you would like, we can document others, but we will not pursue that at this point.

I want to get through with these policy questions.

Secretary Fowler. What was the next question?

Mr. Patman. We all know that Mr. McGeorge Bundy is now president of the Ford Foundation.

Secretary Fowler. Wait a minute. There was one question that you asked where there was a long series, and there was another one that I do not think I got a chance even to answer as you read the previous statement, something about if I agreed to it. I do not know anything about the Indonesian matter referred to. I think I answered that question.

Mr. Patman. I said, would it be fair to say that if that spendthrift is a tax-exempt foundation and not John Q. Public, the foundation culprit needs exposure and closer supervision. I just did not think you would differ with that.

Secretary Fowler. I think the question you asked me was something about a separate agency.

Mr. Patman. Yes; I brought that up in my original statement.

Secretary Fowler. I think I should get that in the record. Would I agree that a separate agency should be established?

If the reason for your proposed regulatory agency is to eliminate tax abuses among foundations, the answer is "No." We think that the adoption of the foundation report recommendations would give Internal Revenue Service the necessary tools with which to eliminate tax abuses in the foundation area, and, therefore, no new regulatory agency is necessary.

Now, presumably any abuses in the other fields that do exist, as my previous comments indicated, can and should be handled by the agencies that Congress has set up and charged with the responsibility and provided staff and funds to enforce those laws. If those laws are inadequate to deal with the foundation part of SEC practice, then new laws should be enacted to deal with the problems.

But one agency, a new agency, set up to duplicate the work of all the other agencies that have appropriate jurisdiction in this field would only, I think, be redundant, involve duplication and interfere with the normal functions of the existing departments and agencies.

Mr. PATMAN. It is not contemplated to do what you suggested, in the way in which you said it.

Mr. Bundy has said that he is "determined to assure that there is a Ford Foundation in your future." I gather he means by that that the Ford Foundation will keep most of its principal and spend only income so that it can exist in perpetuity.

I do not believe that the United States needs a Ford Foundation in perpetuity. In fact, I hope my grandchildren will not have it around.

Mr. Bundy has forgotten, or perhaps never knew, that the Ford Foundation owes its very existence to the generosity of the Federal Government. Moreover, the control of the Ford Motor Co. would also have gone to the public were it not for the same generosity of the Federal Government.

The Ford Foundation has assets valued conservatively at $3 billion. Since tax exemption for foundations is equivalent to an equal amount of taxation for those who do pay taxes, this $3 billion represents $15 for every American.

According to an article in the New York Times of January 30, 1967, Mr. Bundy made the statement that the Ford Foundation is small "compared with Gardner Howe, Weaver, Shriver and Webb Foundations." Of course his analogy is ridiculous when one considers that the Ford Foundation is controlled by an independent board of trustees while the funds of "Gardner, Howe, Weaver, Shriver and Webb" have been appropriated by the elected representatives of the people.

I note that the Ford Foundation has recently completed a new building in New York City costing millions of dollars. While this may add to the feeling of self importance of the Ford Foundation's top brass, do you believe that the taxpayers, who subsidize the Ford Foundation, really need a lavish building in an expensive area of New York City?

I will finish this, and then you may reply.

In his annual report for 1966, Mr. Bundy says:

> We find there is no present reason to believe that the world will have less need of a large foundation in 1980 than in 1967; the forces we help to counterbalance are not likely to be smaller—the need for an independent agency not likely to be less. So we accept, for now, a clear obligation to preserve our endowment for our successors.

Mr. Secretary, what forces do you think the Ford Foundation counterbalances?

CONTENTS

TAX-EXEMPT FOUNDATIONS: THEIR IMPACT ON SMALL BUSINESS

MONDAY, OCTOBER 30, 1967

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 1
OF THE SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m., in room 2359, Rayburn House Office Building, Hon. Wright Patman (chairman of the subcommittee) presiding.

Present: Representatives Patman, Corman, Moore, Conte, and Morton.

Also present: H. A. Olsher, director, Foundations Study; Myrtle Ruth Foutch, clerk; and John J. Williams, minority counsel.

Mr. PATMAN. The committee will please come to order.

This is the first session of this year's hearings of Subcommittee No. 1 on the subject of the impact of tax-exempt foundations and charitable trusts on the economy. The object of the hearings is to determine whether legislation is needed in order to provide effective controls over such organizations. These hearings will provide a base of information that can be used to formulate positive congressional action.

Once again, because the Treasury Department has refused to assume its proper responsibilities in supervising and regulating tax-exempt foundations, another major move toward the undermining of our tax structure must be noted. Tax dodging that was inevitable because of the Treasury's indifference—yet, on a scale hardly imaginable to most taxpaying Americans—is now being forcefully promoted. Indeed, because the Treasury has tacitly encouraged tax dodging via the foundation gimmick, it was also inevitable that the Government would eventually be faced with "foundation factories." This has happened. Tax dodging, via foundations, is now an industry, for which the participants are prepared through a special kind of higher education with its own curriculum, its own faculty, its own diploma—the latter being an IRS-approved foundation certificate—and certainly its own very tangible rewards.

Through the ingenuity of an organization known as Americans Building Constitutionally—also known as ABC—the upper middle-class citizen is learning the tax-avoidance tricks that were once thought to be reserved for the rich. Americans Building Constitutionally claim to have 800 persons who have paid to learn the ABC system. The purpose of ABC, as one trustee expressed it, is to "Henry Fordize" the tax-dodging specialties that were once associated only with millionaires. If a Rockefeller, Ford, or Mellon can avoid taxes under the guise of "charity," why shouldn't every doctor, lawyer, and other professional in the land who can afford the rather stiff tuition (at least $10,500) for the tax-ducking school? It is a harsh but logical question.

Robert D. Hayes, of Barrington, Ill., one of ABC's trustees, has explained that the purpose of the venture is to "awaken the average creative person" to the benefits of "restructuring" his business and his estate on a nonprofit basis. In other words, his business and other affairs will be operated in the name of a tax-exempt foundation but he will continue to reap the benefits, all in the name of "charity."

If ABC does indeed have 800 members, then it may have produced for its promoters somewhere between $3 million to $8 million since July 1966. It is alleged that (1) some of the members are operating as tax-exempt foundations even though they have never filed an application for Federal tax exemption or received exemption, and (2) they have never filed a tax return form 990-A. According to the Wall Street Journal of August 28, 1967, James R. Walsh, Jr., a member of ABC, boasts that he has not paid any Federal income taxes since 1947.

No doubt about it, this tax-dodging scheme will snowball among professional and upper middle income groups, unless meaningful reforms are instituted in the foundation field very soon. If reforms are ignored, the Nation may be faced with a "revolt" among those taxpayers who are unable to take advantage of such contrivances.

For years, the Treasury has given this problem the opportunity to develop and harden by pretending that it could not happen. A typical expression of the Treasury's head-in-the-clouds attitude appears in our 1964 hearings, when I asked Bertrand M. Harding, then Acting Commissioner of the Internal Revenue Service, the following question:

> If every American had a tax-exempt foundation, where would the Federal, State and local governments obtain funds for their operations?

Mr. Harding replied:

> That is a rather speculative question, Mr. Chairman. I am probably not competent to answer it, but I would assume if every American taxpayer was an exempt organization, there would be no funds available at any of the levels for those operations.

He appeared to scoff at the notion of widespread grassroots foundations.

As I was well aware at the time, the "speculative" quality of the question—a description by which Mr. Harding hoped to dismiss it—did not make it any less real. The justification for my question is now plainly evident with the discovery of the nationwide attempt to "mass produce" foundations as a tax-avoidance device. If this succeeds, the result, of course, will be the very thing that I have tried to drive home to the Treasury for 5 years, without the slightest realistic, corrective response from that agency; the result will be a disastrous erosion of our tax base and a crushing burden of extra taxes on those people, including millions of small businessmen, who, believing that good citizenship includes the payment of taxes, do not dodge their responsibilities. Putting the prospective danger more simply, it will mean that those best able to bear the burden of governmental costs will pay less, or will pay nothing, while those least able to shoulder the burden will in fact shoulder all of it.

Higher postal rates, higher social security taxes, higher income and sales taxes—these are the prospects according to some experts: an increase of perhaps $17 billion in personal and business taxes.

That's one side of the picture. It is sobering.

On the other side, one witnesses an inebriated orgy of tax avoidance by multimillion-dollar foundations as well as by "backyard foundations."

While this type of organized tax dodging is something new and while it threatens in its own especially grotesque way, it should be remembered that the unrestricted growth of tax-exempt foundations is not new but has for several years been acknowledged to be out of control. For 3 years, the Treasury has admitted that it had no idea how many tax-exempt foundations there are in the country. For 3 years, the Treasury has acknowledged the threat of widespread misuse of tax-exempt privileges, and has promised that "We are looking into it," but it has achieved nothing from its investigation—if, indeed, the investigation was ever begun.

Thousands of new, tax-exempt foundations are added to the Treasury's rolls each year without challenge. They are concocted by whim, almost overnight, with the assistance of the Treasury, which gives its approval to requests for foundation status almost automatically.

The IRS tries to convey the impression that it doublechecks all foundation operations. Nothing could be further from the truth. A very small fraction of the known foundations are checked by the Internal Revenue Service in any given year. I repeat, of known foundations; some come into existence and claim tax-exempt privileges, without ever filing an application for tax exemption or a tax return.

Apparently, this type of organized tax dodging will only be checked by the Congress. The Treasury will not act. It has ignored all warnings in the past. In 1963, we reported that "Our findings show that the Internal Revenue Service record—in terms of supervision of foundations—is a dud, a dismal failure." If the IRS was unhappy to be described in this way, it was not moved to reform. In 1964, I said, "More and more, the cream is slipping out of our tax system as the great fortunes go into tax-exempt foundations. The skim milk incomes of average, hard-working families must then shoulder an increasing part of the tax burden, both Federal and State." Despite these facts, the Treasury Department has yet to submit effective legislation for halting this erosion of our tax base. Five years ago, in 1962, we began urging the Treasury to propose steps for tightening the law and supervision of tax-exempt foundations. In December 1966, we reported, "It is very possible, as some believe, that there are today hundreds of thousands of tax-exempt foundations operating in the country, some of them officially operating by exemptions and others enjoying a bootleg status with the same results. It is not likely that the Treasury will ever catch up with them, for of the many thousands of foundations in existence, it examines the books of only a few hundred each year."

In other words, for 5 years we have been attempting, through a steady barrage of disclosures of tax-exempt abuses, to goad the Treasury into taking corrective action. It has balked all the way. Now, with the advent of a school for tax dodging, officials of the Department may be frightened. Wall Street Journal Reporter Janssen writes that the Internal Revenue Service is starting an "intensive investigation" of Americans Building Constitutionally, and he quotes one IRS official as saying, "We will attack * * * we sure as hell aren't going to let these things go unchallenged."

But these spurts of bluster have become a pattern for the Internal Revenue Service; they mean nothing. Reform, if it comes, will have to be initiated by the Congress.

We have had reports of foundation founders who live lives of luxury, send their offspring to college, and give bountiful gifts to friends through so-called charitable foundations. We will try to find out if these reports are true. If they are true, I hope Congress will do something to block these scandalous tax loopholes.

On behalf of the subcommittee, I should like to welcome our first witness. We are glad to have you here, Mr. Robert D. Hayes. You will stand up, Mr. Hayes, and be sworn.

Do you solemnly swear that this testimony which you shall give before this subcommittee of the House Small Business Committee, the Subcommittee on Foundations, will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. HAYES. I do.

Mr. PATMAN. Take your seat.

With your approval, Mr. Hayes, I will either insert your statement at this point and then we will ask you questions, or you can read your statement or any part of it now. Which would you prefer?

TESTIMONY OF ROBERT D. HAYES, TRUSTEE OF THE AMERICANS BUILDING CONSTITUTIONALLY, A NOT-FOR-PROFIT TRUST, ACCOMPANIED BY K. P. CHARTIER, COUNSEL TO MR. HAYES; WILLIAM C. RAY, JR., COUNSEL TO MR. HAYES; AND ROBERT A. ERIE, ADMINISTRATIVE ASSISTANT TO MR. HAYES

Mr. HAYES. I would prefer to read it now.

Mr. PATMAN. You have that permission. Go ahead.

Mr. HAYES. Thank you.

Mr. PATMAN. Please identify the people here connected with you.

Mr. HAYES. Yes, sir. On my right is Mr. William E. Ray, my attorney.

On my left is my personal consultant, a public actuary from Texas.

Mr. MOORE. His name?

Mr. HAYES. Pardon me, Mr. K. P. Chartier.

At the end of the table is my administrative assistant, Mr. Robert A. Erie.

Mr. PATMAN. You may proceed in your own way, sir.

Mr. HAYES. Thank you.

Chairman Patman and members of the Small Business Subcommittee, your invitation to testify before this subcommittee on the important question of tax-exempt foundations is very much appreciated. We are wholly in accord with what we understand to be the purposes of this investigation; namely, to determine the impact of foundations on the national economy, and I compliment Chairman Patman on his decision to do so.

For the past several years, the growth of foundations has been rapidly accelerating and it is my opinion that every effort should be made to keep their operations strictly within the rules—to the end that mankind is benefited.

I am pleased that Chairman Patman openly recognized on the floor of the House on October 10 that Americans Building Constitutionally is operating under the same laws as the big foundations. It is a further satisfaction to us that he found it difficult to argue with our position in the field—particularly so since, in terms of economic size, we are by far the smallest segment in the foundation complex.

Americans Building Constitutionally is a not-for-profit trust, the purpose of which is to help citizens of the United States make full use of the rights guaranteed them under the Constitution.

Its membership is made up of other not-for-profit foundations in the fields of religion, education, science, literary, charity, testing for public safety, and prevention of cruelty to animals and children. These foundations are created under the law of the United States as set forth in the Internal Revenue Code and under the not-for-profit legislation of the 50 States.

For the purposes of the public and for the edification of any interested party, Americans Building Constitutionally is quite familiarly known by its initials "ABC." On behalf of an important TV and radio network, may I enlighten you that the use of the initials ABC at any time in this hearing does not allude to the American Broadcasting Co.

In order to give the committee a clear visualization of how we in ABC view the activities of foundations, I should like to indicate what we use as a basis of our educating philosophy.

Since most of the States have not-for-profit legislation, there must have been a reason why such legislation was desirable. I believe that reason is that foundations are a means of directing the thinking and activities of people to the areas of great need. The economy of a free market nation moves through recognized incentives. To direct the activities of people in any field of endeavor in any nation requires incentive. Statesmen recognized some time ago that in the free market there are areas of great need for which recognized incentives are either minor or nonexistent.

The future of our country depends upon research and development. Basic research and development ofttimes appears to offer little, if any, reward. Today, for example, the doctor's education, to become a competent practioner, often requires as much as 10 years of higher education. This is undoubtedly one reason why today doctors are scarce. Young men feel that the incentive is lacking.

Because of the great increase in alcoholism in this country, there is a great need for methods of rehabilitation of alcoholics. Yet, who can be interested in developing those means that are needed to correct this serious problem?

Today, in the areas of health care we have a problem where hospital rooms are costing as much as $50 per day. Prices have risen because the demand for rooms exceeded the supply. I have been told by doctors that it should be possible, through proper research, to provide hospital rooms for half that amount.

In the field of education at all levels, everyone recognizes how the future progress of our Nation will be largely determined by our educational facilities, which involve not only the development of the organization of material taught, but the proper training of teachers, the supply of proper equipment and facilities, and above all, important improvement of teaching methods. Who is willing to spend the time and the money necessary to improve methods of teaching and curriculum for the benefit and education of the children of others—without an incentive?

We have in our prisons a greater number of prisoners today than at any time in history, which places the burden on the government and taxpayer—a tremendous financial burden, and an utter waste of manpower. Can any of these criminals be rehabilitated to take their proper place in society? Who is there available to undertake such a needed program? Would any members of this committee care to do so?

It is well known that the soils across our country are being depleted of important chemical constituents that are detracting from the quantity and quality of food produced with the result that there is concern about the future ability to supply food that will safeguard the health and well-being of our citizens. Why has not this problem been solved? Could it be because the incentive is lacking or is not recognized?

Some research has shown that alcoholism is ofttimes caused from malnutrition. Is it possible that our great increase in drug addicts might have some similar solution? Who would benefit the greatest from the solution to this problem—the one who achieved the solution or those who benefited from it?

It is our belief that the position of tax-exempt foundations should be that of substantially contributing to the solution of these and thousands of other serious problems for the benefit of mankind. In ABC we teach our members that they must do those things which will benefit mankind, and that this is the only way in which the foundations can gain tax exemption. The manner in which they are taught to work for the benefit of mankind are those prescribed under the law; namely, in the field of charity, science, literature, education, testing for public safety, and prevention of cruelty to children and animals.

I would like to stress at this time that we believe there is a distinct difference between "tax evasion" or "tax dodging" and "tax avoidance." We believe that "tax avoidance", as a term, is usually used as a means of doing those things to reduce one's taxes that are within the rules.

As one of our great jurists, Judge Learned Hand, said, "Anyone may arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which best pays the Treasury; there is not even a patriotic duty to increase one's taxes. Over and over again courts have said that there is nothing sinister in so arranging affairs as to keep taxes as low as possible. Everyone does it, rich and poor alike and all do right; for nobody owes any public duty to pay more than the law demands.

"Taxes are an enforceable exaction, and not a voluntary contribution." *Halvering* v. *Gregory*—69 Fed. (2d) 809—it is our contention that in order to fulfill its moral obligations a tax-exempt foundation should always produce benefits that are greater than the tax advantages it gains. In this way there could never be too many foundations since the added benefits to mankind would contribute to the economy and further stimulate its growth in those areas of great need.

Some of our prominent legislators, Robert Kennedy and Charles Percy, among others, because of the study they have given to foundations, have recently recommended that the only solution to some of the country's major problems lies through foundations—and the private sector.

There are some striking examples of the accomplishment of foundations in areas of great need. The Mott Foundation, which began many years ago in a very small way, is making tremendous contributions in improving educational methods and facilities across the Nation. They have also undertaken rehabilitation of criminals with nearly a perfect record in regard to reversion.

As you may know, the Battelle Institute of Ohio has done the research which resulted in the development of the Xerox copying machines, expediting office work and supplying jobs for thousands of people, and providing a pronounced stimulus to the economy of the country.

Since ABC has been functioning slightly over a year, most of our members have had only a short time in which to get their foundations underway. We have the situation of one member who, in his early life as a doctor, was finally able to build a small clinic which provided medical care for people in the community in which it was located. Because of increased taxes and expenses he was forced to sell his clinic and go back into private practice in an office.

Since learning how he could greater benefit mankind with his talent and experience gained over the years, he has established a foundation and is now working on plans for a new and very professional clinic which will help in the development of a medical staff and provide services for several hospitals in the area. The people in his community will benefit to a far greater degree than there is any possibility from this doctor's benefiting from tax savings he has earned. How many millions of people have benefited from the Salk vaccine which was developed by the Salk Polio Foundation?

Several of our agricultural members are now setting up soil testing laboratories for the purpose of improving the quality and quantity of food produced, and thereby improving the health of those who use this food.

Another group of doctors have plans drawn for building a health center for the specific purpose of preventing disease. It is the belief of this particular group of doctors that if time were spent researching and developing methods for preventing disease, less time, effort, and money would need to be spent in curing disease.

One of our members is the Philippa Schuyler Memorial Foundation, organized to carry on the work undertaken by a girl who lost her life in South Vietnam "winning the peace." Through this foundation, grants were made by ABC's members to people in South Vietnam in attempting to prove what could be done through a people-to-people program in winning the peace elsewhere than on the battlefield. The purposes of the grants may range from medical aid through cooperative research on diseases common to South Vietnam, and agricultural research for increasing the yield and nutritive value for foods produced, to cooperative research in housing suitable for South Vietnam's climate and educational facilities for children.

Another of ABC's members is setting up a foundation for the purpose of rehabilitating alcoholics through most unique and scientific methods involving not only nutritional aids but unusual methods of training.

Several of our members are making substantial contributions in the field of educational research and development in teaching methods, the construction of texts concerned with rates of absorption and retention of information—many of these in areas that have never been covered before, with methods that are completely unique.

I hope I have been able to make it clear that ABC's concept of foundations is definitely not how to dodge taxes, but how to benefit others and thereby gain tax benefits.

We welcome this investigation, and should it be determined that our methods are improper or in any sense illegal, or that new legislation is required, and if the Congress determines that such legislation should be passed, we will give such legislation our full support. We believe, however, that the country can profit greatly, that the economy can be stimulated by making our members aware of how they can organize their affairs under the law so that they can be more productive and benefit mankind.

Mr. PATMAN. Thank you, Mr. Hayes. I would like to ask you some questions as a basis for committee action. The answers may enable us to proceed more intelligently on this subject.

Your full name is Robert D. Hayes?

Mr. HAYES. Yes, sir.

Mr. PATMAN. What is your occupation and business address?

Mr. HAYES. Box 575, Barrington, Ill. 60010.

Mr. PATMAN. You have identified your counsel, and also the gentleman accompanying you at the table.

Mr. HAYES. Right.

Mr. PATMAN. You have read your prepared statement. I am not certain that we can work this afternoon. The House is very busy now, of course, as you understand, and the only time that the committee can operate is to get unanimous consent to sit while the House is in session during general debate. General debate will very likely be very short, for the next few remaining days of this session, so we will not likely have an opportunity to meet in the afternoon. So we will ask you some questions now and proceed the best we can.

We will refer to the name of your concern, Americans Building Constitutionally, as ABC, as you suggested in your prepared statement. By subpena dated October 13, 1967, a copy of which I am herewith placing in the record, and which was served on you on October 19, 1967, you were ordered to bring with you the following information:

1. A financial statement of Americans Building Constitutionally for the 12 months ending September 30, 1967, including income and disbursements and a balance sheet.

2. A list showing names and addresses of members of Americans Building Constitutionally and the membership fee received from each of them.

Do you have that information available, Mr. Hayes?

(The documents referred to had not been received at the time of this printing.)

(The subpena referred to follows:)

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

To Mr. Joseph N. Tierney, United States Marshal:

You are hereby commanded to summon Mr. Robert D. Hayes, Trustee, Americans Building Constitutionally, c/o Sales Analysis Institute, Kelsey Road, Barrington, Illinois to be and appear before the Subcommittee No. 1 of the Select Committee on Small Business of the House of Representatives of the United States, of which the Hon. Wright Patman is chairman, and to bring with him the information described and set out in "Schedule 1," which is attached hereto and made a part of this subpoena, in Room 2359, Rayburn House Office Building in the city of Washington, on October 30, 1967, at the hour of 10:00 a.m. then and there to testify touching matters of inquiry committed to said Committee; and he is not to depart without leave of said Committee.

Herein fail not, and make return of this summons.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 13th day of October, 1967.

WRIGHT PATMAN,
Chairman, Subcommittee No. 1.

Attest:

W. PAT JENNINGS,
Clerk.

Mr. RAY. Mr. Chairman, may I raise a point of personal privilege?

Mr. PATMAN. Well, not personal privilege. If you want to protest it for your client, you may do so.

Mr. RAY. I would just like to ask the committee a question.

Mr. PATMAN. Only members can raise a question of personal privilege if I understand it correctly.

Mr. RAY. May I ask the committee a question?

Mr. PATMAN. Yes, sir.

Mr. RAY. I have requested, sir, the resolution of the Select Committee on Small Business, which created the Subcommittee for Foundation Study.

Mr. PATMAN. When did you ask for that?

Mr. RAY. I requested that this morning, sir.

Mr. MOORE. Have you been furnished it?

Mr. RAY. No, sir; I have not.

Mr. MOORE. Mr. Bryan Jacques is the staff director of the committee. He tells me he has given it to you.

Mr. RAY. I have received House Resolution 53, which created I believe, the Select Committee on Small Business.

Mr. MOORE. That is right.

Mr. RAY. I do not have a resolution of that committee which created the Subcommittee for Foundation Study.

Mr. PATMAN. Well, of course, the chairman of the committee has the power, with the approval of the committee, to name certain subcommittees, and it is not new. It has been done over the years. It is traditional with this committee. There is nothing new this year compared to any other Congress. Now, what is the purpose of that? What is to be gained? Are you protesting giving this information?

Mr. RAY. Sir, I would just wish to see a copy of the exercise if the chairman of the select committee's power in this case. We are exercising, or this commmittee is exercising——

Mr. PATMAN. The courts would be the proper way to proceed there, if you have any just and legal ground. You could get the attention of some judge of a court, and ask for relief, but I am in no position to give you relief on that. As chairman of the committee, and I am sure committee is legally constituted, that the committee was legally appointed and that we are legally pursuing a course here that Congress gave us the power and right to proceed on. So I do not see why we should take up time on things like this, that are so unnecessary and do not relate to the merits of the controversy.

Mr. RAY. I do not question you are legally proceeding, Mr. Chairman.

Mr. PATMAN. Well, if you are not questioning that we are proceeding legally, then what are you protesting?

Mr. RAY. The chairman is exercising the subpena power.

Mr. PATMAN. That is right; sure.

Mr. RAY. Of a congressional committee.

Mr. PATMAN. Yes, we have the power.

Mr. RAY. I would just wish to see the exercise of the power of the chairman of the Select Committee on Small Business.

Mr. PATMAN. Well, there is no doubt in my mind about it. It is done according to the rules of Congress, so if you are contesting the jurisdiction of this committee or the legality of its proceedings, you have an opportunity to go to the courts with that. You have a copy of the resolution. It confers subpena power. What more do you want?

Mr. RAY. All further questioning under this subpena arises from this resolution?

Mr. PATMAN. That is your statement. You have a right to make it.

Mr. RAY. Of the Subcommittee on Foundation Study?

Mr. PATMAN. Yes, sir.

Mr. RAY. Is that correct?

Mr. PATMAN. You have a right to make any statement you desire.

Mr. RAY. I am merely requesting——

Mr. PATMAN. Your efforts seem to be directed in a direction opposite to determining the merits of the controversy. I would suggest that you give us an opportunity to develop the information that we would like to have answers to.

Mr. MOORE. Mr. Chairman, do I understand correctly the counsel's position is that he wants something in writing, a report brought to his attention showing the implementation of——

Mr. RAY. Yes, sir.

Mr. MOORE. (continuing). The power to issue subpenas in that resolution?

Mr. RAY. This is the resolution which created the Select Committee on Small Business. I would just like to see the resolution of that committee which created this committee.

Mr. MOORE. We will bring that to you in a minute.

Mr. PATMAN. How long have you been employed as counsel?

Mr. RAY. I do not understand the purport of that question.

Mr. PATMAN. Well, the importance is if you had just been employed this morning you would probably have a right to ask us for this information, but, if you had been employed a week or two, a month or two, of course a diligent attorney would have sought that information and obtained it himself.

Mr. RAY. It is quite possible. I have been retained a month or so.

Mr. PATMAN. Well, why haven't you gotten the information before? Why do you wait until the proceedings come up and then delay the proceedings to seek out some detail that you should have gotten a month or two ago? I think we ought to go ahead, if that is all you have to offer. Your objections are overruled.

Do you have that information, Mr. Hayes?

Mr. HAYES. Mr. Chairman, on advice of counsel, I do not have that information for the reason that as trustee of ABC, I would be violating my obligations to protect the privacy of our members by so passing it out.

Mr. PATMAN. Are you pleading the fifth amendment?

Mr. HAYES. No, sir.

Mr. PATMAN. You are not pleading the fifth amendment, but you are just refusing, upon advice from your counsel, to answer these questions. You refuse to give us the names, you refuse to give us a financial statement for the last 12 months. You did file a statement, didn't you, September 30, 1967? You filed a statement, didn't you, with the IRS?

Mr. HAYES. No, we did not.

Mr. PATMAN. You did not. Have you filed any statement or have you prepared any statement including income and disbursements and the balance sheet for the year preceding September 30, 1967?

Mr. RAY. Objection.

Mr. PATMAN. Have you done that, Mr. Hayes?

Mr. RAY. Until, Mr. Chairman——

Mr. PATMAN. I know, but let him answer the question or refuse to answer. If he refuses to answer, I would be glad to hear from counsel. Are you doing it on the basis of the fifth amendment or are you doing it on the basis of advice from your counsel? If so, I would like to know the reasoning of your counsel.

Mr. HAYES. I stand silent.

Mr. PATMAN. All right. Remain silent. All right, Mr. Counsel, what is your reason for not furnishing this information?

Mr. RAY. Until I see the resolution which empowers this subcommittee, I do not believe it would serve Mr. Hayes' best interests——

Mr. PATMAN. Well, now, we are not just about to stop all these proceedings and do something that you should have done as a lawyer. You are paid a fee I assume, and probably a darn good one. We are not going to do your work for you.

Mr. RAY. There has been——

Mr. PATMAN. You had the time to do this and you are paid for it, but you want to wait until the hearing and then stop the whole proceedings.

Mr. RAY. No——

Mr. PATMAN. And that is just asking a little bit too much.

Mr. RAY. No, sir. Generally when you open these hearings you make a statement. Sir, may I quote——

Mr. PATMAN. In other words, Mr. Hayes, you are refusing to comply with the subpena?

Mr. RAY. May I quote from the hearings schedule in 1964, Mr. Patman, as you did in your statement?

Mr. PATMAN. Yes, you may.

Mr. RAY. Generally before you conduct these hearings you state, and I quote from page 63 of this Government release that—

> Our study is confined solely to privately controlled foundations, which are escaping taxation and thus creating a greater tax burden for those who do pay taxes.
>
> Hence our study excludes the following types of exempt organizations, among others, charitable—

no, pardon me—

religious organizations, hospitals, educational institutions, charitable organizations, which are supported in whole or part by Federal and State governmental units, or primarily by contributions from the general public, fraternal organizations, etc.

Mr. PATMAN. Yes, that is correct. Now, you have done some research?

Mr. RAY. Thank you, Mr. Chairman.

Mr. PATMAN. So you ought to have done something on this subpena business. Are you refusing to comply with the terms of the subpena, Mr. Hayes? You either refuse, not refuse, or remain silent, which is the same as refusing. What is your attitude?

Mr. RAY. May I have that resolution, Mr. Chairman?

Mr. PATMAN. I want him to answer my question or refuse to answer it.

Mr. RAY. Why does the committee not wish to reveal——

Mr. PATMAN. There is no secret about it. It is in the public record. There is no record more public than the Congressional Record. There is where proceedings are out in the public to everybody, and not only that, they are printed and sent all over the Nation. You evidently have done some research. It shows you have been trying to earn your money.

Mr. RAY. Thank you again.

Mr. PATMAN. Since you have done some research, I don't think you are ignorant about this thing. I do not think you are lacking in information. I think you have it. You are not going to get this committee to suspend and try to run down something that you doubtless already have.

Mr. RAY. Thank you for the compliment, Mr. Chairman, and may I respectfully ask that that statement which is quoted from the prior hearings is in substance——

Mr. PATMAN. It was correct at that time.

Mr. RAY (continuing). The resolution?

Mr. PATMAN. Sure, that is what we were doing at that time.

Mr. RAY. Fine, sir. This is all I wish to establish.

Mr. PATMAN. We have a little flexibility. Have you been engaged in illegal practices in the operation of ABC?

Mr. RAY. No, sir.

Mr. PATMAN. All right, if you have not been engaged in illegal practices, then why would the disclosure of such information jeopardize you position and your problem with the Internal Revenue Service?

Mr. HAYES. Mr. Chairman, again as trustee of ABC, I have responsibilities to protect the privacy of our members. I respectfully suggest that to deliver some of the material asked for would be a breach of my trust.

Mr. PATMAN. And on that basis you refuse?

Mr. HAYES. Correct.

Mr. PATMAN. Well, we will probably have to have the House of Representatives pass on that.

Mr. RAY. Mr. Chairman, in light of the fact that my client is not an attorney, may I state our position of what we are faced with to the committee so you will perhaps better understand our position?

Mr. PATMAN. With his approval, yes.

Mr. RAY. Do I have your approval?

Mr. HAYES. You do.

Mr. RAY. Mr. Chairman, as Mr. Hayes stated to the committee in his prepared statement, ABC is an educational institution, and was created for the purpose of helping citizens of the United States make full use of their rights guaranteed them under the Constitution. Membership in ABC is available to every citizen.

ABC, by contract, has a building, a faculty, a regular course of instruction, and a student body in attendance. Such an educational institution is, according to the Internal Revenue Code, tax exempt. Since this is clearly stated in the code, we did not request the Internal Revenue Service to make a ruling at the time the trust was created.

Mr. PATMAN. Have you asked the Internal Revenue Service to make a ruling?

Mr. RAY. If I may be permitted to continue.

Mr. PATMAN. Can you answer that question?

Mr. RAY. Yes, sir; I do.

Mr. PATMAN. OK, go ahead.

Mr. RAY. Since then requests communicated to an agent of the IRS that this matter be referred to the Commissioner of the Internal Revenue Service or an appropriate branch of the national office have apparently not been communicated to the Commissioner or appropriate branch of the national office as we have received no communication from either.

Mr. PATMAN. State the office that you made the request of and the one that failed.

Mr. RAY. This request was made of the intelligence division of the Chicago regional office.

Mr. PATMAN. Who was the director of it?

Mr. RAY. The director of the Chicago—the Chicago district director.

Mr. PATMAN. What is his name?

Mr. RAY. I do not know, sir.

Mr. PATMAN. When was it made?

Mr. RAY. Approximately September 25, 1967.

Mr. PATMAN. September 25, 1967. Do you have a copy of it?

Mr. RAY. Of what?

Mr. PATMAN. Of the request.

Mr. RAY. No, sir. I made an oral request to an agent.

Mr. PATMAN. You mean you made it yourself. Now, you ought to know the name of the agent. What is the name of the agent?

Mr. RAY. The name of the agent is Alan D. Cornue.

Mr. PATMAN. How do you spell Cornue?

Mr. RAY. C-o-r-n-u-e. Alan is spelled with one "l."

Mr. PATMAN. C-o-r-n-u-e. Is he connected with the Chicago office?

Mr. RAY. Yes, sir.

Mr. PATMAN. Did you make it in his office?

Mr. RAY. Yes, sir.

Mr. PATMAN. But you did not make it in writing?

Mr. RAY. No, sir.

Mr. PATMAN. Have you ever heard from it?

Mr. RAY. Yes, sir.

Mr. PATMAN. What is the reply that you received?

Mr. RAY. May I request that this letter from the Internal Revenue Service over Mr. Cornue's signature——

87-444—68——2

Mr. PATMAN. Let me see the letter first. This is from the U.S. Treasury Department, Internal Revenue Service, Chicago, Ill., Post Office Box 1101, dated September 12, 1967:

In accordance with your request, the enclosed questions are being submitted to you in connection with an investigation by the Intelligence Division, Internal Revenue Service. Please answer the questions in detail, indicating names, dates and locations where appropriate. Also please indicate the individual supplying each answer or part of an answer where more than one person in answering a question. The answer should be prepared for submission to the mutual office in Barrington, Illinois on or before September 28, 1967. You may call me at 222–6985 when you are ready to have me pick up the answers. Sincerely yours, Alan D. Cornue, Special Agent.

And also the questions, I will just insert all these in the record, including the question, "What is the origin of the idea of ABC," and so forth.

Did you answer all that and send it to him?

(The document referred to follows:)

1. What is the origin of the idea of ABC?
2. Who were the people involved and what events led to the creation of ABC?
3. Are there changes or addendums to the Declaration of Trust for ABC as filed with the County Recorder, Lake County, Illinois, on July 15, 1966? If so, include a copy of each.
4. Does ABC have bylaws in addition to the provisions of the Declaration of Trust? If so, include a copy.
5. Describe the duties and responsibilities of each and every trustee.
6. Who are the holders of the Certificates of Interest in ABC and what percentage is held by each?
7. What is the basis for the issuance of a Certificate of Interest in ABC?
8. Who maintains the minutes of trustee meetings for ABC?
9. In whose custody and control are these minutes?
10. Are these minutes available for examination by the Internal Revenue Service? If not, why not?
11. List all books and records maintained for ABC and by whom.
12. In whose custody and control are these books and records?
13. Are these books and records available for examination by the Internal Revenue Service? If not, why not?
14. List all records maintained for ABC with regard to ABC members and by whom.
15. In whose custody and control are these records?
16. Are these records available for examination by the Internal Revenue Service? If not, why not?
17. What checking accounts, savings accounts, investment accounts and/or loan accounts are maintained by and/or for ABC? With whom are these accounts maintained?
18. Are all funds received by, entrusted to and/or in the possession of ABC deposited to one of the accounts referred to in question 17? If not, what is the disposition of these funds?
19. What were the sources, amounts and reasons for the original funds and/or assets received by, entrusted to and/or in the possession of ABC?
20. From what sources and for what reasons does ABC now receive funds and/or assets?
21. For what reasons does ABC expend funds and/or dispose of assets?
22. Describe in detail the activities engaged in and/or sponsored by ABC, including the names of the person or persons responsible for and/or participating in these activities, as well as dates and location of occurrence?
23. List all course materials and/or any other teaching aids being used in the course of instruction given by ABC.
24. In whose custody and control are these materials?
25. Are these materials available for examination by the Internal Revenue Service? If not, why not?
26. What is the legal basis for the position that the law allows a self-determination of tax exempt status which supersedes the requirement to make application to the Internal Revenue Service for a determination of tax exempt status?

Include references to appropriate code sections, regulations and court decisions.

27. May an examination of the books and records of ABC by the Internal Revenue Service begin on October 2, 1967? If not, why not?

Mr. RAY. Mr. Chairman, I requested at that time that the matter be referred to the national office. The answer to my request was a telephone call by that agent requesting me to arrange a meeting of the trustees of ABC so that the Internal Revenue Service could explain its position with regard to ABC.

Mr. PATMAN. Did you ever get a hearing before the national office or any reply?

Mr. RAY. Yes, sir. The reply—the reason at the meeting which I arranged—the agent submitted summons to the three trustees.

Mr. PATMAN. Hand it up here. This is a summons [reading]:

United States Treasury Department Internal Revenue Service summons in the matter of tax liability of Americans Building Constitutionally, (A Trust) N.F.P. Barrington, Illinois. Period(s) July 15, 1966 through and including June 30, 1967. The Commissioner of Internal Revenue to Robert D. Hayes, Trustee, Barrington, Illinois.

Greetings: You are hereby summoned and required to appear before Alan D. Cornue, an officer of the Internal Revenue Service for collection of tax liability for the above-named period for the person designated . . . and to bring with you the following books, records and papers at the time and place hereinafter set forth as detailed in the attachment to this document.

Place and time for appearance: At Executive Manor, Kelsey Road, Barrington, Illinois on the 16th day of October, 1967, at 10:00 o'clock a.m.

Failure to comply with this summons will render you liable to proceedings in the district court of the United States or before a United States Commissioner to enforce obedience to the requirements of this summons, and to punish default or disobedience.

Issued under authority of the Internal Revenue Code this 5th day of October, 1967. Signature: Alan D. Cornue.

Then you have attachment to summons:

All books and records pertaining to the operation of the Trust known as Americans Building Constitutionally (A Trust). It starts out "All resolutions of the Board . . .

"All recorded minutes . . .

"All by-laws, rules or regulations" and so forth.

I will just insert this in the record.

(The document referred follows:)

U.S. TREASURY DEPARTMENT—INTERNAL REVENUE SERVICE

SUMMONS

In the matter of the tax liability of Americans Building Constitutionality (A Trust) N.F.P., P. O. Box 575, Kelsey Road, Barrington, Illinois.

INTERNAL REVENUE DISTRICT OF CHICAGO, ILLINOIS

(Period(s) July 15, 1966 through and including June 30, 1967)

THE COMMISSIONER OF INTERNAL REVENUE

To: Robert D. Hayes, Trustee, P. O. Box 575, Kelsey Road.
At: Barrington, Illinois.

Greetings:

You are hereby summoned and required to appear before Alan D. Cornue an officer of the Internal Revenue Service, *to give testimony relating to the tax liability or the collection of the tax liability* above named person for the period(s) designated *and to bring with you and produce for examination the following books, records, and paper at the time and* place hereinafter set forth: (As detailed in the attachment to this document.)

Place and time for appearance: At Executive Manor, Kelsey Road, Barrington, Illinois, on the 16th day of October, 1967, at 10:00 o'clock A.M.

Failure to comply with this summons will render you liable to proceedings in the district court of the United States or before a United States Commissioner to enforce obedience to the requirements of this summons, and to punish default or disobedience.

Issued under authority of the Internal Revenue Code this 5th day of October. 1967.

Attested copy:

ALAN D. CORNUE,
Special Agent.

EXCERPTS FROM THE INTERNAL REVENUE CODE

SEC. 7602. EXAMINATION OF BOOKS AND WITNESSES

For the purpose of ascertaining the correctness of any return, *making a return where none has been made,* determining the liability of any person for any internal revenue tax or the liability at law or in equity of any transferee or fiduciary of any person in respect of any internal revenue tax, or collecting any such liability, *the Secretary or his delegate* is authorized—

(1) To examine any books, papers, records, or other data which may be relevant or material to such inquiry;

(2) To summon the *person liable for tax or* required to perform the act, or any officer or employee of such person, or any person having possession, custody, or care of books of account containing entries relating to the business of the person liable for tax or required to perform the act, or any other person the Secretary or his delegate may deem proper to appeal before the Secretary or his delegate at a time and place named in the summons and to produce such books, papers, records, or other data, and to give such testimony, under oath, as may be relevant or material to such inquiry; and

(3) To take such testimony of the person concerned, under oath, as may be relevant or material to such inquiry.

SEC. 6420. GASOLINE USED ON FARMS

* * * * * * *

(e) *Applicable laws*—

(2) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

SEC. 6421. GASOLINE USED FOR CERTAIN NONHIGHWAY PURPOSES OR BY LOCAL TRANSIT SYSTEMS

(f) *Applicable Laws*—

(2) EXAMINATION OF BOOKS AND WITNESSES—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary or his delegate shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

SEC. 7603. SERVICE OF SUMMONS

A summons issued under section 6420(e)(2), 6421(f)(2), or 7602 *shall be served by* the Secretary or his delegate, by an *attested copy delivered in hand to the person* to whom it is directed, or left at his last and usual place of abode; and the certificate of service signed by the person serving the summons shall be evidence of the facts it states on the hearing of an application for the enforcement of the summons. When the summons requires the production of books, papers, records, or other data, it shall be sufficient if such books, papers, records, or other data are described with reasonable certainty.

SEC. 7604. ENFORCEMENT OF SUMMONS

(a) JURISDICTION OF DISTRICT COURT.—If any person is summoned under the internal revenue laws to appear, to testify, or to produce books, papers, records, or other data, *the United States district* court for the district in which such person resides or is found *shall have jurisdiction by appropriate process* to compel such attendance, testimony, or production of books, papers, records, or other data.

(b) ENFORCEMENT.—Whenever any person summoned under section 6420(e)(2), 6421(f)(2), or 7602 neglects or refuses to obey such summons, or to produce books, papers, records, or other data, or to give testimony, as required, *the Secretary* or his delegate *may apply to the judge of the district court* or to a United States commissioner for the district wihin which the person so summoned resides or is found *for an attachment against him as for a contempt.* It shall be the duty of the judge or commissioner to hear the application, and, if satisfactory proof is made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing *the judge* or the United States commissioner *shall have power to* make such order as he shall deem proper, not inconsistent with the law for the punishment of contempts, to enforce obedience to the requirements of the summons and to punish such person for his default or disobedience.

SEC. 7605. TIME AND PLACE OF EXAMINATION

(a) TIME AND PLACE.—The time and place of examination pursuant to the provisions of section 6420(e)(2), 6421(f)(2), or 7602 shall be such time and place as may be fixed by the Secretary or his delegate and as are reasonable under the circumstances. In the case of a summons under authority of paragraph (2) of section 7602, or under the corresponding authority of section 6420(e)(2) or 6421(f)(2), *the date fixed for appearance before the Secretary or his delegate shall not be less than 10 days from the date of the summons.*

SEC. 7210. FAILURE TO OBEY SUMMONS

Any person who, being duly summoned to appear to testify, or to appear and produce books, accounts, records, memoranda, or other papers, as required under sections 6420(e)(2), 6421(f)(2), 7602, 7603, and 7604(b), *neglects to appear or to produce such books, accounts, records, memoranda, or other papers, shall, upon conviction thereof, be fined not more than $1,000, or imprisoned not more than 1 year, or both, together with costs of prosecution.* [Italics supplied.]

ATTACHMENT TO SUMMONS FORM 2039

IN THE MATTER OF THE TAX LIABILITY OF AMERICANS BUILDING CONSTITUTIONALLY (A TRUST) N.F.P.

All books and records pertaining to the operation of the Trust known as Americans Building Constitutionally (a trust) N.F.P., P. O. Box 575. Kelsey Road, Barrington, Illinois, for the period beginning July 15, 1966 and ending September 30, 1967, including but not limited to, the following specific records:

1. All resolutions of the Board of Trustees governing the administration of the Trust for the above-described period;
2. All recorded minutes of the meetings of the Board of Trustees concerning the administration of the Trust for the above-described period;
3. All by-laws, rules or regulations governing the conduct of business for the above-described period;
4. All records of equitable or beneficial interests in the Trust, including any interim certificates issued with respect to subdivided interests in the Trust for the above-described period;
5. All applications for membership in the Trust known as Americans Building Constitutionally; all records relating to such applications for membership; and the list or card files of members of the Trust known as Americans Building Constitutionally as of September 30, 1967;
6. All records and books which reflect cash receipts and disbursements, journals, general ledgers, bank statements, deposit slips and cancelled checks for the period beginning July 15, 1966 and ending September 30, 1967; and
7. All instruments of conveyance evidencing delivery of property to the trustees for the above-described period.

If deemed necessary, the above-mentioned items will be duplicated by the Internal Revenue Service.

Mr. RAY. In its entirety, Mr. Chairman.

Mr. PATMAN. That was returnable the 16th of October. Did you furnish the information?

Mr. RAY. No, sir; we did not. I wish to again express my——

Mr. PATMAN. What was the reaction of the Internal Revenue Service? What did they say about your refusing?

Mr. RAY. At this time, sir, I have had no communication.

Mr. PATMAN. You just did not show up?

Mr. RAY. Show up where?

Mr. PATMAN. The 16th day of October at Barrington, Ill.?

Mr. RAY. Yes, sir; there was a hearing that day, at which Mr. Cornue——

Mr. PATMAN. We have some questions on that.

Mr. MOORE. Mr. Chairman, may I ask the gentleman to pass that subpena to the table? May I look at it?

Mr. PATMAN. May we have somebody, Mr. Jacques, to help us on these matters?

Mr. RAY. May I continue with our position, our predicament, Mr. Chairman.

Mr. PATMAN. Yes, sir; but I do not want you to filibuster on this thing.

Mr. RAY. I am not. I have about three more——

Mr. PATMAN. We do not allow filibusters in the House. That is over in the other body.

Mr. RAY. I would respectfully request for the public record an opportunity to be heard in Washington by the Commissioner or his appropriate representative to consider the tax-exempt status of ABC before any further conclusions are reached. To my knowledge, the IRS has made no ruling that ABC is not tax exempt. Instead a "criminal investigation" is proceeding, and the trustees have not been informed of what, if any, possible charges there are or could be, and on what basis these charges would be made. There has merely been a summons, a copy of which you have received.

Mr. PATMAN. All right, sir; are you finished?

Mr. RAY. Yes. sir.

Mr. PATMAN. We are trying to get a complete picture of ABC's operations, and you keep tossing "red herrings" at us, Mr. Hayes. No part of our request can possibly jeopardize your position in your problems with the Internal Revenue Service. Nor would the foundations associated with ABC suffer if it became public knowledge that they exist. Thus far we have been unable to find out whether or not they do in fact exist.

Now, your counsel, Mr. Ray—is your name Ray?——

Mr. RAY. Yes, sir.

Mr. PATMAN (continuing). Informed Mr. H. A. Olsher, who is the director of the staff of the foundation study, that ABC refused to furnish the Internal Revenue Service with documents and information requested by the Service and that the IRS served a summons on ABC. Your counsel further stated that subsequently ABC agreed to give the IRS access to its records.

Mr. RAY. I did not make that statement.

Mr. PATMAN. You did not give access?

Mr. RAY. No, sir; I have never made that statement.

Mr. PATMAN. Were you there at the hearing, Mr. Hayes?

Mr. RAY. We do have a formal statement.

Mr. PATMAN. What is your formal statement?

Mr. RAY. This is a letter written by Mr. Robert D. Hayes to Mr. Sheldon S. Cohen, Commissioner of the Internal Revenue.

Mr. PATMAN. Let me see that. Just bring it up here if you please, ma'am. Thank you very much.

This is from Mr. Hayes to Mr. Cohen, Commissioner of Internal Revenue:

DEAR MR. COHEN: Enclosed are manuals distributed by ABC to members and their attorneys including the presentation material for prospective members.

Also enclosed is a certified true and correct copy of the ABC Not-for-profit Trust recorded in Waukegan, Lake County, Illinois.

We believe that careful analysis of this information will disclose that neither attorneys nor members are advised to operate outside the income tax law and the regulations and cases pertaining thereto.

We do not advise any member or his attorney to operate outside the scope of these laws.

Since your office has seen fit to publicly state that there is "doubt as to the legality" of the procedures we form, I respectfully request that the Internal Revenue Service issue a ruling as to the legality of the enclosed material.

Now, that is October 21, you probably haven't had time to hear——

Mr. RAY. We do, Mr. Cohen has not received——

Mr. PATMAN. We will put that in the record.

(See appendix exhibit 1, p. 806.)

Mr. PATMAN. You have not received a reply?

Mr. RAY. No, sir.

Mr. PATMAN. Is ABC giving the Internal Revenue Service a list of its members, Mr. Hayes?

Mr. HAYES. No, Mr. Chairman, we are not. I have here in my hand the document which specifies the reason why we are declining to do that. If this committee would care to investigate this document, I would be glad to——

Mr. PATMAN. We have one investigation going on, Mr. Hayes. We are not running off after another one.

Mr. HAYES. Pardon me.

Mr. RAY. These are the powers under which Mr. Hayes is required to operate as a trustee, Mr. Patman.

Mr. PATMAN. Yes. We have that in other parts of our questions, and I would like to pass it over at this time, unless you want to put it in the record.

Mr. RAY. Could we?

Mr. PATMAN. We will put it in the record at this point.

(The document referred to follows:)

DECLARATION OF TRUST OF THIS CONSTITUTIONAL TRUST TO BE ADMINISTERED BY NATURAL PERSONS, HOLDING TITLE IN JOINT TENANCY, ACTING UNDER THEIR CONSTITUTIONAL RIGHTS AS CITIZENS OF THE UNITED STATES OF AMERICA

(This declaration of trust authorizes its Trustees to operate under the name of Americans Building Constitutionally (a trust) N.F.P. by this agreement, conveyance and acceptance, made and entered into at the time and on the date appearing in the acknowledgement hereto attacched, by and between Robert D. Hayes, Creator and Grantor hereof, and Richard J. Stephenson and J. Alton Lauren, Acceptors hereof in joint tenancy who shall compose the Board of Trustees and Executive Officers for conducting said business.)

The Grantor, hereby constitutes and appoints the above designated Trustees to be, in fact. Trustees of the Trust hereby created and established. The Grantor for and in consideration of the objects and purposes herein set forth, the cash sum of One Dollar in hand paid and other considerations of value the receipt of which is hereby acknowledged, does hereby sell, assign, convey and deliver unto said Trustees, in TRUST—who are to hold legal title in joint tenancy and not as tenants in common, to collectively act by virtue of this covenant as a Board of Trustees under the name herein designated—certain properties, business projects, operations under way or contemplated, dealing in equities, formulae, entities, patents, copyrights, business good-will, or other business desired to be engaged in by said Trustees.

The Trust name and other things of value to constitute a Trust (estate), including rights in reversion or remainder wherever situate, and other things of value too numerous to mention, and having its principal place of business in the State of Illinois, County of Lake, Barrington, Kelsey Road, P.O. Box 575, 60010.

The above named Trustees, for themselves and their successors in trust, do hereby accept the conveyance in trust and acknowledge delivery of all the property specified, together with all the terms of the Trust herein set forth, agreeing to conserve and improve the Trust, to invest and reinvest the funds of said Trust in such manner as will increase the financial rating of the Trust (estate) during the period of outstanding liabilities of the various properties and enterprises in commerce for gain, exercising their best judgment and discretion, in accordance with the Trust minutes, making distribution of portions of the proceeds and income as in their discretion, and according to the minutes, should be made, making complete periodic reports of business transactions, and upon final liquidation distributing the assets to the beneficiaries as their interests may appear; and in all other respects administering said Trust (estate) in good faith, strictly in conformity hereto.

TRUSTEES

Trustees shall be not less than two in number, but may be increased for practical reasons beneficial to the Trust. The Trustees herein mentioned by name, or their successors elected to fill vacancies, shall hold office, have and exercise collectively the exclusive management and control of the Trust property and business affairs;

Provided, where succession may be desired, the first named Trustee shall hold office for one year, the second, for two years, the third, for three years, in this manner using the same principle for additional Trustees, the successor to each Trustee being elected for a full term of five years;

Provided, however, that a Trustee may resign or be removed from office by a resolution of the Board of Trustees unanimously concurred in whenever in their opinion said Trustee shall have been guilty of fraud, malfeasance in office, gross neglect of duty, or for cause by the mandate of a court of competent jurisdiction; and

Provided further, that in the event of death, removal from office, or resignation, the Trustees shall appoint or elect a successor by the unanimous concurrence of the remaining Trustees. Should the entire Board of Trustees become vacant, a court of equity may appoint one Trustee, who, in turn, shall appoint the additional Trustees. Should objection be filed to appointment of additional Trustees, the Same shall be spread upon the minutes. Any such objection shall deprive the candidate from accepting the trusteeship.

The signing and acknowledging of this Agreement by such Trustee or Trustees, elected or appointed, shall constitute their acceptance of this Trust; and the Trust property, assets and emoluments thereof shall immediately vest in the new Trustee or Trustees without any further act or conveyance.

TRUSTEES' MEETINGS

By a regular act of the Trustees they may provide for meetings at stated intervals without notice and special meetings may be called at any time by two or more Trustees upon three days' written notice. At any regular or special meeting a majority of the Trustees shall constitute a quorum for conducting business, Provided, affirmative action may only be had upon a majority vote of the Trustees, whether present or absent, except that at special meetings called for a special purpose the majority present may affirmatively act in emergency matters.

POWERS OF TRUSTEE

Trustees' powers shall be construed as general powers of citizens of the United States of America, to do anything any citizen may do in any state or country, subject to the restrictions herein noted. They shall continue in business, conserve the property, commercialize the resources, extend any established line of business in industry or investment, as herein specially noted, at their discretion for the benefit of this Trust, such as, viz.: buy, sell or lease land for surface or mineral rights; buy or sell mortgages, securities, bonds, notes, leases of all kinds, contracts or credits, of any form, patents, trademarks or copyrights; buy, sell, or conduct mail-order business, or branches thereof; operate stores, shops, factories, warehouses, or other trading establishments or places of buiness of any kind; construct, buy, sell, lease or rent suitable buildings or other places of business; advertise different articles or business projects; borrow money for any business project, pledging the Trust property for the payment thereof; hypothecate assets, property, or both, or the Trust in business projects; own stock in, or entire charters of corporations, or other such properties, companies, or associations as they may deem advantageous.

Resolutions of the Board of Trustees authorizing a special thing to be done shall be evidence that such act is within its power. Any one lending or paying money to the Board of Trustees shall not be obliged to see the application thereof, all funds paid into the treasury are and become a part of the corpus of the Trust.

ADMINISTRATION

The Trustees shall regard this instrument as their sufficient guide, supplemented from time to time by resolutions of their Board covering contingencies as they arise and recorded in the minutes of their meetings, or by-laws, rules or regulations, as deemed expedient and consistent with the orderly conduct of business.

OFFICERS AND MANAGEMENT

The Trustees may in their discretion elect among their number a President, Secretary and Treasurer, or any other officers they may deem expedient for proper functioning. Any Trustee may hold two, or more, offices simultaneously, their duties being such as are usual or are prescribed. They may employ agents, executives, or other employees, or designate third persons to hold funds for specific purposes.

EXPENDITURES

The Trustees shall fix and pay compensation of all officers, employees or agents in their discretion, and may pay themselves such reasonable compensation for their services as may be determined by the Board of Trustees.

CONSTRUCTION

The Trustees, officers, agents or employees possess only such authority as awarded them herein. Authority is understood and meant to be similar to that awarded an executor of an estate wherein the testator directs (illustration) "that my Executor is directed to handle the estate in the manner he thinks to be to the best interest, limited by the terms hereof, without the necessity of resort to the court for permission or approval of any transaction, intending herein to leave open for the court the question of conscientious dealing of my Executor only."

Trustees' Declaration of Purpose of This Constitutional Trust

shall be to help citizens of the United States make full use of their rights guaranteed them under the Constitution. Americans Building Constitutionally (a trust) N.F.P. hereby makes available membership to every citizen who is duly qualified.

The trustees by their resolution of purpose may perform and function for any purpose on behalf of any individual, group or combination of individuals, severally or collectively.

In such instances the powers and authority of the Trustees shall be defined and limited to the general purposes set forth by the Declaration of Purpose.

For these purposes the Trustees may have authority to take possession, management and control of corpus, as agent, escrowee or trustee of the lawful holder of Interim Certificate, as issued by the Trust.

The trustees may issue Interim Certificates, calling for as many subdivided units as a holder may be entitled to on a per cent basis of the whole. However, they may first allocate a per cent of subdivided units for purposes or activities as the nature of the Declaration of Purpose warrants. Under no circumstances shall the Trustees possess authority to sell or negotiate, directly or indirectly, Interim Certificate unit or units.

The trust shall have authority to provide itself with operating funds through commercial loans, directly secured by assets or income of the Trust, provided such authority is possessed, in writing, from the principal.

The trustees shall issue to individual persons interested in the premises, or groups, as the case may be, uniform Trust Interim Certificates, therein and thereby setting forth that the Trust is not the vendee or owner of the premises; that its sole activity consists of private, personal representation of individual Interim Certificate holders, as set forth in the Declaration of Purpose.

LIABILITIES

The Trustees shall, in the capacity of Trustees and not individually, assume only such liability as may attach to said Trust property assets. This Trustee liability shall not in any manner jeopardize their individual or personal holdings and for any losses they should suffer for any reason through services, they shall be reimbursed from Trust property to the same extent as would non-interested persons.

NOTICE

Notice is hereby given to all persons, companies or corporations extending credit to, contracting with, or having claims against this Trust or the Trustees hereof, that they must look only to the funds and property of the Trust for payment or for settlement of any debt, tort, damage, judgment or decree, or for any indebtedness which may become payable hereunder; that the Trustees, officers or agents are mere employees and not personally liable when dealing with the Trust properties or matters.

DOCUMENT

It is expressly declared that a Trust, and not a partnership, is hereby created; that neither the Trustees, officers, or certificate holders, present or future, have or possess any beneficial interest in the property or assets of said Trust, nor shall they be personally liable hereunder, as partners or otherwise; that no Trustee shall be liable for the act or omission of his or her Co-trustee, or any other person, whatsoever, whether employed by such Trustee or not, or for anything other than his own, personal breach of Trust.

CERTIFICATES OF INTEREST

For convenience the equitable interests for distribution shall be divided into One Hundred units, substantially in the certificate form hereto attached. They shall be non-assessable, non-taxable and negotiable and the lawful possessor thereof shall be construed the true and lawful owner thereof. The lawful owner may, if he so desires, cause his beneficial certificate to be registered with the Secretary of the Board of Trustees.

DEATH . . . INSOLVENCY . . . BANKRUPTCY

Death, insolvency or bankruptcy of any certificate holder, or the transfer of his certificate by sale, gift, devise or descent, shall not operate as a dissolution of this Trust, or in any manner affect the Trust or its operation or mode of business. Ownership of beneficial certificate shall not entitle the holder to any legal title in or to the Trust property, nor any undivided interest therein, nor in the management thereof, nor shall the death of a holder entitle his heirs or legal representatives to demand any partition or division of the property of the Trust, nor any special accounting, but said successor may succeed to the same equitable or distributional interest upon the surrender of the certificate as held by the deceased for the purpose of re-issue to the then lawful holder or owner.

DURATION . . . CLOSURE

This Trust shall continue for a period of twenty-five years from date, unless the Trustees shall unanimously determine upon an earlier date. The Trustees may at their discretion, because of threatened depreciation in values, or other good and sufficient reason, liquidate the assets, distribute and close the Trust at any earlier date determined by them. The Trust shall be proportionately and in a pro rata manner distributed to the beneficiaries. In the event this instrument has been recorded with the Recorder of Deeds, they shall then file with said Recorder a notice that the Trust shall cease and determine; and, thereupon, the Trustees shall automatically be further discharged hereunder, PROVIDED, their administration and distribution has been made in good faith, otherwise a court of equity may be invoked to review and correct any tort or error.

RENEWAL

At the expiration of this Agreement the then Trustees, if they so desire and believe that said Trust should not be closed, may renew this Agreement for a like or shorter period. A resolution of said renewal shall be entered upon the minutes (and also recorded in the Recorder's Office in the event this Agreement has been recorded) at least 120 days prior to the expiration hereof, and publication shall be made in a newspaper of general circulation in the county of a copy of said resolution not less than 60 days prior to the expiration hereof.

RESTRICTIONS

Nothing herein contained shall be construed to authorize the Trust to issue beneficial certificates of interest in excess of the number herein provided, nor for a nominal value at variance with the provisions hereof.

PURPORT

The purport of this instrument is to convey property to Trustees to constitute a Trust (estate) for the benefit of the beneficiaries, held by the Trustees, in trust and in joint tenancy for the duration hereof, and to provide for a sane and economical administration by natural persons acting in a fiduciary capacity, to begin at once and not to be deferred until after the death of any creator, settler or maker, as occurs when such Trust Estates are created by Last Will and Testament, the settlers, creators or makers of this covenant preferring that the Trustees act solely within their constitutional rights as based upon their common law rights and immunities vouchsafed to citizens of the United States of America and defined in Article IV, Section 2, PROVIDING, that "Citizens of each state shall be entitled to all privileges and immunities of citizens in the several states," and Article VI, Section 2, PROVIDING, that "The Constitution of the United States and the laws made in pursuance thereof shall be the supreme law of the land;" and the 14th Amendment thereof, PROVIDING, that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States." The administration of this Trust shall be amenable to judicial regulation on occasion arising and under the paternalism and protection of the court. Citations applicable and various rulings pertaining to Trust Estates and constitutional rights of contract and collective bargaining (except copartnership relationship, which is not applicable) may be found.

Nothing herein contained shall be construed as an intent to evade or to contravene any Federal or State Law, nor to delegate to Trustees any special power belonging exclusively to franchise of incorporation.

In witness whereof the Grantor and Creator hereof and the Acceptors hereof, for themselves, their heirs and assigns, have hereunto set their hands and seals in token of the conveyance, delivery and acceptance of property, assets, or other things of value, and the obligations and duties as herein assumed as Trustees of said Trust and assent to all stipulations herein as imposed and expressed.

[SEAL] ROBERT D. HAYES,
Creator.

COUNTY OF LAKE,
State of Illinois, ss:

I, Lorena Kohlman, a Notary Public, an officer authorized by law to administer oaths, do hereby certify that Robert D. Hayes, creator, and Robert D. Hayes, Richard J. Stephenson and J. Alton Lauren as trustees of Americans Building

Constitutionally (a trust) N.F.P., personally appeared before me this day and acknowledge that they signed, sealed and delivered the above and foregoing Trust Indenture for the uses and purposes therein set forth, and that the trustees by their signatures evidenced the acceptance of the duties, obligations and faithful performance of said Trust Indenture.

Dated this Fifteenth day of July, 1966.

[SEAL] LORENA KOHLMAN.

My Commission Expires April 16, 1967.

Mr. PATMAN. Is the ABC making available to the Internal Revenue Service records that will reflect a list of the members?

Mr. HAYES. Chairman Patman, the answer to that question is "No," because of the rules which the document just handed you covers.

Mr. PATMAN. In other words, you feel that it would be outside the scope of your authority as trustee. How many trustees are there?

Mr. HAYES. There are three.

Mr. PATMAN. Three trustees?

Mr. HAYES. Right.

Mr. PATMAN. I believe the bylaws provide for one can run the business, do they not; one trustee?

Mr. HAYES. Yes, that could be true; yes, sir.

Mr. PATMAN. And then that one trustee could appoint the other trustees to serve with him, as a kind of a perpetual trust?

Mr. HAYES. On advice of counsel, Mr. Chairman, I am declining to reveal the substance of the——

Mr. PATMAN. Of course, we have it here and will reveal it, and that it what it says. Is ABC giving the Internal Revenue Service a financial statement which will show income and disbursements for its first year of operations as well as a balance sheet?

Mr. HAYES. No, sir.

Mr. PATMAN. You are not. Now, you are not giving it to the IRS. You are not giving it to a congressional committee. Who will you give it to, nobody?

Mr. HAYES. Nobody.

Mr. PATMAN. If you can help it?

Mr. HAYES. That is correct.

Mr. PATMAN. That is the point that we are working on right now.

Mr. HAYES. I appreciate it.

Mr. RAY. I will say that.

Mr. PATMAN. Is ABC making availalbe to the Internal Revenue Service records that will reflect income and disbursements since the date it began operations as well as assets and liabilities? I guess the same answer to that one.

Mr. HAYES. Correct; that is correct, sir.

Mr. PATMAN. That you are not making it available to anybody?

Mr. HAYES. That is right.

Mr. PATMAN. Because of that trust agreement. Do we understand correctly that the following are the trustees of ABC: Robert D. Hayes, J. Alton Lauren, Richard J. Stephenson; is that correct, the three trustees?

Mr. HAYES. That is correct.

Mr. PATMAN. Does ABC have a bank account on which it draws checks?

Mr. HAYES. Yes, sir; it does.

Mr. PATMAN. How many persons must sign an ABC check and what are their names?

Mr. HAYES. This, Mr. Chairman, will be revealed in the bylaws.

Mr. PATMAN. In the bylaws?

Mr. RAY. That was done by resolution of the trustees.

Mr. PATMAN. Where are your bylaws? Let me see the bylaws.

Mr. RAY. It was created by resolution to the bank of the trustees, Mr. Chairman.

Mr. PATMAN. The bank has it but we cannot get it, is that right?

Mr. RAY. The bank has a copy of the resolution of the trustees.

Mr. PATMAN. You have a copy. You are refusing to let us see a copy of the resolution?

Mr. RAY. It is at the bank, Your Honor, Mr. Chairman.

Mr. PATMAN. Well, you said that you gave them a copy. You must have the original.

Mr. RAY. It is a bank form.

Mr. PATMAN. That does not make any difference. Are you willing to let us see that resolution, Mr. Hayes?

Mr. HAYES. We would be glad to get you a copy of it, sir.

(The information has not been submitted to the subcommittee.)

Mr. PATMAN. You said you gave the bank a copy. Evidently you have the original.

Mr. HAYES. I am sorry, I do not have it here.

Mr. PATMAN. Who signed the resolution?

Mr. HAYES. The trustees signed it.

Mr. PATMAN. All three trustees?

Mr. HAYES. Yes, all three trustees.

Mr. PATMAN. Now, evidently you can sign the checks. Is anyone else required to sign them before withdrawals of funds can be made?

Mr. HAYES. Yes, sir.

Mr. PATMAN. Or money obtained. Who else?

Mr. HAYES. One other trustee.

Mr. PATMAN. Would have to sign it?

Mr. HAYES. Correct.

Mr. PATMAN. Either one of the others?

Mr. HAYES. Yes.

Mr. PATMAN. He said either one of the others. That is either Stephenson or this other man.

What are the names and addreses of the banks or other financial institutions in which ABC has accounts?

Mr. HAYES. I am not permitted to reveal that, sir.

Mr. PATMAN. Not permitted to reveal it, are there one or more?

Mr. HAYES. I cannot reveal that.

Mr. PATMAN. You cannot reveal it. Evidently the checks have the names of the banks on it, don't they; the different checks?

Mr. HAYES. Yes; I would say so.

Mr. PATMAN. Anybody that you issue a check to would know about it; wouldn't they?

Mr. HAYES. I presume so.

Mr. PATMAN. But you won't let us know and you won't let the IRS know.

Mr. HAYES. They can check the bank records.

Mr. PATMAN. Yes. What are the names and addresses of the investment or brokerage firms in which ABC has accounts?

Mr. HAYES. I cannot reveal that.

Mr. PATMAN. Has ABC or any of its affiliates deposited any funds in foreign banks or in other foreign financial institutions?

Mr. HAYES. Pardon me, sir?

Mr. PATMAN. Has ABC or any of its affiliates deposited any funds in foreign banks outside of this country, or in other foreign financial institutions?

Mr. HAYES. As a trustee I cannot reveal that information.

Mr. PATMAN. What are the names and addresses of the foreign banks or other financial institutions in which ABC or its affiliates has deposited funds?

Mr. RAY. May I finish his answer to that question?

Mr. PATMAN. He finished it. He said he couldn't reveal it. I would consider that a definite period there. If he has further answer, why you may go ahead and give it, Mr. Hayes.

Mr. HAYES. I would add to my previous answer that so far as I know personally, none has been deposited.

Mr. PATMAN. In foreign——

Mr. HAYES. Correct.

Mr. PATMAN. Now ABC, if I understand correctly, has three types of membership, one an educational membership for $1,050; another a foundation membership for $5,250; another full or senior membership, $10,500; is that correct?

Mr. HAYES. That is correct, sir.

Mr. PATMAN. Has anyone paid $10,500 for membership in ABC?

Mr. HAYES. This, I cannot say.

Mr. PATMAN. Yes or no. Has anyone paid $10,500 for membership in ABC?

Mr. HAYES. As a trustee I am not permitted to reveal that, sir.

Mr. PATMAN. I am not asking for names at this point. How many have paid $10,500?

Mr. HAYES. As a trustee——

Mr. PATMAN. How could you be violating a trust if you said one or 99 or 550? What difference would that make on a trust?

Mr. HAYES. The reason I cannot do that, sir, is because it violates the trust which I have assumed.

Mr. PATMAN. Has anyone paid more than $10,500 for membership in the ABC?

Mr. HAYES. Not to my knowledge, sir.

Mr. PATMAN. You would know it if they had, wouldn't you; because you are the head of it?

Mr. HAYES. Not necessarily.

Mr. PATMAN. Who has power over you?

Mr. HAYES. No one in the trust.

Mr. PATMAN. That is right. I understand that the price of a senior membership in ABC was raised this year. Please give us the prices for a senior membership from the very begining of ABC's operations, as well as the dates on which those prices went into effect. Would you do that?

Mr. HAYES. I do not have the dates on which the changes were made.

Mr. PATMAN. Will you make that available to Mr. Olsher so we can put it in the record at this point?

Mr. HAYES. I will be glad to.

(The information had not been received at time of printing.)

Mr. PATMAN. You understand that we will put the prices in there and the dates.

Mr. HAYES. Pardon?

Mr. PATMAN. Can you give us the prices now? I understood that you didn't have it all right now.

Mr. HAYES. I don't have the dates.

Mr. PATMAN. Do you have the prices?

Mr. HAYES. The senior memberships originally to my knowledge were $7,000.

Mr. PATMAN. And it was raised to——

Mr. HAYES. 10.5.

Mr. PATMAN. To 10.5. And that is the only change in the senior membership.

Mr. HAYES. So far as I know.

Mr. PATMAN. And you don't recall the date of that.

Mr. HAYES. No; I do not.

Mr. PATMAN. And that is the date you will furnish Mr. Olsher to be put in the record.

(The information has not been submitted to the subcommittee.)

Mr. HAYES. I will do my best to determine it.

Mr. PATMAN. Have any of the following foundations ever been a senior member of ABC? Just answer yes or no as I read the names. R. D. Hayes Family Foundation, is it a senior member of ABC?

Mr. HAYES. I cannot reveal that, sir.

Mr. PATMAN. Well, because it is your foundation or because you represent the parent organization?

Mr. HAYES. Because I represent ABC.

Mr. PATMAN. The parent organization.

Mr. HAYES. Correct.

Mr. PATMAN. And you wouldn't mind——

Mr. HAYES. Not the parent organization.

Mr. PATMAN. You wouldn't mind forgetting about that part and just reveal your own. How about that.

Mr. RAY. Would you state the question formally, Mr. Chairman?

Mr. PATMAN. Yes. The question is Have any of the following foundations ever been a senior member of ABC? One is R. D. Hayes Family Foundation. Has it ever been a member, a senior member of ABC?

Mr. RAY. Are you addressing Mr. Hayes as trustee of the R. D. Hayes Family Foundation?

Mr. PATMAN. I am addressing him as the head of the R. D. Hayes Family Foundation at this point.

Mr. RAY. And you are requesting whether that family foundation is a member of ABC.

Mr. PATMAN. Of ABC; yes.

Mr. RAY. You may answer.

Mr. HAYES. It is not a member of ABC.

Mr. PATMAN. Was it ever?

Mr. HAYES. It never was.

Mr. PATMAN. And you are the head of ABC and this is your foundation.

Mr. HAYES. Correct.

Mr. Patman. The Sales Analysis Institute Foundation, has it ever been a member of ABC?

Mr. Ray. Are you addressing him as a trustee?

Mr. Patman. I am addressing any way you want to take it.

Mr. Ray. Let's make it clear.

Mr. Patman. He is connected with Sales Analysis and he is also connected with ABC.

Mr. Ray. He is a trustee of Sales Analysis Institute Foundation. He will answer as a trustee of that foundation.

Mr. Patman. All right; answer that then as trustee. I don't care how you answer it just so you answer it.

Mr. Hayes. Sales Analysis Institute, Mr. Chairman, the Sales Analysis Institute Foundation is not a member of ABC.

Mr. Patman. All right. Now is the Walsh Family Foundation a member?

Mr. Hayes. I cannot reveal that, sir.

Mr. Patman. Is the Tudhope Foundation a member? Is it a member?

Mr. Hayes. I am not at liberty, sir, to——

Mr. Patman. Because you are trustee, one of the trustees of the parent organization.

Mr. Hayes. Correct.

Mr. Patman. The ABC.

Mr. Hayes. This is correct; right.

Mr. Patman. The Odell Tudhope Educational Trust, is it a member?

Mr. Hayes. I cannot answer that, sir.

Mr. Patman. Saxon Foundation?

Mr. Hayes. I cannot—I cannot reveal any information about who is a member and who is not a member.

Mr. Patman. Philippa Schuyler Memorial Foundation, is it a member of ABC?

Mr. Hayes. I am not at liberty to answer that question.

Mr. Patman. The Houghs——

Mr. Corman. Mr. Chairman.

Mr. Patman. Yes, Mr. Corman.

Mr. Corman. Maybe my memory is wrong but I am wondering if he hasn't waived his right as to that.

Mr. Moore. Page 8 of his statement indicates that it is one of the members.

Mr. Patman. The Hough's Encyclopedia of American Wood's Foundation. that is what I am asking. Is it a member? Is it as an entity a member of ABC or has it been?

Mr. Hayes. I cannot answer that.

Mr. Patman. I cannot answer that, sir.

Mr. Conte. Mr. Chairman, can we go back to that Philippa Schuyler Memorial Foundation?

Mr. Patman. Yes.

Mr. Conte. He said he couldn't answer that question, and yet, on page 8 of his original statement he said, "One of our members is the Philippa Schuyler Memorial Foundation."

Mr. Patman. How you you reconcile that, Mr. Hayes? You already put it in your own statement.

Mr. Hayes. Yes.

Mr. PATMAN. That these people were members. Then you refuse under oath.

Mr. HAYES. Because of public knowledge of the organization of this particular foundation, it was public domain, and therefore we were at liberty to.

Mr. PATMAN. The only way it could get in the public domain was with your permission, wasn't it?

Mr. CONTE. That isn't the point I am trying to make, Mr. Chairman. Under oath Mr. Hayes said he couldn't disclose——

Mr. PATMAN. That is right, I know he did.

Mr. CONTE (continuing). Whether or not this foundation was a member or not.

Mr. RAY. The trustees of the Philippa Schuyler Foundation have revealed their membership sometime ago. It was extensively covered in the press and has been ever since.

Mr. CONTE. Counsel, that is not the point I am trying to make. The point I am trying to make is that your client said under oath that he couldn't answer whether or not it was a member, and here in his statement he says that they are a member.

Mr. RAY. He was not in his statement——

Mr. CONTE. Did he read this statement before he wrote it?

Mr. RAY. Yes, sir.

Mr. CONTE. He didn't allude to it. He mentioned it on page 8.

Mr. RAY. It is public knowledge.

Mr. CONTE. Under oath he said he couldn't state whether or not it was a member. Yet he does to the chairman in his original statement.

Mr. RAY. He can state that.

Mr. MOORE. Rephrase the question.

Mr. PATMAN. He couldn't but he did. Let me go ahead and ask these questions. How much did it cost each of these foundations to become a senior member of ABC? Please give the membership fee as I read their names: The R. D. Hayes Family Foundation, how much is the membership fee?

Mr. HAYES. I can't reveal that.

Mr. PATMAN. Sales Analysis Institute Foundation.

Mr. HAYES. I can't reveal that, sir.

Mr. PATMAN. Walsh Foundation, Family Foundation.

Mr. HAYES. I have no knowledge of that.

Mr. PATMAN. Tudhope Foundation.

Mr. HAYES. Can't reveal that, sir.

Mr. PATMAN. Odell Tudhope Educational Trust.

Mr. HAYES. As a trustee I can't reveal any of these.

Mr. PATMAN. Saxon Foundation.

Mr. HAYES. As a trustee I can't reveal that.

Mr. PATMAN. Philippa Schuyler Memorial Foundation.

Mr. HAYES. I can reveal that.

Mr. PATMAN. All right, how much was it, membership fee?

Mr. HAYES. I can't reveal the amount they paid, sir. I can only reveal the fact that they are members.

Mr. PATMAN. It is like telling a fellow how far it is but not where to.

Mr. HAYES. Yes, sir.

Mr. RAY. This is public information.

Mr. PATMAN. Are they still members, the Schuyler Foundation?

Mr. HAYES. I can't reveal that.

Mr. PATMAN. What about the Hough's Encyclopedia of American Wood's Foundation, Inc. What did it cost them to join?

Mr. HAYES. As a trustee I can't reveal that.

Mr. PATMAN. By letter of October 23, 1967, Mr. Robert Speller, president, Hough's Encyclopedia of American Wood's Foundation, New York City, sent us a copy of his application for membership in ABC, dated June 1, 1967. That application indicates that his membership fee was $10,500.

Yet, in the same letter, Mr. Speller stated that his foundation "paid no fee to ABC." He enclosed a resolution adopted by ABC, dated June 5, 1967, "which indicates that ABC made a grant to this foundation covering full membership."

How does it happen that some people have reportedly paid thousands of dollars to become members of ABC while others paid nothing? Is this not highly irregular practice and pricing?

Mr. HAYES. As a trustee I can't reveal that information.

Mr. PATMAN. I will not go to the trouble of reading the letter from this Encyclopedia of American Wood's Foundation, but it indicates exactly what I said, and I will place it in the record.

(The letter referred to, with attachments, follows:)

HOUGH'S ENCYCLOPEDIA OF AMERICAN WOODS FOUNDATION, INC.,
New York, N.Y., October 23, 1967.

Hon. WRIGHT PATMAN,
Chairman, Subcommittee Foundation Study,
Washington, D.C.

DEAR MR. PATMAN: This is in reply to your letter of inquiry, dated October 19.

We assume that this Foundation is a member of Americans Building Constitutionally, based upon the "Accepted Membership Application and Sponsoring Agreement" signed by me and by Mrs. Bertha Fields, the latter on behalf of A.B.C. I enclose a copy of the Application for your information. This Foundation paid no fee to ABC. A copy, Resolution dated 5 June 1967 of ABC, is enclosed, which indicates that ABC made a grant to this Foundation covering "full membership".

Our financial statement, previously submitted, shows income of $5,000 from ABC. A copy of their Resolution making this Grant, is enclosed. It is clear that it was made for the purpose of assisting in the work of the Philippa Schuyler Memorial Foundation.

Further, the $975.00 paid to Dorothy Waring Steinor by this Foundation was a public relations fee for her work involved in the "Winning the Peace" Program of the Philippa Schuyler Memorial Foundation and for her work on the Town Hall, New York, Memorial Concert of September 24th.

For our part we have not received any further information from ABC as to what "full membership" constitutes, nor, in fact, by-laws, etc. We do regret that they ceased their activities almost just after the beginning on the "Winning the Peace" Program for reasons known only to them. We have had no communication from ABC or any of its officers since mid-August of this year.

Very truly yours,

ROBERT SPELLER,
President.

I, Bertha Fields, Executive Secretary of Americans Building Constitutionally (a Trust), certify that the following Resolution was adopted at a duly held meeting of the Board of Trustees of Americans Building Constitutionally on the 5th day of June, 1967, to wit:

Resolved; That the Board of Trustees authorize to be made and hereby do make the grant of $10,500 in trust to be applied toward full membership in

Americans Building Constitutionally to the Hough's Encyclopedia of American Woods Foundation, Inc.

BERTHA FIELDS.

Accepted and agreed to on behalf of the Hough Encyclopedia of American Woods Foundation, Inc. by

--------------,
Officer.

Date ---------------.

I, Bertha Fields, Executive Secretary of American Building Constitutionally (a Trust), certify that the following Resolution was adopted at a duly held meeting of the Board of Trustees of Americans Building Constitutionally on the 10th day of July, 1967, to wit:

Resolved, That Americans Building Constitutionally grants to the Hough's Encyclopedia of American Woods Foundation, Inc. the sum of $5,000 in trust to be administered by said Hough's Encyclopedia of American Woods Foundation, Inc. for and through the Philippa Schuyler Memorial Foundation, a member of Americans Building Constitutionally, for the great work carried out by the Philippa Schuyler Memorial Foundation in conjunction with the other members of Americans Building Constitutionally in bringing understanding and cooperation to the peoples of the Republic of Viet Nam.

BERTHA FIELDS.

Accepted and agreed to on behalf of the Hough Encyclopedia of American Woods Foundation, Inc., by

Robert Speller,
Officer.

JULY 12, 1967.

AMERICANS BUILDING CONSTITUTIONALLY

MEMBERSHIP APPLICATION AND SPONSORING AGREEMENT

This application will create no rights, duties, or obligations in either the applicant, his Sponsor, or Americans Building Constitutionally until accepted unconditionally by both the Sponsor and Americans Building Constitutionally.

The membership applicant submits that he is a citizen in good standing, that he wishes to ease the burdens of our government by working to benefit mankind and to dedicate himself to that end, and that upon acceptance by the Sponsor and Americans Building Constitutionally, he will seek to fulfill through his to-be-formed, non-profit organization the qualifications for full membership in both organizations and he will abide by the standards of sponsorship of Americans Building Constitutionally.

Applicant represents that he intends to establish a non-profit organization for the benefit of mankind and makes this agreement both personally and on behalf of that to-be-formed, non-profit organization. Acceptance by the Sponsor and Americans Building Constitutionally is conditioned upon the formation of that nonprofit organization and adoption by that nonprofit organization of this agreement.

In the event the applicant fails to form the contemplated non-profit organization or that non-profit organiaztion fails to adopt this agreement, the applicant is released from any personal liability for sums as yet unpaid. Notwithstanding this release, neither the Sponsor nor Americans Building Constitutionally is obligated to return any portion of the membership fee paid prior to notification of this failure.

Upon receipt by the Sponsor of $10,500, the amount of the membership fee in Americans Building oCnstitutionally for a senior membership, the Americans Building Constitutionally agrees to act as applicant's agent in sponsoring applicant's to-be-formed, non-profit organization for membership in Americans Building Constitutionally. Upon acceptance by both the sponsoring non-profit organization and Americans Building Constitutionally, said organizations agree to provide all things necessary by and with their information, methods, procedures and techniques to enable the applicant to more fully utilize and protect his constituitonal rights to the end that he may benefit mankind. It is understood that while access to these methods, procedures, or information is an incident to membership in Americans Building Constitutionally, that all property rights in all such material is reserved to Americans Building Constitutionally and the member is to receive only the opportunity to make use of that material in the course of his participation as a member of Americans Building Constitutionally.

In further consideration of the acceptance of this application by the Sponsor and Americans Building Constitutionally of the applicant's to-be-formed, non-profit organization for membership, the applicant hereby agrees not to teach, give, lend, lease, sell, assign, or otherwise divulge or communicate any of the information, methods, procedures, or techniques furnished with the membership, without written consent of Americans Building Constitutionally. It is understood that violation of the provision of this paragraph will be a material breach sufficient to justify, among other things, revocation of membership privileges.

Applicant understands that it is the policy of Americans Building Constitutionally to expand the field of private non-profit organization activity through grants and endowments to member organizations and it is the applicant's desire that a portion of his membership fee may be so used, subject to the discretion of the Trustees of Americans Building Constitutionally, to endow the activities of member organizations.

The membership of the applicant's to-be-formed, non-profit organization in Americans Building Constitutionally shall be non-voting, non-transferrable and non-assessable, shall create no right of participation or control, and shall be conditioned upon the payment of the fee in full and completion of the membership requirements in both the sponsoring non-profit organization and Americans Building Constitutionally (as stated in the Standards of Sponsorship).

This agreement is personal and by the applicant's signature hereto, he makes his to-be-formed, non-profit organization and its membership a party to this agreement, which is not assignable and shall be construed as an Illinois contract, notwithstanding the place of delivery or performance.

Execute in quadruplicate and forward to Americans Building Constitutionally.

Name: Hough's Encyclopaedia of American Woods Foundation, Inc.

Profession or Business:

Business Address:

Home Address: New York, N.Y.

Date: June 1, 1967.

Signature of Membership Applicant: Robert Speller.

Authorized Signature of Sponsor: R. D. Hayes, Trustee.

Sponsoring Organization (to whom all membership fees are paid) Americans Building Constitutionally (A Trust).

Address: P.O. Box 575, Barrington, Illinois.

Accepted by: Bertha Fields; Americans Building Constitutionally (A TRUST) N.F.P., P.O. Box 575, Barrington, Illinois 60010.

Mr. PATMAN. It would be a highly irregular procedure, would it not, Mr. Hayes, for you to give free memberships to some and not give it to all alike?

Mr. HAYES. I am unable to answer that question.

Mr. PATMAN. I will put it in the record and when you see the transcript maybe you would like to reveal it.

Mr. HAYES. All right.

Mr. PATMAN. Has ABC invested any of its funds?

Mr. HAYES. This is a question that I cannot reveal the answer to.

Mr. PATMAN. You could reveal whether you have or you haven't. That wouldn't be giving any secret, would it?

Mr. HAYES. No.

Mr. PATMAN. You couldn't reveal either.

Mr. HAYES. I couldn't reveal either.

Mr. PATMAN. All right. What type of investments has ABC made; that is, are the investments in securities, real estate or what? Would you indicate the type?

Mr. HAYES. I can't reveal that, sir.

Mr. PATMAN. Do the members of ABC receive a financial statement at any time?

Mr. HAYES. I cannot reveal that.

Mr. PATMAN. You can't reveal it. At what intervals do members of ABC receive a financial statement?

Mr. HAYES. I can't reveal that.

Mr. PATMAN. You can't reveal that.

Mr. HAYES. No.

Mr. PATMAN. Do the members of ABC receive a financial statement annually, just once a year?

Mr. HAYES. I cannot reveal.

Mr. PATMAN. You can't reveal that. Will ABC give a member a financial statement upon his request? Will you give a member a financial statement if the member requests it?

Mr. HAYES. No, I cannot reveal that.

Mr. PATMAN. You can't reveal it. How many members does ABC have as of now?

Mr. HAYES. As a trustee I can't reveal that.

Mr. PATMAN. In how many States does ABC have members?

Mr. HAYES. This is another question.

Mr. PATMAN. That is highly secret I assume. Do you file a Federal income tax return as an individual? Mr. Hayes?

Mr. HAYES. As an individual?

Mr. PATMAN. Yes.

Mr. HAYES. Yes, sir.

Mr. PATMAN. You do file an individual income tax return. If I understand your literature and the sales pitch correctly, if someone who attends your meetings pays $10,500, he joins your ABC association, the mother of the deal, the parent organization. For that fee, you will organize a foundation for that member, and that member, if he will transfer everything he has to that foundation, and handle his affairs as you tell him to, will not have to pay any income tax, isn't that your sales pitch?

Mr. HAYES. ABC doesn't set up anything, Mr. Chairman——

Mr. PATMAN. Listen, Mr. Hayes, you are under oath. Are you saying you don't agree to set up a foundation for these people who pay you $10,500?

Mr. HAYES. That is correct.

Mr. PATMAN. You don't agree to fix up a foundation for them.

Mr. HAYES. We do not.

Mr. PATMAN. All right then.

Mr. HAYES. We teach procedures. We do not set up foundation or trusts. May I go a little further with that?

Mr. PATMAN. Yes, if you will give us some enlightenment and not refuse.

Mr. HAYES. All right. ABC to begin with may not practice law. ABC is teaching citizens how under the present laws to manage their financial affairs for the benefit of mankind. They also become entitled to any attorney of theirs taught these procedures.

Mr. PATMAN. Say that again please.

Mr. HAYES. Pardon me, they also become entitled, I am talking about the members now——

Mr. PATMAN. Yes.

Mr. HAYES. To have their attorneys taught these procedures. We have invited agents of the IRS to attend these sessions where we teach.

Mr. PATMAN. Have they attended?

Mr. HAYES. They have attended, and, incidentally, for the benefit of this committee, I have brought the texts which we use in the seminars.

Mr. PATMAN. That is wonderful.

Mr. HAYES. Which I will be glad to turn over to the committee.

Mr. PATMAN. May we have them?

Mr. HAYES. Yes, sir.

Mr. PATMAN. All right, give them to us. And you had about five meetings, did you?

Mr. HAYES. No. We have more than five meetings.

Mr. PATMAN. These are the seminars conducted when the IRS representatives were there. I hope it discloses the names of the IRS representatives who were there. This gives the proceedings?

Mr. HAYES. Correct. I will now give you the names of those who attended if you wish them.

Mr. PATMAN. I assume they are in the books, aren't they?

Mr. HAYES. No, sir.

Mr. RAY. Those are just the instructions.

Mr. HAYES. These are the texts.

Mr. PATMAN. Those are the texts.

Mr. HAYES. Which we use.

Mr. PATMAN. In the seminar.

Mr. HAYES. In the seminar. I might say there are two types of seminars there. There is an attorney seminar. There is also a layman's seminar.

Mr. PATMAN. That is the attorney; he is your attorney though, isn't he?

Mr. RAY. No.

Mr. HAYES. No, no. These are attorneys who come to us for instruction.

Mr. PATMAN. How do you make them the lecturer all at once? I understood this was a seminar conducted by your people.

Mr. HAYES. We do not make them lecturers. The member may send in his attorney for education.

Mr. PATMAN. For education.

Mr. HAYES. Right.

Mr. PATMAN. You give them a little brainwashing.

Mr. HAYES. Education.

Mr. PATMAN. All right then. Now I would like to ask you, I understand that you are connected with the following foundations: Americans Building Constitutionally; R. D. Hayes Family Foundation, Wheaton, Ill.; Sales Analysis Institute Foundation, Barrington, Ill.; is that correct? You are connected with these foundations.

Mr. RAY. Mr. Hayes is willing to state for the record the names of the Internal Revenue Service agents who attended our seminars.

Mr. PATMAN. Answer this one first and then we will ask you to indicate the names of the Internal Revenue Service, or you can put them down and give them to the reporter or to Mr. Olsher and he will put them in the record at this point.

(The names referred to follow:)

Names of Agents attending Seminar: Alan D. Cornue; Ed Kaczmarck; Louis Adler.

Mr. PATMAN. Answer these questions, please. I understand you are connected with these foundations. Are you or not, these three?

Mr. RAY. Which three? Would you please restate the question?

Mr. PATMAN. Americans Building Constitutionally, Barrington, Ill.; R. D. Hayes Family Foundation, Wheaton, Ill.; Sales Analysis Institute Foundation, Barrington, Ill. I understand you are connected with those three. Are you or are you not?

Mr. HAYES. I am, sir.

Mr. PATMAN. You are. What other foundations are you connected with?

Mr. HAYES. None.

Mr. PATMAN. None, just those three.

Mr. HAYES. Correct.

Mr. PATMAN. Now James R. Walsh, Jr., is credited with creating the ABC package, and then selling the idea to you. Is this the way it actually happened?

Mr. HAYES. This is correct.

Mr. PATMAN. That is correct, all right.

Mr. CONTE. Mr. Chairman, I wonder if we could identify the gentleman sitting in the first row who keeps advising counsel.

Mr. PATMAN. He was identified in the beginning.

Mr. MOORE. No, not the one in the first row.

Mr. CONTE. The man with the bow tie.

Mr. PATMAN. That is Mr. Hayes, isn't it?

Mr. WALSH. Walsh, W-a-l-s-h.

Mr. PATMAN. He is the one that had the idea and sold it to Mr. Hayes.

Mr. CONTE. I just wanted to know who he was.

Mr. PATMAN. He is subpoenaed to be here. He is the only other witness at this time.

We requested, by letters dated October 3, 1967, and October 25, 1967, that you furnish us certain documents and information relating to the history and operations of ABC, the R. D. Hayes Family Foundation, and the Sales Analysis Institute Foundation.

Will you please now send up the information and documents described in attachment "A" which accompanied our requests of October 3 and October 25? Would you furnish us that information, please?

Mr. HAYES. As trustee, Mr. Chairman, I am not at liberty to do that, sir.

Mr. PATMAN. I will place in the record at this point the attachment "A".

(The attachment referred to follows:)

ATTACHMENT "A"

1. Legible copy of exemption application (Form 1023) and supporting documents, including subsequent amendments.

2. Legible copy of letter of Internal Revenue Service granting exemption.

3. Legible copy of charter, or articles of incorporation. If the Foundation is not a corporation, please submit a copy of the trust instrument.

4. Legible copy of by-laws.

5. Balance sheet or itemized schedule of assets as of the date that the Foundation was first organized.

6. Legible copy of Form 990-A (or Form 1041-A, if applicable), including attachments, filed with the Internal Revenue Service for each year beginning 1951.

7. Legible copy of Form 990–T, including attachments, filed with the Internal Revenue Service for each year beginning 1951.

8. Legible copy of accountant's financial statement for each year beginning 1951, including carrying values and market values of individual securities held at the close of the year. Re market value, if the stock is not traded, please furnish the Foundation's equity in the net assets of the corporation.

If the foundation has been in operation for less than a year, please submit (a) a current balance sheet, and (b) an income and disbursements statement for the period of operation, including names and addresses of donors, donees, and the amounts contributed.

9. Name and address of the accounting firm employed by the Foundation during each year.

10. Names and addresses of the officers of the Foundation at the close of each year.

11. Names, business addresses, and occupations of directors, trustees, and members of the finance committee at the close of each year.

12. Name and address of the bank, investment counsel, or broker, if any, rendering financial investment services to the Foundation during each year.

13. If the Foundation owned 5% or more of any class of stock of any corporation at the close of any of the years 1951 through 1966, please submit the following information for each such year:

(a) Name and address of the corporation.

(b) Nature of the business.

(c) Dates on which the stock was acquired by the Foundation, number of shares acquired, and manner of acquisition.

(d) Number of shares of each type of stock owned at the close of each year.

(e) Percentage of each class of outstanding stock of the corporation owned by the Foundation at the close of each year.

(f) Identification of the stock as voting or non-voting.

(g) Book value and market value of the stock at the close of each year. Re market value, if the stock is not traded, please submit the Foundation's equity in the net assets of the corporation at the close of each year.

14. Please advise as to—

(a) The years, beginning with 1951, during which the Internal Revenue Service performed field audits of the Foundation;

(b) The years covered in each such audit; and

(c) Taxes asessed, if any, by the Internal Revenue Service.

Mr. PATMAN. As you know, we had asked you to forward the information relating to the R. D. Hayes Family Foundation, and the Sales Analysis Institute Foundation not later than October 23, 1967. We have not as yet received the data. Please tell the committee why you have ignored these requests of October 3 and October 25. Will you do that, Mr. Hayes?

Mr. HAYES. Mr. Chairman, I have in no way ignored those requests. They will be in your hands——

Mr. RAY. Wait, don't combine them.

Mr. HAYES. I am at liberty to reveal Sales Analysis Institute Foundation information.

Mr. PATMAN. Do you have it with you?

Mr. HAYES. I do not.

Mr. RAY. It is under audit at this time.

Mr. PATMAN. It is what?

Mr. RAY. It is under audit at this time.

Mr. PATMAN. Who is auditing it?

Mr. RAY. Our CPA.

Mr. PATMAN. Your CPA. Kind of an inside audit.

Mr. RAY. Yes, sir.

Mr. PATMAN. What about the other two?

Mr. HAYES. The Family—the information on the Family Foundation, Mr. Chairman, I cannot reveal as a trustee.

Mr. PATMAN. Now when was the ABC, Americans Building Constitutionally, established?

Mr. HAYES. The document was filed July 15, 1966.

Mr. PATMAN. Is ABC a philanthropic organization?

Mr. HAYES. ABC is strictly an educational organization.

Mr. PATMAN. Well, what about philanthropic? Does that include——

Mr. HAYES. No. Its purpose is educational.

Mr. PATMAN. And certain people are to benefit from it?

Mr. HAYES. Yes.

Mr. PATMAN. Who benefits from it?

Mr. HAYES. No officer, no individual benefits from it.

Mr. PATMAN. Who does?

Mr. HAYES. It was organized for the benefit of the membership.

Mr. PATMAN. Well, the membership get——

Mr. HAYES. Get the information.

Mr. PATMAN. Get the benefit.

Mr. HAYES. That is correct.

Mr. PATMAN. What is the purpose of ABC? In other words, how would you define the purpose of ABC.

Mr. HAYES. I will be glad to give it to you.

Mr. PATMAN. All right, sir.

Mr. HAYES. The purpose of ABC is to help citizens of the United States make full use of their rights guaranteed them under the Constitution.

Mr. PATMAN. In other words, to carry out your theory of tax avoidance if necessary. People are not required to pay any more, which I agree with, than they are compelled to pay under the law.

Mr. HAYES. Yes, sir.

Mr. PATMAN. Now ABC operates in the same building in Barrington, Ill., as does the Sales Analysis Institute and the Sales Analysis Institute Foundation; is that correct?

Mr. HAYES. That is correct.

Mr. PATMAN. Has ABC filed an application for Federal tax exemption?

Mr. HAYES. No, sir.

Mr. PATMAN. Why hasn't ABC filed an application for Federal tax exemption?

Mr. RAY. That was covered in my statement.

Mr. PATMAN. Well, tell it again. Answer the question.

Mr. HAYES. It was covered in Mr. Ray's original statement, the details of which I——

Mr. PATMAN. Well, it would be a very simple answer I would think you know, why you haven't filed it. In other words, the question is, Why hasn't ABC filed an application for a Federal tax exemption?

Mr. HAYES. It is our opinion that ABC is not required to file such an application.

Mr. PATMAN. For exemption?

Mr. HAYES. That is correct.

Mr. PATMAN. In other words, you can just create them out of thin air and nobody can pass on it? All right. Who advised ABC that it does not have to file an application for a Federal tax exemption?

Mr. HAYES. As a trustee I can't reveal that.

Mr. PATMAN. ABC has been in business now for over a year. Has the organization filed a form 990–A tax return, which is required by law?

Mr. HAYES. Not at this time.

Mr. PATMAN. You will admit it is required by law?

Mr. HAYES. I don't admit anything.

Mr. PATMAN. Anything, all right, fine. That is a good way to put it.

Mr. MOORE. He used the term, Mr. Chairman, "Not at this time." Do you anticipate the filing of the particular form about which the Chair inquires?

Mr. HAYES. If the law requires it, we will do so at the proper time.

Mr. MOORE. The question was asked in that context.

Mr. HAYES. Yes.

Mr. MOORE. Your answer was also given in a way which would indicate that that is what you intended to do, if required.

Mr. HAYES. Correct.

Mr. MOORE. You didn't respond.

Mr. HAYES. Well, I am sorry.

Mr. PATMAN. You stated that you hadn't filed a 990–A tax return. Now who advised you that ABC does not have to file a tax return form 990–A?

Mr. HAYES. At the present time we are awaiting for a ruling from the Internal Revenue Service on the point.

Mr. PATMAN. Did you ask for a ruling?

Mr. HAYES. No.

Mr. PATMAN. How do you expect a ruling if you haven't asked for it?

Mr. HAYES. The Internal Revenue Service at this time is looking into the matter.

Mr. PATMAN. Why are they looking into it?

Mr. HAYES. This I don't know.

Mr. PATMAN. You just don't know. You didn't make any application for a ruling?

Mr. HAYES. No, we did not.

Mr. PATMAN. And yet you are expecting one. Who advised you not to file the form?

Mr. HAYES. As a trustee I can't reveal that.

Mr. PATMAN. Does ABC have assets?

Mr. HAYES. I can't reveal that, sir.

Mr. PATMAN. How did ABC acquire those assets and from whom?

Mr. HAYES. This is a question as a trustee I can't reveal.

Mr. PATMAN. What is the asset value of ABC?

Mr. HAYES. I cannot reveal that as a trustee.

Mr. PATMAN. Has any member of ABC ever asked the ABC trustees to furnish him a financial statement, that is a statement of income and disbursements as well as a balance sheet?

Mr. HAYES. Not to my knowledge.

Mr. PATMAN. Has there been any request such as that?

Mr. HAYES. As trustee.

Mr. PATMAN. What type of tax return, if any, has ABC filed for its first year of operation?

Mr. HAYES. What type?

Mr. PATMAN. What type of tax return has ABC filed for its first year of operation?

Mr. HAYES. At this time, Mr. Chairman, we have not filed such a statement.

Mr. PATMAN. You are still waiting for that ruling that you didn't ask for.

Mr. HAYES. Correct.

Mr. PATMAN. Have you filed any kind of tax return of any kind?

Mr. HAYES. We have not.

Mr. PATMAN. You have not, okay. How much Federal income tax has ABC paid since the date it was organized? If you haven't filed a return you evidently haven't paid anything.

Mr. HAYES. I can't reveal that.

Mr. PATMAN. You can't reveal it.

Mr. HAYES. That information.

Mr. PATMAN. How much State income and other taxes has ABC paid since the date it was organized?

Mr. HAYES. Since this involves operations of the trust, as a trustee I can't reveal that information.

Mr. PATMAN. How much local taxes such as real estate, has ABC paid since the date it was organized?

Mr. HAYES. I can't reveal that as a trustee.

Mr. PATMAN. Does ABC consider that it is exempt from paying gasoline taxes?

Mr. HAYES. I can't reveal that information as trustee.

Mr. PATMAN. Well, you either pay gasoline taxes or don't, as a foundation. Do you pay them or do you not pay them?

Mr. HAYES. I can't reveal that information as trustee.

Mr. MOORE. Have you made application to the appropriate State agency for recoupment of any gasoline taxes paid by you as trustee of this organization?

Mr. HAYES. Again, sir, I can't reveal the operations of the trust.

Mr. MOORE. Have you ever executed an application for recoupment of gasoline taxes paid to the State of Illinois?

Mr. RAY. May I ask a question of the committee? What does this line of questioning have to do with the purposes?

Mr. MOORE. We haven't gotten very far with anything else so we might as well try this for awhile. All we want is an answer.

Mr. RAY. I would like to know how this applies to the purpose for which this committee was formed.

Mr. MOORE. We are inquiring about tax-exempt organizations and their claims for recoupment.

Mr. PATMAN. About gasoline right now only.

Mr. MOORE. That is right.

Mr. HAYES. I am sorry, sir, I cannot reveal this information.

Mr. PATMAN. All right, that is all right. How many of the members of ABC have applied for Federal tax exemption, do you know?

Mr. HAYES. I don't know the answer to that one.

Mr. PATMAN. And if you did know you wouldn't reveal it? How many of those applications for tax exemption have been refused by the Internal Revenue Service?

Mr. HAYES. I don't know.

Mr. PATMAN. I have here a list of 63 foundations which are allegedly members of ABC. I now hand you a copy of that list and ask you to read to the committee each of them that is a member of ABC. You need only read the name, city, and State. I have the list before me, so it starts off with the—would you identify any of them as members of ABC?

(The list referred to follows:)

NAME AND ADDRESS

Barbara Wright Adams Foundation, P. O. Box 1753, Newport Beach, California.
The Alentar Foundation, Santa Fe Springs, California.
Kenneth E. Bernd Foundation of California, 541 Farmer's Lane, Santa Rosa, California.
Stephen A. Duff Foundation, 1104 Irwin, San Rafael, California.
The Fahy Foundation, 6 Rivo Alto Canal, Long Beach, California.
S. C. Forjays Foundation, 12501 Christy Lane, Los Alamitos, California.
Foundation for Economic and Social Progress, 2812 Tigertail Drive, Rossmoor, California.
Harkae Foundation, 55 Rosewood Drive, Atherton, California.
David Heersink Foundation, 913 W. Roseburg Avenue, Modesto, California.
Husted Foundation, 12540 Hawthorne Boulevard, Hawthorne, California.
Ives Foundation, 484 Clover Crest Drive, Cloverdale, California.
Johnson Foundation of California, 801 Rosemont Road, Oakland, California.
Carol Terrell H. Root Foundation, 1879 Newport, Costa Mesa, California.
Lester M. Wyatt Foundation, 4228 S. Main, Sebastopol, California.
Forensic Science Institute, Vivian Hotel, 1723 G Street NW., Washington, D.C.
Americans Building Constitutionally, P. O. Box 575, Barrington, Illinois.
D. W. Anderson Foundation, 59 E. Downer Place, Aurora, Illinois.
Chandler Foundation, 4901 Main Street, Downers Grove, Illinois.
Robert W. Draege Foundation, Mount Vernon, Illinois.
M. J. Harris Foundation, 742 W. Dempster, Mount Prospect, Illinois.
R. D. Haye's Family Foundation, P.O. Box 575, Barrington, Illinois.
Herbert M. Hines Foundation, 2114 N. Elmwood, Waukegan, Illinois.
J. W. Hines Foundation, 2403 Cherry, Mount Vernon, Illinois.
L. J. Hines Foundation, Whittington, Illinois.
C. V. Hoskins Foundation, Mount Vernon, Illinois.
Dr. Julia Hussman Foundation, 15 Park & Shop, Elk Grove Village, Illinois.
Dr. Lother H. Hussman Foundation, 111 S. Northwest Highway, Palatine, Illinois.
Jefferson County Research Associated, 1101 Broadway, Mount Vernon, Illinois.
Kellogg Foundation, Yorkville, Illinois.
J.D. Kirk Foundation, 308 N. Forrest Avenue, Oak Park, Illinois.
J. F. La Lumondier, Sr. Foundation, 107 South 20th, Mount Vernon, Illinois.
J. Alton Lauren Foundation, 53 West Jackson Boulevard, Chicago, Illinois.
Clarice McWilliams Foundation, c/o Americans Building Constitutionally, P.O. Box 575, Barrington, Illinois.
Roy D. Massner Foundation, 4901 Main Street, Downers Grove, Illinois.
S. B. K. Foundation, 675 S. Plum Grove Road, Palatine, Illinois.
Sales Analysis Institute Foundation, P.O. Box 575, Barrington, Illinois.
Dr. H. Lee Sargent Foundation, 200 Brentwood Drive, Des Plaines, Illinois.
Saxon Foundation, 143 S. Lincoln Avenue, Aurora, Illinois.
Russell Spencer Foundation, Thompsonville, Illinois.
Vernon Spencer Foundation, 602 South Russell Street, Marion, Illinois.
Richard J. Stephenson Foundation, c/o Americans Building Constitutionally, P.O. Box 575, Barrington, Illinois.
Tudhope Foundation, 511 Woodland Lane, Northfield, Illinois.
Michael Ushijuma Foundation, c/o Americans Building Constitutionally, P.O. Box 575, Barrington, Illinois.
Walsh Family Foundation, c/o Americans Building Constitutionally, P.O. Box 575, Barrington, Illinois.
Wunsch Foundation, Yorkville, Illinois.
Massner Foundation, 130 E. 12th Street, Davenport, Iowa.
R. E. Bolthouse Clinic, 2101 Peck Street, Muskegon Heights, Michigan.
R. O. Hayes Foundation, 4340 Crest Knoll Drive, Grand Blanc, Michigan.

Mark D. Julian Foundation, 862 Juneau Road, Ypsilanti, Michigan.
Lininger Foundation for Educational Exchange, West New York, New Jersey.
J. T. C. Foundation, 210 W. 101 Street, New York, New York.
Hough's Encyclopaedia of American Woods Foundation, Inc., 39 Gramercy Park, New York, N.Y. 10010.
Philippa Schuyler Memorial Foundation, 270 Convent Avenue, New York, N.Y.
The Foundation for the Advancement of the Civilizing Arts, New York, New York.
H. G. Ferguson Foundation, 7103 Tifton Drive, Yakima, Washington.
Glaspey Foundation, Yakima, Washington.
Jere Irwin Foundation, Yakima, Washington.
Layman Foundation, Union Gap, Washington.
J. Orkney Foundation, 610 S. 32nd Avenue, Yakima, Washington.
Syd Orkney Foundation, 2809 Summitview Avenue, Yakima, Washington.
The Floyd Paxton Foundation, Yakima, Washington.
Jerre H. Paxton Foundation, Yakima, Washington.
Hap Robinson Foundation, 8503 Kail Drive, Yakima, Washington.

Mr. HAYES. As trustee, Mr. Chairman, I am not at liberty to reveal any one of them.

Mr. PATMAN. In other words, you have looked over the list, there are 63, and you are not willing, because you are trustee, to reveal the name of one of them that is a member of ABC; is that correct?

Mr. HAYES. That is correct.

Mr. MOORE. Even though you have heretofore testified that one or more of those listed in the chairman's question are members of ABC.

Mr. HAYES. The only thing I have done, Mr. Chairman, is to testify to that which is public knowledge.

Mr. MOORE. What is your answer to the question? Among these listed is the R. D. Hayes Family Foundation. Are you now refusing to disclose whether or not it is a member of ABC, even though you had previously indicated to us that it was?

Mr. HAYES. Yes, I will not reveal that information.

Mr. PATMAN. Let me ask you this question: 48 of these 63 foundations have failed to respond to our request for information regarding their history and operations. Have ABC officials—and you are the top man so I assume that you would know—advised them not to respond? If not, who has?

Mr. HAYES. I don't know the answer.

Mr. PATMAN. You haven't advised them not to respond?

Mr. HAYES. No, sir.

Mr. PATMAN. Almost one-half of these 63 donor-foundations are reported to have pledged grants to the Philippa Schuyler Memorial Foundation, according to a press release issued by this foundation on July 16, 1967. You and other ABC officials were active in the formation and endowment of the Philippa Schuyler Memorial Foundation; is that correct? You were interested in founding it. You helped to found it.

Mr. HAYES. Personally I was interested; yes, sir.

Mr. PATMAN. Yes, sir; so that is correct. In view of the fact that you helped form this Schuyler Foundation, how do you explain the fact that you can't identify the members of ABC on that list of 63 foundations which I just handed you? I handed you a list of 63 and the name of that foundation is on there, and you refuse to identify even one of them.

Mr. RAY. He did state that in his previous testimony he had identified that which was public knowledge, which was the Philippa Schuyler Foundation.

Mr. PATMAN. There is another one, that Hough's Encyclopedia.

Mr. RAY. We were not aware——

Mr. PATMAN. At this point I shall insert in the record a copy of ABC's declaration of trust, which was filed in Lake County, Ill., on July 15, 1966. It will be in there for the members to see in the morning.

(See exhibit 2 in appendix, p. 936.)

Mr. RAY. May I have the original?

Mr. PATMAN. The original of what?

Mr. RAY. Of that trust.

Mr. PATMAN. No, it is in the court record. It goes in our record.

Now, then, we have——

Mr. CONTE. Mr. Chairman, in regard to that trust, may I ask a question?

Mr. PATMAN. Yes, sir.

Mr. CONTE. Mr. Hayes, what is there in this trust that prevents you from answering any of these questions that the chairman has asked?

Mr. HAYES. The trust speaks for itself.

Mr. CONTE. I have read the trust statement. I can't find a thing in here. Can you point out anything here that prevents you from answering any of these questions?

Mr. HAYES. Any trust——

Mr. CONTE. You point it out. Read it. Read for the record where there is something in this trust that prevents you from answering any of these questions that have been propounded to you by the chairman.

Mr. HAYES. The secrecy or the privacy applies to all trusts.

Mr. CONTE. That isn't so. You have a declaration of trust here, which has been filed, I imagine, with the State of Illinois, and it specifically spells out the terms of the trust. I have read it over several times, and I find nothing in the trust itself which gives you a license for secrecy before this committee here today, or any committee. I am asking you for the record to read it from the trust.

Mr. RAY. May Mr. Chartier be permitted to answer your question, Mr. Conte, on behalf of Mr. Hayes?

Mr. MOORE. He has been identified as his consultant.

Mr. CONTE. Fine.

Mr. CHARTIER. In a trust, whether it is made between you and I or a group of people, is a matter of trust. It means just exactly what it says. It is a trust, and a trustee who is placed in charge of that trust and the activities of that trust, if he violates that trusteeship, he has violated a very sacred trusteeship. It doesn't have to state it directly, Mr. Conte, I mean in the body of the trust.

If you make an agreement with a bank to the effect that they will keep your records secret——

Mr. PATMAN. Where is that agreement in that trust?

Mr. CHARTIER. It is not. It isn't necessary to be in any trust. It is a matter of accepted policy in a trust or in an agreement.

Mr. CONTE. I think you are reading something into the trust that isn't there. Have you had any understanding with the membership that this information will be kept secret?

Mr. CHARTIER. That, you will have to ask Mr. Hayes.

Mr. CONTE. Mr. Hayes?

Mr. HAYES. Yes; there is such an understanding.

Mr. CONTE. When? What date was that?

Mr. CHARTIER. Mr. Conte, I might call your attention to the operation of life insurance in the United States.

Mr. CONTE. We are not talking about life insurance now.

Mr. CHARTIER. Excuse me, sir, we are talking about contracts.

Mr. CONTE. We are talking about a trust.

Mr. CHARTIER. Excuse me, sir, a trust agreement is a contract between the grantor and the trustees.

Mr. CONTE. All right.

Mr. CHARTIER. All right. Now, if you were to go to Metropolitan Life Insurance Co. and ask them the status of my life insurance contract, you would play thunder getting it, because that is a trust that has been empowered to that company, and I can handle them every day in the week if they violate that trust. They cannot give out that information.

Mr. CONTE. I am sure that if any reliable, old-line, insurance company was subpenaed before this committee to bring their records here, they would bring them, because they wouldn't have anything to hide. This is what I can't understand: why you are not bringing them forth.

Mr. CHARTIER. Of course, the fact that this man is carrying out his trusteeship, you are construing it as having something to hide.

Mr. CONTE. How else can I construe it?

Mr. CHARTIER. Aren't you going a little far afield?

Mr. CONTE. What is that?

Mr. CHARTIER. Aren't you going a little far afield in that respect?

Mr. CONTE. I don't think so. I think the subpena was very clear.

Mr. CHARTIER. Right.

Mr. CONTE. I believe you are hanging your hat on a very flimsy excuse not to bring forth this necessary evidence here today.

Mr. CHARTIER. That is your opinion.

Mr. CONTE. I can't draw any other conclusion.

Mr. CHARTIER. In your opinion it is flimsy.

Mr. CONTE. Why is it flimsy?

Mr. CHARTIER. I say in your opinion it is flimsy. In our opinion it is not flimsy at all.

Mr. CONTE. We could argue that point.

Mr. CHARTIER. True.

Mr. PATMAN. Go ahead, Mr. Morton.

Mr. MORTON. In this question of helping people with their constitutional rights, are you in any other educational field other than that dealing with foundations? Are you in the business of educating people so that they can better handle their civil rights or their civil liberties that have nothing to do with foundations?

Mr. HAYES. One does lead to the other, I think.

Mr. MORTON. I didn't ask you whether or not one went to the other. I asked you whether or not you are in that business. Are you in the business of educating people, for example, in the question of their civil rights, in matters where segregation or integration might be involved? In other words, is the scope of your business beyond the limitations of education for the setting up of monetary foundations?

Mr. HAYES. Yes.

Mr. MORTON. This may not be so secretive. Tell us a little bit about it.

Mr. HAYES. The purpose—may I repeat the purpose clause again as stated both in my previous statement and also as a part of our document that the purpose of ABC is to help American citizens, citizens of the United States, make full use of the rights guaranteed them under the Constitution.

Mr. MORTON. That is exactly what I thought you said in the first place.

Mr. HAYES. Yes.

Mr. MORTON. One of the ways you are helping educate people is so they can set up their financial affairs to this end. Is this not correct?

Mr. HAYES. Of course, the answer to that is we want to make them aware of what they can do within the law to benefit mankind and thereby earn tax advantages.

Mr. MORTON. In other words, you are limited to the thereby earned tax advantages.

Mr. HAYES. No, we are not. The purpose as stated is quite broad and I think quite clear.

Mr. MORTON. I think it is pretty clear too. I can't understand why all the secretive attitude. I have sort of a trusteeship going with my district, but if I were as secretive with my people as you are with the Congress of the United States, I'd be in a bad fix. Do you have any business in ABC other than helping people set up tax-free trusts or tax-free foundations? Do you get into some of their other rights under the Constitution?

Mr. MOORE. You don't deal and advise in domestic relations, I assume.

Mr. HAYES. I beg your pardon.

Mr. MOORE. You don't give advice in the domestic relations field or anything like that.

Mr. HAYES. I don't know.

I might add that I think some of the information we give has that effect, yes.

Mr. PATMAN. Any other questions, Mr. Morton?

Mr. MORTON. No, Mr. Chairman.

(Discussion off the record.)

Mr. PATMAN. The House will be in session in a very few minutes. The committee will have an executive session before tomorrow morning I hope in which we will discuss the attitude of this witness, but tomorrow morning at 10 we hope to have Mr. Hayes back and Mr. Walsh at 10 o'clock.

Without objection, the committee will stand in recess until 10 o'clock tomorrow morning here in this room.

(Whereupon, at 11:55 a.m., October 30, 1967, the subcommittee recessed until Tuesday, October 31, at 10 a.m.)

TAX EXEMPT FOUNDATIONS: THEIR IMPACT ON SMALL BUSINESS

TUESDAY, OCTOBER 31, 1967

House of Representatives,
Subcommittee No. 1 of the
Select Committee on Small Business,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 2359 Rayburn House Office Building, Hon. Wright Patman (chairman of the subcommittee) presiding.

Present: Representatives Patman, Corman, Irwin, Moore, Conte, and Morton.

Also present: H. A. Olsher, director, Foundations Study; Myrtle Ruth Foutch, clerk; and John J. Williams, minority counsel.

Mr. Patman. The committee will please come to order.

Mr. Hayes, on October 30, 1967, Mr. Herman E. Kimsey, president, Forensic Science Institute, Washington, D.C. gave us a signed statement to supplement his letter to us of October 24, 1967, which reads as follows:

> On July 12, 1967, I received a check from Americans Buildings Constitutionally in the sum of $10,500 with their stipulation that it be applied for membership of Forensic Science Institute in Americans Building Constitutionally. This check was endorsed by myself and returned to their records and entered in Forensic Science Institute's records with the copy of the membership application. This sum does not appear in financial statements elsewhere in Forensic Science Institute's records as it was never entered as a deposit in the Foundation's books.

How do you explain that, Mr. Hayes?

TESTIMONY OF ROBERT D. HAYES, TRUSTEE OF THE AMERICANS BUILDING CONSTITUTIONALLY, A NOT-FOR-PROFIT TRUST, ACCOMPANIED BY K. P. CHARTIER, COUNSEL TO MR. HAYES; WILLIAM C. RAY, JR., COUNSEL TO MR. HAYES; AND ROBERT A. ERIE, ADMINISTRATIVE ASSISTANT TO MR. HAYES, Resumed

Mr. Ray. Is there going to be a quorum of the committee or one member?

Mr. Patman. Listen, you are not running the committee, you know. You are a lawyer and you have a right to represent your client and I will respect you as such and make sure that you are given every right within my knowledge. But now, this other is committee business, you know, and that is——

Mr. Ray. May I have it entered in the record that there is not a quorum present?

87-444—68——4

Mr. PATMAN. You don't even know, probably, what a quorum is, do you? How many is a quorum?

Mr. OLSHER. Does he know whether a quorum is required?

Mr. RAY. I believe it is.

Mr. PATMAN. I do not want to be sharp with you, but we do not want any unnecessary or unusual delays here.

How do you explain that, Mr. Hayes? That looks like kind of a game—wherein you are sending out checks, $10,500, and asking them to send it back to you in payment of their fee, $10,500, is that correct or not?

Mr. RAY. Mr. Chairman, before Mr. Hayes answers that question, may I be permitted to speak?

Mr. PATMAN. If you object to him answering it, and state your reasons, it will be all right.

Mr. RAY. I do.

Mr. PATMAN. Anything that a lawyer should do.

Mr. RAY. I do object, sir.

Mr. PATMAN. What are your objections?

Mr. RAY. It is my understanding that this committee is acting in a representative capacity of the House of Representatives.

Mr. PATMAN. Just state your objections. Yes.

Mr. RAY. And the Congress of the United States. I have Public Law 89–487 of the 89th Congress, Senate bill 1160. This bill was approved July 4, 1966, effective date 1 year following the date of the enactment of this act.

Mr. PATMAN. What does that have to do with this?

Mr. RAY. I will get to that, sir. "To amend section 3 of the Administrative Procedure Act, chapter 324 of the act of June 11, 1946, to clarify and protect the right of the public to information, and for other purposes."

I quote: "Be it enacted by the Senate"——

Mr. PATMAN. That is the Freedom of Information Act, the Moss bill. How does that have anything to do with this?

Mr. RAY. I believe it very definitely applies, sir.

Mr. PATMAN. In what way? In what way does it apply?

Mr. RAY. I will make that clear.

Mr. PATMAN. That is the Freedom of Information Act. That is, in other words, about secrecy.

Mr. RAY. Let me make that clear.

Mr. PATMAN. Yes.

Mr. CONTE. They are experts on that, Mr. Chairman.

Mr. RAY. I know I am not regarded as an expert, Mr. Conte.

Mr. CONTE. On secrecy.

Mr. PATMAN. He means on secrecy.

Mr. RAY. Section 3 of that bill says, "Every agency shall make available to the public the following information: (a) Publication in the Federal Register," and it goes on to state what every committee must make public.

Mr. PATMAN. We are not failing to make things public. We are making things public that you are not making public.

Mr. RAY. I would like to relate to the exceptions, exemptions, as they are called in section E, subsection (e).

Mr. PATMAN. Listen, you cannot take up our time this way. That really does not relate to this.

Mr. RAY. I believe they do. The exemptions state that "The provisions of this section shall not be applicable to matters that are"— and I will quote subsection (4).

Mr. PATMAN. I want to show you all due respect as a lawyer representing your client. You have a right to speak up, but you have got to say something and say why.

Mr. RAY. I am, sir, if you will permit me.

Mr. PATMAN. I know, but it does not relate to this. You might as well be talking about the moon shots.

Mr. RAY. The exemption states that no citizen may obtain information with regard to trade secrets and commercial or financial information obtained from any person and privileged and confidential. Subsection (6) states that personnel and medical and similar files, the disclosure of which would constitute a clearly unwarranted invasion of personal property, privacy, cannot be received, and subsection (8) says, "that contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions."

None of that information is available.

Mr. PATMAN. Of course your objection is overruled. I am acquainted with that law. It does not touch this.

Now I will ask Mr. Hayes——

Mr. HAYES. You are going to overrule my objection?

Mr. PATMAN. Yes; overruled right now.

Mr. RAY. And that this information is going to be made public?

Mr. PATMAN. Just what you said will be put in the record.

Mr. RAY. All right.

Mr. PATMAN. And I hold it does not relate to this at all.

Mr. RAY. You hold that?

Mr. PATMAN. It is not germane to it.

Mr. Hayes, are you willing to answer this question or do you want to take the fifth amendment, or do you want to refuse?

Mr. CONTE. Mr. Chairman, may I ask a question at that point?

Mr. PATMAN. Yes, sir.

Mr. CONTE. Are you insinuating that you would be willing to give us this information in executive session?

Mr. RAY. No, sir. I am not. I am saying no American citizen can obtain that information from a committee or the U.S. Government, and that that information should not be made public.

Mr. CONTE. I agree with the chairman; your objection should be overruled.

Mr. RAY. It is an invasion of the personal privacy of these individuals.

Mr. PATMAN. Mr. Hayes, are you going to answer the question that I asked you?

Mr. RAY. As trustee of ABC, I believe Mr. Hayes will have to stand on his rights.

Mr. PATMAN. Well, of course, I asked Mr. Hayes that question. If he wants to give a reason for not answering it, it is up to him to do it.

Mr. HAYES. On advice of counsel, I stand silent.

Mr. PATMAN. Of course, this is signed by Herman E. Kimsey, president of the Forensic Science Institute, Vivien Hotel, 1723 G Street, N.W., Washington, D.C., so there is no fake about this, and there is no doubt about it. This man says that you sent him a check for $10,500 to send back to you in payment of the fee, I believe, for his association or foundation to belong to ABC, and you refuse to say whether or not that was done?

Mr. RAY. Mr. Chairman——

Mr. PATMAN. Let him answer. He is the witness.

Mr. HAYES. I refer that to counsel, Mr. Chairman.

Mr. RAY. Do you not believe that the ultimate question here is whether this investigation will deprive citizens of the due process of law under the 14th amendment by invading their right to privacy.

Mr. PATMAN. All right, at the right time you will have an opportunity——

Mr. RAY. Will you please overrule my question or objection?

Mr. PATMAN. Yes, I will overrule it right now; yes.

Mr. RAY. Thank you.

Mr. PATMAN. Now, then, how does ABC recruit members? In other words, how do you sell the ABC plan, Mr. Hayes?

Mr. HAYES. Mr. Chairman, ABC does not sell anything. ABC——

Mr. PATMAN. It collects something for doing something, $10,500 each. You are surely going to do something——

Mr. HAYES. That is correct.

Mr. PATMAN. What do you do for it?

Mr. HAYES. We teach and educate.

Mr. PATMAN. Educate in what?

Mr. HAYES. In the purpose that I described yesterday.

Mr. PATMAN. All right.

Do you sell this plan, ABC plan, by the way of seminars?

Mr. HAYES. No, we do not sell it.

Mr. PATMAN. Do you present it in seminars?

Mr. HAYES. We present it in seminars, yes, sir.

Mr. PATMAN. We have heard about the introductory meetings. What is an ABC introductory meeting?

Mr. HAYES. An introductory meeting is a form of seminar which may be conducted and usually is conducted by one of our members.

Mr. PATMAN. What is the content of the presentation? Do you have a pitch, a type of statement where you cover certain points, or do you have a prepared statement to present to people who are assembled for the purpose of gaining this information, gaining knowledge about this information?

Mr. HAYES. We, in these presentations of which you speak, sir; we teach them their rights.

Mr. PATMAN. Their rights as American citizens?

Mr. HAYES. Correct.

Mr. PATMAN. Is the material presented by speakers or do you use films, also? Do you use films, charts?

Mr. HAYES. We also use a film; yes, sir.

Mr. PATMAN. You use film? Do you have the films available?

Mr. HAYES. Yes.

Mr. PATMAN. We would like to have a copy.

Mr. HAYES. We would be glad to send you one, sir.

Mr. PATMAN. Fine. Be sure and do that.

What percentage of sales do you get when you conduct these seminars? In other words, if you have a hundred people attending a seminar, what percentage of those people buy the ABC plan, based on your past experience?

Mr. HAYES. This would, of course, be a question of how many people wish to become members.

Mr. PATMAN. That is right.

Mr. HAYES. And it would be very difficult for me to——

Mr. PATMAN. Based on your past experience, about how many? Would half of them or a quarter, 25 percent?

Mr. HAYES. I think rather a high percentage.

Mr. PATMAN. Ninety percent?

Mr. HAYES. I hesitate to state a specific percent.

Mr. PATMAN. Ninety percent.

Mr. HAYES. I think so.

Mr. PATMAN. And do they all pay $10,500?

Mr. HAYES. No.

Mr. PATMAN. Some of them pay a smaller amount?

Mr. HAYES. Correct.

Mr. PATMAN. For the five types of service?

Mr. HAYES. Various types of membership; yes, sir.

Mr. PATMAN. I have here a copy of ABC course material which has been used in California to recruit applicants for membership in ABC.

I shall comment on it, first place it in the record, and then comment on it.

(See exhibit No. 3, appendix p. 946.)

Mr. PATMAN. The exhibit 1, the primary purpose of Americans Building Constitutionally, this, of course, is probably 50 or 60 pages or more, and certainly I shall not attempt to read it, but I do want to just bring out some important facts.

Mr. RAY. Mr. Chairman, may I ask if that has the ABC copyright on it?

Mr. PATMAN. Yes, it has, but it does not mean a thing. It does not mean a thing at all.

Mr. RAY. Is that Mr. Douglas Fay's presentation of ABC's?

Mr. PATMAN. ABC and it's copyrighted by ABC, but it does not mean anything to this committee. We are going to put it right in the record.

First I will read this statement here. That selling material that I have just put in the record contains as gross a piece of misrepresentation as has ever been conjured up. For example, you have taken material out of our studies, this committee's studies, and created the impression that I approve and the other members of the committee approve of the abuses of the tax-exempt privilege.

I shall not take the time to go into all of those misrepresentations, but I shall give you one example. On page 2, under item A–2, you quote our 1962 study as follows:

> So substantial parts of the great fortunes of those who have profited by the enormous expansion of American industry have found their way into tax-exempt foundations. These foundations have already passed and will continue to pass—by right of inheritance—to the control of heirs or their trustees. This enables a few individuals to control ever-increasing tax-exempt wealth.

You, of course, failed to include the language I used just ahead of that quote and just back of that quote which expresses strong disapproval of such control. My language just ahead of that quote reads as follows:

Obviously, tax-exempt foundations have been and are being used, in part, to avoid federal estate taxes. Thus huge fortunes are kept from being returned to public use for channeling into our economy without limitations.

Just back of your quote I said as follows:

Foundations today bear a frightening resemblance to the bank holding companies that were invented by the champions of monopoly and combination in the early 1900's.

Mr. RAY. Mr. Chairman, you will admit that we did correctly quote you in that sentence.

Mr. PATMAN. Out of context, yes. That is often done to mislead people, out of context.

It is evident that control of our industrial and commercial enterprises is to an ever-increasing degree passing into the hands of tax-exempt foundations through stock ownership. In my view, this is a dangerous situation with its boundless temptations and opportunities. I do not agree with the cheerful philosophy that the situation will right itself. The law must properly safeguard the community against possible abuses of the tax exemption privilege by the "owners" of foundations or their successors.

Does this sound to you as though I approve of perpetual control of business enterprises by tax-exempt foundations?

Mr. RAY. Sir, we don't believe you do.

Mr. PATMAN. I am not asking you. I am asking the witness.

Mr. HAYES. I believe, Mr. Chairman, we no doubt but that you disapproved what you described there as having been done. Nevertheless, you agree that it is being done.

Mr. PATMAN. I know, but you didn't put what was before it or after. You used it out of context, which leaves an entirely different impression.

Mr. HAYES. This may be true.

Mr. PATMAN. Yes.

Mr. HAYES. But it is legal to do what is being done?

Mr. PATMAN. Well, I am not testing the legality of it. That question doesn't occur to me at all. It is possible that you could do that. It is often done. You can take statements of people if they say much, write books, you can prove they are Communists, Fascists or anything else by taking things out of context, and of course some people do that, but it is not fair, do you?

Mr. HAYES. I think it is fair, Mr. Chairman, to let the public know what is being done by the big foundations, and that it is also fair to let the little ones know that they can, too, do that.

Mr. PATMAN. That is right.

Mr. HAYES. That is one of the points——

Mr. PATMAN. From your viewpoint that is what you say.

Mr. HAYES. That is one of our points that we wish to make very clear here.

Mr. RAY. Mr. Chairman, our own public——

Mr. PATMAN. Wait just a minute. I want to describe this publication here. This is the exhibit 1, the primary purpose of Americans Building Constitutionally, ABC, a trust, to help citizens of the United

States make full use of their rights guaranteed them under the Constitution.

Then exhibit 2, I will just read part of this:

The United States has spent over $700 billion since 1946 to fight the cold war, to prevent the spread of communism. This is more than the United States has spent in fighting all the hot wars including the War of Independence on up through World War II.

Then it goes ahead to state what the results were, and about the average businessman paying 63 cents out of every dollar of income for taxes. You first say here:

Today the average American pays 41 cents out of every dollar of income for direct and indirect taxes. He must work over 2 days out of every 5 for the Government before he can pay his own grocery bill or clothe his own children.

Then you say:

The average businessman pays 63 cents out of every $1 of income for taxes. He works 3 days out of 5 to pay his taxes before he can feed his family and clothe them.

In one paragraph there you say he works 2 days, and in the next paragraph, 3 days. I don't understand that.

Mr. HAYES. May I explain that, sir?

Mr. PATMAN. Yes, sir, you may.

Mr. HAYES. The reference to 2 days out of every 5 applies to the average American citizen. The second part of the statement applies to the average businessman.

Mr. PATMAN. All right, I will take your explanation.

Mr. HAYES. There is a difference.

Mr. PATMAN. I will go through this hurriedly. Then in exhibit 4 you state to your seminar "what can be done, what can you do." Then you talk about how national security depends upon economic strength, and the ability of individuals to benefit from this work, and you make a statement, a pitch leading up to your main pitch here I assume. And you refer to the attitude of Government toward private foundations taken from congressional investigations of foundations by the congressional committee. And then you have another question in this connection taken from the U.S. Treasury Department report on private foundations, and then you refer to benefits of NFP foundation procedures. What is NFP foundation procedures?

Mr. HAYES. Not for profit.

Mr. PATMAN. Not for profit foundation, and yours is not for profit, your foundation, ABC.

Mr. HAYES. Yes, sir.

Mr. PATMAN. And what about the people that you organize foundations for? They are not for profit?

Mr. HAYES. Correct.

Mr. PATMAN. Although they educate their children.

Mr. HAYES. We don't organize them.

Mr. PATMAN. You don't organize them.

Mr. HAYES. I want to make that clear.

Mr. PATMAN. And you state here that they can do this.

EXHIBIT 1

1. Benefits of N–F–P Foundation Procedures.
A. Personal and Family Benefits

WHAT CAN BE ACCOMPLISHED BY CREATING A FOUNDATION?

1. Keep control of wealth.
2. Can keep for the donor many attributes of wealth by many means:
   (a) Designating the administrative management of the foundation.
   (b) Control over its investments.
   (c) Appointing relatives as directors of the foundation.
   (d) Foundation's assets can be used to borrow money to buy other property that does not jeopardize its purposes. Thus, foundation funds can be enhanced from the capitalization of its tax exemption.
3. The foundation can keep income in the family.
4. Family foundations can aid employees of the donor's business.
5. Foundations may be the method of insuring that funds will be available for use in new ventures in business.
6. We can avoid income from property while it is slowly being given to a foundation by a combination of a trust and the charitable foundation.
7. We can get the 20% charity deduction in other ways:
   (a) By giving away appreciated property to the foundation, we escape a tax on the realization of a gain.
   (b) We can give funds to a foundation to get charitable deduction currently in our most advantageous tax year.
   (c) Very often local personal and real property taxes can be avoided.
   (d) We can avoid speculative profits.
   (e) We can give away valuable "frozen assets," white elephant estates, residences, valuable works of art, and collections of all arts."——

Chairman's Report to the Select Committee on Small Business (Patman Report) House of Representatives, 87th Congress (1962) page 17. This is a quote from Cleveland Marshall Law Review.

Then, there is retention of control within the family. Then you discuss perpetual family control and closed corporations. I just want to read two or three lines on that:

Closed Corporations.—Perhaps the greatest advantage is afforded closed corporations. Through the use of a foundation the operator of a closed corporation may be able to keep voting control of the corporation in the family after the death of the principal stockholder.

And then you tell them how to pay salaries to family.

In other words, according to the way you explain this, foundations may hire people to work in political campaigns. Do you know of cases like that?

Mr. HAYES. No.

Mr. PATMAN. You don't know of any.

Mr. HAYES. No case.

Mr. PATMAN. Do you know of any cases where foundations have paid alimony to former wives?

Mr. HAYES. I do not.

Mr. PATMAN. There are cases where not only one wife has been paid alimony from foundation funds without expense to the donor but as many as five ex-wives have been paid that way.

Mr. HAYES. Mr. Chairman, we don't recommend that, and we never have.

Mr. PATMAN. You don't say it can't be done, according to your statement.

Mr. HAYES. It may be done. Do you say it is being done?

Mr. PATMAN. I am sure it is being done. We will bring that out later.

Mr. HAYES. All right. I would like to——

Mr. PATMAN. You can rest assured that foundations are being used for many purposes, including campaign workers and paying alimony to ex-wives. And, according to your statement, remote relatives may be employed in the business, friends may be assisted, and business acquaintances may be accommodated.

When we first started this thing, I saw one poop sheet where a lawyer said that a foundation was a good device for taking care of sorry relatives, if you happen to have any. Here you say you can "make grants not constituting income to family"; "look after family's pet charities or worthy causes"; "income splitting through salaries to family members"; and "use of foundation to improve your family's cash position." All these are explained. I am just reading the headings:

REDUCE ESTATE TAX

1. The family may remain in full voting control.
2. The family has a pleasant partner, managed by gentle hands.
3. The family may reap the benefit of any increases in the value of the equity.
4. If further inflation should come, it is the family which can become entitled to receive the benefit of the increase in monetary value of the company.
5. No working capital is lost by the venture; and
6. The foundation may even be used as a vehicle for the employment of associates and relatives. House Report No. 2681—83rd Congress, Second Session, 1954, Page 6.

Most useful, provide non-income corporation fringe benefits to family-employees which reduces need for drawing taxable salary.

Foundations may provide health insurance for an employee-family member. IRC 105

A foundation employee may live rent free.

The Treasury department has this to say:

The value of lodging furnished to an employee by an employer shall be excluded from the employee's gross income if three tests are met:

(1) the lodging is furnished on the business premises of the employer.

(2) the lodging is furnished for the convenience of the employer.

(3) the employee is required to accept such lodging as a condition of employment. Regs. § 1.119–1(b)

Not only may a creator draw benefits from his controlled foundation, but he may also draw benefits from a foundation owned or controlled business corporation. The corporation may be used to satisfy dominant individual's desires, ranging from furnishing his home to allowing excessive executive compensation.—U.C.L.A. Law Review, May, 1966. Page 951

Business corporations can accumulate income since former Shareholders may be employed at adequate salaries.

Properly done you may even arrange for an annuity to a family member of foundation.

Use it to take advantage of high appreciation of assets.

Use Foundation funds for investment to increase wealth under your control.

The Foundation may provide "friendly" loans.

Benefits in operating business resulting from control over an exempt foundation.

Keep control in friendly hands over the generations.

Provide through deductions or other arrangements for reduction of corporation tax but keep money available.

Provide "good-will" assistance to keep workers happy.

Use it as source of "friendly financing" from tax-free accumulations.

Foundation's name on public service activities can create good will for business (e.g., Ford Foundation & Ford Motor Company).

Foundations can accumulate income and income so accumulated not subject to surtax and may be used for internal improvements.

It is many times the case that a business may be itself operated as an exempt organization.

Favorable Postage Rate.

May be exempt from certain state taxes, e.g., sales and realty taxes.

An exempt organization may be eligible to receive surplus government property.

A foundation need not pay social security tax, (i.e., the Federal Insurance Contributions Act).

An exempt organization can receive special fares on overseas flights.

It tells who to contact and how to do it, and says this:

Savings on such arrangements may be substantial. For example, round trip charter flights from New York to London or Paris are available for less than one-half the usual minimum for such a trip.

Then you talk about "miscellaneous benefits" and you go ahead and give the benefits that are considered under miscellaneous. Then you mention "selected bylaws of private foundations." That is exhibit 3. That is gotten up for the person who joins, I assume; is that right, Mr. Hayes?

Mr. HAYES. No. This is merely an illustration of what has been done in some cases, purely educational.

Mr. PATMAN. In other words, you give the form that is used for that purpose, that has been used in the past for that purpose, to create private foundations.

Mr. HAYES. No; it is not a form, sir. It is simply a case of some of the things that are included.

Mr. PATMAN. All right. In other words, it is a suggestion for their guidance.

Mr. HAYES. Mr. Chairman, before we get off of this——

Mr. PATMAN. That is correct, isn't it? It is a suggestion for their guidance.

Mr. HAYES. Yes.

Mr. PATMAN. Yes.

Mr. HAYES. May I give to you also some indications as to what comes through the mail across my desk?

Mr. PATMAN. All right, now wait just a minute, before you bring that up. What does this mean here "The ROAB Foundation. The board of directors and officers of the ROAB foundation duly organized under the laws of the State of Illinois do hereby declare that ______________ has been elected a member of the foundation and is entitled to retain all of the rights, powers and privileges appertaining thereto." What does that ROAB mean?

Mr. HAYES. That is the name of the foundation.

Mr. PATMAN. What does the R, O, A, and B stand for?

Mr. HAYES. In this case I don't know.

Mr. PATMAN. But anyway that is a suggestion there of the form that you will use; is that correct?

Mr. HAYES. No; that is not correct.

Mr. PATMAN. What is the use of this?

Mr. HAYES. Merely an example, an illustration of how somebody may become a member of a foundation.

Mr. PATMAN. All right. Now then, here are the bylaws of a civic club, and then you talk about things to be considered in your employment contract." You seem to be pretty thorough on this, I will say that.

Next is "What to do when approved charter is returned to you"—you tell them exactly how to handle it. And then "What to prepare for the first board meeting."

Here, you have the material that discloses what should be done at the first board meeting and about the officers and their duties.

Mr. HAYES. Am I to——

Mr. PATMAN. Then you have exhibit 10, "the records which the Treasury requires of grantors." You give them information of the things you think they should know, even including a sample application for grants to students for special training. Do you have a form for that? You remember that, don't you?

Mr. HAYES. A grant?

Mr. PATMAN. Yes.

Mr. HAYES. Yes, I do.

Mr. PATMAN. Next is "What foundations can and can't do."

Mr. HAYES. Right.

Mr. PATMAN. That is exhibit 11. You prepared that, I assume, for the purpose of giving them information.

Next is "What reports a foundation must make and under what conditions." In this, do you refer to 990–A at any time?

Mr. HAYES. I beg your pardon.

Mr. PATMAN. Do you refer to the necessity of filing a report known as 990–A?

Mr. HAYES. Yes.

Mr. PATMAN. It is a two page——

Mr. HAYES. If the law calls for it, that is correct.

Mr. PATMAN. The law does call for it, doesn't it? The law does call for it?

Mr. HAYES. In some cases.

Mr. PATMAN. And then you have other forms here, such as "some disadvantages of a not-for-profit corporation foundation." I will not go into it further since it will be in the record. I know other members want to ask questions and you wanted to bring up some point yourself.

Mr. HAYES. Mr. Chairman, may I suggest that the text we gave you yesterday is an improvement over that one.

Mr. PATMAN. It is?

Mr. HAYES. Yes, sir.

Mr. PATMAN. The one in the volumes that you presented to us.

Mr. HAYES. Correct.

Mr. RAY. It is the most recent edition.

Mr. HAYES. It is the most recent edition.

Mr. PATMAN. We will pass on the question whether it is an improvement or not.

Mr. HAYES. Good. May I read you some of the things that come across my desk?

Mr. PATMAN. Well, what is the object of it?

Mr. HAYES. To show—I am agreeing with many of the things that you have, Mr. Chairman, in your statements. Both on the floor of the House of Representatives and in the statements that you have objected to——

Mr. PATMAN. I am not asking you and I don't care for any support from you on this. If you want to support me that is all right, but I am not asking for it.

Mr. HAYES. All right.

Mr. PATMAN. And it is not pertinent here. It is not appropriate.

Mr. HAYES. I believe there is something here that is pertinent. May I read it, sir?

Mr. PATMAN. Mr. Conte has asked to be recognized, and I will recognize him at this point first. Then I will come back to you later.

Mr. MOORE. Will the gentleman yield?

Mr. Conte. Yes, sir.

Mr. Moore. Mr. Chairman, I see no reason why the gentleman shouldn't be able to respond.

Mr. Patman. I was waiting until you gentlemen asked questions and then we will come back to him and have him do that.

Mr. Moore. I have no questions, thank you.

Mr. Conte. Mr. Hayes, yesterday you refused to disclose certain information to this committee. A subpena has been issued. You further refused to answer just about all the questions raised by the committee concerning ABC. Incidentally, I mulled over the real meaning of ABC last night, and I though you might change the meaning of it, instead of Americans Buildings Constitutionally to A Better Chance—to beat the income tax.

Mr. Hayes. I hadn't thought of that one but that is pretty good.

Mr. Conte. You did this on the grounds that to supply the information or answer the questions would breach your trust as trustee of ABC to protect the privacy of your members. Is that correct?

Mr. Hayes. Correct.

Mr. Conte. Now Mr. Hayes, I ask you, What basis in law are you relying on which specifically gives you the right to claim this privilege of privacy? Is there any State law that gives you this right? Is there any Federal law? Are you claiming it under the Constitution, and if so, under what provision?

Mr. Hayes. I refer that question to counsel.

Mr. Conte. Counsel may answer.

Mr. Ray. I believe that Mr. Chartier answered that question perfectly yesterday, that any contract, and a trust is a form of a contract, can be private. Any citizen of this country can enter into a private contract.

Mr. Conte. Counsel, I did a little research last night. Let me cite to you, *Wilson* v. *U.S.*, 221, 361, 379–386.

Mr. Ray. Could you repeat that?

Mr. Conte. *Wilson* v. *U.S.* It will all be a part of the record anyway.

> If the books and papers are held subject to examination by the demanding authority—

which is this committee—

> the custodian has no privilege to refuse production. A corporation is a creature of the state, presumed to be incorporated for the benefit of the public. It receives certain privileges and franchises and holds them subject to the laws of the state and the limitations of its charter. There is a reserve right in the legislature to investigate its contracts and find out whether it has exceeded its powers. The general government possessses the same right to see that its own laws are respected as the state would have with respect to the special franchises vested in it by the laws of the state. Powers of the general government in this particular is a vindication of its own laws, the same as if the corporation had been created by an act of Congress. (Citing *Hale* v. *Henkel* 201 U.S. 4374–75, 1906.)

Therefore, if you are the creature of a State, the State of Illinois, and you set up these trust agreements under the laws of the State of Illinois, certainly we have the right to remove that veil to see whether you are performing according to the laws of the State of Illinois or the laws of the Federal Government.

Mr. Ray. I believe, Mr. Conte, that we are not a creature of the State of Illinois. We are not a corporation. It was a trust created by one man.

Mr. CONTE. Are trusts governed at all by the laws of Illinois?

Mr. RAY. In some instances, some are.

Mr. CONTE. Of course, they are.

Mr. RAY. Not all of them, and not this one. This is a private trust.

Mr. CONTE. We can remove that veil and ascertain whether or not you are violating the laws of the Federal Government.

Mr. RAY. Is this a judicial body? Are you going to hold that?

Mr. CONTE. Quasi-judicial.

Mr. RAY. *Watkins* v. *U.S.*, 351–178 where Chief Justice Warren, in delivering the opinion of the Court, stated in the second paragraph:

> We start with several basic premises on which there is general agreement, the power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste, but broad as is this power of inquiry, it is not unlimited. There is no general authority to expose the private affairs of individuals without justification in terms of the functions of Congress. This was freely conceded by the Solicitor General in his argument of the case of Watkins. Nor is the Congress a law enforcement or trial agency. These are functions of the Executive and Judicial Departments of Government. No inquiry is an end in itself. It must be related to and in furtherance of a legitimate task of Congress. Investigations conducted solely for the personal aggrandizement of the investigators or to punish in quotation marks those investigated are indefensible. It is unquestionably the duty of all citizens to cooperate with the Congress in its efforts to obtain the facts needed for intelligent legislative action. It is their unremitting obligation to respond to subpoenas, to respect the dignity of the Congress and its committees, and to testify fully with respect to matters within the province of proper investigaion.

Mr. PATMAN. Read that last sentence over, if you do not mind.

Mr. RAY. "It is their unremitting obligation to respond to subpenas, to respect the dignity of the Congress and its committees, and to testify fully with respect to matters within the province of proper investigation."

Mr. PATMAN. Testify fully, that is the point.

Mr. RAY. "This of course assumes that the constitutional rights of witnesses will be respected by the Congress as they are in a court of justice. The Bill of Rights is applicable to investiagtions"——

Mr. CONTE. May I interrupt you there?

Are you claiming any constitutional rights here?

Mr. RAY. Yes, sir, under the first amendment, if I may continue.

Mr. CONTE. Why didn't you do that yesterday? You claimed it under a trust agreement then. That is what you claimed it under yesterday, and you and I had quite a discussion on this.

Mr. RAY. Now we are going to have the question. May I just finish this?

Mr. CONTE. If you want to plead the Constitution, I respect your right to do so.

Mr. RAY. May I finish?

Mr. CONTE. Do you want to plead the Constitution?

Mr. RAY. No, sir.

Mr. PATMAN. You said just now the first amendment.

Mr. CONTE. Of course you do not want to.

Mr. RAY. We have two cases here. We have Mr.——

Mr. PATMAN. Which is correct; you are pleading the first amendment or you are not?

Mr. RAY. I am pleading the right to privacy of the trust in regard to Mr. Hayes as trustee. Under the common law, he has the right to privacy. That trust can be private. It does not require it to be recorded anywhere.

Mr. PATMAN. Where does the law say that?

Mr. RAY. In cases for the last 600 years.

Mr. PATMAN. Will you document that citation?

Mr. RAY. There is no specific citation.

Mr. CONTE. Of course there is not.

Mr. RAY. May I have Mr. Chartier explain that to you, Mr. Conte?

Mr. CONTE. You are an attorney. You passed the bar. I think you should be able to find some citations.

Mr. RAY. All right. May I ask you the question if——

Mr. CONTE. No; answer my question.

Mr. RAY. All right; I will find you some cases on the right to privacy of contract.

Mr. CONTE. I want it right now. You are an attorney, and I imagine you have passed the bar or you would not be here today.

Mr. RAY. Yes, sir.

Mr. CONTE. Therefore, you should be prepared to cite some cases or State or Federal laws which give you this right of secrecy.

Mr. IRWIN. Mr. Chairman?

Mr. RAY. The courts take judicial notice of the right to privacy of contract.

Mr. CONTE. I yield to my friend from Connecticut.

Mr. IRWIN. Do I understand that he is not invoking the first amendment?

Mr. CONTE. No, sir; he is not. He did not yesterday.

Mr. IRWIN. What was the reference to it for?

Mr. CONTE. I have given him the opportunity on several occasions to invoke the first amendment, and he has not done so.

Mr. RAY. If you want Mr. Hayes as an individual to stand on his rights under the first amendment to the Constitution, he may to help enforce the right to privacy.

Mr. CONTE. Why does he not do it?

Mr. RAY. The right to privacy of contract falls under the provisions of the first amendment to the Constitution.

Mr. CONTE. Tell him to plead the first amendment then, so we will have it as a matter of record.

Mr. RAY. All right, plead the first amendment.

Mr. HAYES. I will, sir.

Mr. MOORE. Mr. Chairman, I do not know whether to applaud or what to do. Have you now pleaded the first amendment?

Mr. HAYES. I have.

Mr. IRWIN. Yes, he has.

Mr. CONTE. May I finish?

As the reason that you refused to testify yesterday and today?

Mr. MOORE. That is what I wanted to ask.

Mr. HAYES. To protect the privacy of our membership.

Mr. RAY. Of contracts.

Mr. HAYES. Contracts of members.

Mr. CONTE. You have not answered my question. For the reason that you refused to testify yesterday and today you are pleading the first amendment? Let your client answer this, will you?

Mr. RAY. My client is a layman, sir.

Mr. CONTE. All right, advise him then. You were about to answer for him.

Mr. PATMAN. OK, Mr. Hayes, you are directed to answer that question.

Mr. RAY. Would you first explain carefully to Mr. Hayes how under the purpose clauses for which this committee was formed this question relates to the purposes for which this committee was formed, and he will answer the question.

I believe that the Court, the Supreme Court, has held that the matter under inquiry and the pertinency of the question to the matter under inquiry must be made clear to the witness, held in *Watkins*, *Barenblatt* and *Scull* cases. The questions asked by a subcommittee must be within the scope of the inquiry authorized by the full committee and cites the case, and the committee must unambiguously require the question to be answered at the time. I asked for a purpose yesterday.

Mr. CONTE. I am asking you these questions as an individual, as a Member of Congress, and as a member of this subcommittee. Based on what you have read here, I would say that this committee certainly is on solid ground to determine whether or not there have been violations or abuses of our tax laws. If there are defects in our social and economic systems that need to be remedied by Congress, this committee can then recommend to the Congress that these loopholes be plugged so that these violations or abuses will not continue.

Mr. RAY. Are you speaking as the committee or as an individual?

Mr. CONTE. I am speaking as a Member of Congress now, and as a member of this committee, and I say that we are certainly on solid ground to ascertain whether there have been violations or abuses of our tax laws.

Mr. RAY. I believe you are correct there, sir.

Mr. CONTE. Of course we are correct.

Mr. MOORE. Will the gentleman from Massachusetts yield for an addenda to the question——

Mr. CONTE. Certainly.

Mr. MOORE (continuing). And to add, "Which actions are prejudicial to the small business community of the country"?

Mr. CONTE. Definitely so.

Mr. RAY. The actions of ABC?

Mr. MOORE. No, the actions of evasion, the abuse of tax laws, the various machinations by foundations which are prejudicial to the small business community of the country.

Mr. RAY. How does this apply to ABC?

Mr. MOORE. This gentleman is before us in two capacities, as I understand it.

Mr. RAY. Yes, sir; as an individual and as——

Mr. MOORE. He can answer this question in the negative for ABC or refuse to answer it for ABC, but he certainly is eligible to answer and capable of answering the question as far as the Robert D. Hayes Foundation is concerned.

Mr. RAY. Yes, sir; he is.

Mr. MOORE. All right.

Mr. RAY. If that is going to have an impact on the economy and that is what we are looking into——

Mr. MOORE. We are to decide this, sir. You are not to decide what is going to have an impact on the economy. As the counsel to a witness, you are not to presuppose how we are going to use what we elicit from your client. If you want to refuse to answer the questions, do it on some simple, logical, constitutional ground. We will accept it and not argue with you.

Mr. HAYES. Mr. Chairman, I believe I have the right of privacy under the first amendment to the Constitution.

Mr. RAY. He is answering in his capacity as trustee now, gentlemen, subpenaed to appear before this committee as trustee of ABC.

Mr. CONTE. In reading your trust agreement, I found nothing in it that would invoke that right of secrecy. The only thing that I find would be in the contracts with the foundations that you recommend, give advice to, teach or whatever verbiage you want to use. I find that the applicants sign a contract with you that they will be pledged to secrecy with regard to the foundation.

In other words, it works the other way around. You do not want anyone to know your trade secrets, so therefore you have the individual sign a contract, a membership application, saying that he will not divulge any information to anyone. Is that right?

Mr. RAY. Can he not enter into that agreement?

Mr. CONTE. I am asking you if that is right.

Mr. RAY. I believe he does enter. It did enter into that.

Mr. CONTE. He certainly does. It is right in this document here, "Americans Building Constitutionally, a Trust Membership Application and Sponsoring Agreement."

Mr. RAY. That is a sponsoring agreement to ABC. That contract does not run to ABC. It runs to the organization which sponsors that member.

Mr. CONTE. Who is that?

Mr. RAY. To ABC. Whatever qualified 501C3 or whatever the tax-exempt organization.

Mr. CONTE. Do you use your own committees as sponsors?

Mr. RAY. Do we use our own committees?

Mr. CONTE. Yes.

Mr. RAY. We have no committees.

Mr. CONTE. How about your own foundation? Does that act as a sponsor?

Mr. RAY. It could. I as an individual can sponsor someone else if I were a member of ABC to become a member of ABC.

Mr. CONTE. Let me ask Mr. Hayes that question.

Have you ever sponsored anyone to become a member?

Mr. HAYES. Yes; I have.

Mr. CONTE. Could you name a few of them?

Mr. HAYES. No. As trustee I cannot reveal that information.

Mr. CONTE. You do this as a trustee or under the first amendment? Do you plead the first amendment here?

Mr. RAY. No. Why?

Mr. HAYES. My right to privacy, sir.

Mr. CONTE. I think you are wrong. I think I have proven that you are wrong, and I think your own counsel has proven that you are wrong. We are on solid ground to ask you these questions and to subpena these records. Yet you will not plead the Constitution. You plead the right of privacy, and I say that you are wrong.

Mr. HAYES. I did plead the Constitution.

Mr. CONTE. I certainly feel that you are getting yourself in a pail of hot water here.

Mr. RAY. I believe the first amendment refers to the freedom of speech and press.

Mr. CONTE. Why does he not plead the first amendment?

Mr. RAY. He has.

Mr. HAYES. I did.

Mr. CONTE. You pled the first amendment on that question?

Mr. HAYES. Yes; I did.

Mr. RAY. His right to privacy is guaranteed.

Mr. PATMAN. As I understand it, he pleads the first amendment for his failure to answer all the questions yesterday and today.

Mr. RAY. No, sir. He is claiming his right to privacy.

Mr. PATMAN. You claim that is the first amendment. Now what you are doing, are you pleading the first amendment or not?

Mr. RAY. Would you ask a specific question?

Mr. PATMAN. Yes. Are you pleading the first amendment in your failure to answer the questions yesterday and today? Are you or are you not?

Mr. HAYES. I did not plead the first amendment yesterday.

Mr. PATMAN. Do you now plead it?

Mr. RAY. On what basis? Let's have grounds.

Mr. PATMAN. On the basis of what you say, that it is a privilege that he does not have to disclose certain things as trustee.

Mr. CONTE. Mr. Hayes, may I ask you a question? The committee has requested by letters dated October 3, 1967, and October 25, 1967, that you furnish us certain documents and information relating to the history and the operation of ABC, the R. D. Hayes Family Foundation and the Sales Analysis Institute Foundation.

Will you please now send up the information and documents described in the attachment which accompanied our requests of October 3 and October 25? Will you send that up?

Mr. RAY. Pardon me, sir?

Mr. CONTE. Will you send that material up?

Mr. RAY. These are just your letters from the committee, sent by Chairman Patman to the R. D. Hayes Family Foundation and to the Sales Analysis Institute Foundation. And you referred to a letter of?

Mr. CONTE. October 3 and October 25.

Mr. RAY. Of October 25. I have a letter to Mr. Robert D. Hayes as trustee of Americans Building Constitutionally.

Mr. CONTE. Right. You have an attachment there, attachment A.

Mr. PATMAN. The attachment defines and indicates the type information that is desired by the committee.

Mr. RAY. So you are requesting by these three letters three different things: The information attached. This letter is addressed to Mr. Robert D. Hayes.

Mr. CONTE. Right.

87-444—68——5

Mr. RAY. Sales Analysis Institute Foundation requesting certain information.

Mr. CONTE. Exactly right, as outlined in attachment A.

Mr. RAY. We said yesterday that that is a——

Mr. PATMAN. What did you say yesterday?

Mr. RAY. That is a State-chartered not-for-profit foundation, and the records may be made available.

Mr. PATMAN. Will be made available?

Mr. RAY. Yes, sir.

Mr. HAYES. That is correct.

Mr. CONTE. All of the requests on attachment A will be made available?

Mr. RAY. Yes, sir.

Mr. PATMAN. He is doing that when he is under a different hat. You are wearing several hats here.

Mr. RAY. He is appearing, Mr. Hayes, as trustee or director of Sales Analysis Institute Foundation.

Mr. PATMAN. And you are answering as president of the Sales Analysis Institute of America, are you not?

Mr. HAYES. That is correct.

Mr. RAY. That is correct.

Mr. PATMAN. You are not answering as ABC trustee?

Mr. HAYES. No, sir.

Mr. RAY. And he stated yesterday unequivocally that the Sales Analysis Institute was not a member of ABC.

Mr. CONTE. Mr. Hayes, are you now ready to supply the financial data and the membership list that was asked for in the subpena?

Mr. RAY. Now we are back to Mr. Robert D. Hayes as trustee.

Mr. CONTE. Yes.

Mr. RAY. Of Americans Building Constitutionally?

Mr. CONTE. Right.

Mr. RAY. Or of the R. D. Hayes Family Foundation?

Mr. CONTE. Mr. Hayes, as trustee of ABC, A Better Chance To Avoid Income Taxes.

Mr. HAYES. As trustee of ABC, I cannot provide the information asked for.

Mr. CONTE. On what basis?

Mr. HAYES. I have a duty to protect the privacy of the membership.

Mr. CONTE. I think we have gone over that and made it explicit, clear, that you do not have that duty, and that you have a duty under the subpena issued by this committee to provide that information. Now, do you plead the Constitution?

Mr. HAYES. My duty——

Mr. CONTE. Do you plead the Constitution?

Mr. HAYES. My duty is to protect the rights of our members as to privacy.

Mr. CONTE. We have a duty here to protect the citizens of the United States, the taxpayers of the United States.

Now, I ask you to provide that information.

Mr. PATMAN. Will my colleague yield briefly?

As chairman of the committee, I direct you, Mr. Hayes, to supply the information asked you by the gentleman from Masschusetts.

Mr. RAY. Again may I ask the committee——

Mr. CONTE. You cannot ask the committee. The committee has asked you for some information. The chairman has asked you for some information. We want an answer.

Mr. RAY. The Supreme Court states that the pertinency of the question as it relates to the purpose clause which created this committee must be made extremely clear.

Mr. IRWIN. Mr. Chairman, will the gentleman yield?

Mr. PATMAN. Will the gentleman yield?

Mr. CONTE. Yes, I yield.

Mr. IRWIN. It is not for counsel to decide whether this is pertinent to the committee or not. Eventually the courts will have to decide whether it is or not, and you have been directed to answer. Now I think you had better take that into consideration. You are not the judge of whether it is pertinent or not. We think that it is.

Mr. CONTE. Exactly right.

Mr. IRWIN. Now we may be wrong, and the court can decide that, but not you.

Mr. RAY. I fully agree with you, sir. I only state that the Supreme Court has said that in order for a man to be able to understand what is being asked of him, he has the right to demand the pertinency of the question as it relates to the reasons for which this committee is questioning——

Mr. CONTE. Counsel, may I interrupt you?

From H.R. 53, which created this committee, let me read just one paragraph. There are many more.

> To study and investigate problems of small business enterprises generally, and to obtain all facts possible in relation thereto which will not only be of public interest but which would aid the Congress in enacting remedial legislation.

Mr. IRWIN. There it is.

Mr. CONTE. Now, will you answer the question?

Mr. RAY. I believe we are appearing before the Subcommittee for Foundation Study, not the Select Committee on Small Business.

Mr. PATMAN. So what? That is it.

Mr. MOORE. Do you attack the legitimacy of the subcommittee? How does the Congress set up a subcommittee, if it does not first generate a full committee.

Mr. RAY. It confers the power on the full committee. The full committee then confers power on subcommittees to do some of its work. I fully understand that.

Mr. MOORE. That is why we are here.

Mr. RAY. I would like to see the conferring of power on the subcommittee.

Mr. PATMAN. If the gentleman is trying to delay this procedure for the purpose of maybe letting it kind of dry up on the vine, his efforts will be in vain. We are going to keep this going until we get the facts one way or another, and not only this week but next week and next week and whenever we have time to do it. We are going to continue on, so you are not getting anywhere by delay on frivolous matters.

Mr. RAY. We are not——

Mr. PATMAN. I respect you for any constitutional privilege you want to claim or any other privilege that is valid and legal and constitutional. But it occurs to me that you are engaging in tactics that are not too constructive even from your viewpoint.

Mr. MOORE. Mr. Chairman, I wonder if we could proceed a little along "nonlegal" grounds just for a minute to learn more about the "foundation" business.

Mr. CONTE. You have to get over this point. I think you should insist on that.

Mr. PATMAN. I have. I have directed him to answer.

Do you refuse to answer or not? If you refuse, make it a matter of record.

Mr. HAYES. On advice of counsel, Mr. Chaiman, it is my belief that what the committee is asking me to do at this point is to commit an illegal act.

Mr. PATMAN. No, we have not. That can be your construction. You have the right to do that, of course.

Mr. IRWIN. He has to complete his response. It is not yet complete.

Mr. PATMAN. All right, go ahead.

Mr. HAYES. Therefore, I am unable to render that material.

Mr. IRWIN. For what reason?

Mr. PATMAN. Therefore, you refuse?

Mr. HAYES. And to make that decision.

Mr. IRWIN. Do you invoke the Constitution, Mr. Hayes? Mr. Hayes, do you invoke the Constitution? Have you been struck dumb, Mr. Hayes?

Mr. HAYES. I may be dumb; yes, sir.

Mr. PATMAN. What?

Mr. IRWIN. He has not answered the question. He has been directed to answer it.

Do you invoke the Constitution in your refusal to answer further?

Mr. RAY. May I submit this for the record?

Mr. IRWIN. No, the question is being directed to Mr. Hayes.

Do you invoke the Constitution, Mr. Hayes?

Mr. HAYES. I stand silent.

Mr. CORMAN. Mr. Chairman?

Mr. PATMAN. Yes, sir.

Mr. MOORE. He answered. He said that he stood silent.

Mr. PATMAN. He remains silent.

Mr. MOORE. Let's go to the next question and see if he will elect to remain silent.

Mr. IRWIN. May I say this, Mr. Chairman, he has not invoked the Constitution at this point.

Mr. OLSHER. That is right.

Mr. PATMAN. He has not invoked the Constitution at this point.

Mr. CONTE. Mr. Hayes, ABC claims to be a nonprofit trust established for the purpose of helping citizens of the United States make full use of the rights available to them under the Constitution. Is that correct?

Mr. HAYES. This is correct.

Mr. CONTE. You claim to be exempt from paying taxes under the Internal Revenue Code. Is that correct?

Mr. HAYES. Correct.

Mr. CONTE. What the ABC does is to inform individuals as to how, in ABC's opinion, they can best operate their affairs under the U.S. tax laws. Is that correct?

Mr. HAYES. We believe we have the right to teach what the law is, sir.

Mr. CONTE. I am just asking the question.

Mr. HAYES. Yes.

Mr. CONTE. That is correct?

Mr. HAYES. Yes.

Mr. CONTE. ABC receives a membership fee in return for this service. Is that correct?

Mr. HAYES. Correct, for the education that is received; yes.

Mr. CONTE. They receive a fee.

Mr. HAYES. Yes.

Mr. CONTE. Now, Mr. Hayes, doesn't a lawyer perform these same services for a fee? Doesn't he advise individuals how to make the best use of their rights under State and Federal tax laws and under the Constitution?

Mr. HAYES. That is one of his obligations; yes.

Mr. CONTE. You mean to tell us that you believe that the tax laws have been set up and do provide exemptions for all people who provide this kind of service from paying income taxes on their fees merely by having the income go to the foundation and the foundation taking care of all the living expenses of the individual?

Mr. HAYES. We have not made that statement, sir.

Mr. CONTE. How does the individual avoid paying the taxes?

Mr. HAYES. It is provided for in the law, and we——

Mr. CONTE. And you teach it.

Mr. HAYES. Seminars, 30 hours. It is simply a matter of how to conduct his affairs within the law. In those seminars we do not teach him how to establish a foundation. We simply teach him how he must operate under a foundation.

Mr. CONTE. Every attorney does that.

Mr. HAYES. No.

Mr. RAY. No, sir.

Mr. CONTE. How does the individual exist? Where does he get the funds to live on?

Mr. HAYES. He can contract with his foundation for services where that is permissible under the law.

Mr. CONTE. When he contracts with his foundation, does he pay any taxes on the revenue that he receives from the foundation?

Mr. HAYES. Oh, yes; certainly, yes.

Mr. CONTE. What other benefits does he receive?

Mr. HAYES. Whatever his contract calls for with his foundation.

Mr. CONTE. What do you recommend in these contracts? Do you have an example here?

Mr. HAYES. No. I believe you will find some in the instruction manual.

Mr. CONTE. You have been operating for about a year, so you must have some knowledge about some of these contracts. Give us an example.

Mr. HAYES. What executives sometimes call fringe benefits.

Mr. CONTE. Such as what?

Mr. HAYES. Oh, certain transportation costs.

Mr. CONTE. Go ahead.

Mr. HAYES. Our legal seminar teaches the attorney how to write these contracts.

Mr. CONTE. Such as one of the benefits mentioned yesterday by Congressman Moore, exemption from State gasoline tax?

Mr. HAYES. This might be one, only that wouldn't come under the employment contract. That comes under State law.

Mr. CONTE. How about housing?

Mr. HAYES. This could be in certain cases, yes.

Mr. CONTE. How about social security payments?

Mr. HAYES. That could be in certain cases. Although that again would not come under his employment contract.

Mr. CONTE. That would come under what, the establishment of the foundation?

Mr. RAY. I believe in general not for profit.

Mr. CONTE. What is that?

Mr. RAY. Not-for-profit corporations can elect I believe under the law to either pay or not pay social security. Once that election was made, or in the event it is made, then every employee of a not-for-profit foundation must comply with the social security laws.

Mr. CONTE. The foundation, however, would pick up the tab for the employer's share of the social security tax.

Mr. RAY. Yes, sir; it would have to pay, if it makes the election under the social security laws.

Mr. CONTE. How about the use of an automobile?

Mr. RAY. Well, if it is required as a condition of employment, as it is in many corporations in America, that a car be provided for the purposes of the corporation in the general case or for the purposes of the foundation.

Mr. CONTE. How about an example where you set up a foundation for a doctor, for medical research. In fact, Mr. Hayes mentioned setting up a clinic, where the doctor continues in the same practice that he was in in the past. He doesn't change his practice at all. He then gets all these fringe benefits, however.

Mr. RAY. He would have to operate his affairs. We try to teach him how the Mayos, the Menningers and the great medical clinics manage their affairs. They hire doctors for a salary. The doctors are hired by the clinic.

Mr. CONTE. Mr. Hayes is trustee. I would like to hear from him.

Mr. HAYES. Fine.

Mr. CONTE. A lot of people are interested in this. Could you tell us about it, Mr. Hayes? Give us some examples.

Mr. RAY. Be careful.

Mr. CONTE. Of course he will be careful. Mr. Hayes, how about educational grants to the children of a doctor?

Mr. HAYES. Yes. This can be done if it is done properly under the law, yes.

Mr. CONTE. I am a little naive here. Tell me how you can do it properly under the law?

Mr. HAYES. Being a layman I would again like to refer that to counsel, because I am not——

Mr. CONTE. You are more or less a salesman, aren't you, for ABC?

Mr. HAYES. Salesman?

Mr. CONTE. Yes.

Mr. HAYES. I am a teacher.

Mr. CONTE. You are a teacher. All right. Now, will you teach me? Tell me all about it. I am the student and I want to learn. I think we are finally getting down to something here. I am a prospective client, and I want to set up one of these foundations. I think, if your lawyer will let you alone, I might find out something about this foundation.

I have four children, and they are all about college age. I want to send them to college, and, of course, tuition is pretty high, as you know. The cost of living is high, and I want to set up a foundation so the foundation sends them to college. How can I do it?

Mr. HAYES. Through a grant program that is qualified under the particular conditions that are involved.

Mr. CONTE. Give me an example of a particular condition.

Mr. MOORE. Do I have to pay $10,000 for that answer?

Mr. HAYES. We will be glad to, if you come to the seminar——

Mr. MOORE. I am not going to give you money for that kind of an answer. I'll tell you that.

Mr. CONTE. Let's be a little more specific now. I am a Member of Congress. Let's nail it right down. I want to set up a foundation. What would you advise me to do? What kind of a foundation could I set up where I wouldn't have to pay any taxes?

Mr. HAYES. I wouldn't even begin to attempt to tell you at this point, until I knew more about your personal affairs. You would have to see your lawyer first.

Mr. CONTE. Do you advise all of your clients to see their lawyers first?

Mr. HAYES. We certainly do.

Mr. CONTE. Is that in your literature?

Mr. HAYES. Yes; it is.

Mr. CONTE. Could we have an example of it right here?

Mr. HAYES. In the teaching material it certainly is covered not once but many times.

Mr. RAY. The layman is not taught the legal procedures.

Mr. PATMAN. Wait just a minute. The witness is sworn to answer. You are not sworn. You talk to him, but let him talk to the interrogating member.

Mr. RAY. I like that term.

Mr. HAYES. The layman is taught how to operate his affairs. The attorney is taught how to set them up.

Mr. CONTE. Mr. Hayes——

Mr. HAYES. Pardon me, may I continue?

Mr. CONTE. Yes, certainly, by all means.

Mr. HAYES. In other words, the seminar would cover information on what he might include as certain expense items and where it should be charged either to the foundation or to a personal account, things of this nature.

Mr. CONTE. From what you tell me, you can teach someone, just about anyone, once you know his circumstances, to set up a foundation, which foundation could provide all of his cost of living, provide an automobile, send his children to college and pay their tuition fee, enable him to get tax-free gasoline, et cetera, et cetera. You could set up this foundation or teach him how to operate under a foundation, so that he will get all of his living costs out of the foundation and not pay any taxes at all.

Mr. HAYES. That is not correct, sir.

Mr. CONTE. All right, what did I say that was not correct?

Mr. HAYES. He could only——

Mr. CONTE. I took you step by step, all except his income. His income will be taxable.

Mr. HAYES. Right.

Mr. CONTE. He could draw the smallest income possible. As long as everything is paid for, he doesn't need much of an income, does he.

Mr. HAYES. Correct.

Mr. CONTE. Is that right.

Mr. HAYES. That is he is able——

Mr. CONTE. We agree here.

Mr. HAYES. He perhaps never can reduce his income to an absolute minimum, or to zero, I should say.

Mr. CONTE. No. All he will need is some pin money.

Mr. RAY. Clothes and food.

Mr. CONTE. That is about it.

Mr. HAYES. Clothes and food to be specific.

Mr. CONTE. I imagine that for a doctor you could set up a foundation where even his clothes would be provided. The foundation could buy his clothes because they are needed in his profession.

Mr. RAY. Uniforms.

Mr. HAYES. Uniforms only.

Mr. RAY. But not suits that can be worn normally.

Mr. CONTE. We are getting down to pin money now, suits and a few odds and ends. You say that you advise your clients that they should seek an attorney.

On October 30, 1967, a Mr. Herman E. Kimsey, president of Forensic Sciences Institute of Washington, D.C., gave us a signed statement to supplement his letter to us of October 24, 1967. The statement reads as follows:

> On July 12, 1967, I received a check from the Americans Building Constitutionally in the sum of $10,500 with their stipulation that it be applied for membership for Forensic Sciences Institute in Americans Building Constitutionally. This check was endorsed by myself and returned to their records and entered in Forensic Science Institute's records with a copy of the membership application. The sum does not appear in financial statements elsewhere in Forensic Science Institute's records, as it was never entered as a deposit in the foundation books.

Did you advise him that he could have an attorney and have his attorney check this out?

Mr. HAYES. His attorney did check it out.

Mr. RAY. He is qualified in Washington, D.C.

Mr. CONTE. Did he approve it? Did he advise his client to get into this type of deal?

Mr. HAYES. I wasn't present.

Mr. CONTE. Mr. Hayes, what compensation and what benefits do Mr. Walsh and you receive from ABC and all connected nonprofit corporations?

Mr. HAYES. Again, this is a question of ABC acting as a trustee. I can't reveal that.

Mr. PATMAN. As chairman I direct you to answer.

Mr. HAYES. As trustee?

Mr. PATMAN. Either speak up or bring the microphone closer to you.

Mr. HAYES. As trustee do you ask me to?

Mr. CONTE. I am asking you as an individual now, "How much compensation do you receive from ABC?"

Mr. HAYES. None.

Mr. CONTE. What do you receive from all connected foundations?

Mr. HAYES. All connected foundations?

Mr. MOORE. Or member foundations?

Mr. CONTE. Or member foundations?

Mr. HAYES. The question is not clear, Mr. Conte.

Mr. IRWIN. Mr. Chairman, I have a feeling that the question was answered in a very limited scope. You answered as an individual you don't receive any money. Do you receive some money as trustee?

Mr. HAYES. No; I do not.

Mr. CONTE. Where do you receive your compensation, and how do you receive it?

Mr. HAYES. Where do I receive compensation?

Mr. CONTE. Yes.

Mr. HAYES. I receive compensation as a director and an officer of Sales Analysis Institute Foundation.

Mr. CONTE. That is your only source of income?

Mr. HAYES. Correct.

Mr. CONTE. Do you receive other compensation? Do you receive any outside benefits, fringe benefits?

Mr. HAYES. Yes; I receive certain fringe benefits.

Mr. CONTE. Such as?

Mr. HAYES. Part of my transportation, part of an insurance program.

Mr. CONTE. Accident, health, and life?

Mr. HAYES. No; not accident. Life, yes.

Mr. CONTE. What amount would the life insurance program involve?

Mr. HAYES. Sales Analysis Institute Foundation has insured my life, and this has been some years ago. Sales Analysis Institute Foundations owns the policy, and is the beneficiary of the policy.

Mr. CONTE. You didn't tell me——

Mr. HAYES. You asked the amount?

Mr. CONTE. Yes.

Mr. HAYES. $200,000.

Mr. CONTE. Is Sales Institute Foundation a nonprofit or a profit foundation?

Mr. HAYES. A not-for-profit foundation.

Mr. CONTE. Nonprofit foundation.

Mr. HAYES. Correct.

Mr. CONTE. Any other fringe benefits?

Mr. HAYES. Not that I think of at the moment.

Mr. CONTE. How does Sales Analysis Institute obtain their funds?

Mr. HAYES. Through fees for services rendered.

Mr. CONTE. To whom?

Mr. HAYES. General Motors, Chrysler Corp., General Electric Co. and many others.

Mr. CONTE. Does it receive anything from ABC?

Mr. HAYES. Yes, it does, under contract.

Mr. CONTE. How much?

Mr. HAYES. This depends on the amount of service rendered. This is covered by contract.

Mr. CONTE. In 1966.

Mr. HAYES. I hesitate to answer that question since the books are being set up now, audited. I will be glad to give you an answer when that is complete.

Mr. CONTE. That is the internal audit that you spoke about yesterday?

Mr. HAYES. Correct.

Mr. CONTE. Will you get that?

Mr. PATMAN. As Chairman I direct you to answer it, and if you can't furnish the information now, you can furnish it for the record.

Mr. HAYES. Yes, right.

Mr. PATMAN. Will you do that?

Mr. HAYES. I will.

Mr. RAY. Yes, sir.

(The information had not been submitted to the subcommittee at the time of this printing.)

Mr. CONTE. Wasn't Sales Analysis Institute a profit foundation?

Mr. HAYES. I beg your pardon?

Mr. CONTE. Wasn't Sales Analysis Institute a profit organization?

Mr. HAYES. Yes, sir.

Mr. CONTE. Why did it become a nonprofit organization within the last year?

Mr. HAYES. Because it is qualified under the Internal Revenue Code.

Mr. CONTE. Could you tell the committee what changes transpired in the past year making it a nonprofit organization?

Mr. HAYES. I refer to counsel.

Mr. RAY. May I answer.

Mr. CONTE. You refer that to counsel? All right.

Mr. RAY. The affairs of the corporation were wound up, dissolved with the Secretary of the State of Illinois. A not-for-profit corporation State charter by the State of Illinois was established. It was believed that since Sales Analysis Institute Foundation had a building, had a faculty, had a regular course of instruction, and a full-time student body in attendance, it qualified under all four principles of the code.

Mr. CONTE. Counsel, have you been sworn in?

Mr. PATMAN. He is not a witness, Mr. Conte.

Mr. CONTE. I see.

Mr. RAY. He referred it to counsel.

Mr. PATMAN. He is not supposed to speak up and answer these questions.

Mr. CONTE. I was just wondering. He answers so many.

Mr. PATMAN. I know. He can give any comments to his client that he wants to.

Mr. MOORE. Will you yield?

Mr. Chairman, we are not getting much out of this as it is. The question has been asked; the answer has been given, and he tells us the reason that Sales Analysis is a nonprofit organization. I think the answer ought to go into the record.

Mr. PATMAN. Mr. Hayes should reply though, I think.

Mr. MOORE. I would agree it would be better if the witness would respond, but the question has been asked, and that answer has been given.

Mr. PATMAN. He is the sworn witness, and he is the one that should testify, I think.

Mr. HAYES. I am perfectly willing to agree with what counsel has said.

Mr. MOORE. You adopt his statement as your answer to the question, sir?

Mr. HAYES Correct.

Mr. PATMAN. In the future you do the answering yourself.

Mr. HAYES. I will when I feel I am capable.

Mr. CONTE. Could you please answer my question as to what Sales Analysis Institute is doing now that they weren't doing before when they were a profit foundation?

Mr. HAYES. Nothing.

Mr. CONTE. Exactly the same thing.

Mr. HAYES. Right.

Mr. CONTE. Could you tell me whether the membership of Sales Analysis Foundation has changed?

Mr. HAYES. The membership?

Mr. CONTE. Yes.

Mr. HAYES. You mean as to clients?

Mr. CONTE. Not only as to clients, but as to who is presently in charge of Sales Analysis Institute.

Mr. HAYES. I am.

Mr. CONTE. Who was in charge of Sales Analysis Institute when it was a profit organization?

Mr. HAYES. I was.

Mr. CONTE. What does Sales Analysis do for ABC?

Mr. HAYES. I beg your pardon?

Mr. CONTE. You said that ABC makes a contribution to Sales Analysis. What does Sales Analysis Institute do for ABC?

Mr. HAYES. ABC pays Sales Analysis Institute for services rendered.

Mr. CONTE. Could you tell us about the services rendered?

Mr. HAYES. Training of instructors is an important part of it.

Mr. CONTE. Instructors for ABC.

Mr. HAYES. Correct; conducting seminars for the ABC in some cases, the same things we do for General Motors.

Mr. CONTE. Go ahead.

Mr. HAYES. And Chrysler, Ford, and others.

Mr. CONTE. Mr. Hayes, IRS regulations provide that a nonprofit trust in order to be tax free must provide that the funds upon dissolution of the trust will go to another similar purpose. They cannot go back to the individual or his beneficiaries. How do you recommend that individuals provide for dissolution of their foundations?

Mr. HAYES. To qualified 501(C)(3) rules, credited under the Internal Revenue laws.

Mr. CONTE. If you set up these foundations, or you instruct them to set up these family foundations, the doctors and the dentists that you mentioned here, and they dissolve the foundation, where do the funds go upon dissolution of the foundation?

Mr. Hayes. To other qualified 501(C)(3) organizations.

Mr. Conte. I have no further questions.

Mr. Patman. Mr. Corman.

Mr. Corman. Thank you, Mr. Chairman.

Mr. Hayes, it has been called to your attention before that under H.R. 53 this committee and this subcommittee is to study and investigate the problems of small business generally and to obtain all facts in relation thereto which would not only be of public interest but would aid the Congress in enacting remedial legislation.

I would like to point out to you that the committe has substantial evidence that this kind of operation may very well affect other small businesses which have not engaged in the practice of putting their assets in foundations.

Now if we assume for the moment that all of your activities are within the law—and I make that assumption for the moment—we still need to know whether or not there ought to be changes in the law, and so I think it is proper that we ask the questions that relate to the setting up of these foundations and I think that you are obligated to answer.

If any of your conduct is outside the law, with or without your knowledge of it, then that is a matter of importance to the committee because we want to know whether or not the executive agencies are properly enforcing the law. So we really have two reasons for our inquiry, both of which certainly have an impact on other small business.

I would question whether you have a right just by claiming a right of privacy alone to deny answering questions about your specific clients. I would like to ask you some questions based on hypothetical cases to try to get at how money is involved in these foundations, without your disclosing the specific clients.

I would like to know first of all how large would an individual's annual income have to be before it would be profitable for him to undertake a not-for-profit foundation?

Mr. Hayes. Mr. Corman, this would be a very difficult answer for me to make without knowing a specific instance, because some of the things that are involved is not only source of income and how much income and what kind of income is involved, but also holdings, property held, and a multitude of things of that kind that will vary greatly from one member to another. I would hesitate very much to make a general answer.

Mr. Corman. Let's take the case of a doctor whose income is solely earned income from his practice. He gets $50,000 a year. He has no other assets that concern him at the moment. Is he a proper client for your school? Is there anything you are going to be able to help him with?

Mr. Hayes. We have a doctor present here who can answer this far better than I could, sir.

Mr. Corman. Mr. Hayes——

Mr. Hayes. That is if you want real accurate information.

Mr. Corman. Did the doctor come to you and ask to go to the school or did you go out and solicit him? I take it that you run the school. You have something to do with it.

Mr. Hayes. Oh, yes.

Mr. CORMAN. I must say that if I were a prospective student you haven't instilled much confidence in me yet about your ability.

Mr. HAYES. I have had some of my students say the same thing, sir.

Mr. CORMAN. You can't tell me if I have a $50,000 net income, no other assets, you can't tell me whether it would be advisable for me to consider a not-for-profit foundation.

Mr. HAYES. If those were conditions I would say probably yes; you would be.

Mr. CORMAN. Probably yes.

Mr. HAYES. Correct.

Mr. CORMAN. I am a doctor. My net imcome is all taxable as net income. Now what are the mechanics for my setting up the foundation?

Mr. HAYES. First of all, you would consult your attorney, who would go into the details of your affairs, to see whether or not the things that you were willing to do to qualify under scientific research or some other of the accepted categories of activity would qualify you. Now this again would involve the determination of what income and how much of it, the source could be used for foundation purposes.

Mr. CORMAN. We assume that I pass all those tests, and we do set up the foundation.

Mr. HAYES. Yes.

Mr. CORMAN. Make it Foundation X, not for profit. I keep on practicing medicine. I keep on making $50,000 a year. Where does the $50,000 go? My client pays me, my patients pay me. Lawyers don't make that much. My patient pays me $1,000 for an operation I perform. Does he make the check payable to X Foundation?

Mr. HAYES. He could.

Mr. CORMAN. Is that the way the system works?

Mr. HAYES. Yes; it could.

Mr. CORMAN. I am an employee of the foundation, right?

Mr. HAYES. Right.

Mr. CORMAN. Do you have doctors who have created these not-for-profit foundations?

Mr. HAYES. Yes.

Mr. CORMAN. How many?

Mr. HAYES. That I can't reveal, sir.

Mr. OLSHER. Speak up, please.

Mr. HAYES. I'm sorry.

Mr. PATMAN. As chairman of the committee I direct you to answer the question.

Mr. HAYES. I am not at liberty, Mr. Chairman, to tell you how many doctors are involved.

Mr. PATMAN. Then you refuse to answer the question.

Mr. HAYES. I regret, sir, I can't divulge that information as trustee.

Mr. PATMAN. And you refuse. Okay, go ahead.

Mr. CORMAN. Now all of my income as a doctor goes to this foundation. Then I assume the foundation pays me a salary as an employee, is that the way the system works?

Mr. HAYES. It could, yes. You would have to be a qualified medical foundation.

Mr. CORMAN. Would there be any other public purposes required of this foundation, other than paying my salary?

Mr. HAYES. Research definitely I think would be one, or would be one possibility. There are at least seven categories that I mentioned yesterday that might come into the picture.

Mr. CORMAN. Well, let's take one of the actual cases of one of your doctors, without disclosing him. What are some of the things that their foundations do in the public interest?

Mr. HAYES. Research.

Mr. CORMAN. Specifically what kind of research?

Mr. PATMAN. Speak up a little bit please, sir.

Mr. CORMAN. What kind of research?

Mr. HAYES. Medical, medical research.

Mr. CORMAN. Treating my patients and keeping records on their progress, would that probably——

Mr. HAYES. Testing various drugs, let's say.

Mr. CORMAN. That must excite the patients.

Mr. HAYES. Nevertheless, much research is done by doctors in the field.

Mr. CORMAN. Is this doctor doing anything different from any other practitioner?

Mr. HAYES. Pardon?

Mr. CORMAN. Is this doctor who is now working for the foundation doing anything different from any other general practitioner?

Mr. HAYES. Yes, he must. He must do that.

Mr. CORMAN. Let's assume that I prosper and I make more money and this foundation accumulates a half million dollars. Is that possible?

Mr. HAYES. I would say so. It depends, of course, on whether it was an unreasonable accumulation or not.

Mr. CORMAN. Would that be unreasonable in your view, a half million dollars, a good thriving practitioner who is probably getting a salary of $7,000 or $8,000 a year, struggling through on it?

Mr. HAYES. If perhaps a hospital with a clinic was going to be built, that would not be unreasonable.

Mr. CORMAN. Let's assume that now the foundation decides to invest that money in an electronics firm. The title of the firm is going to be held by this foundation. Now is the income from that electronics firm taxable?

Mr. HAYES. If the income that comes in from that particular source is used for not-for-profit purposes, it wouldn't be taxable.

Mr. CORMAN. Kept in the foundation, so long as the income is kept in the foundation, then the specific business, the electronics firm, it is not taxable like other electronics firms, so long as it is kept within the foundation.

Mr. HAYES. You have a good illustration on this I think on the Mott—this is not a medical foundation—but the Mott Foundation, which has as it corpus the largest block of General Motors stock in the world, but the earnings and the growth of that corpus has been put to not-for-profit uses.

Mr. CORMAN. I think the nub of it is what we all decide is not for profit, and I am afraid when we get to that you are just going to have to be specific about your answers and I think eventually we are going to have to get down to some cases, because the issue is whether or not it is your contention that you can run funds through a foundation, and have them tax exempt, that are not normally tax deductible under the Internal Revenue Code.

Mr. HAYES. Well, we don't—pardon me.

Mr. CORMAN. If I may just finish and then you can respond. You imply in your literature that one may take care of parts of his housing expense and his transportation expense and his employees and a number of things, and I would just like to get down specifically, what is the advantage to the foundation in those areas over the normal things that are tax deductible under the code? If my transportation is deductible, it is deductible when I file my individual tax return. If it is not deductible I don't see how it can be deductible by running the fund through the foundation.

Mr. HAYES. It can't.

Mr. CORMAN. Now what is it that you are telling your prospective students, your clients, in that brochure that you are offering them in those areas?

Mr. HAYES. We are very careful to make the distinctions that determine whether a certain item is tax deductible or not, and this is where we feel the education that we provide, our instructors provide, is important in this picture.

Mr. CORMAN. But aren't you saying in your brochure that the man can save, avoid, not evade, avoid income taxes by creating this foundation? That is your thesis, isn't it?

Mr. HAYES. Only if he is willing to do those things which will qualify him.

Mr. CORMAN. Assume that he is willing to do all that, but then how do we get down to this business of being able to take care of his employees and under certain circumstances getting a part of his living expenses, his household expenses, his transportation expenses? When would those ever be deductible under a foundation that they wouldn't be under normal tax laws, without treating the foundation?

Mr. HAYES. May I call on counsel to explain that difference?

Mr. PATMAN. We want you to explain it, because you are the sworn witness.

Mr. CORMAN. May I inquire? The brochure that the chairman referred to, where you set out in your sales promotion the things that you offer, are you familiar with that brochure?

Mr. HAYES. I am not sure that I have ever seen the brochure that the chairman——

Mr. PATMAN. It is used by ABC, and you have one yourself. It is in the volume that you gave us yesterday that I assume is along the same lines. You say it is a revised edition. I believe you referred to it as a revision, isn't that right?

Mr. HAYES. I think so. I think that is right.

Mr. PATMAN. So you do know about it.

Mr. CORMAN. Can you respond to the question?

Mr. HAYES. Certainly.

Mr. CORMAN. The question was what are you offering these people that you recite in your brochure? What is it that they can get through a tax-exempt foundation in this area of personal living expenses that they can't get under normal income tax laws without a foundation?

Mr. HAYES. Perhaps I could best answer your question, or perhaps more clearly answer your question by saying exactly what I did with SAI.

Mr. CORMAN. Fine.

Mr. HAYES. Since SAI is strictly and always has been an educational organization under the code it, according to my understanding, qualifies for tax exemption per se. Certainly we engage in and are basically a research and educational organization which in itself fills the requirements.

In this case we no longer pay corporation income tax, since we are a not-for-profit organization, although we did for many years.

Mr. CORMAN. How long were you a profit organization?

Mr. HAYES. Since 19— well, from 1946 to 1966, 20 years.

Mr. CORMAN. What was your net profit the last year that you were a for-profit corporation?

Mr. HAYES. I believe about $46,000.

Mr. CORMAN. What was the ownership of the corporation? Were you sole owner?

Mr. HAYES. I was the sole owner of the corporation.

Mr. CORMAN. All right. Go ahead and tell us what happened after you became a not-for-profit. Up to that year you paid taxes on your individual income from the corporation plus a tax on the balance that was left that was shown as corporate profit, right?

Mr. HAYES. Yes.

Mr. CORMAN. Then the next year what happened?

Mr. HAYES. First, we of course dissolved the old corporation, the profit corporation, and conveyed the assets, and I have the assets. I had the assets, yes.

Mr. RAY. He had them.

Mr. CORMAN. It does make a difference doesn't it, Counsel? I think that the real question is who had and who has.

Now who has the assets? Do you make a gift of the assets to the SAI not-for-profit foundation?

Mr. HAYES. No.

Mr. CORMAN. No.

Mr. HAYES. I do not.

Mr. CORMAN. You had a corporation making $46,000 a year. It must have been worth a fair amount of money. What happened at the time of the dissolution and the transfer to the not-for-profit trust.

Mr. HAYES. I conveyed the assets of the old corporation to a for-profit trust.

Mr. CORMAN. To a not-for-profit trust.

Mr. HAYES. No, to a for-profit trust.

Mr. CORMAN. Oh, to a for-profit trust. Was there any tax consequences in that transfer?

Mr. HAYES. No, no tax consequence.

Mr. CORMAN. All right, now you have got a for-profit trust.

Mr. HAYES. Correct.

Mr. RAY. A taxpaying entity.

Mr. HAYES. A taxpaying entity.

Mr. CORMAN. Is that what SAI is now?

Mr. HAYES. No.

Mr. CORMAN. Take us through the next step.

Mr. HAYES. SAI is an operating not-for-profit corporation, which conducts the business of the old SAI corporation.

Mr. IRWIN. I think what we are trying to get to is how did you go from a for-profit trust to a not-for-profit trust, SAI. You have told us that SAI was a for-profit trust, that is what you made it.
Mr. HAYES. Right.
Mr. RAY. That is not SAI.
Mr. HAYES. Not SAI. That is my personal trust.
Mr. RAY. The R. D. Hayes Trust.
Mr. CORMAN. We started way back there with SAI making $46,000 a year.
Mr. HAYES. Right.
Mr. CORMAN. I have lost it for the moment.
Mr. IRWIN. That is right.
Mr. HAYES. This is what takes us 30 hours.
Mr. CORMAN. Well, we have got that much time.
Mr. IRWIN. That is right.
Mr. CORMAN. You had SAI, which is a for-profit business enterprise. I take it it was incorporated, was it?
Mr. HAYES. Correct.
Mr. CORMAN. You were sole owner.
Mr. HAYES. Yes.
Mr. CORMAN. You transferred that to a for-profit trust.
Mr. RAY. Liquidated and took the assets.
Mr. HAYES. Liquidated and took the assets.
Mr. OLSHER. Will you speak up please?
Mr. HAYES. I am sorry.
Mr. CORMAN. At the moment SAI is a not for profit—is that what SAI is now, a for-profit trust?
Mr. HAYES. No; SAI is a not-for-profit corporation.
Mr. CORMAN. Now how do we get——
Mr. RAY. You are skipping the middle step.
Mr. CORMAN. I yield to the gentleman.
Mr. IRWIN. I am very confused. We started out with SAI, I think is what the language was, SAI was your own company.
Mr. HAYES. Correct.
Mr. IRWIN. Then you made a for-profit trust out of SAI.
Mr. HAYES. No; not a trust.
Mr. IRWIN. What was it that you said you made out of it?
Mr. RAY. Could I explain the sequence of events?
Mr. PATMAN. Let the witness explain. He did it.
Mr. IRWIN. Have the witness say it because he is the sworn person here. You just tell him what it was.
Mr. HAYES. We applied for a not-for-profit charter, State charter, in the State of the Sales Analysis Institute Foundation. Also the R. D. Hayes Family Estate, a trust, was organized.
Mr. IRWIN. For trust and for profit or not for profit.
Mr. HAYES. For profit.
Mr. IRWIN. OK.
Mr. HAYES. Taxpaying trust.
Mr. CORMAN. Does that trust exist today?
Mr. HAYES. It does.
Mr. CORMAN. And what are the assets of that trust?
Mr. HAYES. Include the former assets of the Sales Analysis Institute plus personal assets.

Mr. CORMAN. You have got a for-profit trust that holds the assets of Sales Analysis Institute which is operating as a not for profit? No; what is it operating as at the moment?

Mr. HAYES. It is a taxpaying personal trust.

Mr. IRWIN. The SAI one is?

Mr. HAYES. No.

Mr. CORMAN. That is what I am asking you.

Mr. HAYES. The R. D. Hayes Family Estate.

Mr. CORMAN. I am not asking you about the R. D. Hayes.

Mr. HAYES. Pardon me.

Mr. CORMAN. At this moment, what is SAI? Does it exist at all?

Mr. HAYES. Yes, sir; it does.

Mr. CORMAN. What does it exist as?

Mr. HAYES. Sales Analysis Institute Foundation, a not-for-profit corporation, organized under Illinois law.

Mr. IRWIN. Will the gentleman yield?

Mr. CORMAN. I yield.

Mr. IRWIN. Let's go back one step. What was it before it was that?

Mr. HAYES. Sales Analysis Institute of Illinois, Inc., a for-profit corporation.

Mr. IRWIN. Right. And before that?

Mr. HAYES. Before that it was a sole proprietorship.

Mr. IRWIN. Thank you.

Mr. CORMAN. We have got one missing link. You transferred the assets of that corporation when it was profit corporation to your personal for-profit trust. It is operating at the moment as a not-for-profit foundation. Is it not? I am using your words I believe. Can we have the reporter read back the answer to what SAI is at the moment?

Mr. IRWIN. Be careful where you read that.

Mr. PATMAN. Our time is very limited, Mr. Corman. Could you ask him to have that ready the next time please?

Mr. RAY. We will provide that.

Mr. HAYES. I will be glad to prepare a sketch to show you exactly what happened.

Mr. PATMAN. And also include the assets that you actually transferred each time.

Mr. HAYES. All right.

(The information referred to had not been received at the time of printing.)

Mr. CORMAN. May I ask you one other question, Mr. Hayes. Is the pattern of your business activity similar to the pattern that is used by your clients?

Mr. HAYES. Identical except with regard to the nature of the business.

Mr. CORMAN. I think it might be extremely helpful to us, Mr. Chairman, if——

Mr. HAYES. I would be glad to spend any amount of time on that area.

Mr. CORMAN. At least so we can find out what happened to SAI.

Mr. PATMAN. That is right, we must do that but we can't do it today because we only have about 4 minutes, sir.

Mr. CORMAN. Yes, sir.

Mr. PATMAN. May I interrupt?

Mr. CORMAN. Yes, sir; I yield.

Mr. PATMAN. Our hearings will resume next Monday, November 6. We will continue with Mr. Hayes and James R. Walsh, Jr. The subpenas are in full force and effect until you and Mr. Walsh are excused by the chairman as a witness before the committee. Hence, we will expect you to bring with you the records described in the subpenas, and particularly those records that you have promised to present.

Mr. HAYES. Yes, sir.

Mr. PATMAN. Following Mr. Walsh's testimony next week, the witness will be Dr. Michael Saxon. He is the doctor you referred to a while ago as here; isn't he?

Mr. HAYES. Right.

Mr. PATMAN. And Messrs. George Schuyler and J. Alton Lauren, trustee of ABC, and Richard Stephenson, trustee of ABC.

Then on November 13 and 14, we expect to have Secretary Fowler and Commissioner Cohen as witnesses, and we will expect you and Mr. Walsh to be here next Monday, sir.

Mr. HAYES. We will be here.

Mr. PATMAN. With the records.

Mr. HAYES. Yes.

Mr. PATMAN. And without objection the committee will stand in recess until 10 o'clock next Monday here in this room.

Mr. MORTON. Mr. Chairman, I yield the balance of my time.

(Whereupon, at 11:57 a.m., October 31, 1967, the subcommittee recessed until Monday, November 6, at 10 a.m.)

TAX-EXEMPT FOUNDATIONS: THEIR IMPACT ON SMALL BUSINESS

MONDAY, NOVEMBER 6, 1967

House of Representatives,
Subcommittee No. 1
of the Select Committee on Small Business,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:12 a.m., in room 2359, Rayburn House Office Building, Hon. Wright Patman (chairman of the subcommittee) presiding.

Present: Representatives Patman, Irwin, Moore, Conte, and Morton.

Also present: H. A. Olsher, director, Foundations Study; Myrtle Ruth Foutch, clerk; and John J. Williams, minority counsel.

Mr. Patman. The committee will please come to order.

Mr. Hayes, you are still our witness and still under oath. You realize that, don't you?

TESTIMONY OF ROBERT D. HAYES, TRUSTEE OF THE AMERICANS BUILDING CONSTITUTIONALLY, A NOT-FOR-PROFT TRUST, ACCOMPANIED BY K. P. CHARTIER, COUNSEL TO MR. HAYES; WILLIAM C. RAY, JR., COUNSEL TO MR. HAYES; AND ROBERT A. ERIE, ADMINISTRATIVE ASSISTANT TO MR. HAYES—Resumed

Mr. Hayes. Yes, sir.

Mr. Patman. The first question I would like to ask: By subpena which was served on you October 19, 1967, you were ordered to bring with you the following information:

1. A financial statement of Americans Building Constitutionally for the 12 months ending September 30, 1967, including income and disbursements and a balance sheet.

2. A list showing names and addresses of members of Americans Building Constitutionally and the membership fee received from each of them.

You refused to submit such information on October 30 and October 31. I am now asking you to furnish me the information. Will you do that?

Mr. Hayes. Mr. Chairman, again as trustee of Americans Building Constitutionally, I would be violating my trust, the protection of privacy of our members.

Mr. Patman. Then you refuse to offer it.

Mr. Hayes. Yes.

Mr. Patman. I am now ordering you to again hand the information described in that subpena to me, asking you to furnish it to me.

Mr. HAYES. I cannot do that, sir.

Mr. PATMAN. Do you have custody of those records?

Mr. HAYES. At this time I do not, Mr. Chairman.

Mr. PATMAN. You do not. You are the head trustee, aren't you? You are the one in charge.

Mr. HAYES. I am one of the trustees.

Mr. PATMAN. Who has custody of them? Obviously, the trustees have custody.

Mr. HAYES. The executive secretary has custody of these records.

Mr. PATMAN. Who is the executive secretary?

Mr. HAYES. Mrs. Bertha Fields.

Mr. PATMAN. Mrs. Bertha Fields.

Mr. HAYES. Right.

Mr. PATMAN. Is she at Barrington, Ill.?

Mr. HAYES. She is.

Mr. PATMAN. Could she get down here tomorrow?

Mr. HAYES. I would have to check that, sir, to find out.

Mr. PATMAN. You realize of course that you are responsible for your actions in refusing to comply with the subpena duces tecum, and further that your refusal to answer pertinent questions may subject you to criminal prosecution. You realize that.

Mr. HAYES. No; I do not realize that. Where is the criminal prosecution?

Mr. PATMAN. Well, contempt proceedings of course, if instituted by this committee and voted by the House, that will be in the direction of bringing you before a court of justice of which the end result would be either conviction or acquittal of the charges.

Mr. HAYES. Under what section, Mr. Chairman, of criminal law would I be——

Mr. PATMAN. Well, I am not dealing with that, with the details in it, but I can assure you that you would be subject to being put in jeopardy for your failure and refusal.

We have requested by letters dated October 3, 1967, October 25, 1967, that you furnish us certain documents and information relating to the history and operations of ABC, the R. D. Hayes Family Foundation and the Sales Analysis Institute Foundation. You refused to furnish such information on October 30 and October 31.

I am now ordering you again to hand me the information and documents described in attachment A which accompanied our request of October 3 and October 25.

Mr. HAYES. We have that information with regard to Sales Analysis Institute Foundation, and also the R. D. Hayes Family Foundation.

Mr. PATMAN. That is two of them. Now what about the ABC?

Mr. HAYES. I cannot as trustee provide that information.

Mr. PATMAN. For two of them you have it there now. Let us have it please. Let the clerk have it. That is all of it for the two but not for the third. That is all of it for the Hayes Foundation and Sales Analysis, is that correct?

Mr. HAYES. For Sales Analysis.

Mr. PATMAN. What about the Hayes Foundation? Is that all for the Hayes Foundation and the Sales Analysis.

Mr. HAYES. Correct.

Mr. PATMAN. And that is in compliance with our request.

Mr. HAYES. Yes, sir.

(The information follows:)

REPLY TO QUESTIONS CONCERNING THE R. D. HAYES FAMILY FOUNDATION (A TRUST), FOR THE SELECT COMMITTEE ON SMALL BUSINESS

1. Legible copy of exemption application (Form 1023) and supporting documents, including subsequent amendments.

Not applicable—no form has been submitted.

2. Legible copy of letter of Internal Revenue Service granting exemption.

Not applicable.

3. Legible copy of charter, or articles of incorporation. If the Foundation is not a corporation, please submit a copy of the trust instrument.

Foundation is not chartered. A copy of the trust instrument is attached.

4. Legible copy of by-laws.

Not applicable.

5. Balance sheet or itemized schedule of assets as of the date that the Foundation was first organized.

Not applicable.

6. Legible copy of Form 990–A (or Form 1041–A, if applicable), including attachments, filed with the Internal Revenue Service for each year beginning 1951.

Not applicable.

7. Legible copy of Form 990–T, including attachments, filed with the Internal Revenue Service for each year beginning 1951.

Not applicable.

8. Legible copy of accountant's financial statement for each year beginning 1951, including carrying values and market values of individuals securities held at the close of the year. Re market value, if the stock is not traded, please furnish the Foundation's equity in the net assets of the corporation.

Not applicable.

9. Name and address of the accounting firm employed by the Foundation during each year.

Not applicable.

10. Names and addresses of the officers of the Foundation at the close of each year.

TRUSTEES

R. D. Hayes, 3–S–550 Leask Lane, Route #2, Wheaton, Illinois
Edna H. Hayes, 3–S–550 Leask Lane, Route #2, Wheaton, Illinois
R. O. Hayes, 4340 Crest Knoll, Grand Blanc, Michigan
J. D. Hayes, 3–S–550 Leask Lane, Route #2, Wheaton, Illinois
T. S. Hayes, 210 W. 101st Street, Apt. 10–B, New York, New York

11. Names, business addresses, and occupations of directors, trustees, and members of the finance committee at the close of each year.

R. D. Hayes—Executive, 3–S–550 Leask Lane, Route #2, Wheaton, Illinois
Edna H. Hayes—Housewife, 3–S–550 Leask Lane, Route #2, Wheaton, Illinois
R. O. Hayes—Executive, 4340 Crest Knoll, Grand Blanc, Michigan
J. D. Hayes—Office Employee, 3–S–550 Leask Lane, Wheaton, Illinois
T. S. Hayes—Editor, 210 W. 101st Street, Apt. 10–B, New York, New York

12. Name and address of the bank, investment counsel, or broker, if any, rendering financial investment services to the Foundation during each year.

Not applicable.

13. If the Foundation owned 5% or more of any class of stock of any corporation at the close of any of the years 1951 through 1966, please submit the following information for each such year:

(a) Name and address of the corporation.

(b) Nature of the business.

(c) Dates on which the stock was acquired by the Foundation, number of shares acquired, and manner of acquisition.

(d) Number of shares of each type of stock owned at the close of each year.

(e) Percentage of each class of outstanding stock of the corporation owned by the Foundation at the close of each year.

(f) Identification of the stock as voting or non-voting.

(g) Book value and market value of the stock at the close of each year. Re market value, if the stock is not traded, please submit the Foundation's equity in the net assets of the corporation at the close of each year.

Not applicable.

14. Please advise as to:

(a) The years, beginning with 1951, during which the Internal Revenue Service performed field audits of the Foundation.

(b) The years covered in each such audit.

(c) Taxes assessed, if any, by the Internal Revenue Service.

Not applicable.

REPLY TO QUESTIONS CONCERNING THE SALES ANALYSIS INSTITUTE FOUNDATION OF ILLINOIS, INC., FOR THE SELECT COMMITTEE OF SMALL BUSINESSES, CONGRESSMAN WRIGHT PATMAN, CHAIRMAN

1. Legible copy of exemption application (Form 1023) and supporting documents, including subsequent amendments.

Not applicable—no form has been submitted. It is believed that the right of self-determination applies in this case.

2. Legible copy of letter of Internal Revenue Service granting exemption.

Not applicable.

3. Legible copy of charter, or articles of incorporation. If the Foundation is not a corporation, please submit a copy of the trust instrument.

A copy of the Charter is being prepared for the Committee. (See Exhibit, p. 1018.)

4. Legible copy of by-laws.

By-laws are presentely in hands of attorneys. A copy will be forwarded to the Committee within the next two to three days. (See Exhibit 5, p. 1022.)

5. Balance sheet or itemized schedule of assets as of the date that the Foundation was first organized.

A preliminary balance sheet is attached. A final one will be submitted as soon as the C.P.A. has completed it.

6. Legible copy of Form 990–A (or Form 1041–A, if applicable), including attachments, filed with the Internal Revenue Service for each year beginning 1951.

Not applicable. It is our belief that not-for-profit corporations qualifying as educational and having a curriculum, a classroom, a student body, and a regular staff of instructors do not prepare Form 990–A.

7. Legible copy of Form 990–T, including attachments, filed with the Internal Revenue Service for each year beginning 1951.

Not applicable. See above reason, #6.

8. Legible copy of accountant's financial statement for each year beginning 1951, including carrying values and market values of individual securities held at the close of the year. Re market value, if the stock is not traded, please furnish the Foundation's equity in the net assets of the corporation.

A preliminary financial statement has been prepared and is attached. A final statement will be forwarded to the Committee as soon as the C.P.A. has finished the final draft.

9. Name and address of the accounting firm employed by the Foundation during each year.

The accounting firm employed is P. C. Corrado and Company, 69 West Washington Street, Chicago, Illinois 60602.

10. Names and addresses of the officers of the Foundation at the close of each year.

R. D. Hayes, President—Box 575, Barrington, Ill. 60010; J. D. Kirk, Vice-President and General Manager—Box 575, Barrington, Ill. 60010; Edna H. Hayes, Vice-President—3 S. 550, Leask Lane, Route #2, Wheaton, Ill. 60187; Lorena Kohlman, Secretary and Treasurer—Box 575, Barrington, Ill. 60010.

11. Names, business addresses, and occupations of directors, trustees, and members of the finance committee at the close of each year.

R. D. Hayes, Director—Occupation: Executive—Box 575, Barrington, Ill. 60010; J. D. Kirk, Director—Occupation: Executive—Box 575, Barrington, Ill. 60010; Edna H. Hayes, Director—Occupation: Housewife—3 S. 550, Leask Lane, Route #2, Wheaton, Ill. 60187.

12. Name and address of the bank, investment counsel, or broker, if any, rendering financial investment services to the Foundation during each year.

Not applicable.

13. If the Foundation owned 5% or more of any class of stock of any corporation at the close of any years 1951 through 1966, please submit the following information for each such year:

(a) Name and address of the corporation.
(b) Nature of the business.
(c) Dates on which the stock was acquired by the Foundation, number of shares acquired, and manner of acquisition.
(d) Number of shares of each type of stock owned at the close of each year.
(e) Percentage of each class of outstanding stock of the corporation owned by the Foundation at the close of each year.
(f) Identification of the stock as voting or non-voting.
(g) Book value and market value of the stock at the close of each year. Re market value, if the stock is not traded, please submit the Foundation's equity in the net assets of the corporation at the close of each year.

Not applicable.

14. Please advise as to:
(a) The years, beginning with 1951, during which the Internal Revenue Service performed field audits of the Foundation.
(b) The years covered in each such audit.
(c) Taxes assessed, if any, by the International Revenue Service.

Internal Revenue Service audit not completed as of this date.

Sales Analysis Institute Foundation of Illinois, Inc. Balance Sheet, Apr. 30, 1967*

ASSETS		
Current assets:		
Cash		$11, 199. 82
Accounts receivable	25, 614. 05	
Less allowance for losses	400. 00	
		25, 214. 05
Prepaid interest		867. 40
Advances		6, 791. 79
Total current assets		44, 073. 06
Other assets:		
Cash surrender value of life insurance		47, 611. 48
Deposit account		425. 00
Total other assets		48, 036. 48
Equipment:		
Furniture	1, 740. 21	
Less allowance for depreciation	87. 00	
		1, 653. 21
Automobiles	53, 511.08	
Less allowance for depreciation	11, 000. 97	
		42, 510. 11
Total assets		136, 272. 86
LIABILITIES		
Current liabilities:		
Notes payable		35, 075. 73
Account payable		19, 271. 49
Employee compensation		15, 750. 00
Taxes		3, 841. 34
Royalties		4, 166. 67
Total current liabilities		78, 105. 23
Total other liabilities:		
Total other liabilities: Loan on cash surrender value of life insurance		40, 924. 24
Earned and donated surplus		17, 243. 39
Total liabilities and donated surplus		136, 272. 86

*Preliminary statement—Final statement is being prepared by CPA.

Sales Analysis Institute Foundation of Illinois, Inc. trial balance—opening journal entries, May 20, 1966*

ASSETS

Current assets:		
Cash		$17,141.61
Accounts receivable	$103,843.20	
Less allowance or losses	400.00	
		103,443.20
Prepaid Interest		1,009.23
Advances to Employees		4,540.32
Total current assets		126,134.36
Other assets: Sundry		2,142.02
Equipment:		
Automobiles	$66,670.36	
Less allowance for Depreciation	40,507.25	
		26,163.11
Total other assets and equipment		28,305.13
Total assets		154,439.49

LIABILITIES

Current liabilities:	
Notes payable to bank	53,465.74
Accounts payable	17,001.48
Employee compensation	16,750.00
Payroll taxes	1,897.89
Federal income taxes	11,605.53
Other taxes	2,500.00
Royalties	6,249.99
Accrued interest	8,678.16
Total current liabilities	118,148.79
Donated Surplus	36,290.70
Total liabilities and donated surplus	154,439.49

*Preliminary statement—Final statement is being prepared by CPA.

Mr. PATMAN. On October 30 and October 31, I called attention to the fact that ABC had made grants to two foundations in the amount of $10,500 each to cover the cost of membership in ABC. Those two foundations were Hough's Encyclopedia of American Woods Foundation, New York City, and Forensic Science Institute, Washington, D.C.

Since then, Mr. Herbert M. Himes, a chiropractor and executive director of the Herbert M. Himes Foundation, Waukegan, Ill., has informed us that his foundation "is a member organization of Americans Building Constitutionally. The fee for said membership was waived."

So, now we know of three foundations who paid nothing for membership in ABC, while you have admitted that thousands of dollars have been paid by other people.

According to the Baltimore News American of November 1, 1967, Dr. D. W. Anderson, president, D. W. Anderson Foundation, Aurora, Ill., paid $10,500 to ABC. I shall place the article in the record so that it will not be necesary for me to read it at this time.

This business of tapping some people for $10,500 for services that others receive free of charge is a highly irregular practice, isn't it?

(The article referred to follows:)

[From Baltimore News American, Nov. 1, 1967]

HOUSE PROBERS SEEK DETAILS—DOCTOR SAYS FOUNDATION SLASHES TAXES IN HALF

(By Leslie H. Whitten, News American Washington Bureau)

WASHINGTON, Nov. 1—An Illinois doctor said today he has turned his practice into a tax-exempt foundation with himself as president, his wife as vice president and his 21-year-old daughter as secretary.

As secretary, the daughter's tuition, books and housing is paid for at the Denver, Colo., school where she is a senior. The foundation pays for the doctor's transportation, housing and many other expenses as "fringe benefits," he said.

Dr. D. W. Anderson said in a telephone interview from his office in Aurora, Ill., that he set up the D. W. Anderson Foundation just over a year ago with the help of Americans Building Constitutionally.

ABC is currently under hot investigation by a House Small Business subcommittee. The Anderson foundation was one of 63 allegedly set up by ABC, according to subcommittee's two-day hearings on ABC.

The hearings will resume on Monday. Secretary of the Treasury Henry Fowler and Internal Revenue Commissioner Sheldon Cohen will be called on the carpet Nov. 13 by the subcommittee chairman, Wright Patman (D., Texas) to explain "how come."

Dr. Anderson, "medical director" as well as president of his foundation, said he paid $10,500 to ABC and has already "amortized" the cost because he paid double that in income taxes before setting up the foundation. Now, the foundation pays him a modest salary—on which he still pays taxes—but much of his income of about $50,000 a year is tax free.

Patman, in scathingly attacking the Treasury Department for not closing up tax-exempt loopholes, said the mini-foundations would further erode the tax base of the nation.

"One witnesses an . . . orgy of tax-avoidance by multi-million dollar foundations as well as by 'backyard foundations,'" Patman said. The little man, he said, winds up paying the tax bill.

ABC trustee Robert D. Hayes told the subcommittee yesterday that he sets up foundations "exactly (like) the Kennedys have done." The Joseph P. Kennedy Jr. Foundation is the foundation of the Kennedy family, but is much larger than the ABC enterprises.

Hayes has refused to answer some of the subcommittee's questions and to produce certain records. Patman said the subcommittee would hear more testimony before deciding whether to recommend that Congress cite him for contempt.

Mr. HAYES. No, Mr. Chairman. For services rendered, these are entirely within reason.

Mr. PATMAN. Here we have $31,500 which ABC donated to three foundations. From whom did ABC receive the funds that it contributed to these three foundations? From whom did ABC receive the funds that it contributed to these foundations?

You state they didn't receive them, that it was just service rendered. Here we have $31,500 which ABC donated to three foundations. From whom did ABC receive the funds that it contributed to these three foundations?

Mr. HAYES. As trustee I can't reveal that information.

Mr. PATMAN. According to the Wall Street Journal of October 25, 1967, your associate, James R. Walsh, Jr., has been linked "with a savings and loan association that had dealings with the Chicago underworld." Is this true?

Mr. RAY. Objection, Mr. Patman, on the grounds of pertinency.

Mr. PATMAN. Let me preface this. Did you read the Wall Street Journal of October 25, 1967, concerning your associate, James R. Walsh, Jr.?

Mr. RAY. Objection.

Mr. HAYES. I don't remember.

Mr. PATMAN. Has ABC received any part of its funds from any person or organization connected with the underworld?

Mr. HAYES. I can't reveal that information.

Mr. PATMAN. Has ABC received any funds from sources that are engaged in illegal activities of any kind?

Mr. HAYES. Not to my knowledge, Mr. Chairman.

Mr. PATMAN. You are hereby ordered to furnish this subcommittee by Wednesday, November 8, 1967, the names and addresses of all organizations that have obtained membership in ABC without cost. You will be expected to comply with that. You have the information, by November 8, the names and addresses of all organizations that have obtained membership in ABC without cost. You will be expected to present that. You are ordered to present it.

It is true, is it not, that you have been putting pressure on trustees J. Alten Lauren and Richard J. Stephenson to keep them from disclosing information to this subcommittee?

Mr. HAYES. No, sir.

Mr. PATMAN. That is not true.

Mr. HAYES. Not to my knowledge.

Mr. PATMAN. It is true, is it not, that you have threatened trustees J. Alten Lauren and Richard J. Stephenson with dire consequences if they disclose information to this subcommittee?

Mr. HAYES. This is not true.

Mr. PATMAN. You have not threatened them.

Mr. HAYES. No, sir.

Mr. PATMAN. What did you tell Messrs. Lauren and Stephenson the results would be if they disclosed information to this subcommittee?

Mr. HAYES. I did not discuss it with them.

Mr. PATMAN. As I stated on October 30, we have asked 63 alleged members of ABC for information on the history and operations of their foundations, and 48 of these 63 foundations failed to respnd to our request.

We have now had responses from two more foundations and they are worthy of a place in this record. The foundations involved are the Wunsch Foundation, Yorkville, Ill., and the Massner Foundation, Davenport, Iowa.

In order to save time, I shall only read one letter, but put both of them in the record.

> In view of the fact that Mr. Robert D. Hayes, trustee of Americans Building Constitutionally, will appear before the Select Committee on Small Business on October 30, 1967, to answer questions which will not only be of public interest, but which will aid the Congress in enacting remedial legislation, I feel that your request for information is premature as to the Wunsch Foundation.

I will place the other one in the record.

(The letters referred to follow:)

THE WUNSCH FOUNDATION,
Yorkville, Ill., October 24, 1967.

HON. WRIGHT PATMAN,
Chairman, Subcommittee Foundation Study,
Rayburn Building, Washington, D.C.

CHAIRMAN PATMAN: In view of the fact that Mr. Robert D. Hayes, Trustee of Americans Building Constitutionally, will appear before the Select Committee on Small Business on October 30, 1967 to answer questions which will not only be of public interest, but which will aid the Congress in enacting remedial legislation, I feel that your request for information is premature as to the Wunsch Foundation.

Very truly yours,

L. A. WUNSCH, *Executive Director.*

MASSNER FOUNDATION,
Davenport, Iowa, October 28, 1967.

Hon. WRIGHT PATMAN,
Chairman, Subcommittee Foundation Study,
Rayburn Building, Washington, D.C.

CHAIRMAN PATMAN: In view of the fact that Mr. Robert D. Hayes, Trustee of Americans Building Constitutionally, will appear before the Select Committee on Small Business in October 30, 1967 to answer questions which will not only be of public interest but which will aid the Congress in enacting remedial legislation, I feel that your request for information is premature as to the Massner Foundation.

Very truly yours,

R. C. MASSNER, D.C.

Mr. PATMAN. Although these two foundations are located in different States, the letters are identical—word for word, and comma for comma. Is it not true that those letters were inspired by you or by someone connected with ABC?

Mr. HAYES. Not to my knowledge.

Mr. PATMAN. On October 30, 1967, I placed in the record a signed statement from Mr. Herman E. Kimsey, president, Forensic Science Institute, Washington, D.C., to the effect that, on July 12, 1967, he had received a $10,500 check from ABC with the stipulation that the money be applied for membership of Forensic Science Institute in ABC. I now wish to place in the record additional documents which we received from Mr. Kimsey subsequent to our October 31 hearing. These documents include a copy of the Forensic Science Institute's application for membership in ABC which is sponsored by the Scientific Prayer Ministry Foundation, Inc., John P. Speller, D.D., president.

The Scientific Prayer Ministry Foundation, Inc. is thus added to our list of alleged members of ABC bringing the total of such alleged members to 64.

I will place in the record the correspondence, statements and affidavits in connection therewith.

(The documents referred to follow:)

I, Bertha Fields, Executive Secretary of Americans Building Constitutionally (a Trust) certify that the following Resolution was adopted at a duly held meeting of the Board of Trustees of Americans Building Constitutionally held on the 19th day of May, 1967, to wit:

Resolved, That the Board of Trustees authorize to be made and hereby do make a grant of $5,000 to be administered by Forensic Science Institute in advancing the purpose and program of Americans Building Constitutionally in all ways consistent with the Forensic Science Institute's purpose as may be from time to time assigned by Americans Building Constitutionally.

BERTHA FIELDS.

Accepted and agreed to on behalf of the Forensic Science Institute by Herman E. Kimsey.

July 12, 1967.

I, Bertha Fields, Executive Secretary of Americans Building Constitutionally (A Trust), certify that the following Resolution was adopted at a duly held meeting of the Board of Trustees of Americans Building Constitutionally (A Trust) on the 6th day of May, 1967, to wit:

Resolved, That moved by the significant contribution of Herman E. Kimsey which has been embodied in the Forensic Science Institute which has made such important contributions and shall in the future make an even greater contribution toward war against crime and the maintenance of civil order which is a pillar of this Republic, Americans Building Constitutionally (A Trust) authorizes and does hereby grant the sum of $10,500 in trust to be applied toward said Forensic Science Institute's membership in Americans Building Constitutionally (A Trust).

BERTHA FIELDS.

Accepted and agreed to on behalf of the Forensic Science Institute by Herman E. Kimsey.

July 12, 1967.

AMERICANS BUILDING CONSTITUTIONALLY, A TRUST

MEMBERSHIP APPLICATION AND SPONSORING AGREEMENT

This application will create no rights, duties, or obligations in either the applicant, his Sponsor, or Americans Building Constitutionally until accepted unconditionally by both the Sponsor and Americans Building Constitutionally.

The membership applicant submits that he is a citizen in good standing, that he wishes to ease the burdens of our government by working to benefit mankind and to dedicate himself to that end, and that upon acceptance by the Sponsor and Americans Building Constitutionally, he will seek to fulfill through his to-be-formed, non-profit organization the qualifications for full membership in both organizations and he will abide by the standards of sponsorship of Americans Building Constitutionally.

Applicant represents that he intends to establish a non-profit organization for the benefit of mankind and makes this agreement both personally and on behalf of that to-be-formed, non-profit organization. Acceptance by the Sponsor and Americans Building Constitutionally is conditioned upon the formation of that non-profit organization and adoption by that non-profit organization of this agreement.

In the event the applicant fails to form the contemplated non-profit organization or that non-profit organization fails to adopt this agreement, the applicant is released from any personal liability for sums as yet unpaid. Notwithstanding this release, neither the Sponsor nor Americans Building Constitutionally is obligated to return any portion of the membership fee paid prior to notification of this failure.

Upon receipt by the Sponsor of $10,500.00, the amount of the membership fee in Americans Building Constitutionally for a senior membership, the Scientific Prayer Ministry Foundation, Inc. agrees to act as applicant's agent in sponsoring applicant and the applicant's to-be-formed, non-profit organization for membership in Americans Building Constitutionally. Upon acceptance by both the sponsoring non-profit organization and Americans Building Constitutionally, said organizations agree to provide all things necessary by and with their information, methods, procedures and techniques to enable the applicant to more fully utilize and protect his constitutional rights to the end that he may benefit mankind. It is understood that while access to these methods, procedures, or information is an incident to membership in Americans Building Constitutionally, that all property rights in all such material is reserved to Americans Building Constitutionally and the member is to receive only the opportunity to make use of that material in the course of his participation as a member of Americans Building Constitutionally.

In further consideration of the acceptance of this application by the Sponsor and Americans Building Constitutionally of the applicant's to-be-formed, non-profit organization for membership, the applicant hereby agrees not to teach, give, lend, lease, sell, assign, or otherwise divulge or communicate any of the information, methods, procedures, or techniques furnished with the membership, without written consent of Americans Building Constitutionally. It is understood that violation of the provision of this paragraph will be a material breach sufficient to justify, among other things, revocation of membership privileges.

Applicant understands that it is the policy of Americans Building Constitutionally to expand the field of private non-profit organization activity through grants and endowments to member organizations and it is the applicant's desire that a portion of his membership fee may be so used, subject to the discretion of the Trustees of Americans Building Constitutionally, to endow the activities of member organizations.

The membership of the applicant's to-be-formed, non-profit organization in Americans Building Constitutionally shall be non-voting, non-transferrable and non-assessable, shall create no right of participation or control, and shall be conditioned upon the payment of the fee in full and completion of the membership requirements in both the sponsoring non-profit organization and Americans Building Constitutionally (as stated in the Standards of Sponsorship).

This agreement is personal and by the applicant's signature hereto, he makes his to-be-formed, non-profit organization and its membership a party to this agreement, which is not assignable and shall be construed as an Illinois contract, notwithstanding the place of delivery or performance.

Execute in quadruplicate and forward to Americans Building Constitutionally.

Name: Forensic Science Institute. Profession or Business: Intelligence Consultant and Public Safety.

Business Address: 1723 G St. N.W. City: Washington. State: D.C. 20006.

Home Address: Same. City: New York. State: New York.

Date: May 4, 1967.

Signature of Membership Applicant: Herman E. Kimsey.

Authorized Signature of Sponsor: Jon P. Speller, D.D.

Sponsoring Organization (to whom all membership fees are paid): Scientific Prayer Ministry Foundation, Inc.

City: New York. State: New York.

Accepted by: Bertha Fields.

Americans Building Constitutionally (a Trust) N.F.P., P.O. Box 575, Barrington, Illinois 60010.

APPLICANT'S COPY

I, Bertha Fields, Executive Secretary of Americans Building Constitutionally (a Trust), certify that the following Resolution was adopted at a duly held meeting of the Board of Trustees of Americans Building Constitutionally held on the 11th day of July, 1967, to wit:

Resolved, That the sum of $2,500 be and hereby is authorized to be paid to the Forensic Science Institute to represent reimbursement for expenses incurred by the Institute in advancing the aims and goals of Americans Building Constitutionally and, more recently, the aims and goals of the Philippa Schuyler Memorial Foundation.

BERTHA FIELDS.

Accepted and agreed to on behalf of the Forensic Science Institute by Herman E. Kimsey.

July 12, 1967.

This grant is extended to include expenses and fees for services rendered until such date as this project is no longer in force. As of 30 Sept. 67, the additional amounts totalled $2308.04.

[From the Washington Star, Nov. 1, 1967]

ABC-AIDED FOUNDATION CENTERED IN HOTEL ROOM

The international headquarters of the Forensic Science Institute, which its director describes as a research and development facility for modern crime-fighting techniques, is one hotel room at 17th and G Streets NW.

The room, illuminated by a bare overhead light, serves as the hub of one of the foundations being investigated by a House subcommittee.

It is an offspring of the Americans Building Constitutionally (ABC), which is under attack as a "school" for tax-free foundations.

Yesterday Rep. Wright Patman, D.-Tex., said the ABC had given the institute a "grant" of $10,500, which the institute then returned to the ABC as a membership fee.

The disclosure came during the second day of hearings of the Patman's Small Business subcommittee on foundations.

Director of the institute—and presently its sole member—is Herman E. Kimsey, who explained the gift yesterday:

"ABC felt that I had made significant contributions in the field of forensic science, and that I would make more contributions in the future."

He denied that the money was a loan, insisting it was "an outright grant."

In Kimsey's signed statement to Patman, he said the check was "endorsed by myself and returned to their records."

"That looks like kind of a game," Patman said yesterday. But Kimsey stuck by his explanation of the maneuver.

Kimsey is a former CIA employee and was security officer for Barry Goldwater during the 1964 presidential campaign. Two years ago he was one of two instructors who introduced a composite picture identification system to the Metropolitan Police Department—a system which is now in wide use throughout the country.

He said his foundation researches ways to give police positive ways of solving crimes and identifying criminals. For example, he said, testimony by doctors is only opinion—even though expert. In contrast, fingerprinting is irrefutable fact.

"The institute applies the physical laws of science to criminal investigation," he said. "We want to replace opinion by provable evidence."

He received an initial $5,000 grant, in addition to the $10,500 membership fee, from the ABC, he said.

"We hope in the future to receive more grants from ABC and others," he added.

He said the foundation averages about $500 a month in spending.

Mr. Ray. May I see the information being placed in the record?

Mr. Patman. This is the one I just read. Hand this to him.

We are trying to find—hand it to the attorney—we are trying to find the source of large funds which ABC seems to hand out freely to some foundations who have assumed tax exemption merely by the twist of a wrist. You refuse to furnish us information, so we have to ask questions.

How many members of ABC, Mr. Hayes, have borrowed money from that organization? How many members have borrowed money from the ABC organization?

Mr. Hayes. As trustee, I can't reveal that information.

Mr. Patman. Do you have the information?

Mr. Hayes. Not at the moment, sir.

Mr. Patman. Well, you have it available.

Mr. Hayes. Not that I know.

Mr. Patman. The records of the fund disclose this information though. You admit that, don't you, Mr. Hayes? Bring this back up here, will you please?

Mr. Hayes. Pardon me, would you restate that question, Mr. Chairman.

Mr. Patman. How many members of ABC have borrowed money from that organization?

Mr. Hayes. I can't reveal that, sir.

Mr. Patman. How much money has ABC loaned to its members?

Mr. Hayes. I can't reveal that.

Mr. Patman. You are hereby ordered to furnish the following information to this subcommittee by November 13. That should be November 8, like it was awhile ago, 1967:

1. Name and address of every ABC debtor since date of organization. Name and address of every ABC debtor—and every ABC debtor. That should be name and address of every ABC debtor since date of organization. Do you have that down, Mr. lawyer, Mr. attorney?

2. Face amount of the loan.

3. Interest rate.

4. Date loan was made.
5. Due date.

(This information has not been received by the subcommittee.)

Has ABC or authorized members contacted prospective applicants by mail? Has the ABC or authorized members contacted prospective applicants by mail?

Mr. HAYES. Not that I know of.

Mr. PATMAN. Does ABC use printed promotional material?

Mr. HAYES. No.

Mr. PATMAN. It does not use printed promotional material.

Mr. HAYES. It does not.

Mr. PATMAN. Has ABC ever used any brochures as promotional material or for other uses?

Mr. HAYES. Originally, there was a small pamphlet. This is no longer used.

Mr. PATMAN. How long was it discontinued?

Mr. HAYES. I don't know the exact time, but it has been a good many months.

Mr. PATMAN. About a year?

Mr. HAYES. About.

Mr. PATMAN. About a year. I know his answer was they are not using it now. He said "No" and he explains now that it has been a year since they have used it.

I have here a brochure which I understand was used as a mailing piece by ABC at one time. Are you familiar with it? Can you see it from here, to recognize it, or would you like to have it in hand? (See exhibit 6, appendix p. 1027.)

Mr. RAY. Could we see it?

Mr. HAYES. I am familiar with that piece, Mr. Chairman. To my knowledge it was never sent through the mail.

Mr. PATMAN. It was never sent through the mail.

Mr. HAYES. No.

Mr. PATMAN. But it was used up until what time, about how long ago? Or is it used now?

Mr. HAYES. It is not used now.

Mr. PATMAN. It is not used now. Is it in the category that you mentioned awhile ago? It has been a year since it was used.

Mr. HAYES. Correct.

Mr. PATMAN. On October 30 you presented us with a copy of a sales pitch that was used in a so-called seminar which you conducted for the benefit of IRS officials. The material you gave us was tailored for that seminar; is that correct?

Mr. HAYES. No, sir.

Mr. PATMAN. Who is the person in charge of ABC's accounting records?

Mr. HAYES. Mr. Chairman, the lady mentioned a few moments ago, Mrs. Fields.

Mr. PATMAN. She handles the records.

Mr. HAYES. Correct.

Mr. PATMAN. Do you have an independent audit of your records and expenditures, income and so forth? Have you had a certified public accountant audit your books within the last year?

Mr. HAYES. We are in that process right at the moment.

Mr. PATMAN. Who is the accountant?

Mr. HAYES. I can't reveal his name.

Mr. PATMAN. You mean there is a good reason why you can't name an accountant that is auditing your books? Who is he dealing with in connection with the company? Is he dealing with you in getting the books and records or with whom is he dealing, the accountant?

Mr. HAYES. He is dealing with Mrs. Fields.

Mr. PATMAN. Mrs. Fields.

Mr. HAYES. Only.

Mr. PATMAN. I have here a copy of an ABC application form. I shall place it in the record.

(The form referred to follows:)

AMERICANS BUILDING CONSTITUTIONALLY

MEMBERSHIP APPLICATION AND SPONSORING AGREEMENT

This application will create no rights, duties, or obligations in either the applicant, his Sponsor, or Americans Building Constitutionally until accepted unconditionally by both the Sponsor and Americans Building Constitutionally.

The membership applicant submits that he is a citizen in good standing, that he wishes to ease the burdens of our government by working to benefit mankind and to dedicate himself to that end, and that upon acceptance by the Sponsor and Americans Building Constitutionally, he will seek to fulfill through his to-be-former, non-profit organization the qualifications for full membership in both organizations and he will abide by the standards of sponsorship of Americans Building Constitutionally.

Applicant represents that he intends to establish a non-profit organization for the benefit of mankind and makes this agreement both personally and on behalf of that to-be-formed, non-profit organization. Acceptance by the Sponsor and Americans Building Constitutionally is conditioned upon the formation of the non-profit organization and adoption by that non-profit organization of this agreement.

In the event the applicant fails to form the contemplated non-profit organization or that non-profit organization fails to adopt this agreement, the applicant is released from any personal liability for sums as yet unpaid. Notwithstanding this release, neither the Sponsor nor Americans Building Constitutionally is obligated to return any portion of the membership fee paid prior to notification of this failure.

Upon receipt by the Sponsor of $10,500.00, the amount of the membership fee in Americans Building Constitutionally for a senior membership, the Americans Building Constitutionally agrees to act as applicant's agent in sponsoring applicant and the applicant's to-be-formed, non-profit organization for membership in Americans Building Constitutionally. Upon acceptance by both the sponsoring non-profit organization and Americans Building Constitutionally, said organizations agree to provide all things necessary by and with their information, methods, procedures and techniques to enable the applicant to more fully utilize and protect his constitutional rights to the end that he may benefit mankind. It is understood that while access to these methods, procedures, or information is an incident to membership in Americans Building Constitutionally, that all property rights in all such material is reserved to Americans Building Constitutionally and the member is to receive only the opportunity to make use of that material in the course of his participation as a member of Americans Building Constitutionally.

In further consideration of the acceptance of this application by the Sponsor and Americans Building Constitutionally of the applicant's to-be-formed, non-profit organization for membership, the applicant hereby agrees not to teach, give, lend, lease, sell, assign, or otherwise divulge or communicate any of the information, methods, procedures, or techniques furnished with the membership, without written consent of Americans Building Constitutionally. It is understood that violation of the provision of this paragraph will be a material breach sufficient to justify, among other things, revocation of membership privileges.

Applicant understands that it is the policy of Americans Building Constitutionally to expand the field of private non-profit organization activity through grants and endowments to member organizations and it is the applicant's desire that a portion of his membership fee may be so used, subject to the discretion of the Trustees of Americans Building Constitutionally, to endow the activities of member organizations.

The membership of the applicant's to-be-formed, non-profit organization in Americans Building Constitutionally shall be non-voting, non-transferrable and non-assessable, shall create no right of participation or control, and shall be conditioned upon the payment of the fee in full and completion of the membership requirements in both the sponsoring non-profit organization and Americans Building Constitutionally (as stated in the Standards of Sponsorship).

This agreement is personal and by the applicant's signature hereto, he makes his to-be-formed, non-profit organization and its membership a party to this agreement, which is not assignable and shall be construed as an Illinois contract, notwithstanding the place of delivery or performance.

Execute in quadruplicate and forward to Americans Building Constitutionally.

Name: Hough's Encyclopaedia of American, Woods Foundation, Inc.

City: New York. State: New York.

Date: June 1, 1967,.

Signature of Membership Applicant: Robert Speller. (SEAL)

Authorized Signature of Sponsor: R. D. Hayes, Trustee. (SEAL)

Sponsoring Organization (to whom all membership fees are paid): Americans Building Constitutionally (A Trust). Address: P.O. Box 575; City: Barrington; State: Illinois.

Accepted by: Bertha Fields.

Americans Building Constitutionally (A Trust) N.F.P.

P.O. Box 575, Barrington, Illinois 60010.

Mr. PATMAN. First, I would like to have you take a look at it. Please tell us whether it is the application form that is presently in use by ABC or has been in use by ABC in the past. Have you looked at it, Mr. Hayes?

Mr. HAYES. Yes; this is the one.

Mr. PATMAN. That is the one.

Mr. HAYES. Correct.

Mr. PATMAN. Let me have it back, please. I will have someone here in a moment that will do that work. Thanking you very much. Do you have a copy of the ABC application form now in use?

Mr. HAYES. You have it there.

Mr. PATMAN. This is it?

Mr. HAYES. Yes.

Mr. PATMAN. All right. When ABC accepts a foundation for membership, who receives the fee?

Mr. HAYES. ABC receives the fee, Mr. Chairman.

Mr. PATMAN. Well, someone representing ABC obviously must receive it. Who is that person?

Mr. HAYES. Whoever is the sponsoring member.

Mr. PATMAN. The sponsoring member.

Mr. HAYES. Right.

Mr. PATMAN. Do you give them a reduction?

Mr. HAYES. No, sir.

Mr. PATMAN. But anyone who is the sponsoring member is the one who receives the fee from the person who becomes a new member of ABC, the sponsoring member.

Mr. HAYES. At this time, that is correct.

Mr. PATMAN. In other words, all new members must be sponsored by some existing member.

Mr. HAYES. That is correct.

Mr. PATMAN. What are the qualifications for membership in ABC?

Mr. HAYES. It is available to every American citizen in good standing.

Mr. PATMAN. Who determines whether an individual has the necessary qualifications to become a member of ABC?

Mr. HAYES. The courts.

Mr. PATMAN. The courts? You don't carry this to court.

Mr. HAYES. We haven't had occasion to at this time.

Mr. PATMAN. I know, but someone must receive the fee, for instance, and someone must be accepted as members. Who in your organization accepts them as a member in good standing?

Mr. HAYES. The trustees.

Mr. PATMAN. The trustees, three of you.

Mr. HAYES. Correct.

Mr. PATMAN. Well, if there is just one present, who does it?

Mr. HAYES. This is an act that all three trustees must pass on.

Mr. PATMAN. They must pass on.

Mr. HAYES. Right.

Mr. PATMAN. Do you accept members who are not American citizens?

Mr. HAYES. No.

Mr. PATMAN. I note that the membership application requires a pledge of secrecy from the members. We have, for example, received a letter from an accounting firm which says as follows:

> For some time we have been trying to secure some factual information about the aims and purposes of Americans Building Constitutionally, and so far we have been unsuccessful in getting any written material which contains the kind of factual information which we would like to have.

Why is it necessary for ABC to operate in secrecy?

Mr. HAYES. Who wrote the letter, Mr. Chairman, if I might ask?

Mr. PATMAN. Well, it is an accounting firm. What difference does it make? In fact, we could get you up a number of letters like this.

Mr. HAYES. I imagine so.

Mr. PATMAN. And the question is whether or not you operate in secret, and why is it necessary to operate in secrecy?

Mr. HAYES. Who is the letter addressed to, Mr. Chairman? ABC isn't hiding.

Mr. PATMAN. It is addressed to you.

Mr. HAYES. It is addressed to me?

Mr. PATMAN. No; it was addressed to me.

Mr. HAYES. Oh.

Mr. PATMAN. But they have been trying to get the information from you, and they have been unable to do it.

Mr. HAYES. The question that arises in my mind is why didn't they contact me.

Mr. PATMAN. My information is that they did contact you.

Mr. HAYES Not to my knowledge.

Mr. PATMAN. The question is why is it necessary to operate in secrecy.

Mr. RAY. Would you clarify that question, Mr. Chairman?

Mr. PATMAN. I don't think it needs any clarification.

Mr. RAY. The only requirement of secrecy to my knowledge is that they don't reveal the trust instrument.

Mr. Patman. The trust instrument, I thought it had been recorded.

Mr. Ray. Right.

Mr. Patman. Well, that is in the public domain. There is no secrecy there, subject to the laws of Illinois as well as the Federal laws.

Mr. Hayes. We reveal this information in our seminars. There is no secrecy involved except that people don't want their affairs spread all over the newspapers and in the hands of those who might use it to their disadvantage.

Mr. Patman. Do I understand correctly that an ABC member must promise to never divulge any of ABC's methods or procedures or techniques or the identity of any other member?

Mr. Hayes. All the information, Mr. Chairman, to that regard is on that application form.

Mr. Patman. It is on the application.

Mr. Hayes. Yes, sir.

Mr. Patman. And it does have a statement in connection with that.

Mr. Hayes. It has some such statement, not exactly as——

Mr. Patman. Of the $10,500 paid for senior membership, how much of it goes to ABC?

Mr. Hayes. The entire amount is payable to ABC as a membership fee.

Mr. Patman. Of the $10,500, who gets the portion that does not go to ABC and how much is that portion?

Mr. Hayes. All of it goes to ABC.

Mr. Patman. Don't you have—I wouldn't say kickback, that is kind of an undignified phrase—but don't you have some method of reimbursing the member who brings the person in?

Mr. Hayes. The trustees just as in any other not-for-profit, tax-exempt organization at their discretion may make endowments to any other qualified not-for-profit organization.

Mr. Patman. Do any of the trustees——

Mr. Hayes. Parden me—for services rendered.

Mr. Patman. Do any of the trustees receive any money from ABC, such as a salary, fees, or expenses?

Mr. Hayes. I can't answer that, Mr. Chairman.

Mr. Patman. The membership application states that neither the sponsor nor ABC is obligated to return any portion of the membership fee if the member fails to go ahead with the ABC system. Who, if anyone, has dropped the ABC plan and requested that the fee be returned?

Mr. Hayes. I can't reveal those facts, Mr. Chairman.

Mr. Patman. Well, has anyone requested it?

Mr. Hayes. I can't recall the names right now, although I do believe there are two or three who have.

Mr. Patman. Who have requested it.

Mr. Hayes. Yes.

Mr. Patman. All right. The membership application states as follows:

> It is understood that while access to these methods, procedures or information is an incident to membership in Americans Building Constitutionally, that all property rights in all such material is reserved to Americans Building Constitutionally and the member is to receive only the opportunity to make use of that material in the course of his participation as a member of Americans Building Constitutionally.

How do you enforce this?

Mr. HAYES. I think it is impossible to enforce it. Nevertheless, it is in the——

Mr. PATMAN. All right. The membership application states as follows:

The applicant hereby agrees not to teach, give, lend, lease, sell, assign or otherwise divulge or communicate any of the information, methods, procedures or techniques furnished with the membership without written consent of Americans Building Constitutionally. It is understood that violation of the provisions of this paragraph will be a material breach sufficient to justify, among other things, revocation of membership privileges.

How do you enforce this?

Mr. HAYES. So far as I know, Mr. Chairman, there has been no need for it.

Mr. PATMAN. No need for it. The membership application states that a portion of the membership fee may be used, subject to the discretion of the trustees of the Americans Building Constitutionally to endow the activities of member organizations. What foundations have received grants from ABC?

Mr. HAYES. As trustee, Mr. Chairman, I can't reveal that information.

Mr. PATMAN. You refuse. As chairman, I specifically direct you to answer the question.

Mr. HAYES. Mr. Chairman, I can only refuse as trustee on the basis that these people do not wish their names revealed.

Mr. PATMAN. Let us say that I have enough money to become a member of ABC. Please tell us, step by step, just what the mechanics are for becoming a member of ABC, and the cost for each class of membership.

Mr. HAYES. The first step, Mr. Chairman, would be to contact your lawyer. The next step would be to request sponsorship into membership by someone who is already a member of ABC.

Mr. PATMAN. That is the only way they can get consideration?

Mr. HAYES. That is correct.

Mr. PATMAN. All right, go ahead.

Mr. HAYES. The various fees for the various levels of membership, the educational membership, which consists of a 30-hour seminar covering the operation of not-for-profit structure, the operation, not the setting up of it.

Mr. PATMAN. That is the 30-hour seminar.

Mr. HAYES. Correct.

Mr. PATMAN. How many hours a day?

Mr. HAYES. Well, this depends on the wishes of those who are enrolled. Oftentimes it may be 3 days in a row.

Mr. PATMAN. All right, go ahead. Now what is after that?

Mr. HAYES. $1,050 is that membership fee.

Mr. PATMAN. $1,050

Mr. HAYES. Correct.

Mr. PATMAN. That is the seminar membership fee.

Mr. HAYES. This is the seminar membership fee.

Mr. PATMAN. Educational.

Mr. HAYES. Right.

Mr. PATMAN. All right, go ahead.

Mr. HAYES. This covers as I stated the operation of the seminar or the entities themselves. If after seeing this seminar, this educational member desires to proceed further, he can go in either one or two directions. One is to be sponsored in the junior membership, in which case his attorney is given the know-how to set up his affairs in a not-for-profit corporation under State charter, if he is qualified. The additional membership fee on that is $4,200 in addition to the $1,050. If then he desires to go on to full membership, which includes providing his attorney with the knowledge of how to set up the common law or ownership trust or constitutional trust as it is sometimes called, the additional fee for that is $5,250. If you add these up for the full membership overall, it comes out $10,500.

Mr. PATMAN. All right. Now one of the benefits of a senior membership in ABC is that the senior member can sponsor applicants for membership; is that correct?

Mr. HAYES. That is correct, sir.

Mr. PATMAN. Are senior members of ABC the only ones who can sponsor other members?

Mr. HAYES. No. The junior member may sponsor other junior members or other senior members.

Mr. PATMAN. At the present time, how many senior members does ABC have?

Mr. HAYES. That I cannot reveal, Mr. Chairman, as trustee.

Mr. PATMAN. As chairman of the committee, I direct you to answer the question.

Mr. HAYES. I am sorry, sir; I can't do it.

Mr. PATMAN. If an ABC member convinces another person to join ABC, the former's foundation receives a grant out of the fees paid by the new member; is that correct?

Mr. HAYES. He can receive a grant at the discretion of the trustees.

Mr. PATMAN. How much is that grant?

Mr. HAYES. This again would be at the discretion of the trustees.

Mr. PATMAN. But never over how much?

Mr. HAYES. There again that is discretionary with the trustees.

Mr. PATMAN. If an ABC member convinces another person to join ABC, the former also receives part of the fees paid by any members attracted by the second member; is that correct?

Mr. HAYES. No; this is not correct.

Mr. PATMAN. In effect, one might say that ABC uses a commission system to attract members, is that true?

Mr. HAYES. No; this is not true.

Mr. PATMAN. At the time a person applies for membership in ABC, he is known as an ABC applicant; is that correct?

Mr. HAYES. At the time he applies.

Mr. PATMAN. Yes; for membership.

Mr. HAYES. I would say that would be a fair statement.

Mr. PATMAN. At the time that a person applies for membership in ABC, does he pay a membership fee at that time; in other words, with his application?

Mr. HAYES. Yes.

Mr. PATMAN. How much is it?

Mr. HAYES. This depends on the class of membership.

Mr. PATMAN. That is the $1,050 seminar and so forth.

Mr. HAYES. Correct.

Mr. PATMAN. To whom does the ABC applicant make his first check payable?

Mr. HAYES. To his sponsor.

Mr. PATMAN. To his sponsor?

Mr. HAYES. Correct.

Mr. PATMAN. After the sponsor foundation receives the applicant's check, what does the sponsor foundation do with the check? Is the check deposited in the sponsor foundation's account?

Mr. HAYES. Yes; that would probably be correct.

Mr. PATMAN. To whom does the sponsor foundation transmit the money paid by the applicant?

Mr. HAYES. He must transfer it to ABC.

Mr. PATMAN. ABC; to whom is the cosponsor—no, not cosponsor—to whom is the sponsor foundation's check made out?

Mr. HAYES. It would be made out to ABC.

Mr. PATMAN. It is made out to the ABC trustees or just ABC? It would have to be the trustees, I assume?

Mr. HAYES. No; it would be ABC.

Mr. PATMAN. The sponsor foundation sends the applicant's money to ABC immediately; is that correct?

Mr. HAYES. In most cases that is correct.

Mr. PATMAN. In other words, the sponsor foundation does not wait until ABC informs it whether or not the applicant has been approved. It goes ahead and sends a check in?

Mr. HAYES. Yes; that is correct.

Mr. PATMAN. In other words, an application for membership is accompanied by a check from the sponsor foundation?

Mr. HAYES. Correct.

Mr. PATMAN. Why doesn't the sponsor foundation transmit the applicant's check to ABC?

Mr. HAYES. Why doesn't it?

Mr. PATMAN. Yes.

Mr. HAYES. Would you restate that question, please?

Mr. PATMAN. Yes. In other words, the sponsor foundation does not wait until ABC informs it whether or not the applicant has been approved. In other words, an application for membership is accompanied by a check from the sponsor foundation. Those have been answered.

Then my question is why doesn't the sponsor foundation transmit the applicant's check to ABC instead of putting it into his account?

Mr. HAYES. Might I inquire as to the purpose of this question, Mr. Chairman?

Mr. PATMAN. Yes. The purpose is to find out the information that we are seeking as to how you operate, whether it is legal or illegal; whether or not your operations are in the public interest or against the public interest; whether or not you are violating laws, and if so, what should be done about it; and whether or not Congress should pass laws or whether or not present laws are sufficient. There are many questions that come up. A lot of people are convinced that, if your operations are legal, then the laws have got to be changed very quickly or we won't have any government in the United States of America.

Mr. HAYES. Well, the check must go to someone who is a qualified—or some foundation, I should say, which is a qualified, not-for-profit organization.

Mr. PATMAN. All right.

When the sponsor foundation sends a check to ABC, is it the same amount of money that the applicant paid the sponsor foundation?

Mr. HAYES. Yes; it is, sir.

Mr. PATMAN. What is done with that money when it reaches ABC?

Mr. HAYES. This I cannot reveal, Mr. Chairman.

Mr. PATMAN. Would you please give us the names and addresses of the applicants for membership in ABC that have been sponsored by the Sales Analysis Institute Foundation?

Mr. HAYES. I cannot reveal that information, Mr. Chairman, because again our members do not want to have their affairs made public.

Mr. PATMAN. Remember, I am asking you about one of your foundations.

Mr. HAYES. This is correct.

Mr. PATMAN. Sponsored by the Sales Analysis Institute Foundation, and I direct you to answer that question, Mr. Witness.

Mr. HAYES. I think I mentioned the other day, Mr. Chairman, that SAI Foundation is not a member of ABC.

Mr. PATMAN. I thought you gave it as one of the three members that you sponsored.

Mr. HAYES. No, sir.

Mr. PATMAN. That you are in charge of.

Mr. HAYES. No.

Mr. PATMAN. All right. What is the total number of applicants for membership in ABC that have been approved, that have been sponsored by the Sales Analysis Foundation.

Mr. HAYES. Since Sales Analysis Institute Foundation is not a member, it could not sponsor it.

Mr. PATMAN. It could not sponsor it?

Mr. HAYES. No.

Mr. PATMAN. What is the total amount of money received by the Sales Analysis Institute Foundation from applicants for membership in ABC?

Mr. HAYES. None.

Mr. PATMAN. How many of the applicants sponsored by the Sales Analysis Foundation have become senior members of ABC?

Mr. HAYES. It again is not——

Mr. PATMAN. Your answer is that they could not sponsor it because they are not a member?

Mr. HAYES. Correct.

Mr. PATMAN. How many applications sponsored by the Sales Analysis Institute have been rejected by ABC? Obviously they haven't been rejected because they could not present any.

Mr. HAYES. Yes, sir.

Mr. PATMAN. Has ABC ever accepted a note as payment for a membership fee?

Mr. HAYES. Yes, I believe it has.

Mr. PATMAN. You have. What were the terms of that? Was it one note or more than one?

Mr. HAYES. I will have to—I would like to withdraw that last answer, Mr. Chairman, because I do not recall a case where ABC has accepted such a note. They could.

Mr. PATMAN. You do not have a note in mind that has ever been given to ABC?

Mr. HAYES. No, sir; I do not.

Mr. PATMAN. If you are mistaken about that, since you have withdrawn your question, would you correct it for the record?

Mr. HAYES. I certainly would.

Mr. PATMAN. And also the terms of the note including the interest rate and whether or not the note called for regular payments, if you have such a note.

Mr. HAYES. All right.

Mr. PATMAN. What was the due date of that note, in the event you discover one, and who was the note payable to, and so forth, in each case.

Mr. HAYES. Yes.

Mr. PATMAN. And whether or not it was secured. Has ABC ever permitted a senior member to earn credits toward paying off a note by way of sponsoring new members?

Mr. HAYES. Not that I know of.

Mr. PATMAN. How many applicants for senior membership in ABC have been turned down?

Mr. HAYES. I do not know the answer to that.

Mr. PATMAN. You do not know of any turned down?

Mr. HAYES. No, I did not say it that way. I do not know the answer to that question.

Mr. PATMAN. What do you tell an applicant who has been refused membership in ABC?

Mr. HAYES. Not having had to do that unpleasant job, I am not aware of what I would say.

Mr. PATMAN. What are the standards by which ABC refuses to accept applicants?

Mr. HAYES. One is if his standing as a citizen of the United States is lacking. Of course, this would be a major reason for rejection.

Mr. PATMAN. Does ABC investigate each applicant?

Mr. HAYES. Yes, we do.

Mr. PATMAN. Who does the investigating?

Mr. HAYES. The sponsor.

Mr. PATMAN. The sponsor?

Mr. HAYES. Right.

Mr. PATMAN. The sponsor is a member?

Mr. HAYES. Correct.

Mr. PATMAN. He gets a fee. He is a rather interested person, isn't he?

Mr. HAYES. Not necessarily.

Mr. PATMAN. What is that?

Mr. HAYES. Not necessarily.

Mr. PATMAN. Well, he gets a fee.

Mr. HAYES. No.

Mr. PATMAN. If it is accepted. He does not get a fee if it is not accepted, does he?

Mr. HAYES. This, again, is entirely up to the discretion of the trustees as to whether he gets an endowment or whether he does not.

Mr. PATMAN. Did ABC investigate the Walsh Family Foundation of which James R. Walsh, Jr., is the principal?

Mr. HAYES. No. The Walsh Family Foundation is not a member of ABC.

Mr. PATMAN. Does ABC tell the sponsor foundation why an applicant is refused membership?

Mr. HAYES. No.

Mr. PATMAN. Now, if we were attending a meeting right now, and I paid $1,000 and became a junior member, I believe I would have to pay $1,050?

Mr. HAYES. That would be an educational membership.

Mr. PATMAN. What would I get for that $1,050? That is the seminar. That is the 30-hour educational campaign?

Mr. HAYES. Yes. You would get the education that is in the texts, the layman's texts.

Mr. PATMAN. That is in one of those volumes.

Mr. HAYES. It is in several of the volumes.

Mr. PATMAN. Yes.

In other words, I would get an educational experience.

Mr. HAYES. Correct.

Mr. PATMAN. Will ABC help me set up a foundation?

Mr. HAYES. No.

Mr. PATMAN. What is the point of my giving you $1,050? Why don't I just give it to a lawyer and let him set one up for me?

Mr. HAYES. Well, this, I think, is a very good question. If the lawyer had the know-how, there is no reason why you couldn't.

Mr. PATMAN. Do I pay $1,050 to learn what to tell a lawyer?

Mr. HAYES. No.

Mr. PATMAN. Pardon me?

Mr. HAYES. No.

Mr. PATMAN. Does the lawyer attend the seminar?

Mr. HAYES. He can.

Mr. PATMAN. For that $1,050, the 30-hour seminar, your lawyer can be right with you?

Mr. HAYES. Some of our members have brought their attorneys to those layman's seminars.

Mr. PATMAN. And that is where you educate them as well as the member?

Mr. HAYES. No.

Here is the point I want to make clear. The educational seminar for laymen does not instruct how to set up the legal procedure for setting up not-for-profit structures.

Mr. PATMAN. No. That comes later in the next category.

Mr. HAYES. Well, the layman is not educated along that line. Now we have an attorney seminar in which those things are covered.

Mr. PATMAN. In which fee category would he be? Obviously not in the $1,050. He would be in the other one, would he not?

Mr. HAYES. Yes.

Mr. PATMAN. What price is that, $4,200?

Mr. HAYES. That is part of the total membership.

Mr. PATMAN. I know, but he is ascending, you know. He starts at $1,050 and then you educate the member, the proposed member who has made an application, and you do not tell him how to set up a foundation, and you do not tell his lawyer.

Mr. HAYES. Yes.

Mr. PATMAN. Although he attends the seminar.

Mr. HAYES. No.

Mr. PATMAN. But in the next room we will say, in the next room you have another meeting. That is where they charge $4,200, is it not?

Mr. HAYES. No.

Mr. PATMAN. How much do they charge where the lawyer goes in and is taught the mysterious way?

Mr. HAYES. There is no fee for the lawyers.

Mr. PATMAN. I know, but you said that you did not teach the applicant in this 30-hour seminar how to set up a foundation for himself, the applicant. Therefore, you had another seminar for the attorneys to teach them how to set up a foundation for their member client. But do they have to pay anything for this additional information?

Mr. HAYES. No, they do not.

Mr. PATMAN. Where does the $4,200 come in? A while ago you said——

Mr. HAYES. Well, the $4,200 is paid by the layman.

Mr. PATMAN. For what purposes? What does he get for it?

Mr. HAYES. For the membership fee.

Mr. PATMAN. The membership?

Mr. HAYES. Entitling him to the use of those instruments.

Mr. PATMAN. Well, when is this member taught how to set up a foundation with his lawyer? He is not taught that in the first seminar, you said, the $1,050.

Mr. HAYES. The layman is never taught how to set up one of these.

Mr. PATMAN. You mean you leave the layman alone and call his lawyer?

Mr. HAYES. Correct. He sends his lawyer.

Mr. PATMAN. You do that without charge?

Mr. HAYES. That is correct.

Mr. PATMAN. Without charge?

Mr. HAYES. Yes. That is without charge to the attorney.

Mr. PATMAN. Without charge. What about the sponsoring member? What about the member? Is it without charge to him?

Mr. HAYES. That is covered by the membership fee.

Mr. PATMAN. The $1,050?

Mr. HAYES. No, the $4,200.

Mr. PATMAN. Now you are getting down to what I have been asking you all the time.

Mr. HAYES. That is what I am trying to make clear.

Mr. PATMAN. You said you did not teach him how——

Mr. HAYES. Right.

Mr. PATMAN (continuing). To set up a foundation in the 30-hour seminar that cost $1,050, but that comes later. Now you say the lawyer comes in and he is taught how to set it up. It does not cost the lawyer anything, but it costs the membership something. How much does it cost the member?

Mr. HAYES. $4,200.

Mr. PATMAN. That is what I asked you a while ago.

Mr. HAYES. This is what I am trying to make clear.

Mr. PATMAN. Yes.

Mr. MORTON. Mr. Chairman, will you yield at that point?

Mr. PATMAN. Yes.

Mr. MORTON. If the lawyer sets up a foundation for party A, and then subsequently using the same information sets up a fundation for another client, party B, is he in violation of the terms of your application?

Mr. HAYES. He can practice law, I believe, sir, any time he wants.

Mr. MORTON. Thank you, Mr. Chairman.

Mr. PATMAN. In other words, you would not attempt to refuse him the right to use the same knowledge that he acquires from you with other clients?

Mr. HAYES. I think that is correct; yes, sir.

Mr. MORTON. Mr. Chairman, will you yield?

Mr. PATMAN. Yes.

Mr. MORTON. In that event, then, the terms of this application are really not realistic. If the lawyer, who really is the principal in creating this instrument, uses the information again, it is prefectly OK. Is that correct?

Mr. PATMAN. Does ABC——

Mr. HAYES. Pardon me.

Mr. PATMAN. Answer his question.

Mr. HAYES. The lawyer is not included in the application.

Mr. PATMAN. And he is not obligated as the member is.

Mr. HAYES. Correct.

Mr. PATMAN. Does ABC have any members who are not professional people or independent businessmen, in other words, salaried employees?

Mr. HAYES. We could accept them; yes, sir.

Mr. PATMAN. Do you have any?

Mr. HAYES. I think so, yes.

Mr. PATMAN. Just salaried employees?

Mr. HAYES. Yes.

Mr. PATMAN. What benefits would a salaried employee receive by becoming a member of ABC?

Mr. HAYES. Whatever the law provides for he could profit.

Mr. PATMAN. What inducement could you have?

How big a salary would he have to receive before it would be economically feasible for him to consider membership?

Mr. HAYES. This is a question that I could not answer without complete details of the individual situation.

Mr. PATMAN. The Wall Street Journal of August 28, 1967, states that:

"Salaried individuals also could utilize the ABC concept by assigning future earnings to the foundation and having it vend their services to their employer." Will you explain that?

Mr. HAYES. That is what the Wall Street Journal says. I am not sure I could explain it.

Mr. PATMAN. How many employees does Sales Analysis Institute Foundation have?

Mr. HAYES. Sales Analysis Institute has now, I believe, about eight employees.

Mr. PATMAN. How many of them have foundations?

Mr. HAYES. None.

Mr. PATMAN. How many of these employee foundations are members of ABC? But you state there are none.

Mr. HAYES. That is right.

Mr. PATMAN. The are are none.
Mr. HAYES. Right.
Mr. PATMAN. Does any employee of Sales Analysis Institute Foundation have any part of his salary transmitted to a foundation?
Mr. HAYES. No employee.
Mr. PATMAN. How many employees of Sales Analysis Institute Foundation have any part of their salaries transmitted to foundations? Your answer is none?
Mr. HAYES. No employee.
Mr. PATMAN. Now there are eight employees, are there not?
Mr. HAYES. Who are employees——
Mr. PATMAN. That is right.
Mr. HAYES (continuing). Of Sales Analysis Institute.
Mr. PATMAN. That is right. That is what you said.
Mr. HAYES. Right.
Mr. PATMAN. Now, how many of them have any part of their salaries transmitted to foundations?
Mr. HAYES. None.
Mr. PATMAN. You are sure about that?
Mr. HAYES. Yes, sir.
Mr. PATMAN. Mr. James T. Todhope, Jr., is an employee of Sales Analysis Institute Foundation?
Mr. HAYES. No; he is not.
Mr. PATMAN. Has he been?
Mr. HAYES. He was at one time.
Mr. PATMAN. Well, his salary was transmitted; was it not?
Mr. HAYES. Not as an employee. These are private—his foundation is a private contractor.
Mr. PATMAN. But he is not employed now?
Mr. HAYES. That is right.
Mr. PATMAN. Mr. Maurice J. Harris is an employee of the Sales Analysis Institute Foundation?
Mr. HAYES. No; he is not.
Mr. PATMAN. He has been employed?
Mr. HAYES. He was at one time.
Mr. PATMAN. Isn't it true that his salary was transmitted to his foundation by Sales Analysis Institute?
Mr. HAYES. No.
Mr. PATMAN. Mr. J. K. Kirk is an employee of the Sales Analysis Institute Foundation. It is true that his salary has been transmitted; is it not——
Mr. HAYES. No.
Mr. PATMAN (continuing). By the Sales Analysis Institute Foundation?
Mr. HAYES. Not as an employee.
Mr. PATMAN. Well, on what reason was it transmitted, then?
Mr. HAYES. His foundation is a private contractor.
Mr. PATMAN. Was it transmitted when he was an employee?
Mr. HAYES. No; it was not.
Mr. PATMAN. Mr. Fred Dell is an employee of the Sales Analysis Foundation. It is true, is it not, that his salary has been transmitted to his foundation by Sales Analysis Foundation?
Mr. HAYES. He is not an employee of Sales Analysis.

Mr. PATMAN. He was, though.

Mr. HAYES. At one time.

Mr. PATMAN. Did he transmit then?

Mr. HAYES. No; he did not.

Mr. PATMAN. I now order you to furnish us by November 8, 1967, the names and addresses of all employees of the Sales Analysis Institute Foundation whose salaries are transmitted to a foundation or have been in the past. Will you furnish that information?

Mr. HAYES. There are none, Mr. Chairman.

Mr. PATMAN. Well, I know, but some of them that have been; you admit had their salaries transmitted.

Mr. HAYES. Not as employees.

Mr. PATMAN. As chairman of the committee, I order you to present that information for us by November 8.

(This information has not been received by the subcommittee.)

Which of the following pays you a salary, ABC, Sales Analysis Institute Foundation, R. D. Hayes Family Foundation? I am asking you now.

Mr. HAYES. Yes.

Mr. PATMAN. Robert D. Hayes, which of the following pays you a salary?

Mr. HAYES. Sales Analysis Institute Foundation.

Mr. PATMAN. Sales Analysis Institute Foundation. Do you receive any salary or fees from any of the other foundations?

Mr. HAYES. I do not.

Mr. PATMAN. What percentage of ABC members are medical men?

Mr. HAYES. I do not know the answer to that, Mr. Chairman.

Mr. PATMAN. You are connected with the following foundations: Americans Building Constitutionally, Barrington, Ill., Sales Analysis Institute Foundation, Barrington, Ill., R. D. Hayes Family Foundation, Wheaton, Ill.

How much has each of them paid out in grants since their date of organization?

Mr. HAYES. I cannot answer that. I do not know.

Mr. PATMAN. Well, I will direct you, as chairman of the committee, to furnish that information to us.

Will you do it by November 8?

Mr. RAY. Mr. Chairman, would you clarify? You stated he was trustee of three different foundations.

Mr. PATMAN. That is right. You are connected with the following foundations: ABC, Sales Analysis, R. D. Hayes.

Mr. RAY. And you want what information?

Mr. PATMAN. Yes; the grants that have been paid out since the date of the organization of each one.

Are the R. D. Hayes Family Foundation and the Sales Analysis Institute Foundation members of ABC?

Mr. HAYES. They are not.

Mr. PATMAN. Neither one?

Mr. HAYES. Neither one.

Mr. PATMAN. Do your recruiters tell people who join ABC that they will not be subject to Federal income tax so long as they stay with the ABC plan?

Mr. HAYES. ABC has no recruiters, Mr. Chairman.

Mr. PATMAN. We will change that word. We will say do you advocate and tell people who are members of the ABC that if they carry out the plan of the ABC, they will not have to pay income tax?

Mr. HAYES. No; we do not. We never have made that statement.

Mr. PATMAN. Do you tell the persons who join ABC that the philanthropic purposes of their foundations need not be fulfilled?

Mr. HAYES. We have never made that statement. In fact, we have made the opposite.

Mr. PATMAN. What personal benefits will a member of ABC derive from that organization?

Mr. HAYES. Knowledge as to how to conduct his affairs.

Mr. PATMAN. To do what? For what purpose?

Mr. HAYES. Under the law as provided for not-for-profit structure.

Mr. PATMAN. How will it benefit him?

Mr. HAYES. This would depend entirely on his operation. It would be very difficult unless we had a specific case to tie it down and say exactly what the benefits would be in any one case.

Mr. PATMAN. But it is designed for tax reduction; is it not, Mr. Hayes?

Mr. HAYES. Only in part.

Mr. PATMAN. That is the incentive for a person to pay out his money—his out-of-pocket expense—to benefit in lower taxes; is it not?

Mr. HAYES. No, sir. That may be only one of the advantages that he earns.

Mr. PATMAN. What are the other advantages?

Mr. HAYES. The other advantages are the opportunities to do something for mankind in privacy that can in turn give him a chance to expand his ideals, his goals, and his aims.

Mr. PATMAN. Gives him more money to do that with.

Mr. HAYES. It might.

Mr. PATMAN. In other words, money that would be paid to the Government he can keep and handle as he wants to.

Mr. HAYES. Not necessarily. It might result in his being able to better direct the effort, his efforts, than he could under some other form of organization.

Mr. PATMAN. Now, you are talking about the individual, the member. What benefits will the member's family derive from the organization?

Mr. HAYES. This again is a—it cannot inure to the benefit of any member of his family.

Mr. PATMAN. How do you expect people to pay out $1,050, or $10,500 and not get any benefits?

Mr. HAYES. I think that in every case they feel they do get benefits.

Mr. PATMAN. Is any portion of a member's fee put into a fund to defend him, if a tax principal that he adopts, pursuant to the recommendation of ABC, should be challenged?

Mr. HAYES. We are and have been trying to set up that type of fund.

Mr. PATMAN. Haven't you set it up already?

Mr. HAYES. On a very limited basis, yes.

Mr. PATMAN. How much money do you have in the fund now?

Mr. HAYES. I cannot reveal that.

Mr. PATMAN. You have some money in the fund?

Mr. HAYES. Yes, I think so.

Mr. PATMAN. And that is for the purpose of defending in the court. You have a promise to a member that you will defend him in court if he is challenged by any representations you have made about the tax exemption?

Mr. HAYES. As long as he operates under the law and does not perform a wrongful act, we would do our best.

Mr. PATMAN. You will defend him?

Mr. HAYES. To help him.

Mr. PATMAN. You will put up money to defend him? You have lawyers for that purpose?

Mr. HAYES. ABC can retain lawyers.

Mr. PATMAN. I mean ABC has lawyers now for that purpose, don't they?

Mr. HAYES. Yes.

Mr. PATMAN. You have lawyers?

Mr. HAYES. Sure.

Mr. PATMAN. For that purpose, obligated to defend him?

Mr. HAYES. Right.

Mr. PATMAN. How much of the member's fee is set aside for this fund?

Mr. HAYES. No specific amount.

Mr. PATMAN. No percentage?

Mr. HAYES. No percentage.

Mr. PATMAN. That is a very poor guarantee, is it not, to promise a lot of people you will defend them and you are not setting aside an adequate amount to do it.

Mr. HAYES. We do not believe that is true, Mr. Chairman.

Mr. PATMAN. What is the present size of this fund? You do not know the size of it?

Mr. HAYES. I do not.

Mr. PATMAN. Is it $1,000, $10,000, $100,000?

Mr. HAYES. I——

Mr. PATMAN. You would not know?

Mr. HAYES. I have to admit I do not know.

Mr. PATMAN. Are you the managing trustee?

Mr. HAYES. Not necessarily.

Mr. PATMAN. Who is?

Mr. HAYES. Three trustees.

Mr. PATMAN. All working together?

Mr. HAYES. Right.

Mr. PATMAN. Do you have to have a vote two and one?

Mr. HAYES. Oh, yes. I think the same as they do on any other committee.

Mr. PATMAN. Is ABC paying the legal expenses of any of its members at the present time?

Mr. HAYES. Paying the legal expenses?

Mr. PATMAN. Yes, of any of its members at the present time, now.

Mr. HAYES. Yes, it has retained attorneys.

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Mr. PATMAN. For how many members?
Mr. HAYES. I cannot reveal that information.
Mr. PATMAN. But they are there to represent whoever qualifies?
Mr. HAYES. Yes.
Mr. PATMAN. Who are these members for whom ABC is paying legal expenses at this time?
Mr. HAYES. I would like to correct the answer to the preceding question, Mr. Chairman. There is no case that I know of now where ABC is paying.
Mr. PATMAN. Has it in the past?
Mr. HAYES. Not to my knowledge.
Mr. PATMAN. What is your connection with the R. D. Hayes Family Foundation of Wheaton?
Mr. HAYES. I am a trustee.
Mr. PATMAN. Are you the managing trustee?
Mr. HAYES. There are five trustees.
Mr. PATMAN. Five trustees?
Mr. HAYES. Yes.
Mr. PATMAN. Do they operate as a board, majority rule?
Mr. HAYES. Right.
Mr. PATMAN. Who are they?
Mr. HAYES. They are in the information that I have presented.
Mr. PATMAN. In one of the five volumes that you gave us here the other day?
Mr. HAYES. No; that we gave you today.
Mr. PATMAN. Today. All right, then.
Mr. HAYES. I would rather not make that known in public.
Mr. PATMAN. Well, we have it here; yes, sir. When was the R. D. Hayes Family Foundation established?
Mr. HAYES. I believe you have the record there.
Mr. PATMAN. With reference to making that public, that is a matter for the committee to decide as to the question of confidentiality.
Mr. RAY. On what basis?
Mr. PATMAN. I did not want to indicate to you that I am promising you it will not be made public. It depends upon the public interest involved and the desire of the committee.
Mr. RAY. Mr. Chairman, am I to interpret that as meaning the committee decides whose private financial affairs it will reveal and not reveal?
Mr. PATMAN. Yes.
Mr. RAY. In the committee's sole discretion.
Mr. PATMAN. Including the importance of it, of course, and the public nature and the public interest.
Mr. RAY. I just wanted that for the record, Mr. Chairman.
Mr. PATMAN. We have been doing that for the Congress.
What is the address of the R. D. Hayes Family Foundation?
Mr. HAYES. 31550 Route 2, Leased Lane, Wheaton, Ill.

Mr. PATMAN. Has the R. D. Hayes Family Foundation filed an application for Federal tax exemption?

Mr. HAYES. It has not.

Mr. PATMAN. Why hasn't the R. D. Hayes Family Foundation filed an application for Federal tax exemption?

Do you mean to say that you are operating under a law that is above our U.S. Government laws and therefore you do not have to comply with the U.S. Government laws?

Mr. RAY. Mr. Chairman, if he may be permitted to have the answers which he has submitted before him, he can answer these questions.

Mr. PATMAN. Which?

Mr. RAY. We presented all the information.

Mr. PATMAN. You mean this morning?

Mr. RAY. Yes, sir.

Mr. PATMAN. About the Hayes Foundation?

Mr. HAYES. Yes.

Mr. RAY. The Hayes Family Foundation and SAIF, the answers to your series of questions.

Mr. PATMAN. Anyway, you have not filed any application for tax exemption?

Mr. HAYES. We have not.

Mr. PATMAN. Do you contend that you do not have to file one?

Mr. HAYES. No, no, we do not contend that.

Mr. PATMAN. You do not contend that. Did anybody advise you not to file an application for tax exemption for the Hayes Foundation?

Mr. HAYES. This is my understanding as to what the law reads.

Mr. PATMAN. Did anybody advise you, though, that you did not have to file an application for tax exemption in order to get a tax exemption?

Mr. HAYES. I believe not in this case.

Mr. PATMAN. You do not think anybody did. Has the R. D. Hayes Family Foundation filed a tax return form 990-A?

Mr. HAYES. Not at this point.

Mr. PATMAN. Why hasn't the Hayes Family Foundation filed a tax return form 990-A?

Mr. HAYES. We do not believe it is required by law.

Mr. PATMAN. The law says it, does it not?

Mr. HAYES. No; I believe not.

Mr. PATMAN. Who advised the Hayes Foundation that it does not have to file a tax return form 990-A?

Mr. HAYES. They were advised by counsel.

Mr. PATMAN. Who was the counsel?

Mr. HAYES. I cannot reveal that.

Mr. PATMAN. Why can't you?

Mr. HAYES. It would lead to harassment.

Mr. PATMAN. Harassment? Who would harass him?

They might want business. They might want him as a lawyer. You will have to answer that, Mr. Hayes. I direct you to answer it.

Mr. HAYES. I believe this is a matter of privacy.

Mr. PATMAN. Why people go into court with their lawyers—they are proud of them. You refuse to answer who your lawyer was and who is your counsel who advised you of that?

Mr. HAYES. Well, if the chairman insists, I will be glad to tell him.

Mr. PATMAN. All right, go ahead and give it to us.

Mr. HAYES. I was advised along this line by an attorney by the name of Mr. Ushijima.

Mr. PATMAN. How do you spell that?

Mr. HAYES (spelling). U-s-h-i-j-i-m-a.

Mr. PATMAN. What is his first name?

Mr. HAYES. Michael.

Mr. PATMAN. Where is his office?

Mr. HAYES. I believe his office is in Des Plaines, Ill. I am not sure of that at the moment.

Mr. PATMAN. If you have a better address there, I think we had better get it.

Mr. HAYES. We will get it for you.

Mr. PATMAN. I think we have it. Does the R. D. Hayes Family Foundation have assets?

Mr. HAYES. Yes; it does.

Mr. PATMAN. Who contributed those assets to the R. D. Hayes Family Foundation?

Mr. HAYES. I think, Mr. Chairman, at the last session I promised to deliver to you a chart as to how this operates.

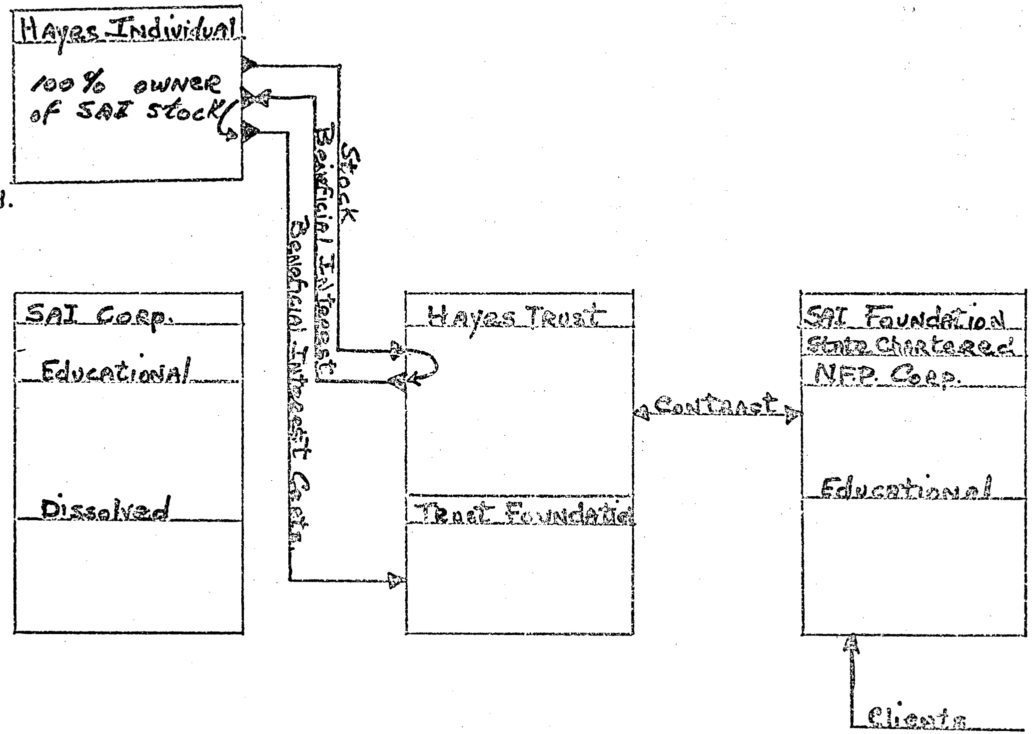
Mr. PATMAN. I know, but I am more specific now, just on this R. D. Hayes Family Foundation. If you have a chart there I would be glad to see it.

Mr. HAYES. All right.

I think I——

(The chart follows:)

1) Hayes conveys stock to trust in exchange for certificates.
2) Hayes gives certificates to trust foundation.
3) Corporation dissolved.
4) NFP Corporate Foundation Created.
5) Contracts between SAIF and Hayes trust Authorized.



Mr. PATMAN. Now, then, answer the question. Who contributed those assets to the R. D. Hayes Family Foundation?

Mr. HAYES. When you have your chart, I will explain this. If you will notice, Hayes as an individual——

Mr. PATMAN. He was the 100-percent owner of all the assets; was he not?

Mr. HAYES. Correct.

Mr. PATMAN. That is you?

Mr. HAYES. That is correct.

Mr. PATMAN. All right.

Now, what does he do?

Mr. HAYES. Now stock was contributed or exchanged to the Hayes Trust in exchange for beneficial interest in that trust.

Mr. PATMAN. All right.

Well, I am just unable to comprehend that in a short length of time. I will have to give it a little study, so in the meantime, you answer these questions.

Mr. HAYES. All right.

Mr. PATMAN. Now, you contributed the assets, did you not?

Mr. HAYES. No, I did not.

Mr. PATMAN. It shows there that you did, that you are the 100-percent contributor?

Mr. HAYES. What I did was I traded the stock for the beneficial interest, and I contributed the beneficial interest certificates to the foundation, the R. D. Hayes Foundation.

Mr. PATMAN. So in effect, it was your money that went into the Hayes Foundation?

Mr. HAYES. No, it was the certificates.

Mr. PATMAN. What assets have you turned over to the R. D. Hayes Family Foundation?

Have you turned the home over to them, automobile?

Mr. HAYES. I prefer not to reveal the assets.

Mr. PATMAN. Oh, we must have that, Mr. Hayes. We will just have to ask you to answer that.

Mr. RAY. On what basis, Mr. Chairman?

Mr. PATMAN. On the basis we are trying to get information that will be helpful to the committee for Congress.

Mr. RAY. That the committee has the right to know what is in this man's trust?

Mr. PATMAN. Certainly.

Mr. RAY. His private trust?

Mr. PATMAN. Certainly we have a right to know it.

I am not charging him with being a tax evader, but if he were, don't you think it would be necessary to find out about these things, to determine whether or not the laws are sufficient to cope with it?

Mr. RAY. I do not believe you could go to any bank in the land and demand of those trustees to reveal a man's information.

Mr. PATMAN. Oh, yes, you can. The biggest bank in the Nation would have to give it over. There is no question about that now. You are taking a position that is obviously not correct. Have you turned your home over to this foundation?

Mr. HAYES. On advice of counsel, I refuse to answer.

Mr. PATMAN. All right, have you turned your automobile over to the foundation or has the foundation been the ultimate recipient of it?

You went through a lot of kind of monkey business, monkeyshines there.

Mr. HAYES. No monkey business.

Mr. PATMAN. I will have to order you to answer the information as to whether or not you turned your home over to it.

Mr. RAY. To what, the foundation?

Mr. PATMAN. Over to any—in other words, was your home used as a part of the assets that found its way into the assets of the foundation?

Mr. HAYES. No, it was not.

Mr. PATMAN. Was your automobile used, or any automobile?

Mr. HAYES. No.

Mr. PATMAN. Is was not turned over?

Mr. HAYES. That is right.

Mr. PATMAN. Neither your home nor the automobile?

Mr. HAYES. Correct.

Mr. PATMAN. What is the asset value of the R. D. Hayes Family Foundation?

Mr. HAYES. The only assets, Mr. Chairman, that the foundation has are the beneficial certificates.

Mr. PATMAN. Of course, I am not considering it based on that chart. You say you transferred the certificates and then you referred to beneficial ownership and the foundation finally owning it. I am not going through that rigmarole.

I am just asking you the asset value of the Hayes Family Foundation, is it $5, $5 million?

Mr. HAYES. It cannot be valued.

Mr. PATMAN. It cannot be valued?

Mr. HAYES. That is correct.

Mr. PATMAN. What type of tax return, if any, has the R. D. Hayes Family Foundation filed for its first year of operation?

Mr. HAYES. It has not been in operation a year, Mr. Chairman.

Mr. PATMAN. How long has it been in operation?

Mr. HAYES. I would guess about 8 months.

Mr. PATMAN. Are you going to file one at the end of the year?

Mr. HAYES. If it is required.

Mr. PATMAN. By law?

Mr. HAYES. Right.

Mr. PATMAN. How much Federal income tax has the R. D. Hayes Foundation paid since the date of its organization?

Mr. HAYES. No activity.

Mr. PATMAN. How much State income and other taxes has the R. D. Hayes Family Foundation paid since the date it was organized?

Mr. HAYES. No activity.

Mr. PATMAN. What is that?

Mr. HAYES. There has been no activity.

Mr. PATMAN. No activity. Well, you have to pay State income taxes, do you not?

Mr. HAYES. No; not in Illinois.

Mr. PATMAN. Do you pay gasoline taxes and sales taxes?

Mr. HAYES. No.

Mr. PATMAN. All right.

How much local taxes such as real estate has the Hayes Foundation paid since it was organized?

Mr. HAYES. None.

Mr. PATMAN. Does it expect to pay any?

Mr. HAYES. If the foundation acquires real estate and it is required to pay real estate tax, yes; it will.

Mr. PATMAN. You are not admitting that you will unless it is under the specific provision of the law that it is required, of course.

Mr. HAYES. Correct.

Mr. PATMAN. Does the R. D. Hayes Family Foundation consider that it is exempt from paying gasoline taxes?

Mr. HAYES. Not necessarily.

Mr. PATMAN. I believe in one of your statements you state that the foundation can be exempt from paying State taxes and gasoline taxes and things like that?

It has no cars?

Mr. HAYES. Well, it uses cars, I assume?

Mr. PATMAN. You do not own any automobiles. You do not use transportation. What is the name and address of the individual or organization that sponsored the R. D. Hayes Family Foundation for membership in ABC?

Mr. HAYES. We are not a member of ABC.

Mr. PATMAN. How much did you say membership in ABC cost the Hayes Foundation?

You say it is not a member?

Mr. HAYES. Correct.

Mr. PATMAN. Of course there is no cost. To whom did the R. D. Hayes—this one does not apply either because you are not a member.

You state that you are a family foundation. Have you made any provision for the education of your children by the R. D. Hayes Family Foundation?

Mr. HAYES. Unfortunately, Mr. Chairman, they are all past that age.

Mr. PATMAN. In what way does a member make provisions for the education of his children under your plan?

Mr. HAYES. They make provisions according to what the law provides, These again would vary from case to case.

Mr. PATMAN. Has the R. D. Hayes Family Foundation received any grants from ABC?

Mr. HAYES. The R. D. Hayes Foundation?

Mr. PATMAN. Yes.

Mr. HAYES. No.

Mr. PATMAN. Since it is not a member, it would not be entitled to any, I assume?

Mr. HAYES. That is right.

Well, it could, as a tax-exempt organization; it could.

Mr. PATMAN. As a tax-exempt organization it would be eligible to receive grants.

Mr. HAYES. That is correct.

Mr. PATMAN. From ABC?

Mr. HAYES. Yes.

Mr. PATMAN. Would you please give us the names and addresses of the applicants for membership in ABC that have been sponsored by the R. D. Hayes Family Foundation?

Mr. HAYES. It cannot sponsor.

Mr. PATMAN. Only members can sponsor?

Mr. HAYES. Right.

Mr. PATMAN. Only members. Have the R. D. Hayes Family Foundation or the Sales Analysis Institute Foundation received any money, other than grants, from ABC?

Mr. HAYES. No.

Mr. PATMAN. What is your connection with the Sales Analysis Institute Foundation? You state they are not members of the ABC.

Mr. HAYES. That is right.

Mr. PATMAN. You say they are not.

Mr. HAYES. They are not members.

Mr. PATMAN. They are not members. When was it established?

Mr. HAYES. I believe May, sometime in——

Mr. PATMAN. May when?

Mr. HAYES. I believe around May 15, 1966.

Mr. PATMAN. 1966, over a year from——

Mr. HAYES. Right.

Mr. PATMAN. Why is it that the two foundations that you control are not members of ABC? Yet you are a trustee of ABC and you are encouraging people to pay $10,500 to join ABC, but you don't join with the two foundations that you control? Have they ever been members in the past, Mr. Hayes?

Mr. HAYES. No, sir.

Mr. PATMAN. Neither one.

Mr. HAYES. No.

Mr. PATMAN. Yet, you are asking other people to join, pay $10,500, but you yourself, although one of the three managing trustees of ABC, have kept the two foundations controlled by you individually from joining.

Mr. HAYES. My answer to that, Mr. Chairman, is that it was originally set up this way to avoid any possibility of favoritism.

Mr. PATMAN. Favoritism?

Mr. HAYES. Yes, sir.

Mr. PATMAN. It looks to me as though it is in the reverse. What is the address of the Sales Analysis Institute Foundation?

Mr. HAYES. Box 575, Barrington, Ill.

Mr. PATMAN. What is the purpose of the Sales Analysis Foundation?

Mr. HAYES. An educational organization which has been in business in that field for about 35 years.

Mr. PATMAN. Thirty-five years. Has the Sales Analysis Institute Foundation filed an application for Federal tax exemption?

Mr. HAYES. It has not.

Mr. PATMAN. Why hasn't the Sales Analysis Institute Foundation filed an application for Federal tax exemption?

Mr. HAYES. Under the law, it is our belief that it is not necessary.

Mr. PATMAN. Not necessary for what?

Mr. HAYES. To file an application.

Mr. PATMAN. Do you get tax exemption without it?

Mr. HAYES. We believe so.

Mr. PATMAN. And you have been operating that way for 18 months?

Mr. HAYES. Correct.

Mr. PATMAN. And you have paid no Federal income taxes?

Mr. HAYES. That is right.

Mr. PATMAN. Yes. A pretty sweet deal.

Who advised Sales Analysis Institute Foundation that it does not have to file an application for Federal tax exemption?

Mr. HAYES. Our attorneys.

Mr. PATMAN. Who are they? If it is a firm, just give the firm. If it is not a firm just give the individual.

Mr. HAYES. Ushijima.

Mr. PATMAN. The same one.

Mr. HAYES. Yes.

Mr. PATMAN. You will furnish us with his address to make sure we have it.

Mr. HAYES. Right.

Mr. PATMAN. Has the Sales Analysis Institute filed a tax return form 990A?

Mr. HAYES. No; it has not.

Mr. PATMAN. Why hasn't it filed such a return?

Mr. HAYES. It is our understanding that the code does not require it.

Mr. PATMAN. Have you read the code?

Mr. HAYES. Our attorneys have.

Mr. PATMAN. Who advised Sales Analysis Institute Foundation that it does not have to file a tax return form 990A?

Mr. HAYES. The same one.

Mr. PATMAN. The same attorney. Is he in a firm of attorneys?

Mr. HAYES. He practices himself.

Mr. PATMAN. You say he is in a firm?

Mr. HAYES. No.

Mr. PATMAN. Wasn't he formerly an employee of the Sales Analysis Institute Foundation?

Mr. HAYES. No, sir.

Mr. PATMAN. Was he an employee of any foundations that you had anything to do with, like ABC?

Mr. HAYES. No.

Mr. PATMAN. Or him personally? None of them.

Mr. HAYES. No.

Mr. PATMAN. Does the Sales Analysis Institute Foundation have assets?

Mr. HAYES. Yes, sir; it does.

Mr. PATMAN. Who has contributed the assets?

Mr. HAYES. They were not contributions. They were fees for services rendered.

Mr. PATMAN. R. D. Hayes, did he present them? Did he furnish them?

Mr. HAYES. No.

Mr. PATMAN. Who furnished them?

Mr. HAYES. Our clients.

Mr. PATMAN. That is what I am talking about. Who furnished the fees? Your clients? Which clients? Did the foundation do it, ABC?

Mr. HAYES. No; clients over the years.

Mr. PATMAN. Over the years?

Mr. HAYES. Yes.

Mr. PATMAN. What assets have you donated to the Sales Analysis Institute Foundation?

Mr. HAYES. None.

Mr. PATMAN. Did you contribute a home?

Mr. HAYES. No.

Mr. PATMAN. Cars, personal property?

Mr. HAYES. No.

Mr. PATMAN. Nothing. What is the asset value of the Sales Analysis Institute Foundation?

Mr. HAYES. You have those figures, Mr. Chairman.

Mr. PATMAN. In the folder.

Mr. HAYES. Right.

Mr. PATMAN. What type of tax return, if any, has the Sales Analysis Institute Foundation filed for its first year of operation?

Mr. HAYES. None.

Mr. PATMAN. None. How much Federal income tax has the Sales Analysis Institute Foundation paid since the date it was organized?

Mr. HAYES. It hasn't filed, so we haven't paid.

Mr. PATMAN. You haven't paid anything?

Mr. HAYES. Right.

Mr. PATMAN. How much State income and other taxes has the Sales Analysis Institute Foundation paid since the date it was organized?

Mr. HAYES. None.

Mr. PATMAN. How much local taxes such as real estate has the Sales Analysis Institute Foundation paid since the date it was organized?

Mr. HAYES. It is on the statement, Mr. Chairman.

Mr. PATMAN. Is there anything; did you pay anything?

Mr. HAYES. Oh, yes; sure.

Mr. PATMAN. Did you pay real estate or local taxes or did you pay gasoline?

Mr. HAYES. We paid some real estate and some personal property taxes.

Mr. PATMAN. Did you pay sales taxes?

Mr. HAYES. Sales taxes; yes.

Mr. PATMAN. Does the Sales Analysis Institute Foundation consider that it is exempt from paying gasoline taxes?

Mr. HAYES. We haven't considered that.

Mr. PATMAN. Have you paid gasoline taxes for the foundation?

Mr. HAYES. Yes.

Mr. PATMAN. Do you have automobiles?

Mr. HAYES. Yes.

Mr. PATMAN. What is the name and address of the individual or organization that sponsored the Sales Analysis Foundation for membership in ABC?

Mr. HAYES. It is not a member.

Mr. PATMAN. I believe you said it was not a member.

Mr. HAYES. Not a member.

Mr. PATMAN. So it would not. In what way have you made provision for the education—I believe you said you didn't have any children who have not graduated?

Mr. HAYES. That is right.

Mr. PATMAN. Of school age. Has the Sales Analysis Institute Foundation received any grants from ABC?

Mr. HAYES. No.

Mr. PATMAN. It would be eligible to receive them but it has not received them.

Mr. HAYES. It could.

Mr. PATMAN. How many grants has the Sales Analysis Institute Foundation received from ABC? It received none I believe you said.

Mr. HAYES. Right.

Mr. PATMAN. What is the nature of the business of the Sales Analysis Institute?

Mr. HAYES. Purely educational, in the field of communications.

Mr. PATMAN. Does the Sales Analysis Institute supply instructors or speakers for ABC?

Mr. HAYES. Yes.

Mr. PATMAN. In other words, the seminar speakers are from the Sales Analysis Institute.

Mr. HAYES. Some, and some Sales Analysis Institute has trained.

Mr. PATMAN. Some they have trained. When was the Sales Analysis Institute founded? I believe you said about 18 months ago.

Mr. HAYES. About.

Mr. PATMAN. That was the other foundation; yes?

Mr. HAYES. May 1966.

Mr. PATMAN. When was the institute founded?

Mr. HAYES. When was the institute founded?

Mr. PATMAN. Yes; Sales Analysis Institute.

Mr. HAYES. It was incorporated as a for-profit company I believe in 1946.

Mr. PATMAN. Now it paid taxes then.

Mr. HAYES. I beg your pardon?

Mr. PATMAN. It was paying taxes up until that time.

Mr. HAYES. When we earned enough to pay them.

Mr. PATMAN. In 1946.

Mr. HAYES. Yes.

Mr. PATMAN. Has it paid taxes since?

Mr. HAYES. Yes; it has.

Mr. PATMAN. According to the rate that everybody else pays?

Mr. HAYES. I certainly think so.

Mr. PATMAN. Well, it is a foundation, isn't it?

Mr. HAYES. No, not at that time.

Mr. PATMAN. Oh, that is an institute, it is not a foundation.

Mr. HAYES. It was a for-profit stock corporation at that time.

Mr. PATMAN. Until it became a foundation.

Mr. HAYES. Correct.

Mr. PATMAN. Do you mean to say it has paid taxes since it became a foundation?

Mr. HAYES. No, not corporate income tax.

Mr. PATMAN. Who owned the Sales Analysis Institute before it became a foundation?

Mr. HAYES. I owned 100 percent of the stock in Sales Analysis Institute.

Mr. PATMAN. How much of the Sales Analysis Institute did you own prior to the date when the foundation was organized? You say 100 percent.

Mr. HAYES. One hundred percent.

Mr. PATMAN. What was your position with the institute?
Mr. HAYES. President.
Mr. PATMAN. The Sales Analysis Institute was operated as a profit-making corporation I believe you said awhile ago.
Mr. HAYES. Yes, sir.
Mr. PATMAN. Until 1946.
Mr. HAYES. No. From 1946 to 1966.
Mr. PATMAN. And then it became a foundation.
Mr. HAYES. Correct.
Mr. PATMAN. And it hasn't paid taxes since.
Mr. HAYES. That is right.
Mr. PATMAN. Did the Sales Analysis Institute ever pay any income taxes?
Mr. HAYES. Yes; it certainly did.
Mr. PATMAN. Prior to the time it was a foundation.
Mr. HAYES. Yes, sir.
Mr. PATMAN. What were the gross receipts of the Sales Analysis Institute during each of the last 2 years?
Mr. HAYES. The last 2 years? I would have to refresh my memory.
Mr. PATMAN. Will you furnish the information without directing you to do it?
Mr. HAYES. All right, good.
Mr. PATMAN. Fine.
What was the net profit of the Sales Analysis Institute during each of the last 2 years, net profit? Or, first, gross profit, gross receipts.
Mr. HAYES. I will have to check that.
Mr. PATMAN. And you will furnish this.
Mr. HAYES. Correct.
Mr. PATMAN. How much Federal income tax did the Sales Analysis Institute pay during each of the past 2 years?
Mr. HAYES. How much did it pay?
Mr. PATMAN. Yes.
Mr. HAYES. None.
Mr. PATMAN. None.
Mr. HAYES. Just the last year, Mr. Chairman. I believe we paid in 1966 something over $11,000 in Federal income tax. This was at the time we changed from profit to not for profit.
Mr. PATMAN. I want the tax paid each of the 2 years before it became a foundation.
Mr. HAYES. All right.
Mr. PATMAN. You will furnish that information.
(The information has not been received by the subcommittee.)
Mr. PATMAN. Now what is the correct name of Mr. James A. Walsh, Jr. Foundation?
Mr. HAYES. I don't know.
Mr. PATMAN. You don't know. I believe you said it was not a member of the ABC.
Mr. HAYES. That is right.
Mr. PATMAN. Is he in the firm that you represent?
Mr. HAYES. No, sir.
Mr. PATMAN. I believe you said that he furnished you the package and sold you on it, that finally became ABC.

Mr. HAYES. He explained what it could do for our organization, how it could make us more effective in our field, expand our research and things of this nature; yes, sir.

Mr. PATMAN. And you don't know the name of his foundation.

Mr. HAYES. I do not.

Mr. PATMAN. Has the Walsh Foundation received any money from the ABC?

Mr. HAYES. I believe it has received a grant.

Mr. PATMAN. And yet you don't know the name of the foundation?

Mr. HAYES. No; I can't say that I recall it.

Mr. PATMAN. Will you furnish us the information as to how much it has received the last 2 years, each of the last 2 years?

Mr. HAYES. I think we can do that.

Mr. PATMAN. You will do that, all right.

(This information has not been received by the subcommittee.)

Mr. PATMAN. Does the ABC have a staff, Mr. Hayes?

Mr. HAYES. No. ABC has no employees.

Mr. PATMAN. No employees.

Mr. HAYES. That is right.

Mr. PATMAN. You have the three trustees.

Mr. HAYES. Right. They are not employees.

Mr. PATMAN. They are not employees.

Mr. HAYES. No.

Mr. PATMAN. It doesn't have any research department. Does it have a research department?

Mr. HAYES. It retained the services of a research organization; yes.

Mr. PATMAN. You just pay them fees.

Mr. HAYES. Correct.

Mr. PATMAN. What is the name of the research department, the research organization that works for you or the ABC?

Mr. HAYES. It was called the Barrington Institute.

Mr. PATMAN. The Barrington Institute. Who is the head of it?

Mr. HAYES. So far as I know, Richard J. Stephenson.

Mr. PATMAN. Richard J. — he is also a trustee, isn't he?

Mr. HAYES. Correct.

Mr. PATMAN. No conflict of interest there?

Mr. HAYES. He is not a member.

Mr. PATMAN. You say he is not a member.

Mr. HAYES. Barrington Institute is not a member of ABC.

Mr. PATMAN. I know, but you employ one of the three trustees who owns the institute I believe you said.

Mr. HAYES. No; he doesn't own it.

Mr. PATMAN. Well, he owns an interest in it.

Mr. HAYES. No.

Mr. PATMAN. He is the head of it.

Mr. HAYES. He is one of three directors of the Barrington Institute.

Mr. PATMAN. One of the three directors. He is one of the three. Now then, the ABC, he is one of the three there, isn't he?

Mr. HAYES. Correct. Trustee; one of the three.

Mr. PATMAN. One of the trustees.

Mr. HAYES. Yes.

Mr. PATMAN. In other words, in ABC, he is one of the three trustees, ABC hires the Barrington Institute and he is one of the three trustees to control it and manage it.

Mr. HAYES. On a contractual——

Mr. PATMAN. He is the president really, isn't he, of Barrington Institute?

Mr. HAYES. I don't know. I can't answer what the title is.

Mr. PATMAN. What are the duties of the ABC research department?

Mr. HAYES. ABC doesn't have a research department.

Mr. PATMAN. I mean the duties of the Barrington firm that is employed; the Barrington Institute.

Mr. HAYES. To provide educational material to be used.

Mr. PATMAN. At your request.

Mr. HAYES. Right.

Mr. PATMAN. And how much have you paid them each of the last 2 years? Would you furnish that to us?

Mr. HAYES. We will.

(This information has not been received by the subcommittee.)

Mr. PATMAN. What are the names of the lawyers on the ABC staff?

Mr. HAYES. We have no staff lawyers.

Mr. PATMAN. What is Bertha Fields? Isn't she the executive secretary of the Americans Building Constitutionally?

Mr. HAYES. She is not an attorney.

Mr. PATMAN. Well, she is an employee; isn't she?

Mr. HAYES. No.

Mr. PATMAN. What is she? You told me awhile ago she had the books. Why would you let people have the books who are not employees. Who pays her salary?

Mr. HAYES. This again, Mr. Chairman, is a contractual relationship.

Mr. PATMAN. That is all right. We don't object to that.

Mr. HAYES. She is not an employee, however, of ABC.

Mr. PATMAN. Who pays her social security?

Mr. HAYES. I don't know. I imagine she does.

Mr. PATMAN. Well, her employer is supposed to.

Has Mr. Michael Ushijima of ABC, Barrington, Ill., served as counsel for any of the members of ABC?

Mr. HAYES. I believe certain members have retained him.

Mr. PATMAN. The Wall Street Journal of August 28, 1967,[1] states that Mr. Walsh said that "a summation of the information given new members in the 30-hour ABC training course will be made available shortly to all State attorneys general." Which of the State attorneys general has ABC provided with this information?

Mr. HAYES. We have offered it to the Illinois attorney general and any other attorney general that is interested.

Mr. PATMAN. You now offer it to any attorney general of the United States.

Mr. HAYES. Correct.

Mr. PATMAN. Now how far would that go? Would that include your charter and the way you operate and would it include the information in the seminars?

Mr. HAYES. Yes, sir.

Mr. PATMAN. The seminars?

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[1] See p. 1152.

Mr. HAYES. It would include the same material that we left with you.

Mr. PATMAN. What about the $4,200 course? Would it include that?

Mr. HAYES. The whole thing.

Mr. PATMAN. The whole $10,500 package.

Mr. HAYES. The entire educational program.

Mr. PATMAN. And that is everything. That is educational.

Mr. HAYES. Yes, sir.

Mr. PATMAN. That is what it is.

Mr. HAYES. That is right.

Mr. PATMAN. The whole thing?

Mr. HAYES. Yes.

Mr. PATMAN. Mr. Morton, sit down here just a minute. I don't think we will be able to meet this afternoon because it takes unanimous consent of the House, and the House is not in a good mood. I would anticipate objection, so we will not undertake it. But we would like to have you, Mr. Hayes and Mr. Walsh, both back back tomorrow morning at 10 o'clock, so without objection we will stand in recess until tomorrow morning at 10 o'clock here in this room.

(Whereupon, at 12 noon, November 6, 1967, the subcommittee recessed until Tuesday, November 7, at 10 a.m.)

TAX-EXEMPT FOUNDATIONS: THEIR IMPACT ON SMALL BUSINESS

TUESDAY, NOVEMBER 7, 1967

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE NO. 1
OF THE SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 2359, Rayburn House Office Building, Hon. Wright Patman (chairman of the subcommittee) presiding.

Present: Representatives Patman, Corman, and Conte.

Also present: H. A. Olsher, director, Foundations Study, Myrtle Ruth Foutch, clerk; and John J. Williams, minority counsel.

Mr. PATMAN. The committee will please come to order.

Yesterday, Mr. Hayes, I asked you some questions about Messrs. James B. Tudhope, Jr., Maurice J. Harris, J. D. Kirk, and Fred Dell. I want to go back to them for a minute. You know all four of these men; is that right?

TESTIMONY OF ROBERT D. HAYES, TRUSTEE OF THE AMERICANS BUILDING CONSTITUTIONALLY, A NOT-FOR-PROFIT TRUST, ACCOMPANIED BY K. P. CHARTIER AND WILLIAM C. RAY, JR., COUNSEL TO MR. HAYES, AND ROBERT A. ERIE, ADMINISTRATIVE ASSISTANT TO MR. HAYES—Resumed

Mr. HAYES. I do.

Mr. PATMAN. What kind of work does each one of them do?

Mr. HAYES. They have done work as instructors in the area of training.

Mr. PATMAN. What kind of training?

Mr. HAYES. Communications training.

Mr. PATMAN. These four men are associates of yours at ABC; is that correct?

Mr. HAYES. No, they are not employees of ABC.

Mr. PATMAN. They are not. They are not employees of ABC.

Mr. HAYES. Pardon me, they are not employees of SAIF.

Mr. PATMAN. They are employees of——

Mr. HAYES. They are not.

Mr. PATMAN. Who are the employed by? They work there every day; do they not?

Mr. HAYES. They are employed by their foundation.

Mr. PATMAN. Each one has a foundation?

Mr. HAYES. Yes.

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Mr. PATMAN. Each one has a foundation, his own foundation.

Mr. HAYES. Correct.

Mr. PATMAN. The headquarters of these four gentlemen is in the same building on Kelsey Road in Barrington, Ill., that houses the headquarters of Sales Analysis Institute Foundation and ABC, is that correct?

Mr. HAYES. Well, I would like a little clarification, Mr. Chairman, on what you mean by headquarters.

Mr. PATMAN. Well, their principal place of business, and that is where the principal place of business of ABC is in the Sales Analysis Institute.

Mr. HAYES. That is correct.

Mr. PATMAN. They are there, aren't they, everyday?

Mr. HAYES. No; not everyday.

Mr. PATMAN. Well, that is their principal place of working. That is where their headquarters are. They go in and out of there, do they not?

Mr. HAYES. They teach there, yes.

Mr. PATMAN. They teach there.

Mr. HAYES. They also teach many other places.

Mr. PATMAN. Yes; but they have seminars there, do they not?

Mr. HAYES. Yes, yes.

Mr. PATMAN. All right. How have these men been compensated for their services to Sales Analysis Institute Foundation, by fees or by salaries?

Mr. HAYES. There is a contract between Sales Analysis Institute Foundation and their foundation.

Mr. PATMAN. And do you pay them by fees or salaries? I assume from what you say, you pay them by fees to each one's foundations, is that correct?

Mr. HAYES. The payment Sales Analysis Institute makes is by contract to their foundation.

Mr. PATMAN. Well, in carrying out the contract, you make payments either by fees or salaries I assume. How do you pay them? How do you pay each one's foundation? Do you pay it by a fee to each one's foundation or by a salary to each one's foundation?

Mr. HAYES. By a fee to each one's foundation.

Mr. PATMAN. By a fee to each one's foundation. The compensation of these four men in the from of fees has been transmitted to their respective foundations by Sales Analysis Institute Foundation, is that correct? It is transmitted to each one's foundation by Sales Analysis?

Mr. HAYES. Yes; that is what the contract calls for.

Mr. PATMAN. All right. Now the contract also calls for ABC, I assume, to make the payment to the Sales Analysis Institute Foundation, in order to make the payment to each foundation.

Mr. HAYES. No.

Mr. PATMAN. That is not correct.

Mr. HAYES. That is not correct.

Mr. PATMAN. In other words, instead of paying salaries to these men, Sales Analysis Institute Foundation has paid fees to their respective foundations. I believe that is what you said.

Mr. HAYES. Correct. In other words, their foundations are private contractors.

Mr. PATMAN. They are the private contractors, yes. These men have foundations of course of their own. Are any of their foundations members of ABC?

Mr. HAYES. I can't reveal that.

Mr. PATMAN. You would assume that they are, wouldn't you?

Mr. HAYES. No, I wouldn't make that assumption.

Mr. PATMAN. Their contracts would indicate that they are.

Mr. HAYES. Not necessarily.

Mr. PATMAN. Okay then. So here we have four of your associates who do not have enough confidence in the ABC scheme to lay out either $1,050 or $10,500. In addition, you said yesterday that neither one of your two foundations were members of ABC. Since you too don't seem to have enough confidence in ABC's scheme to buy it, and you say that you take no salary from ABC, what is in it for you?

Mr. HAYES. Mr. Chairman, if I created ABC as a trust, why don't I have confidence in it?

Mr. PATMAN. Well, you didn't have your own two foundations join.

Mr. HAYES. But I explained yesterday why I didn't. I created all three of them.

Mr. PATMAN. All right, if that is the way you want to answer it, why that is all right. Does ABC have counsel in every State in which it operates?

Mr. HAYES. I beg your pardon?

Mr. PATMAN. Does ABC have counsel in every State in which it operates?

Mr. HAYES. Its members have counsel.

Mr. PATMAN. The members of ABC have counsel in each State.

Mr. HAYES. Correct.

Mr. PATMAN. Who are the ABC counsel throughout the United States? Do you have a list of them?

Mr. HAYES. No, I do not.

Mr. PATMAN. You say that your members have the counsel, I believe you said awhile ago.

Mr. HAYES. Correct.

Mr. PATMAN. You don't have the names of them yourself.

Mr. HAYES. We do not.

Mr. PATMAN. You do not have the name. Who provides the legal services for setting up new member foundations and trusts in the various States?

Mr. HAYES. The members counsel.

Mr. PATMAN. The members. In other words, the foundation that belonged to ABC.

Mr. HAYES. Right.

Mr. PATMAN. Each one takes care of his own foundation and trust papers and things like that, and organization.

Mr. HAYES. That is correct.

Mr. PATMAN. That is correct.

Mr. HAYES. Yes.

Mr. PATMAN. Does ABC recommend lawyers for such purposes in the various States?

Mr. HAYES. Not necessarily.

Mr. PATMAN. Well, have you at all?

Mr. HAYES. No, I think not.

Mr. PATMAN. Does ABC have what it refers to as associate counsel?

Mr. HAYES. What do you mean, Mr. Chairman, by associate counsel?

Mr. PATMAN. Well, using a phrase I think that you will find in your book, associate counsel. Do you have associate counsel in any State?

Mr. HAYES We do at times retain counsel in various States.

Mr. PATMAN. Do you call them associate counsel?

Mr. HAYES. No.

Mr. PATMAN. Do you call them——

Mr. HAYES. I believe not.

Mr. PATMAN. What is an associate counsel in the terms of the ABC?

Mr. HAYES. I believe, if I read the question correctly, the members' counsel, the member's attorney that he retains might be called associate counsel.

Mr. PATMAN. Is he a lawyer?

Mr. HAYES. Oh, yes.

Mr. PATMAN. Always a lawyer.

Mr. HAYES. I think so.

Mr. PATMAN. Is that associate counsel trained in any way by the ABC?

Mr. HAYES. On occasion, yes.

Mr. PATMAN. How many associate counsels does ABC have throughout the United States.

Mr. HAYES. I have no idea, sir.

Mr. PATMAN. You don't have them at all.

Mr. HAYES. No, I——

Mr. PATMAN. They are not in your possession.

Mr. HAYES. That is right.

Mr. PATMAN. The names.

Mr. HAYES. That is correct.

Mr. PATMAN. The associate members, I mean the foundation members in each State take care of that themselves and you have no knowledge of it.

Mr. HAYES. That is right.

Mr. PATMAN. Has each of these associate counsels set up his own foundation?

Mr. HAYES. This—some might and some might not.

Mr. PATMAN. Well, isn't it necessary to do that, in order to pay the salaries or fees through the foundation?

Mr. HAYES. No.

Mr. PATMAN. Otherwise they would have to pay taxes on them. How do they get their pay then? The plan as you outlined it to me; I got the impression rather definitely that you use the foundation method to compensate them.

Mr. HAYES. No.

Mr. PATMAN. You didn't do it through the payment of salaries. You did it through the payment of fees, and obviously that would be, the result would be no taxes, because it is paid to a foundation.

Mr. HAYES. Lawyers, member's lawyers are paid their fee by the usual, in the usual manner.

Mr. PATMAN. That is by each foundation.

Mr. HAYES. No, not necessarily.

Mr. PATMAN. By ABC?

Mr. HAYES. No.

Mr. PATMAN. By whom?
Mr. HAYES. By the member.
Mr. PATMAN. Well, that is a foundation, isn't it?
Mr. HAYES. It could be, yes.
Mr. PATMAN. It could be? Wouldn't it have to be?
Mr. HAYES. Not necessarily.
Mr. PATMAN. Well, the members are the ones who employ the counsel and the members are foundations, aren't they?
Mr. HAYES. They can pay legal fees or they may put it in other ways.
Mr. PATMAN. Mr. Hayes, of course you have a right to answer these as you choose, but it seems to me that you are going in a roundabout way and unnecessarily——
Mr. HAYES. No.
Mr. PATMAN. Consuming time, because we know——
Mr. HAYES. Mr. Chairman, I am doing my best to be accurate.
Mr. PATMAN. We know a lot of this to be correct. I wouldn't say you are evading questions but you are not being as forthright as I would expect you to be for a witness as knowledgeable as you are. I hope that you will be forthright with us.
Mr. RAY. Mr. Hayes is attempting to be, Mr. Chairman. The questions have not been put in a proper manner. He doesn't——
Mr. PATMAN. Well, of course, we know a little about this too.
Mr. RAY. A little.
Mr. PATMAN. Does an associate counsel assist in the creation of foundations that are connected with ABC?
Mr. HAYES. Yes, I would say so.
Mr. PATMAN. Is an associate counsel as the term is used by ABC, a specialist in ABC procedures?
Mr. HAYES. He usually is aware of the procedures; yes.
Mr. PATMAN. And he has been trained through the seminars and in other ways I assume.
Mr. HAYES. Not always. Sometimes.
Mr. PATMAN. Do you have one in each State?
Mr. HAYES. No, no.
Mr. PATMAN. What function does an associate counsel serve? Just look after the foundations——
Mr. HAYES. The same as any lawyer.
Mr. PATMAN (continuing). Legal work for the foundation.
Mr. HAYES. Correct.
Mr. PATMAN. The member foundation.
Mr. HAYES. I would say so.
Mr. PATMAN. Yes. Is a member of ABC obligated to use that organization's associate counsel?
Mr. HAYES. No.
Mr. PATMAN. Who pays the attorney for the work he does in setting up an applicant's foundation? Does the applicant pay it? Does the foundation pay it or does ABC pay it?
Mr. HAYES. This depends on the nature of the——
Mr. PATMAN. Well, from what you have told us in the past, I would assume that the foundation pays it.
Mr. HAYES. This is right.
Mr. PATMAN. That is right, isn't it?

Mr. HAYES. Usually that is correct, yes.

Mr. PATMAN. To whom would the attorney's bill be sent? Would it be sent to ABC or would it be sent to the member?

Mr. HAYES. It will vary from case to case.

Mr. PATMAN. Does ABC have an associate counsel named Alfred J. Langmeyer?

Mr. HAYES. The Barrington Institute has one.

Mr. PATMAN. The Barrington Institute has. That is the institute that is managed by Stephenson who is also one of the three trustees.

Mr. HAYES. I believe that is right, yes.

Mr. PATMAN. Where does Mr. Langmeyer live?

Mr. HAYES. He lives on the west coast. I can't tell you his address.

Mr. PATMAN. What city? Do you know that? Is is Los Angeles?

Mr. HAYES. I am not sure.

Mr. PATMAN. But he lives on the west coast. Does ABC have an associate counsel named Don Warden?

Mr. HAYES. I am not aware of that one.

Mr. PATMAN. And you wouldn't know where he lives, of course. You don't know him.

Mr. HAYES. No.

Mr. PATMAN. You never heard his name before.

Mr. HAYES. I think I have heard the name but I have never met the gentleman.

Mr. PATMAN. Did you train him? Did ABC train Mr. Warden in his procedures, in its procedures?

Mr. HAYES. I am not sure about that.

Mr. PATMAN. You don't know. Does ABC have an associate counsel named Louis C. Jones?

Mr. HAYES. He must be an associate of Barrington Institute.

Mr. PATMAN. You don't know him?

Mr. HAYES. I do not.

Mr. PATMAN. All right. Now then, is Hough's Encyclopaedia of American Woods Foundation, Inc., a member of ABC?

Mr. HAYES. I believe, Mr. Chairman, you stated that it was. As trustee, I cannot reveal that information.

Mr. PATMAN. You refuse to give the information.

Mr. HAYES. I can't as trustee.

Mr. PATMAN. I am ordering you to do it. Are you going to do it?

Mr. HAYES. No.

Mr. PATMAN. I am directing you to do it. You won't do it. All right. Who sponsored Hough's Encyclopaedia of American Woods Foundation for membership in ABC?

Mr. HAYES. I don't know.

Mr. PATMAN. Do you know or just won't tell?

Mr. HAYES. I don't know.

Mr. PATMAN. You don't know. How much did it cost Hough's Encyclopaedia of American Woods Foundation, Inc., to become a member of ABC?

Mr. HAYES. I am not aware of that.

Mr. PATMAN. According to Mr. Robert Speller, president of Hough's Encyclopaedia of American Woods Foundation, Inc., this foundation's income was as follows from date of organization, July 1967, to October 13, 1967:

Americans Building Constitutionally, Barrington, Ill., $5,000.

Mr. RAY. Pardon me, Mr. Chairman. Has Mr. Speller been sworn as a witness or was that taken under deposition or is that a sworn statement, or is that merely a personal letter?

Mr. PATMAN. Well, we have the information from him. Let me finish this.

Mr. RAY. Mr. Hayes is a sworn witness and that man is not.

Mr. PATMAN. Well, that is all right. You can make that point, which you are doing, which is all right and within your rights.

Five thousand dollars.

Robert Speller & Sons, Publishers, Inc., $756.75, or a total of $5,756.75. For what purpose did ABC give $5,000 to Hough's Encyclopaedia of American Woods Foundation, Inc.? For what purpose did you give them that $5,000?

Mr. HAYES. Mr. Chairman, under the circumstances I would suggest that the committee subpena Mr. Speller.

Mr. PATMAN. Well, I am directing you to answer that question, Mr. Hayes. Are you going to comply?

Mr. HAYES. As trustee, I can't supply that information.

Mr. PATMAN. According to Mr. Robert Speller, president of Hough's Encyclopaedia of American Woods Foundation, Inc., his foundation made no grants from date of organization, July 1967, to October 13, 1967. Disbursement were, however, made for operating expenses of Hough's Encyclopaedia of American Woods Foundation, Inc., totaling $1,383.51, and for the Philippa Schuyler Memorial Foundation, totaling $3,396.68, as follows:

Disbursements for Hough's Encyclopaedia of American Woods Foundation, Inc.

N. P. Stocker (rent)	$472.00
Bank charges	5.17
New York Telephone Co	46.34
Hough's Encyclopaedia (South Vietnam forestry)	860.00
Total	1,383.51

Disbursements for Philippa Schuyler Memorial Foundation

New York Telephone Co. (deposit)	$50.00
Columbia University Club (entertainment)	264.88
A. & F. Photoprints (printing)	33.10
Center Typographers (printing)	16.50
Seymour Pugach (printing)	12.00
Hy-print Cards (printing)	40.00
Effective Impressions (printing)	121.30
Rival Printing Co	24.50
Leon Honigman (printing)	71.00
Aldon Press	3.82
Harvey's Radio Co. (tapes)	15.00
Telephone Exchange Answering Service	21.50
Diplomatic Press, Inc. (rent and furniture)	718.50
Hildegarde (balance expenses)	150.00
Cleve Backster (tapes)	24.00
Linda Beerman (typist)	432.50
Mary Ruth Cook (typist)	23.75
Overseas Press Club (press conference)	28.65
Western Union Telegraph Co	146.99
Consolidated Edison	139.52
Dorothy Waring Steiner (public relations fee)	975.00
Dorothy Waring Steiner (expenses)	84.17
Total	3,396.68

I note the $975 public relations fee to Dorothy Waring Steiner, entertainment at the Columbia University Club totaling $264.88, and the $150 paid to Hildegarde. Would you say that Hough's Encyclopaedia of American Woods Foundation, Inc., is fulfilling its purpose?

Mr. HAYES. I have no way of knowing.

Mr. PATMAN. The foregoing disbursements include $860, which is identified as "Hough's Encyclopaedia (South Vietnam forestry)." What does this mean?

Mr. HAYES. I have no idea.

Mr. PATMAN. Mr. Robert Speller, president of Hough's Encyclopaedia of American Woods Foundation, Inc., states that he has not received information from ABC "as to what full membership constitutes, nor, in fact, bylaws, et cetera." How do you explain that?

Mr. HAYES. As far as I know we have never received a request from Mr. Speller for that kind of information.

Mr. PATMAN. As you know, Hough's Encyclopaedia of American Woods Foundation, Inc., is incorporated in Illinois. Why was this foundation incorporated in Illinois?

Mr. HAYES. I can't answer that question; I don't know.

Mr. PATMAN. The articles of incorporation of Hough's Encyclopaedia of American Woods Foundation, Inc., shows the address of its registered office to be Box 575, Kelsey Road, Barrington, Ill. That is the ABC address also, isn't it?

Mr. HAYES. That may be the registered agent. It could be. I don't know that it is.

Mr. PATMAN. I have it as the registered address, the registered office.

Mr. HAYES. That could be.

Mr. PATMAN. The base of operation of Hough's Encyclopaedia of American Woods Foundation appears to be the home of its president, Mr. Robert Speller, of Robert Speller & Sons, publishers. The foundation's address is 39 Gramercy Park, New York City. Why wasn't this foundation incorporated in the State of New York?

Mr. HAYES. I have no knowledge of that.

Mr. PATMAN. Is the Philippa Schuyler Memorial Foundation a member of ABC?

Mr. HAYES. It is public knowledge; yes.

Mr. PATMAN. Who sponsored the Philippa Schuyler Memorial Foundation for membership in ABC?

Mr. HAYES. I don't know the answer to that.

Mr. PATMAN. How much did you say it cost the Philippa Schuyler Memorial Foundation to become a member of ABC? You don't know?

Mr. HAYES. I don't know.

Mr. PATMAN. Who would know that? Would your secretary in the office of ABC in Barrington know?

Mr. HAYES. She would have access to the records.

Mr. PATMAN. He or she, isn't it?

Mr. HAYES. She.

Mr. PATMAN. Well, we will have to get out—will you see that she comes down and brings the records or should we subpena her?

Mr. RAY. I might mention, Mr. Chairman, that the executive secretary has no authority, responsibility, or obligation to reveal the records, and may not, except by resolution of the board of trustees.

Mr. PATMAN. Or subpena.

Mr. RAY. Well, she has no authority even in the face of a subpena.

Mr. PATMAN. You see, the records don't belong to the trustees. They belong to the foundation.

Mr. RAY. That is right. Have you subpenaed the foundation, ABC?

Mr. PATMAN. Sure.

Mr. RAY. You have?

Mr. PATMAN. Yes, that will be done.

Mr. RAY. It is all right in the record.

Mr. PATMAN. Did you or your associates in ABC help the Philippa Schuyler Memorial Foundation gather funds, Mr. Hayes?

Mr. HAYES. Yes, we thought this was a worthwhile purpose.

Mr. PATMAN. In what way did you assist in the gathering of funds?

Mr. HAYES. We had conversations with some of our members whom we had reason to believe might also feel this was a worthy cause.

Mr. PATMAN. And you had meetings with them and you attempted to raise funds for that particular foundation, is that correct?

Mr. HAYES. That is correct.

Mr. PATMAN. Did you have a successful meeting to raise the funds?

Mr. HAYES. I don't know by what standards you can call it successful.

Mr. PATMAN. Well, were all the foundations that pledged grants to the Philippa Schuyler Memorial Foundation—they were members of ABC, too, were they?

Mr. HAYES. Not necessarily; no.

Mr. PATMAN. Not necessarily.

Mr. HAYES. No.

Mr. PATMAN. But members of ABC, I mean members of ABC did subscribe.

Mr. HAYES. Some members did, yes.

Mr. PATMAN. What was the express purpose of these grants? In other words, how were these funds to be disbursed by the Philippa Schuyler Memorial Foundation? To whom were they to be disbursed?

Mr. HAYES. Each grant carried a specific purpose to which that grant was dedicated, and this was quite well spelled out in the grant itself.

Mr. PATMAN. How much of these funds have been disbursed by this foundation that we are talking about and who are the donees?

Mr. HAYES. I don't know the answer to those two questions.

Mr. PATMAN. I have here a copy of a press release dated July 16, 1967, which was sent out by the Philippa Schuyler Memorial Foundation. It lists more than 40 foundations which had pledged grants to the Philippa Schuyler Memorial Foundation. Subsequently, newspaper reports referred to those pledges as amounting to $30,000 to $40,000. What is the connection between ABC and these grants?

Mr. HAYES. Mr. Chairman, I believe that Mr. George Schuyler has been subpenaed, has been asked to appear before this committee. I think he can answer those questions much more accurately than I can.

Mr. PATMAN. I will place in the record the release gotten out by the Philippa Schuyler Memorial Foundation.

(The document referred to follows:)

NEWS FROM PHILIPPA SCHUYLER MEMORIAL FOUNDATION, NEW YORK, N.Y.

An organization devoted to the cause of winning the peace in South Vietnam in the same person-to-person style followed by the late Philippa Schuyler and set up in her memory, was announced yesterday in New York.

Named the Philippa Schuyler Memorial Foundation, it has already received 43 grants for such varied objectives as food, education, musical instruments, books, cultural activities at the village level, etc.

The foundation's advisory committee of 33 includes personalities from a broad spectrum of views about the Vietnamese War, some probably qualifying as "hawks," others as "doves."

The fact that they have united on a common program to restore the village life in the war-racked country and make the prospect of peace more meaningful has demonstrated their consensus that no matter how Americans feel about the war itself, the time has come to start winning the peace on a simple, humanitarian level and show the Vietnamese people that our interest in them extends far beyond the battlefields.

This was one of the passionate beliefs of Philippa Schuyler, pianist, author and newspaper correspondent.

On her concert tours and trips all over South Vietnam she somehow found the time to intercede with the Marine Corps to evacuate refugees of all ages from devastated areas.

She was on just such a mission last May 9, having hitch-hiked a ride for a cabinful of orphans, when the Marine helicopter in which she was flying from Hue to DaNang exploded in the bay at DaNang. A child she was holding on her lap died with her.

The winning-the-peace program has received the approval of South Vietnamese officials. The U.S. Government is co-operating.

The foundation release emphasizes that none of the grants are to be expended in areas duplicating the work of the U.S. AID programs or any other governmental enterprises.

Basically the areas for the grants are confined to the "little, all-important things which make all the difference in the world to the inhabitants of a small community. They must vary from one place to another as surely as places vary."

The idea for the foundation came after attendance at Philippa Schuyler's funeral in St. Patrick's Cathedral in New York on May 18 which overflowed into the streets. People from all parts of New York's five boroughs, New Jersey, Westchester and Connecticut came to pay homage to the "beautiful American" who started her professional career as a child prodigy pianist. Present also was a Marine Corps honor guard.

Several of her friends approached her parents after the funeral ceremonies with the plea that the example of her life be perpetuated in some constructive manner. It was agreed that the crux of the message of her life was "winning the peace."

Her parents promptly gave their blessing to a foundation with that main objective. Americans Building Constitutionally, an organization of smaller private foundations, of Barrington, Ill., was informed of the idea. ABC decided to back it. From then on the movement has grown rapidly. Grants have come in daily.

No part of the money contributed is going to be used for administrative expenses.

The chairman of the "Winning the Peace" Program is Mrs. Josephine Schuyler, mother of Philippa. The president of the Philippa Schuyler Memorial Foundation is Philippa's father, the well-known journalist George Schuyler. Mrs. Schuyler is also secretary-treasurer of the Foundation. The executive vice president is book publisher Robert Speller who is also vice chairman of the "Winning the Peace" program.

The Advisory Board of the Foundation, all of whom are friends of Philippa's, consists of: Miss Olive Abbott, founder of the Musical Art Group, which has presented many young artists at Town Hall, New York; Mr. Irl Allison of Austin, Texas, founder-president of the National Piano Teachers Guild, who was the discoverer of Philippa's musical genius; Mr. William F. Buckley, Jr., editor of the National Review and a prominent television personality; Mr. John Chamberlain, well known columnist; Dr. B. H. Cogdell, prominent physician of Alma, Georgia; Mr. Milton J. Cross, outstanding radio personality best known as the Metropolitan Opera commentator; Mr. Leonard de Paur, symphony conductor; Mr. Leo Diamond, president, Eldee Music, who released Philippa's album "Pianologue"; Supreme Court Justice of New York Edward Dudley, former borough president of Manhattan; Mr. Duke Ellington, composer and orchestra leader; Mr. Elton Fax, artist-lecturer; Hon. Hamilton Fish, former congressman and president-general of the Order of Lafayette; Dr. L. H. Foster, president, Tuskegee Institute; Mr. Devin A. Garrity, president, Devin-Adair Company, one of Philippa's publishers; Col. James W. Gerard; Dr. William Randolph Granger; Dr. J. H. Jackson of Chicago, president, National Baptist Convention; Mr. Victor Lasky, author, journalist; Hon. Henry Cabot Lodge, former ambassador to South Vietnam and the United Nations; Mr. William Loeb, president of the Manchester (N.H.) Union-Leader-News of which paper Philippa was a correspondent in South Vietnam at the time of her death; Rev. Daniel Lyons, S.J., head of Twin Circle Publishing Co., another of Philippa's publishers; Rev. Dr. David Moore, associate minister of the Scientific Prayer Ministry; Mr. Benjamin Protter, secretary-general of the Society for French-American Affairs; Mr. A. Philip Randolph, international president of the Brotherhood of Sleeping Car Porters; Col. Archibald Roosevelt; Mr. Noble Sissle, orchestera leader and composer; Mr. Henry Steigner, philosopher and patron of the arts; composer William Grant Still, of Los Angeles; Mrs. Carl Van Vechten; Bishop W. J. Walls, of Chicago, presiding bishop of the First Episcopal District, African Methodist Episcopal Zion Church; Mr. Roy Wilkins, executive director of the N.A.A.C.P.; Dr. Max Yergan, international educator and former Y.M.C.A. director; and Mrs. Maude Files Zimmer, columnist, Hartford Times.

More than forty grants have been made to the Philippa Schulyer Memorial Foundation for transmission to South Vietnam. Among them are:

The Fahy Foundation, 6 Rivo Alto Canal, Long Beach, California, Mr. Douglas Fahy.

J.T.C. Foundation, 210 W. 101 Street, New York City, Mr. Thomas S. Hayes, president.

J. W. Hines Foundation, 2403 Cherry, Mount Vernon, Illinois, Mr. J. W. Hines, president.

Forensic Science Institute, Washington, D.C., Mr. Herman E. Kimsey.

The S.B.K. Foundation, 675 S. Plum Grove Road, Palatine, Illinois, Mrs. Bertha Fields.

Syd Orkney Foundation, 2809 Summitview Avenue, Yakima, Washington, Mr. Syd Orkney.

The Walsh Family Foundation, Barrington, Illinois, Mr. James R. Walsh.

The Foundation for the Advancement of the Civilizing Arts, New York City, Mr. Norman Dodd.

Jerre H. Paxton Foundation, Yakima, Washington, Mr. Jerre H. Paxton.

Lininger Foundation for Educational Exchange, West New York, New Jersey, John B. Lininger.

Jere Irwin Foundation, Yakima, Washington, Mr. Jere Irwin.

Hough's Encyclopaedia of American Woods Foundation, New York City, Mr. Robert Speller.

J. D. Kirk Foundation, 308 N. Forrest Avenue, Oak Park, Illinois, Mr. J. D. Kirk.

The Tudhope Foundation, 511 Woodland Lane, Northfield, Illinois, Mr. James B. Tudhope, Jr., president.

Hap Robinson Foundation, 8503 Kail Drive, Yakima, Washington, Mr. Hap Robinson.

H. G. Ferguson Foundation, 7103 Tifton Drive, Yakima, Washington, Mr. Harvey Ferguson.

Saxon Foundation, 143 S. Lincoln Avenue, Aurora, Illinois, M. R. Saxon, M.D., medical director.

Massner Foundation, 130 E. 12th Street, Davenport, Iowa, R. C. Massner, D.C.

D. W. Anderson Foundation, 59 E. Downer Place, Aurora, Illinois, D. W. Anderson, M.D., medical director.

Mark D. Julian Foundation, 862 Juneau Road, Ypsilanti, Michigan, Dr. Mark Julian, medical director.

The Wunsch Foundation, Yorkville, Illinois, Dr. L. A. Wunsch, president.

The Floyd Paxton Foundation, Yakima, Washington.

R. D. Hayes Family Foundation, Wheaton, Illinois, Mr. Robert D. Hayes, president.

M. J. Harris Foundation, 742 W. Dempster, Mount Prospect, Illinois, Mr. M. J. Harris, executive director.

R. O. Hayes Foundation, 4340 Crest Knoll Drive, Grand Blanc, Michigan, Mr. R. O. Hayes, manager.

Vernon Spencer Foundation, 602 S. Russell Street, Marion, Illinois, Mr. Vernon Spencer, executive director.

J. F. La Lumondier Sr. Foundation, 107 S. 20th, Mount Vernon, Illinois, J. F. La Lumondier Sr., executive director.

Jefferson County Research Associated, 1101 Broadway, Mount Vernon, Illinois, Mr. William H. Piper, vice president.

L. J. Hines Foundation, Whittington, Illinois, Dorothy Hines, secretary.

C. V. Hoskins Foundation, Mount Vernon, Illinois, Mr. C. V. Hoskins, executive director.

Roy D. Massner Foundation, 4901 Main Street, Downers Grove, Illinois, Mr. Roy D. Massner, executive director.

Robert W. Draege Foundation, Mount Vernon, Illinois, Mr. Robert W. Draege.

Russell Spencer Foundation, Thompsonville, Illinois, Mr. Russell Spencer, executive director.

The Kellogg Foundation, Yorkville, Illinois, Mr. Keith Kellogg, executive director.

Layman Foundation, Union Gap, Washington, Mr. Stan Layman.

Glaspey Foundation, Yakima, Washington, Mr. Bob Glaspey.

J. Orkney Foundation, 610 S. 32d Avenue, Yakima, Washington, Mr. James Orkney.

S. C. Forjays Foundation, 12501 Christy Lane, Los Alamitos, California, Charles R. Billings, president.

Carol Terrell H. Root Foundation, 1879 Newport, Costa Mesa, California, Dr. Carol T. Root, president.

Foundation for Economic and Social Progress, 2812 Tigertail Drive, Rossmoor, California, Mr. Frederick G. Allen.

The Alentar Foundation, 9630 Santa Fe Springs, California, Mr. Ralph Monroe.

Barbara Wright Adams Foundation, P.O. Box 1753, Newport Beach, California, Miss Barbara Wright Adams.

Mrs. Schuyler, accompanied by Deputy Co-ordinator Herman E. Kimsey, and Field Co-ordinator Lt. Col. John B. Lininger, U.S. Army (Ret.) will leave for Saigon on July 28th from San Francisco to deliver the initial grants to the people of South Vietnam.

Mr. PATMAN. One question I think you could answer. What is the connection between ABC and these grants that were made by these member foundations?

Mr. HAYES. No connection whatever.

Mr. PATMAN. No connection at all.

Mr. HAYES. No.

Mr. PATMAN. I hold here in my hand a schedule submitted to us by Mr. George Schuyler, president, Philippa Schuyler Memorial Foundation of New York City. This schedule shows only 26 grants, totaling only $13,210.

Subsequently, by letter of October 25, 1967, Mr. Schuyler advised us that the $500 grant from the Vernon Spencer Foundation of Marion, Ill., has not been received by the Philippa Schuyler Memorial Foundation. Mr. Schuyler also stated that the following additional donations had been received by the Philippa Schuyler Memorial Foundation:

Saxon Foundation, 143 S. Lincoln Ave., Aurora, Ill	$1,000
M. J. Harris Foundation, 742 W. Dempster, Mount Prospect, Ill	500

Thus, the total contributions received from 28 foundations was $14,600. This is a far cry from $30,000 to $40,000.

You know, it was advertised that $30,000 to $40,000 was raised, but the total contributions here from the 28 foundations was $14,600. How do you explain that, Mr. Hayes?

Mr. HAYES. I wouldn't attempt to explain it, Mr. Chairman, because this is strictly up to the foundations who pledged the grants as to what finally came through.

(The schedule referred to follows:)

Donor	Address	Purpose	Amount
Fred K. Dell Foundation		Food research	$500
Robert W. Draege Foundation	Rural Route No. 2, Mount Vernon, Ill.	Animal husbandry	500
R. O. Hayes Foundation	4340 Crestknoll Dr., Grand Blanc, Mich.	Food for peace	750
Herbert M. Hines Foundation	2114 North Elmwood Waukegan, Ill.	do	100
J. W. Hines Foundation	2403 Cherry, Mount Vernon, Ill.	Reuniting families	500
L. J. Hines Foundation	Route No 1, Whittington, Ill.	Animal husbandy	500
JTC Foundation	210 West 101st St, New York, N.Y.	Child welfare in Vietnam	500
Jefferson County Research Association, Inc., Mount Vernon, Ill.	1101 Broadway, Mount Vernon, Ill.	Developing agriculture	550
The Julian Foundation	86 Juneau Rd., Ypsilanti, Mich.	Medical research	500
Kellogg Foundation	Yorkville, Ill.	Agricultural research	500
J. F. La Lumondier, Sr., Foundation	107 South 20th St., Mount Vernon, Ill.	Nutritional research	525
Massner Foundation	130 East 12th St., Davenport, Iowa	Neurological studies	500
Roy D. Massner Foundation	4901 Main St., Downers Grove, Ill.	Nutritional development	535
SBK Foundation	675 South Plum Grove Rd., Palatine, Ill.	Teenage survey	100
Russell Spencer Foundation	Rural Route No. 3, Thompsonville, Ill.	Agricultural development	500
The Vernon Spencer Foundation	602 South Russell, Marion, Ill.	Food and nutrition	500
The Tudhope Foundation	511 Woodland Lane, Northfield, Ill.	Pursuit of peace	100
Walsh Family Foundation	Care of North Central Trust Co., Chicago, Ill.	Cultural development	1,000
Wunsch Foundation	Yorkville, Ill.	Correcting physical defects	250
R. E. Bolthouse Clinic	2101 Peck St., Muskegon Heights, Mich.	Broad use	100
Chandler Foundation	4901 Main St., Downers Grove, Ill.	Neurological studies	500
R. Paul Husted, D.D.S	12540 Hawthorne Blvd., Post Office Box 187, Hawthorne, Calif.	For developing program	500
The J. D. Kirk Foundation	308 North Forest Ave., Oak Park, Ill.	Improve communication	500
Fahy Foundation		Aid to orphans	1,000
H.T. Sargent, D.C. Sargent Foundation.	1 Broadway, Des Plaines, Ill.	Aiding program	100
H.D. Hayes Family Foundation		Food research	1,000
Total			13,210

Note: Where address of a donor does not appear, it will be supplied by the attorney for the ABC Foundation, Attorney Michael M. Ushijima, Box 575, Barrington, Ill.

Mr. Patman. Who writes the checks for grants made by the Philippa Schuyler Memorial Foundation?

Mr. Hayes. I have no knowledge of that.

Mr. Patman. In his letter of October 25, 1967, Mr. Schuyler seemed uncertain as to whether a $500 donation by the Philippi Schuyler Memorial Foundation for water purification in Vietnam had actually been paid. This would seem to indicate that Mr. Schuyler does not sign the checks. You don't know about how they handle their finances?

Mr. Hayes. I don't know that.

Mr. Patman. The Philippa Schuyler Memorial Foundation's press release of July 16, 1967, shows the Alentar Foundation of Santa Fe Springs, Calif., as one of its donors. Yet our letter to the Alentar Foundation was returned to us marked "addressee unknown." How would you explain that, Mr. Hayes?

Mr. Ray. Mr. Chairman, may I object to this line of questioning? Mr. Schuyler has been requested to appear. He told me that he is going to appear.

Mr. Patman. That is no grounds at all. That is overruled.

Mr. Ray. You are just using Mr. Hayes to insert this information in the record when it could be taken from a sworn witness.

Mr. Patman. Well, that is a matter for us to decide, Mr. Ray. You look after Mr. Hayes' business.

Mr. Ray. I am trying to.

Mr. Patman. We will look after ours.

Mr. Ray. He does not run the Philippa Schuyler Foundation.

Mr. Patman. Yes. Well, he has answered, you know, that he didn't know about this, which he had a right to do. We are not questioning that. The Philippa Schuyler Memorial Foundation's press release of July 16, 1967, shows the Carol Terrell H. Root Foundation of Costa Mesa, Calif., as one of its donors. Yet Dr. Terrell H. Root has informed us that there is no such foundation. How do you explain that?

You know we have written lots of letters, dozens of letters, that were returned or people replied that they knew nothing about it. They were not members. And how did it get out, Mr. Hayes, that all these people were members when, in effect, they are not members? They denied it. Why would you say that certain people are members when they are not members?

Mr. HAYES. Mr. Chairman, I had nothing to do, and ABC had nothing to do, with putting out that information. I have no knowledge of the operation of the Philippa Schuyler Memorial Foundation.

Mr. PATMAN. The Philippa Schuyler Memorial Foundation's press release of July 16, 1967, shows the Layman Foundation of Union Gap, Wash., as one of its donors. Yet, Mr. Stan Layman has informed us that there is no such foundation.

How do you explain that?

Mr. HAYES. I have no knowledge of that.

Mr. PATMAN. And we get all kinds of replies like that, some denying it, some saying there is no such foundation, some the addressee is unknown.

Now the Philippa Schuyler Memorial Foundation press release of July 16, 1967, shows the J. Orkney Foundation of Yakima, Wash., as one of its donors. Yet Mr. Orkney has informed us there is no such foundation. That is just another one of these.

And the same way with the Glaspey Foundation of Yakima, Wash.

The Philippa Schuyler Memorial Foundation's press release of July 16, 1967, shows the Glaspey Foundation of Yakima, Wash., as one of its donors. Yet, Mr. Bob Glaspey has informed us that there is no such foundation.

How do you explain that?

Mr. RAY. Mr. Chairman, may I suggest that——

Mr. PATMAN. We are informed that there is no such foundation.

Mr. RAY. Your committee wrote letters to these people, assuming the foundations would take the family name; many foundations in this country are not under family names.

Mr. PATMAN. Mr. George S. Schuyler, president of the Philippa Schuyler Memorial Foundation, has advised us that the following constitutes the total grants paid by the foundation as of October 29, 1967:

The Foundation staged a Philippa Schuyler Memorial Concert on September 24, 1967 at Town Hall in this city, and in this connection made expenditures totaling $4,916.04. This included payment for 37 Local 802 musicians for two rehearsals and performance; music copying, printing, telephone, telegrams, cables, printing of programs, postage, office and Town Hall rentals, petty cash.

Our first grant of $1,000 was made to the Saigon Music Conservatory consisting of violin and piano concerti, scores and orchestral parts, and needed instrumental parts: i.e., bows, strings, resin and reeds.

To appear as surprise guest on the program, we brought a Vietnamese child piano prodigy from Saigon at an expense of $1269.50.

Tickets worth several hundred dollars were donated to 300 young people from Haryou Act, Our Lady of Lourdes Church, St. Charles Church and the Church of the Master and the Protestant Welfare Council.

Do you feel that the Philippa Schuyler Memorial Foundation is fulfilling its purposes in programs like that?

Mr. RAY. Objection, on the grounds of pertinency, Mr. Chairman.

Mr. PATMAN. Let Mr. Hayes answer the question or refuse to answer it.

Mr. RAY. Before I can object?

Mr. PATMAN. What is that?

Mr. RAY. Before I can object on the grounds of pertinency?

Mr. PATMAN. You just objected.

Mr. RAY. All right.

Mr. PATMAN. It is a pertinent question. Do you feel that the foundation is fulfilling its purpose on programs of that type?

Mr. HAYES. Mr. Chairman, I would appreciate a statement of how this ties in with the purposes of this committee.

Mr. PATMAN. Well, that is what I am asking you.

Mr. HAYES. How it ties in with the purposes of this committee.

Mr. PATMAN. You caused this foundation to be organized. Now are programs like that carrying out the purposes of the foundation that you caused to be organized?

Mr. HAYES. I have no right to render an opinion on that kind of a subject. That is up to the Philippa Schuyler Memorial Foundation, and its executive, to determine that fact. If it is improper, certainly the Internal Revenue will take such action as is necessary.

Mr. PATMAN. The articles of incorporation of the Philippa Schuyler Memorial Foundation, Inc., were filed in the State of Illinois on May 25, 1967. Why was this foundation incorporated in the State of Illinois?

Mr. HAYES. I have no knowledge of that.

Mr. PATMAN. According to the articles of incorporation the address of the registered office of the Philippa Schuyler Memorial Foundation is Post Office Box 575, Kelsey Road, Barrington, Ill. This is also ABC's address, is that correct?

Mr. HAYES. Box 575, Barrington, yes.

Mr. PATMAN. The base of operations of the Schuyler Memorial Foundation appears to be the home of George S. Schuyler, president of this foundation. Mr. Schuyler's address is 270 Convent Avenue, New York City. Why wasn't the Philippa Schuyler Memorial Foundation incorporated in the State of New York?

Mr. HAYES. I would say that is entirely up to the Schuylers.

Mr. PATMAN. According to the Chicago Tribune of July 26, 1967, members of the ABC were to contribute more than $30,000 to the Schuyler Memorial Foundation. Here is a list showing grants received by the Philippa Schuyler Memorial Foundation, totaling $13,210 as of October 11, 1967.

By letter of October 20, 1967, Mr. Schuyler advised us that donations received by the foundation had increased from $13,210 to $14,847. Please scan this list and tell us which of these foundations is a member of ABC. There is the list.

Mr. HAYES. Mr. Chairman, as trustee of ABC, I am not at liberty to reveal——

Mr. PATMAN. I direct you to answer the question, Mr. Hayes.

Mr. HAYES. I am sorry I can't answer.

Mr. PATMAN. You refuse to answer.

Mr. CONTE. On what basis, Mr. Chairman?

Mr. PATMAN. On what basis do you refuse to answer? Mr. Conte would like to know and I would like to know.

Mr. HAYES. I refer that to counsel.

Mr. CONTE. All right, let's hear from counsel.

Mr. RAY. Mr. Hayes had stated for 2 or 3 days, Mr. Conte, that as trustee he does not believe that he has the right to allow the membership, its privacy, to be invaded, and on that basis has consistently refused to reveal who the members are, so that they may not be subject to harassment, and that is the basis——

Mr. PATMAN. Be subject to what?

Mr. RAY. Harassment.

Mr. CONTE. You and I went through this at great length last week. Under what provisions of law, under what case or under what part of the Constitution are you seeking to gain this "umbrella"?

Mr. RAY. May I suggest that the Supreme Court itself——

Mr. CONTE. In what case?

Mr. RAY. In *Griswold* v. *Connecticut*——

Mr. CONTE. That is marital relationship, the right of privacy.

Mr. RAY. It was the right of privacy. It raised it to a——

Mr. CONTE. The courts spelled out a right of marital privacy as being within the specific guarantees of the Bill of Rights. This is not a marital relationship here.

Mr. RAY. The court also went on to state that the right of privacy was not even enumerated in the Constitution because it was retained by the people.

Mr. CONTE. Do you agree with me that that was a marital case?——

Mr. RAY. Yes, sir.

Mr. CONTE (continuing). And therefore, not in point.

Mr. RAY. No, sir.

Mr. CONTE. Do you have any other citations, counsel?

Mr. RAY. On the right to privacy?

Mr. CONTE. Yes.

Mr. RAY. Or association or freedom of association?

Mr. CONTE. You were pleading the right of privacy here, that his right not to answer these questions is based on the right of privacy. I have asked you to give me some citations. You gave me *Griswold* v. *Connecticut* which was a marital case, and which is not in point. It is not germane whatsoever. Do you have any other cases?

Mr. RAY. Yes; the whole series of NAACP cases.

Mr. CONTE. That was altogether different also. You know that as a very learned attorney, Mr. Ray. The court very clearly stated that the revealing of the NAACP membership lists was an unwarranted invasion and would be depriving the people of their right to due process.

Mr. PATMAN. Mr. Conte, I have finished asking questions of these gentlemen. You may proceed, if you like.

Mr. CONTE. In the case of *NAACP* v. *Alabama*, the case decided was in regard to the right of freedom of association; I quote:

> The exclusive beneficiary thereof has been the NAACP, a membership association. It has enjoyed the protection of that right in the form of an exemption from compelled disclosure of its members principally for the reason that it has engaged in the advocacy of particular beliefs.

Unlike the NAACP, your organization, ABC, is not engaged in such advocacy, an activity protected by the first amendment.

Mr. RAY. That is correct.

Mr. CONTE. You are engaged in the rewarding, mercantile business of advising clients for a fee as to how the latter may obtain the most liberal exemptions from the Federal tax laws. Therefore, I maintain that that case is not in point.

Mr. RAY. You may maintain that, Mr. Conte.

Mr. CONTE. In other words, you are advising your client not to answer these questions, based on the first amendment.

Mr. RAY. On the fourth amendment, the right to privacy, and that he has the nexus is sufficient——

Mr. CONTE. Are you pleading the first amendment?

Mr. RAY. You forced him under the first amendment to protect himself.

Mr. CONTE. Wait a minute; I didn't force him into anything. We kicked this around for hours last week. He was not forced into anything. He wasn't coerced. You advised him as his attorney. You can go back and check the record.

Mr. RAY. I have.

Mr. CONTE. Well, don't use that word "force" loosely here. He was not forced into anything. Is that right?

Mr. RAY. Mr. Patman referred to you as an interrogating member in that exchange.

Mr. CONTE. I was questioning him, and he was not forced. Will you go back and check the record and show me where he was forced? He did it under his own free will, of his own volition, and with advice of counsel. Is that correct?

Mr. RAY. I believe——

Mr. CONTE. Mr. Hayes, may I ask you the question: Were you forced in pleading the first amendment last week?

Mr. HAYES. Will you state the question again, Mr. Conte?

Mr. CONTE. Mr. Hayes, were you forced by this committee to plead the first amendment last week? If so, will you read from the record as to just where you were forced.

Mr. HAYES. I think the demand was made.

Mr. CONTE. There was no demand made. I ask you whether or not you wanted to plead the first amendment, and you answered in the affirmative. Will you answer that?

Mr. HAYES. I refer this to counsel.

Mr. RAY. You stated after quoting *Wilson* v. *The United States*, Mr. Conte, which was a corporation case, about a creature of the State, and we suggested that the trust is not a creature of the State——

Mr. CONTE. I suggested that a trust comes under the jurisdiction of a State.

Mr. RAY. You also suggested——

Mr. CONTE. Somewhat analogous; right?

Mr. RAY (continuing). That this was a quasi-judicial body, and I interrupted with the *Watkins* v. *The United States* opinion, and you interrupted me right after I said that the Bill of Rights is applicable to these types of investigations, and you asked if we are claiming any constitutional rights. We said yes at that point, we will claim our first amendment rights.

Mr. CONTE. Exactly right. Where is the compulsion there?

Mr. RAY. Then here you said "Do you want to plead"——

Mr. CONTE. Wait a minute right there. At that point you claimed the first amendment.

Mr. RAY. Right. We have the right to——

Mr. CONTE. Where did we demand or compel him to plead the first amendment?

Mr. RAY. The whole next——

Mr. CONT:. Wait a minute. At that point he pled the first amendment. Where was he compelled to plead the first amendment prior to that?

Mr. PATMAN. It was obvious, Mr. Conte, he was not compelled by you or any other person.

Mr. CONTE. Of course not, but I want to give him every opportunity possible to try to explain that statement. Just don't bandy words around here. You know better than that. Can you find it?

Mr. RAY. I will withdraw the word "forced."

Mr. CONTE. All right, let's go on.

Mr. RAY. If the committee will withdraw the——

Mr. CONTE. I withdraw nothing. I leave this in the record.

Mr. RAY. Yesterday my client was threatened with criminal prosecution.

Mr. PATMAN. That is not correct.

Mr. CONTE. Listen, let's not draw any "red herrings" over the issue here. You made a statement; your client made a statement. I asked you to prove it, and now you are fuzzing off on something else. I wasn't here yesterday. I was here, however, when he pled the first amendment. You said he was compelled to plead the first amendment, and now you have been proven wrong. Is that right?

Mr. RAY. You may claim that; yes.

Mr. CONTE. Well, can you claim otherwise? You have the record.

Mr. RAY. I didn't continue with the rest of the record.

Mr. CONTE. He pled the first amendment at that point. I asked you prior to his pleading the first amendment where did we, myself or anyone on this committee, compel him so to plead.

Mr. RAY. There was constant objection to his pleading that he had a right to privacy and that the members did.

Mr. CONTE. I wanted to know on what grounds. That is a legitimate question, is it not?

Mr. RAY. On what grounds?

Mr. CONTE. That is right.

Mr. RAY. Yes.

Mr. CONTE. All right. Let's go on with the questioning.

Mr. Hayes, how much effort has ABC made to help farmers establish their personal tax-exempt foundations?

Mr. HAYES. How much effort? I would say very little, if any.

Mr. CONTE. Would you say, "None at all"?

Mr. HAYES. I said very little, if any.

Mr. CONTE. Well, how about the little part. Can you tell me something about that?

Mr. HAYES. At the request of one of the sponsors, ABC conducted a seminar, an educational seminar for a group of farmers.

Mr. CONTE. Could you tell us who the sponsor was?

Mr. HAYES. No; I can't tell you that.

Mr. CONTE. Where was the meeting held?

Mr. HAYES. The meeting was held in Mount Vernon, Ill.

Mr. CONTE. Which, if any, of the farm organizations have offered to help you promote the ABC package?

Mr. HAYES. None, officially.

Mr. CONTE. How about unofficially?

Mr. HAYES. I can't reveal that information.

Mr. CONTE. Why can't you reveal that information?

Mr. HAYES. They don't want their private affairs spread around the newspapers.

Mr. CONTE. All right. Would you be willing, if we go into executive session, to tell us privately?

Mr. HAYES. No; I couldn't reveal that in executive session any more than I can in open session.

Mr. CONTE. Why can't you reveal it in executive session? You gave the excuse that you didn't want it spread in the newspapers.

Mr. HAYES. This is up to the farm organization's policy.

Mr. PATMAN. Would you yield for a short question?

Mr. CONTE. Certainly.

Mr. PATMAN. It is a fact that you tried to sell that to one of the farm organizations, just as Mr. Walsh sold it to you, as a package and they refused to buy it?

Mr. HAYES. That is not correct.

Mr. PATMAN. Go ahead, Mr. Conte.

Mr. CONTE. Mr. Hayes, the Wall Street Journal article of August 28, 1967, quotes Mr. Walsh as saying:

> Non-profit civic organizations are to be set up in every county in Illinois. The civic organization would recruit members, many of them farmers, who would set up foundations for research and development in food, nutrition and related areas such as cattle feeding and soil improvement.

How much progress has been made in setting up these civic organizations?

Mr. HAYES. I don't know.

Mr. CONTE. Why don't you know? You are a trustee of ABC, aren't you?

Mr. HAYES. I am not aware of all the details of these things that go on.

Mr. CONTE. As one of the three trustees? There are only three trustees in ABC. Is that correct?

Mr. HAYES. That is correct.

Mr. CONTE. You have no knowledge of this.

Mr. HAYES. What sponsoring members are doing I have no way of knowing.

Mr. CONTE. In your statement before this committee last week, on October 30, you stated on page 8:

> Several of our agricultural members are now setting up soil testing laboratories for the purpose of improving the quality and the quantity of food produced and thereby improving the health of those who use this food.

These are your own words.

Mr. HAYES. The Jefferson County Civic Association is public knowledge.

Mr. CONTE. In Illinois?

Mr. HAYES. In Illinois.

Mr. CONTE. In other words, if I may interrupt, what you are telling me here is that you are only going to tell me what is public knowledge. You have other knowledge and other information, but you won't disseminate that information here. Is that correct?

Mr. HAYES. Some knowledge I have and some I don't have.

Mr. CONTE. Could you give us the knowledge that you do have?

Mr. HAYES. No, I cannot divulge the names of private foundations.

Mr. CONTE. On what ground?

Mr. HAYES. The members I believe have a right to privacy, and if I reveal it, that right will be invaded and I don't believe I have that right to divulge that information.

Mr. CONTE. As I said last week, Mr. Hayes, what the committee seeks to elicit from you and the other witnesses here is evidence of the scope of your operations, and the effect upon the administration of the Federal tax system, more specifically the consequences in terms of the burden borne by the small taxpayer, to the end that it ultimately may be enabled to determine what corrective legislation, by way of more equitable reforms of that system, should be recommended.

Therefore, I think it is highly essential that this information be given by you to this committee. What you are doing is either illegal or, if it is legal, there are loopholes in the tax laws that must be plugged so that everyone carries their full share of the tax load. The only way I am going to find out whether it is legal or illegal is by your answers, aand so far you haven't told us very much.

Mr. RAY. If what is legal or illegal? You are going to find out if what is legal or illegal, the school, what we teach, our members? What do you seek to find out?

Mr. CONTE. I must find out your members first of all, because it may be that the chairman may want to bring the members before this committee.

Mr. RAY. Are you questioning whether what ABC does is legal or illegal?

Mr. CONTE. And if there are loopholes. If it is legal, and if there are loopholes in the tax laws that have to be plugged.

Mr. RAY. We will answer any of the questions on that.

Mr. CONTE. No, you don't answer it. You raise the cloak of secrecy.

Mr. RAY. On a hypothetical basis and what we teach we——

Mr. CONTE. I didn't give you a hypothetical case. I have given you actual cases. Your own statement here and your own witnesses tells me that he is not going to tell me because of the right of secrecy. These are not hypothetical questions.

Mr. RAY. He is just protecting the members.

Mr. PATMAN. Why should the members need protection if they are doing something that is legal, honorable, and right? What protection do they need?

Mr. RAY. I might suggest that on one afternoon 15 agents of the Internal Revenue Service approached 15 homes where housewives were present.

Mr. PATMAN. Well, don't you think that is a good thing?

Mr. RAY. Do you?

Mr. PATMAN. Yes.

Mr. RAY. I know their husbands sure didn't, Mr. Chairman.

Mr. PATMAN. To see whether or not they were within the law. If they are not within the law, they should pay taxes like everybody else.

Mr. RAY. Fifteen Federal criminal investigators knocked on the doors of homes, flashed their badges and demanded the books and records. Their husbands didn't care for this at all. They didn't go to their offices.

Mr. PATMAN. Who were those members?

Mr. RAY. I am not going to reveal who the people were. The IRS knows who they are.

Mr. CONTE. Why don't you want to reveal that?

Mr. PATMAN. Excuse me. The IRS has demonstrated here that it is on the job more than I have heard about in many years. I didn't know that they were on the job. I never heard of anything like that before. It is really encouraging to know that, at least once, they attempted to do something about it.

Mr. RAY. Attempt to do what?

Mr. PATMAN. It is encouraging to know that at least one time they tried to do something about you fellows, find out what makes you tick, whether or not you are evading the law, violating the law, or how you are doing it. Looks to me like you set it up so that you pay everything through a foundation because the foundation doesn't have to pay taxes.

Mr. RAY. Well, the members——

Mr. PATMAN. I doubt that you will get by with it but maybe you will.

Mr. RAY. The members believe that the proper place to decide whether they are doing anything legal or illegal is the court.

Mr. PATMAN. Yes, after 20 years.

Mr. CONTE. Mr. Hayes, how do you provide continued control over the family estate for the wife and the family of the individual setting up the trust?

Mr. HAYES. The best answer I can think of, Mr. Conte, to that, there may be several ways involved, but the trustees succeed at the death of the original trustee or the creator. I will read one of the clauses out of the trust document:

> The trustees herein mentioned by name or their successors elected to fill vacancies shall hold office, have and exercise collectively the exclusive management and control of the trust property and business affairs, provided where succession may be desired the first named trustee shall hold office for 1 year, the second for 2 years, the third for 3 years, in this manner using the same principle for additional trustees the successor to each trustee being elected for a full term of 5 years.

Mr. CONTE. The trust goes on in perpetuity?

Mr. HAYES. No, it has a definite——

Mr. CONTE. Cutoff date?

Mr. HAYES. Cutoff date.

Mr. CONTE. When is the definite cutoff date?

Mr. HAYES. Twenty-five years is the usual one. It can be renewed, however, for 25 more by the trustees.

Mr. CONTE. Assuming that it is one of these medical foundations that we discussed last week, where you have the doctor who sets up the foundation, and the doctor dies, and assuming also that members of his family are trustees of the foundation, they would continue the trust. Is that right?

Mr. HAYES. That is a foundation.

Mr. CONTE. That is a foundation.

Mr. HAYES. Yes, that would be under——

Mr. CONTE. Is that basically correct?

Mr. RAY. Would you clarify the question?

Mr. CONTE. Do you remember last week——

Mr. RAY. Yes.

Mr. CONTE (continuing). When he gave me a hypothetical case where they set up a medical research foundation.

Mr. RAY. That would be a corporate form of foundation. This is a taxpaying trust.

Mr. CONTE. I see.

How about in a foundation? How would that operate?

Mr. RAY. The code provides I believe that a corporate foundation may be perpetual.

Mr. CONTE. Go ahead. I am sorry.

Mr. RAY. The foundation may exist in perpetuity. Now whether it remains in family control depends on——

Mr. CONTE. All right.

Now, if it is a medical research foundation, and the key individual in the foundation is the doctor, and he dies and leaves no one there to carry on his work, what happens to the foundation at that point? Do the funds remain in the foundation and the foundation continue?

Mr. RAY. The foundation can employ other physicians, research men, et cetera, to carry on the work of the foundation.

Mr. CONTE. They must employ other people, however.

Mr. RAY. I don't believe that they would be able to accomplish medical research purpose without employing medical people.

Mr. CONTE. With all the various benefits being received by the individual who sets up the trust and his family, how do you meet the Internal Revenue requirements that the trust be organized and operated exclusively for the designated charitable or educational purpose?

Mr. RAY. We don't set up charitable trusts. This is a taxpaying trust, Mr. Conte.

Mr. CONTE. How about the foundation?

Mr. RAY. There is a corporate foundation and a taxpaying trust, as explained in that diagram I handed out yesterday.

Mr. CONTE. So, if you are going to set up a foundation for me, and I am a doctor, you first set up a trust. Is that correct?

Mr. RAY. I could set up a foundation, a corporate foundation, first if you wished, or you could create a trust. The doctor doesn't operate within a trust. He can't.

Mr. CONTE. That is right.

Mr. RAY. There is some question as to whether a doctor can operate within a foundation. Most don't.

Mr. CONTE. You gave me some examples last week that they did.

Mr. RAY. They can; most as a matter of fact don't.

Mr. CONTE. Has ABC made clear to their members what the possible liabilities or problems are, if the foundations established by their members are determined not to be tax free?

Mr. HAYES. I think that, Mr. Conte, is quite well spelled out in the educational texts that we left with the committee last week.

Mr. CONTE. What is the answer? I haven't seen those books as yet.

Mr. HAYES. There are several reasons, and one of the penalties of those reasons is loss of exemption.

Mr. CONTE. You tell them this?

Mr. HAYES. Absolutely.

Mr. CONTE. Under the trust, does the individual ever lose control over his assets?

Mr. HAYES. Under the trust not until he dies.

Mr. CONTE. At that point does he lose his assets? Where do they go?

Mr. HAYES. He can't take them with him.

Mr. CONTE. No, he certainly can't, but it certainly could go to his family.

Mr. HAYES. The trust, Mr. Conte, doesn't die. The trust continues, and the trustees that remain control the assets.

Mr. CONTE. I have no further questions, Mr. Chairman.

Mr. PATMAN. Our next witness—tell Mr. Olsher to come back just a minute.

Mr. Walsh, suppose you come around and be sworn and occupy the table with Mr. Hayes. It is possible we will want to ask the two of you questions.

Mr. RAY. Is Mr. Hayes relieved, Mr. Chairman?

Mr. PATMAN. Not at this time; suppose you get him a chair.

Suppose you give your name to the reporter.

Mr. WALSH. My name is James R. Walsh.

Mr. PATMAN. Junior?

Mr. WALSH. You read that in the newspaper. My name is James R. Walsh.

Mr. PATMAN. What is your address?

Mr. WALSH. Box 217, Fontana, Wis.

Mr. PATMAN. Hold your right hand to be sworn.

Do you solemnly swear that the testimony that you shall give before this Subcommittee on Foundations of the House Small Business Committee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. WALSH. I do.

Mr. PATMAN. Sit down.

TESTIMONY OF JAMES R. WALSH, FONTANA, WIS.

Mr. WALSH. Thank you.

Mr. CONTE. Mr. Chairman off the record for a moment.

(Discussion off the record.)

Mr. PATMAN. You have identified yourself and your address. What is your occupation?

Mr. WALSH. I work for the Walsh Family Foundation.

Mr. PATMAN. You work for the Walsh Family Foundation?

Mr. WALSH. Yes, sir.

Mr. PATMAN. Do you own that foundation yourself?

Mr. WALSH. You can't own a foundation, Congressman Patman. This would be illegal.

Mr. PATMAN. It would be illegal?

Mr. WALSH. Yes; it would.

Mr. PATMAN. Well, somebody has the ownership of an entity. It is an entity, isn't it?

Mr. WALSH. No, sir; not as I understand the law.

Mr. PATMAN. It is not an entity?

Mr. WALSH. It is an entity, but it can't be owned by an individual.

Mr. PATMAN. Well, it is controlled then according to your version I assume?

Mr. WALSH. Well——

Mr. PATMAN. It is managed and controlled by whom?

Mr. WALSH. In the case of a corporate structure, it would be controlled by the trustees.

Mr. PATMAN. How many trustees in your Walsh Foundation?

Mr. WALSH. Three.

Mr. PATMAN. Who are they?

Mr. WALSH. My wife, Kay, my mother Bertha, and myself.

Mr. PATMAN. How much are the assets of the Walsh Foundation?

Mr. WALSH. That is a matter that I don't believe I care to reveal at this time. The Internal Revenue, incidentally, has the Walsh Foundation under criminal investigation, so we will leave that for them to determine.

Mr. PATMAN. You wouldn't be in a position to state the total assets of the Walsh Foundation?

Mr. WALSH. I don't believe I care to.

Mr. CORMAN. Would the chairman yield at that point?

Mr. PATMAN. Yes, sir.

Mr. CORMAN. Could we have his reason for not? Obviously if there is a criminal investigation pending and he wants to plead the fifth amendment it is proper.

Mr. WALSH. No, sir. I am not going to plead the fifth amendment.

Mr. CORMAN. Just the fact he doesn't want to answer doesn't seem to me to be a reason that he doesn't have to answer a question.

Mr. PATMAN. I think it would be worthwhile for you to give us a reason, Mr. Walsh, why you refuse to answer.

Mr. WALSH. Prejudicing my rights.

Mr. PATMAN. That is in view of the investigation?

Mr. WALSH. Correct.

Mr. PATMAN. Made by the Internal Revenue Service?

Mr. WALSH. That is absolutely right.

Mr. PATMAN. By subpena——

Mr. WALSH. And this committee, by the way.

Mr. PATMAN. On what grounds would you have——

Mr. WALSH. It is a private, personal affair.

Mr. PATMAN. Why you take a lot of private personal affairs. Of course, I am not comparing you with hoodlums or law violators but they have their private personal affairs, too.

Mr. WALSH. Please don't insinuate it then, either.

Mr. PATMAN. You mean to say that the Government wouldn't have a right to go into their private personal affairs?

Mr. WALSH. I will wait until we get into a court to decide that. I don't think this is a constituted court of law.

Mr. CORMAN. Mr. Chairman, it seems to me that at least this witness is eager to get to court to test the jurisdiction of this committee and that might be the best next step and that is why it would seem to me at this point it might be well to make the record very clear as to the grounds for his objection and then we can proceed to cite him for contempt and resolve the issue.

Mr. PATMAN. Let me ask the questions, Mr. Corman, if you please.

Mr. CORMAN. Yes.

Mr. PATMAN. By subpena dated October 13, 1967, a copy of which I am herewith placing in the record and which was served on you October 21, 1967, you were ordered to bring with you the following information:

1. A financial statement of Americans Building Constitutionally for the 12 months ending September 30, 1967, including income and disbursements and a balance sheet.

2. The list showing names and addresses of members of Americans Building Constitutionally and the membership fee received from each of them.

(See exhibit 7, appendix p. 1029.)

Mr. PATMAN. Are you ready to give us this information, Mr. Walsh?

Mr. WALSH. I don't want to cause you to lose face, Congressman, but I have to tell you No. 1, I am not a trustee of Americans Building Constitutionally. I am not a member, and therefore I don't have those records. I have no access to them, and consequently I couldn't comply with your request. It is that simple. What do you want from me? I am not a trustee.

Mr. PATMAN. You have no connection with ABC at all.

Mr. WALSH. That is absolutely correct.

Mr. PATMAN. We have requested by letter dated October 3, 1967, that you furnish us certain documents and information relating to the history and operations of the Walsh Family Foundation.

(That information appears in our Attachment "A" which is as follows:)

ATTACHMENT A

1. Legible copy of exemption application (Form 1023) and supporting documents, including subsequent amendments.

2. Legible copy of letter of Internal Revenue Service granting exemption.

3. Legible copy of charter, or articles of incorporation. If the Foundation is not a corporation, please submit a copy of the trust instrument.

4. Legible copy of by-laws.

5. Balance sheet or itemized schedule of assets as of the date that the Foundation was first organized.

6. Legible copy of Form 990–A (or Form 1041–A, if applicable), including attachments, filed with the Internal Revenue Service for each year beginning 1951.

7. Legible copy of Form 990–T, including attachments, filed with the Internal Revenue Service for each year beginning 1951.

8. Legible copy of accountant's financial statement for each year beginning 1951, including carrying values and market values of individual securities held at the close of the year. Re market value, if the stock is not traded, please furnish the Foundation's equity in the net assets of the corporation.

If the foundation has been in operation for less than a year, please submit (a) a current balance sheet, and (b) an income and disbursements statement for the period of operation, including names and addresses of donors, donees, and the amounts contributed.

9. Name and address of the accounting firm employed by the Foundation during each year.

10. Names and addresses of the officers of the Foundation at the close of each year.

11. Names, business addresses, and occupations of directors, trustees, and members of the finance committee at the close of each year.

12. Name and address of the bank, investment counsel, or broker, if any, rendering financial investment services to the Foundation during each year.

13. If the Foundation owned 5% or more of any class of stock of any corporation at the close of any of the years 1951 through 1966, please submit the following information for each such year:

(a) Name and address of the corporation.

(b) Nature of the business.

(c) Dates on which the stock was acquired by the Foundation, number of shares acquired, and manner of acquisition.

(d) Number of shares of each type of stock owned at the close of each year.

(e) Percentage of each class of outstanding stock of the corporation owned by the Foundation at the close of each year.

(f) Identification of the stock as voting or non-voting.

(g) Book value and market value of the stock at the close of each year. Re market value, if the stock is not traded, please submit the Foundation's equity in the net assets of the corporation at the close of each year.

14. Please advise as to:

(a) The years, beginning with 1951, during which the Internal Revenue Service performed field audits of the Foundation.

(b) The years covered in each such audit.

(c) Taxes assessed, if any, by the Internal Revenue Service.

Mr. WALSH. If you would care to ask the questions I will attempt to answer them.

Mr. PATMAN. In our letter dated October 3, we asked for certain documents, such as a legible copy of the exemption application form 1023 and supporting documents including subsequent amendments. Do you have that information?

Mr. WALSH. I don't recall ever receiving that letter. You people sent so many letters out to Box 575 that frankly I threw a lot of them in the floor file.

Mr. PATMAN. They were sent certified mail, every letter we sent to you.

Mr. WALSH. No; I didn't receive any certified mail to this effect; no.

Mr. PATMAN. Evidently you are not looking after your box carefully.

Mr. WALSH. I didn't receive a questionnaire relative to the Walsh Family Foundation. I received one relative to ABC.

Mr. PATMAN. And second, a legible copy of letter of Internal Revenue Service granting exemption. Did you get such a letter from the Internal Revenue?

Mr. WALSH. Congressman, I did not see a letter relating to the Walsh Family Foundation. I received one relating to the affairs of ABC which I stated I am not a trustee, I am not a member, and therefore I don't have access to it. I would have no reason to answer it.

Mr. PATMAN. Well, answer me this. Did you apply for an exemption for your foundation from the Internal Revenue Service?

Mr. WALSH. I will be delighted to answer that. No; I did not.

Mr. PATMAN. And you didn't ask for any. Are you going to ask for any?

Mr. WALSH. No; I don't intend to.

Mr. PATMAN. Well, by what provision of the law do you claim that you are exempt from taxes, although you have not applied for any exemption from Internal Revenue?

Mr. WALSH. That is taught in the ABC material, and I think if you want to go through that, you can find it.

Mr. PATMAN. Yes; I would like to go through it. That is the important part.

Mr. WALSH. OK.

Mr. PATMAN. It is my understanding that you insist that whenever you can form a foundation, that you don't have to apply to the Internal Revenue for exemption or to anyone else. You just don't pay taxes. Have you paid taxes in recent years, income taxes?

Mr. WALSH. That I am going to stand on my rights. I am under criminal investigation right at the moment, and I reserve the right to privacy.

Mr. PATMAN. I understand.

Mr. WALSH. In that respect.

Mr. PATMAN. You brag about and boast about——

Mr. WALSH. No, I have never bragged about anything. That was a statement you made that I boasted. I don't boast about anything.

Mr. PATMAN. That you haven't paid taxes.

Mr. WALSH. I am a humble, meek man.

Mr. PATMAN. That you haven't paid taxes since 1946?

Mr. WALSH. That is the irresponsible reporting of the Wall Street Journal reporter who put that in there. I didn't make the statement.

Mr. PATMAN. Well, have you paid taxes since 1946 to the Internal Revenue Service?

Mr. WALSH. I say that is a matter of my personal business and until I get through with the Internal Revenue I am going to stand on my rights to remain silent.

Mr. PATMAN. Now, we asked you to furnish us a legible copy of the charter or articles of incorporation. If the foundation is not a corporation please submit a copy of the trust instrument. Are you in a position to furnish us that, relating to your own foundation?

Mr. WALSH. I know what you are getting at. I can start off and give you some answers.

Mr. PATMAN. You will give us that?

Mr. WALSH. Yes. Mr. Olsher was out at Barrington on the day that we were launching the Schiller—you were mispronouncing it Schiller, it is Skiller.

Mr. PATMAN. I will accept that.

Mr. WALSH. We were launching the Skiller Memorial Foundation activity that day, and we invited Mr. Olsher to attend it, but he refused, and I know what you are getting at. I told him about the Walsh Family Foundation, and I also told him, and he made notes, that I started off in 1947 right here in the District of Columbia, but he could not find it and I noticed the consternation on his face yesterday. Now, the fact is that I organized the National Committee for Alcoholism in 1947 here in the District of Columbia chartered by the District of Columbia. That is what he was getting at. But he didn't hear the answer that day because he was covering too much material and obviously didn't write the answer down. That is where I started.

I had the problem. I have helped solve it and you quote the Wall Street Journal. Today in the Journal, today's issue, on the front page——

Mr. PATMAN. Wait just a minute; you are getting clear off.

Mr. WALSH. Do you want me to give you the story?

Mr. PATMAN. We are talking about the Walsh Foundation.

Mr. WALSH. Yes. Well, that was the beginning of it in 1947. Your Government, the Government today is starting investigation on the problem of alcoholism and that is where I started with the Walsh——

Mr. CONTE. What do you mean by "your" Government?

Mr. WALSH. Twenty years.

Mr. CONTE. What do you mean by "your" Government?

Mr. WALSH. You are depriving me of my rights here and—you want the story—I am going to give it to you.

Mr. CONTE. I would like to hear about "your" Government. Isn't it "your" Government, too?

Mr. WALSH. I hope it still is.

Mr. CONTE. Why did you use that phraseology, "your" Government? You disassociate yourself from this Government?

Mr. WALSH. Not me, no.

Mr. CONTE. That was a slip of the tongue, I imagine?

Mr. WALSH. Thank you, Mr. Conte.

Mr. PATMAN. Let's get back to the Walsh Foundation. Now, you are going to furnish us a copy of the foundation papers that you have?

Mr. WALSH. You can get that from the record right here in the District of Columbia.

Mr. PATMAN. You mean the Walsh Foundation? When was it organized?

Mr. WALSH. May 12, 1947, and as such was the National Committee for Alcoholism.

Mr. PATMAN. You mean that——

Mr. WALSH. The Walsh Family Foundation evolved out of that. That was what I was going to attempt to tell you but it is futile to try to point these things out to you, so I will let you go on.

Mr. PATMAN. Where is it registered?

Mr. WALSH. Here in the District of Columbia.

Mr. PATMAN. Where is the home office?

Mr. WALSH. With the recorder of deeds.

Mr. PATMAN. Where is the home office?

Mr. WALSH. The home office was with the psychiatrist named Michael Miller at 1323 New Hampshire Avenue, when I organized it.

Mr. PATMAN. Where is it now?

Mr. WALSH. Pardon?

Mr. PATMAN. Where is it now?

Mr. WALSH. The outgrowth of that is a trust that is domiciled in Kane County, Ill.

Mr. PATMAN. What is the name of the trust?

Mr. WALSH. Walsh Family Foundation.

Mr. PATMAN. And you are one of the three trustees, you and your wife?

Mr. WALSH. That is correct.

Mr. PATMAN. And your mother or mother-in-law?

Mr. WALSH. My mother.

Mr. PATMAN. Your mother?

Mr. WALSH. Yes. Be careful.

Mr. PATMAN. And your mother and your wife?

Mr. WALSH. That is right.

Mr. PATMAN. Represent the foundation?

Mr. WALSH. Yes.

Mr. PATMAN. And that is the one that you refuse to give us the information about?

Mr. WALSH. That is correct.

Mr. PATMAN. Now, I am asking you about the foundation. We want a balance sheet, itemized schedule of assets of your foundation. Are you going to give it to us or not?

Mr. WALSH. I don't want to insult your intelligence, but I repeat that that is being investigated by the Internal Revenue.

Mr. PATMAN. I direct you——

Mr. WALSH. When they are through with it I will give it to you, yes.

Mr. PATMAN. I direct you now to answer the question.

Mr. WALSH. I said I will give it to you when they are through with it.

Mr. PATMAN. I know, but we ask it now.

Mr. WALSH. I don't have it so how am I going to give it to you.

Mr. PATMAN. So you couldn't furnish it?

Mr. WALSH. I don't know. That is questionable.

Mr. PATMAN. Have you been engaging in any illegal practice in the operation of ABC? Have you been engaged in any illegal practice, in connection with ABC?

Mr. WALSH. How does that relate to the scope of this committee's investigation?

Mr. PATMAN. Well, of course, I think it does.

Mr. WALSH. You are entitled to your——

Mr. PATMAN. And we are asking you the question.

Mr. CONTE. Mr. Chairman, I think we ought to again get into the record what the committee is trying to obtain here.

Mr. PATMAN. All right.

Mr. CONTE. The committee seeks to elicit from the witness evidence as to the scope of his operations and the effect upon the administration of the Federal tax system or, more specifically, the consequences, in terms of the burden borne by the small taxpayers, to the end that it ultimately may be enabled to determine what corrective legislation by way of more equitable reform of that system should be recommended to the Congress.

Mr. WALSH. I will answer it by simply saying that I am not engaging, and I haven't, in any illegal activity, but I still don't understand how this relates to the scope of this committee's investigation.

Mr. CONTE. I just told you.

Mr. WALSH. All right.

Mr. CONTE. You don't understand it?

Mr. WALSH. I still don't understand it; no, I don't. Frankly I said I don't.

Mr. PATMAN. Let me ask you a few more questions. Are you a practicing lawyer, Mr. Walsh?

Mr. WALSH. No; I am not.

Mr. PATMAN. Do you have a law school degree?

Mr. WALSH. No; I do not.

Mr. PATMAN. Did you ever go to law school?

Mr. WALSH. Yes; I did.

Mr. PATMAN. It is true, isn't it, that you have been putting pressure on trustees J. Alton Lauren——

Mr. WALSH. It is not true; I heard the question yesterday.

Mr. PATMAN (continuing). And Stephenson?

Mr. WALSH. No, sir; it is not true.

Mr. PATMAN. To keep them from disclosing information to this committee. You haven't talked to them about it?

Mr. WALSH. I haven't talked to them about this investigation at all.

Mr. PATMAN. It is true, isn't it, that you have threatened trustees J. Alton Lauren and Richard J. Stephenson with dire consequences if they disclose information to this subcommittee. Is that true or false?

Mr. WALSH. That is false.

Mr. PATMAN. What did you tell Messrs. Lauren and Stephenson the results would be if they disclosed information to this subcommittee?

Mr. WALSH. I haven't told them anything.

Mr. PATMAN. According to the Wall Street Journal of August 28, 1967, you haven't paid any Federal income tax since 1947, is that correct?

Mr. WALSH. That is the Wall Street Journal again, and I am not going to admit to that.

Mr. PATMAN. Is it correct or not correct?

Mr. WALSH. I tell you that I am not going to admit to something that was published in the paper. You can assume whatever you assume.

Mr. PATMAN. Do you deny it?

Mr. WALSH. Yes; I do.

Mr. PATMAN. I direct you now to answer the question. Have you paid income tax, is that statement correct?

Mr. WALSH. That is a matter of my personal privacy. I told you I was under investigation by the Internal Revenue. It is a criminal investigation. I am going to stand silent.

Mr. PATMAN. For that reason you do not answer the question?

Mr. WALSH. That is correct.

Mr. PATMAN. Upon what legal basis do you contend that you are exempt from filing a personal income tax return?

Mr. WALSH. I will have to refer that right to the whole position that I take, that as long as this investigation by the Internal Revenue of the Walsh Family Foundation—I am going to stand mute.

Mr. PATMAN. Well, of course, that means that you would never furnish it because I assume——

Mr. WALSH. All right, if that has to be that way——

Mr. PATMAN (continuing). That the Internal Revenue Service has all returns under investigation at all times, and any taxpayer could say that he is under investigation by the Internal Revenue Service?

Mr. WALSH. Not criminal investigation, Mr. Patman.

Mr. PATMAN. But you just refuse to answer. But you could state why you believe that you are exempt from the payment of Federal income taxes through your foundation, and things like that, and the basis for your knowledge?

Mr. WALSH. I have a qualified foundation.

Mr. PATMAN. You are credited with creating the ABC package, and then selling the idea to Mr. Hayes. Is that the way it actually happened?

Mr. WALSH. For more than 20 years I have researched this field. I brought the concept to Mr. Hayes after looking far and wide for that period of 20 years for someone who could adequately present the idea to the American public. Mr. Hayes' personal philosophy is that a man is as good as his ability to present a sound idea and gain willing acceptance of it, and we have seen this sound idea presented to the American public. It is gaining willing acceptance all over the country; and yes, I presented it to Mr. Hayes.

Mr. PATMAN. Has it gone into all 50 States?

Mr. WALSH. No; it hasn't. It is getting close, though.

Mr. PATMAN. What is your position with—I didn't hear that last answer.

Mr. CONTE. It is getting close.

Mr. PATMAN. What is your position with Americans Building Constitutionally?

Mr. WALSH. I have no position with them.

Mr. CONTE. What kind of consideration was involved in your transferring this package over to Mr. Hayes?

Mr. WALSH. It is a private contract.

Mr. CONTE. Do you have a royalty interest?

Mr. WALSH. It is a private contract, Congressman.

Mr. CONTE. A private contract?

Mr. WALSH. That is right.

Mr. CONTE. Do you have a copy of that contract?

Mr. WALSH. No; I do not.

Mr. CONTE. Does Mr. Hayes have a copy of it?

Mr. HAYES. I do not.

Mr. WALSH. No.

Mr. PATMAN. Who has?

Mr. WALSH. Does it have to be written?

Mr. PATMAN. I would think so.

Mr. WALSH. Well, I trust this man implicitly, so you can figure out what kind of contract we have got.

Mr. PATMAN. What was it then, since you remember it, you have it in your head. What were the terms of the contract? What were the terms?

Mr. WALSH. Well, there are millions of dollars' worth of business done in this country every day without written contracts.

Mr. PATMAN. What was the contract between you and Mr. Hayes? That you would turn this package over to him?

Mr. WALSH. It is a private matter.

Mr. PATMAN. And I want to say now that I couldn't help but be amazed at the tremendous amount of work that was done on building this thing up.

Mr. WALSH. Twenty years.

Mr. PATMAN. You see, it went back to my investigations.

Mr. WALSH. It sure did. I have read eveything that you ever produced.

Mr. PATMAN. And the investigation of a former member from Tennessee, he had an investigation of foundations?

Mr. WALSH. That is right.

Mr. PATMAN. You pointed out everything and each one of them that you could use for your purpose?

Mr. WALSH. That is exactly right. You have got it all right here.

Mr. PATMAN. And I am afraid you picked too much out of context. You didn't read what was just before and what was just after but you quoted the information——

Mr. WALSH. The public information. Anyone could have done it.

Mr. PATMAN. That would be favorable to you?

Mr. WALSH. That is what we were looking for.

Mr. PATMAN. Who were the parties to this contract besides you and Mr. Hayes?

Mr. WALSH. That is a private matter between Mr. Hayes and myself.

Mr. PATMAN. A private matter?

Mr. WALSH. The fact is that the contract doesn't run between Mr. Hayes and myself. It runs between two organizations. One is ABC and one is the Walsh Family Foundation.

Mr. PATMAN. Oh, a contract between the Walsh Family Foundation and ABC?

Mr. WALSH. That is right.

Mr. PATMAN. So you do have a connection with ABC?

Mr. WALSH. A contractual arrangement; yes.

Mr. PATMAN. A contractual arrangement?

Mr. WALSH. That is right.

Mr. PATMAN. Do you get compensation from ABC?

Mr. WALSH. Do I? No.

Mr. PATMAN. Does your foundation?

Mr. WALSH. My foundation has a contractual arrangement with ABC.

Mr. PATMAN. How much did they receive last year, in 1966, from ABC?

Mr. WALSH. I won't tell you and I don't think Mr. Hayes is going to tell you, either.

Mr. PATMAN. On what grounds would you refuse that?

Mr. WALSH. I am refusing it on the grounds that we are under investigation at this time.

Mr. PATMAN. That is not under investigation.

Mr. WALSH. Yes; it is, too. Oh, yes; it is.

Mr. PATMAN. We are talking about the foundation now.

Mr. WALSH. They are both under criminal investigation and you know it.

Mr. PATMAN. Well, I direct you to answer the question.

Mr. WALSH. Well, I am going to refer——

Mr. PATMAN. As to how much compensation your foundation received last year?

Mr. WALSH. It didn't receive any compensation.

Mr. PATMAN. From the ABC Foundation. You refuse to do that?

Mr. WALSH. Yes, sir; I do.

Mr. PATMAN. What was the consideration at the time the contract was agreed to?

Mr. WALSH. $1.

Mr. PATMAN. Between you and the ABC Foundation?

Mr. WALSH. $1.

Mr. PATMAN. But your foundation has been receiving compensation since that time from ABC, which ultimately finds its way to you?

Mr. WALSH. No; it doesn't find its way to me.

Mr. PATMAN. Where does it go?

Mr. WALSH. I draw no salary, if that is what you are getting at.

Mr. PATMAN. How do you earn a living, Mr. Walsh?

Mr. WALSH. That is one of the things that will probably be very interesting to you and the rest of the members when you find out how these things operate, and at this time I will extend an invitation to you to give you that in our seminar and it may be of help to you, Mr. Conte, and the rest of the members of the committee in your——

Mr. CONTE. It won't be any help.

Mr. WALSH. You have got the books.

Mr. CONTE. It won't be any help to me.

Mr. WALSH. OK.

Mr. CONTE. I know what I am going to do next year about these things.

Mr. PATMAN. I ask you the question, How do you earn a living?

Mr. WALSH. Bless you.

Mr. PATMAN. How do you earn a living?

Mr. WALSH. How do I earn a living?

Mr. PATMAN. Yes. How do you earn a living now?

Mr. WALSH. I have been assisting the people in this country through this activity for 20 years without any compensation, contrary to what you read in the newspaper.

Mr. PATMAN. Well, how do you earn a living?

Mr. WALSH. I am not in the business of earning a living.

Mr. CONTE. Will you yield?

Mr. PATMAN. Yes, sir.

Mr. CONTE. Do you receive a fee?

Mr. WALSH. No.

Mr. CONTE. As a trustee——

Mr. WALSH. No.

Mr. CONTE (continuing). Of Walsh's Foundation?

Mr. WALSH. No; I do not.

Mr. CONTE. Does your mother of your wife receive a fee?

Mr. WALSH. No. That would be the trustees and I am only one of three, so I won't reveal that to you.

Mr. PATMAN. Mr. Conte, if you will pardon me, as chairman of the committee I direct you to answer that question of Mr. Conte's.

Mr. WALSH. I am referring to——

Mr. PATMAN. You are refusing to answer?

Mr. WALSH. Yes, I am; you bet.

Mr. PATMAN. Go ahead, Mr. Conte.

Mr. CONTE. That is all right. That is it.

Mr. PATMAN. You refuse to state how you make a living?

Mr. WALSH. I didn't say that.

Mr. PATMAN. You have been working 25 years for nothing?

Mr. WALSH. No, no; I didn't say I refuse to tell you how I am making a living. I contribute my services to the Walsh Family Foundation.

Mr. PATMAN. That is what you are giving. Now, where do you get something?

Mr. WALSH. I am not seeking to get anything.

Mr. PATMAN. I know.

Mr. WALSH. We are educating the American public as to what they can do to protect themselves against the erosion of these burdensome taxes. That is what we are doing. And I am contributing my services.

Mr. PATMAN. Do you have a family, Mr. Walsh?

Mr. WALSH. I have a wife.

Mr. PATMAN. It costs money to live.

Mr. WALSH. Does it?

Mr. PATMAN. And how do you earn a living?

Mr. CONTE. Mr. Chairman, would you yield?

Mr. PATMAN. Yes, sir.

Mr. CONTE. Do you receive any personal expenses——

Mr. WALSH. Personal expenses?

Mr. CONTE (continuing). From the Walsh Foundation?

Mr. WALSH. The Walsh Foundation is paying my expenses to this hearing.

Mr. CONTE. Is it paying any other expenses?

Mr. WALSH. There are others. Transportation; yes.

Mr. CONTE. How about an automobile?

Mr. WALSH. There is an automobile provided; yes. Three people use it.

Mr. CONTE. How about a home?

Mr. WALSH. No. That is provided through another contract.

Mr. CONTE. Another foundation. How about other incidental expenses?

Mr. WALSH. These are all incidents to a contract, and again I contribute my services.

Mr. CONTE. I realize that. Could you tell me to whom the contract runs? It is between you and whom else?

Mr. WALSH. My contract is between myself and the Walsh Family Foundation. I drew it.

Mr. CONTE. The Walsh Foundation and yourself?

Mr. WALSH. That is right.

Mr. CONTE. That is the question I wanted to ask.

Mr. WALSH. OK, fine.

Mr. PATMAN. You have been trying to make a case for giving services and rendering services to the people for 25 years. From your statement you must have rendered a lot of service, but you don't tell where you have gotten your living during that time.

Mr. WALSH. That is bothering you. I just this minute told you.

Mr. PATMAN. You mean through the Walsh Foundation?

Mr. WALSH. I answered—did I answer that question, Mr. Conte?

Mr. CONTE. You received your personal expenses——

Mr. WALSH. That is right.

Mr. CONTE (continuing). From the Walsh Foundation?

Mr. WALSH. Yes.

Mr. PATMAN. Personal expenses?

Mr. WALSH. That is right.

Mr. PATMAN. Just on the trip down here you said.

Mr. CONTE. No, of automobile, house, living expenses.

Mr. PATMAN. Is your home in the foundation?

Mr. WALSH. No; it is not.

Mr. PATMAN. Do you have a home?

Mr. WALSH. It is under contract; yes.

Mr. PATMAN. Under contract. With the foundation? So that is a lot of me-ing and me-ing there.

Mr. WALSH. Again that is up to you.

Mr. PATMAN. On the foundation assets?

Mr. WALSH. You can draw your conclusions.

Mr. PATMAN. Yes. It looks like it might involve a conflict of interest. Of course, I am not bringing that up.

Mr. WALSH. Thank you very much. I appreciate your kindness.

Mr. RAY. Do you want that to remain in the record, Mr. Chairman, that that insinuation was made?

Mr. PATMAN. I beg your pardon?

Mr. RAY. Do you want the fact that that insinuation was made?

Mr. PATMAN. That is so minor in comparison to the other I don't think it should be noticed. Go ahead, Mr. Corman.

Mr. CORMAN. I think this whole committee is concerned about whether or not we need legislative changes in the laws that regulate the setting up of foundations, to ascertain whether or not the public interest benefit is worth the continuation of the tax exemption, and in the light of that interest, I think that we can properly inquire in some detail as to the ownership and the operation of these foundations.

Now I respect your right to refuse to answer questions that are presently under criminal investigation, and I do not intend in my questions to invade that field, but if I am going to avoid it I will need to know with some specificity the period of time that the investigation is covering and the individuals and the scope of the investigation, and so if you would give those to me, I will try to exclude those from my line of questions.

Mr. WALSH. All right. To start off with, I don't believe that it was an accident that an Internal Revenue agent showed up at my house the Friday—it will be a week ago this past Friday preceding our first appearance here—and at 8:30 in the morning. I live in a building where we have to press a buzzer, and if you don't have a key to get in——

Mr. CORMAN. This is very interesting, but if you could tell me——

Mr. WALSH. No; you asked now. I am delighted to cooperate now if you will give me an opportunity.

Mr. CORMAN. All right, sir, I don't mean to rush you. We have lots of time.

Mr. WALSH. This joker from the IRS came up to my home and I live out in the country, and he demanded my presence and my wife said, "Well, he leaves early," so he said, "Oh, no; his car is parked down there." Well it just happened that that day I left the car home that I use, took my wife's car. Well, since that time, in conjunction with this query, we have had all sorts of demands to show up and produce and so forth.

To answer your question, I think we are in for a long pull. Time, I would have no idea, but I feel it very deeply that somebody is getting read to try to do something to someone.

Mr. CORMAN. All right, sir. Now, if you would be responsive to the question.

Mr. WALSH. So it would be impossible for me to tell you how long this is going to take.

Mr. CORMAN. Do you know the entities that are being investigated? Are you as an individual being investigated?

Mr. WALSH. Oh, definitely; yes.

Mr. CORMAN. Over what period of time?

Mr. WALSH. I am delighted you asked that question, because——

Mr. CORMAN. I am hopeful you will be responsive.

Mr. WALSH. It came to me through several people here in Washington that they were going to "get you," meaning me, and I said, "Well, this is great."

Mr. CORMAN. Now, sir, you are being investigated as an individual by the Internal Revenue Service?

Mr. WALSH. Right.

Mr. CORMAN. Is that correct?

Mr. WALSH. That is correct.

Mr. CORMAN. Over what period of time?

Are they questioning your——

Mr. WALSH. I have no way of knowing this.

Mr. CORMAN. You have been contacted by Internal Revenue agents, I assume. This is the way you know that you are under investigation. Did he indicate to you what period of time he wanted your records?

Mr. WALSH. Well, let's see. Alen Cornu, who is a special agent from Chicago——

Mr. CORMAN. You could almost respond to that question by giving me some dates or that no dates were suggested.

Mr. WALSH. It would be a week ago this past Friday. He was in a big hurry to get a hold of us.

Mr. CORMAN. Are they investigating your taxable income for the year 1947?

Mr. WALSH. I don't know what they are investigating. I have no idea at the moment.

Mr. CONTE. Will the gentleman yield?

Mr. CORMAN. Yes.

Mr. CONTE. Did he ask for records, your personal records?

Mr. WALSH. He has been out to SAI Executive Manor in Barrington on several occasions. He has asked for a lot of things.

Mr. CONTE. Has he asked for records?

Mr. WALSH. No. The fact of the matter is he wanted to inform me of the posture that I would take under the investigation, and he demanded that I come right in to see him and that was 5 o'clock in the afternoon and I said well, it would be nice if I could do it, but I think I was getting ready to go to dinner with my friends.

Mr. CONTE. Have you gone to see him?

Mr. WALSH. Hell, no.

Mr. CONTE. I yield back.

Mr. PATMAN. Mr. Corman.

Mr. CORMAN. Sir, I wonder if——

Mr. WALSH. I don't go running when people—people call me on the phone.

Mr. CONTE. I know that you are very humble. I realize that.

Mr. WALSH. I am a meek man.

Mr. CONTE. You don't have to tell us how humble you are. You are terrific.

Mr. WALSH. Thank you.

Mr. CORMAN. I take it that the foundation that you created in 1947 to combat alcoholism—I don't recall the name.

Mr. WALSH. National Committee for Alcoholism.

Mr. CORMAN. That is not under investigation, right?

Mr. WALSH. It well may be; it well may be.

Mr. CORMAN. Have you been informed that it is?

Mr. WALSH. Well, let me see if I can respond to your question now. I was at Lake Orion, Mich., the other night.

Mr. CORMAN. Have you been informed by an official of the Internal Revenue Service that the National Alcoholism Foundation is under investigation?

Mr. WALSH. Well, it would smack a lot of fine people if it does and I am afraid they would get involved too far there. No; I don't think they will.

Mr. CORMAN. Then it would seem to me that you are under some obligation to answer questions concerning that foundation?

Mr. WALSH. Would you like for me to explain what we do and so forth?

Mr. CORMAN. Yes, sir, and what I would like is some specificity as to the amount of money that went into the foundation, where that money came from, and how it was spent?

Mr. WALSH. OK.

Mr. CORMAN. And I would be delighted to have some responsive answers to those questions.

Mr. WALSH. All right.

Mr. CORMAN. Who were the trustees; that might be a good place to start.

Mr. WALSH. This is a corporate structure organized as I said here in 1947.

Mr. CORMAN. That is a not-for-profit entity?

Mr. WALSH. Oh, yes. The original incorporators were a man who at that time worked in the State Department named Rapapport, and the third incorporator was a woman named Ruth; since passed on.

Mr. CONTE. Who was the second one?

Mr. WALSH. I was the third one. Russe, Rapapport, and Walsh. Mr. Rapapport was head of the transportation desk, the oriental transportation desk in the State Department. I met him in an alcoholic sanitarium. He had the same problem I did.

Mr. CORMAN. This is all very interesting but——

Mr. WALSH. You want to know how we raised the money and so forth.

Mr. CORMAN. How much there was, where it came from, and how you spent it; yes, sir.

Mr. WALSH. Put this committee together and sought our support from industry, and when the people that I organized it with lost interest a short time after, maybe 6 or 8 months after it was organized, from that time to this time I have carried the work on by myself, supporting it with funds that I have been able to subscribe, and as a result of the effort being a sole effort, 3½ or 4 years ago, since we were carrying it, my family helping me——

Mr. PATMAN. Would you yield to me, Mr. Corman?

Mr. Walsh, you know what you sold to Mr. Hayes, the package?

Mr. WALSH. You don't want to hear the story?

Mr. PATMAN. You know the reason behind this whole scheme?

Mr. WALSH. It is not a scheme, Congressman Patman.

Mr. PATMAN. Well, I will call it a better name if you will give me a name to call it. It would seem like a scheme.

Mr. WALSH. This is a technique for people to involve themselves in some logical problems.

Mr. PATMAN. Public interest and everything?

Mr. WALSH. You bet.

Mr. PATMAN. Yes.

Mr. WALSH. Definitely; without question.

Mr. PATMAN. Yes; all right.

Mr. WALSH. Without qualification.

Mr. PATMAN. Now, let us look at it from your angle and say that this is what you intend to do all the time.

Mr. WALSH. I have been doing that.

Mr. PATMAN. All right. Now, then, tell us about this wonderful scheme of yours.

Mr. WALSH. It is not a scheme, Congressman.

Mr. PATMAN. Well, the plan you have—I will change it to plan—the plan that you have for people not to pay taxes.

Mr. WALSH. That isn't the first consideration.

Mr. PATMAN. And spend money——

Mr. WALSH. That isn't it at all.

Mr. PATMAN. It is one of the considerations.

Mr. WALSH. It is secondary, tertiary.

Mr. PATMAN. Tell us about the secondary consideration of not paying the taxes. That is the part we are going into here.

Mr. WALSH. You can't gain that——

Mr. PATMAN. Just tell us the scheme—I will change the word "scheme" again—the plan that you have.

Mr. WALSH. Thank you, you are kind.

Mr. PATMAN. That you sold to Mr. Hayes. Now, Mr. Hayes in your position, you have a great organization, you make speeches to people, you have groups, you have management, you have labor. Now, will this fit right into what you are doing?

Mr. WALSH. Definitely it does.

Mr. PATMAN. This wonderful plan?

Mr. WALSH. Thank you.

Mr. PATMAN. And it will enable people to save tax money?

Mr. WALSH. That is a secondary or tertiary consideration.

Mr. PATMAN. You said it was secondary. Let us say it is secondary.

Mr. WALSH. If they are willing——

Mr. PATMAN. But it is one of the main things that they have in mind whenever you call people to meet, and then you have——

Mr. WALSH. That is not true.

Mr. PATMAN (continuing). A meeting with them?

Mr. WALSH. Not true at all.

Mr. PATMAN. A secret meeting and you make them pay $1,050?

Mr. WALSH. We don't make anybody pay anything.

Mr. PATMAN. Just for a little seminar, 30-hour seminar, and then you make them pay $4,200. The next step is for their lawyer to go in and be taught how to organize a foundation that will enable them not to pay taxes——

Mr. WALSH. I think you are getting on the point.
Mr. PATMAN. Wait a minute.
Mr. WALSH. You are getting close.
Mr. PATMAN. All right, you correct me then.
Mr. WALSH. I am in just a minute when you get through.
Mr. PATMAN. Go ahead and do it right now.
Mr. WALSH. All right.

You read that Wall Street Journal quite frequently. You said that the Journal quoted me as saying we wanted to Henry Fordize this idea, and that is precisely what we want to do. We want to get responsible people involved in sociological problems to respond to their responsibility as individuals instead of expecting the Government to solve all these problems. Consequently, when they create an organization to undertake a facet or a specific part of a sociological problem, and they go out and they raise funds to undertake these projects, then as a secondary or a tertiary consideration there are tax benefits or alleviations.

Mr. PATMAN. All right. Now then, if you have the rich take advantage of this—as many of them are doing, as you know—and then you have the more affluent people in the middle class, that puts all the burden on the very poor people, doesn't it, to pay the taxes? If the big ones get exempt——

Mr. WALSH. This is the furthest thing from the fact. If the broad, middle-income-producing class in this country are encouraged to become involved directly in helping to solve the sociological problems that exist today, it will relieve the burden on you men to have to pass more legislation, and we don't see any need for any more legislation. The fact of the matter is, personally I think we have got too much right now.

Mr. PATMAN. We only have a very short time. Mr. Corman, you had not finished. Pardon me for interrupting, but you may proceed.

Mr. CORMAN. Perhaps if I make the questions a little briefer. Let's start back with the Alcoholism Foundation in its initial stage in 1947.

Mr. WALSH. Yes.

Mr. CORMAN. What were the assets of that foundation at the time it was 6 months old?

Mr. WALSH. We started it with an idea, a little scotch tape, some mucilage, and a few matchsticks.

Mr. CORMAN. Let's talk about dollars. How many dollars?

Mr. WALSH. None to start with.

Mr. CORMAN. No dollars?

Mr. WALSH. No.

Mr. CORMAN. All right.

How much did you have at the end of the first year? That would be 1948.

Mr. WALSH. Whatever funds I had were funds I secured myself and put in.

Mr. CORMAN. How much was it in dollars?

Mr. WALSH. You know I can't remember what I did yesterday, this morning. How am I going to remember back 20 years?

Mr. CORMAN. Would it have been probably $1,000?

Mr. WALSH. Well, you were laboring the Schuyler thing here. I donated $1,000 for that music conservatory. I remember that. That was 6 weeks, 2 months, 3 months ago, but I don't remember 20 years ago.

Bear in mind at that time I had a very severe problem known as alcoholism, and I don't remember a lot of things I did.

Mr. CORMAN. Can you remember some specific expenditures that that foundation made?

Mr. WALSH. Yes.

Mr. CORMAN. To further its purposes of combating alcoholism?

Mr. WALSH. We were following the tried and true method.

Mr. CORMAN. Tell me in dollars and cents how much and the specific expenditure.

Mr. WALSH. We were using the tried method at that time of sending out letters. Most of the money went for postage, printing, bruchures, and one thing and another. It didn't produce much of a result, for expenses to promote the idea.

Mr. CORMAN. You must have been young in 1947, Mr. Ray.

Mr. RAY. Yes; I was real young.

Mr. CORMAN. It is interesting to watch you help Mr. Walsh remember what happened so long ago. Mr. Walsh, did you have any contract with that alcoholism foundation?

Mr. WALSH. Contract?

Mr. CORMAN. Contract between yourself and the foundation to provide you with transportation?

Mr. WALSH. I hadn't progressed that far in my research until I got ahold of all the material. Congressman Patman having developed these things for me at that time.

No, I didn't.

Mr. CORMAN. Now that foundation lasted until 4 years ago?

Mr. WALSH. No, no. It is still in existence.

Mr. CORMAN. Oh, it is still in existence?

Mr. WALSH. Oh, very much so.

Mr. CORMAN. Oh, well, that is fine. Let's talk about how much is in it now.

Mr. WALSH. It is in perpetuity.

Mr. CORMAN. What are the assets now?

Mr. WALSH. You are looking at him right here.

Mr. FOLEY. Nothing.

Mr. WALSH. If I am nothing, then you are right, counsel.

Mr. CORMAN. The alcoholic foundation exists today?

Mr. WALSH. It sure does. I can tell you about the activity. If you will ask me I will tell you. I started to. I was at Lake Orion, Mich., 3 nights ago, and we have an agreement now to assist the man who heads up that organization to raise funds. His name is Arthur Ripley. He rehabilitates Catholic priests who have the problem and tackle with the Catholic Church and see where you get.

Mr. CORMAN. This is an agreement between Ripley and——

Mr. WALSH. We are working out the details of it right now; that is right.

Mr. CORMAN. When is the last time before the Ripley contract that you had a contract with someone?

Mr. WALSH. I am not going to take a contract from him. I am going to give him my time and services. The Walsh family——

Mr. CORMAN. I am not asking you about him now.

Mr. WALSH. I have never used any contracts to raise money. I told you that I gave my time and my services and whatever moneys came my way, I devoted to the activity.

Mr. Corman. Well, now, in addition to scotch tape, mucilage, and postage, are there any other things that you have devoted foundation money to?

Mr. Walsh. Well, if someone were to write a check today for $5,000, and I have friends who will do that, I would direct it to this activity.

Mr. Corman. When was the last time a friend donated $5,000 to the alcoholic foundation?

Mr. Walsh. We are approached every day with that sort of thing.

Mr. Corman. Sir?

Mr. Walsh. We are approached every day.

Mr. Corman. When is the last time that it actually happened?

Mr. Walsh. Oh, probably last week.

Mr. Corman. Last week?

Mr. Walsh. Yes.

Mr. Corman. What was the name of the donor?

Mr. Walsh. Oh, well, wait a minute. Hold the order.

Congressman, this is highly irregular. I am not going to—if the people that make contributions to this activity want to come in and tell—I have no desire to—that is what happened to the Philippa Schuyler Foundation. There was a lot of this sort of thing.

Mr. Corman. Was the donation made to the National Alcoholism Foundation?

Mr. Walsh. No; it was made to the Walsh Family Foundation, and I make my contribution through that. Oh, yes; that is right.

Where do you get these guys, pick them up off the street?

Mr. Corman. I would like to know, Mr. Walsh, the name of the donor, the amount of the donation that went through the Walsh Foundation to the National Alcoholism Foundation.

Mr. Walsh. The name of the donor was James R. Walsh.

Mr. Foley. He gave it to the foundation?

Mr. Corman. All right, Mr. Walsh. You gave that $5,000 to the foundation. That became tax exempt so far as your income was concerned; is that the understanding?

Mr. Walsh. That had nothing to do with my income, nothing at all.

Mr. Corman. You gave $5,000 to the foundation, you got it from some place.

Mr. Walsh. $500,000? You are getting a little confused now, aren't you?

Mr. Corman. Mr. Walsh, you said that you got $5,000.

Mr. Walsh. You said $500,000.

Mr. Corman. Every once in a while. I asked you when was the last time that you had gotten $5,000 for the National Alcoholism Foundation.

Mr. Walsh. It was a contribution made to me, and I directed it into the Walsh foundation, and then will make——

Mr. Corman. The contribution was made to you?

Mr. Walsh. It was made to the foundation, not to me personally, that is right.

Mr. Corman. You know, Counsel, I think it is perfectly proper for you to advise your client about his legal rights. Just as one attorney to another, I question whether or not you ought to answer the questions and change your witness' answers.

Mr. WALSH. I didn't change the answers.

Mr. CORMAN. In any sense. I really question that just as one attorney to another.

Mr. RAY. I believe Mr. Walsh made a misstatement there when he said the check was payable to him when it was not.

Mr. CORMAN. Counsel, if you want to testify as the witness, that is fine. You may be sworn.

Mr. RAY. I am trying to protect the man, Mr. Corman. He made a statement that wasn't true, before a committee under oath.

Mr. CORMAN. Counsel, I will ask you whether your duty as counsel is to decide whether your client's testimony is true and not true, or whether it is to advise him as to his legal rights to answer or to not answer.

Now if you have facts contrary to your client's testimony, and want to be sworn as a witness, I think it would be fine if we get this record straightened out. But I think this committee and the people that have to write legislation are entitled to know where these funds come from and where they go to that purport to be tax exempt.

Mr. RAY. If your client on the stand made an inadvertent statement, would you not try to correct him, if that statement could lead to his detriment?

Mr. CORMAN. Counsel, if you were in a court of law and you tried to answer for your witness as much as you are now you would be in trouble.

Now if the witness makes a mistake, he will have a chance to correct it. But I would like for this witness to answer these questions or refuse to, and if he refuses, I suggest you advise him as to the grounds on which he refuses.

Mr. WALSH. I answered the question, sir.

Mr. CORMAN. You answered the question that you gave some money, you, Mr. Walsh, an individual.

Mr. WALSH. I didn't give any money.

Mr. CORMAN. Gave some money to the Walsh Foundation, which was then given to the National Alcoholism Foundation.

Mr. WALSH. No, you have got it all backward.

Mr. CORMAN. All right, let's start back with the National Alcoholism Foundation.

Mr. WALSH. Not committee for alcoholism.

Mr. CORMAN. Sir?

Mr. WALSH. If you want to straighten it out, start straightening it out in the beginning. National Committee for Alcoholism.

Mr. CORMAN. For or against?

Mr. PATMAN. Speak in the mike, please. We can't hear you very well.

Mr. CORMAN. The National Committee for Alcoholism solicited funds from the——

Mr. WALSH. No, we do not solicit funds.

Mr. CORMAN. All right, you don't solicit funds.

Mr. WALSH. Stop that. I don't solicit any funds.

Mr. CORMAN. Mr. Chairman, I am going to ask that either the attorney refrain from giving the witness answers to questions or that he be sworn himself and testify himself, if he has more credible information than the witness. The National Committee for Alcoholism exists now and it accepts funds, it as a tax-exempt foundation; is that correct?

Mr. WALSH. I believe I stated to you that about three, three and a half years ago, I created the Walsh Family Foundation.

Mr. OLSHER. Can't hear you.

Mr. WALSH. What?

Mr. OLSHER. Can't year you.

Mr. CORMAN. You said that you created the Walsh Foundation?

Mr. WALSH. To take over the activity of the National Committee for Alcoholism, since I was the sole support of it. That is right.

Mr. CORMAN. Then the National Alcoholism Committee does not exist?

Mr. WALSH. We function, yes, we function jointly. The funds are contributed to the Walsh Family Foundation, and we direct them out of that foundation to whatever activity in the judgment and wisdom of the trustees is needed.

Mr. CONTE. Mr. Corman, may I ask a question there?

Mr CORMAN. Surely.

Mr. CONTE. Why aren't funds solicited by, and why don't they go directly to, the Alcoholic Foundation?

Mr. WALSH. Because we are not in the business of soliciting funds. We put ourselves in the category of every other fund-soliciting activity and may put ourselves under the aegis of—you have been reading the papers recently, so that is the reason for that. We have never solicited funds as such.

Mr. CONTE. What if someone wants to make a contribution?

Mr. WALSH. Then I will direct it to whatever activity I think is in need of——

Mr. CONTE. You haven't answered my question.

Mr. WALSH. All right.

Mr. CONTE. Why can't someone contribute directly to the foundation?

Mr. WALSH. We are not interested in raising funds for the foundation per se. We are interested in raising funds to combat the problem.

Mr. CONTE. Definitely.

Mr. WALSH. That is my point. That is right, you are right.

Mr. CONTE. I understand your point.

Mr. WALSH. Okay, fine.

Mr. CONTE. What if someone wants to make a contribution?

Mr. WALSH. Like I told you one more time now, we are not out soliciting funds. I am not interested in that.

Mr. CONTE. I am not speaking of solicitations. This is a voluntary contribution to the Alcoholic Foundation.

Mr. WALSH. Maybe I will get them to make a contribution to someone else.

Mr. CORMAN. Mr. Walsh, just a few minutes ago you told me you were approached frequently.

Mr. WALSH. Yes.

Mr. CORMAN. By people wanting to give substantial——

Mr. WALSH. As a result of my efforts.

Mr. CORMAN. And you said you accepted them.

Mr. WALSH. In instances where they want to make it out to me and let me have direction over it, through our board of trustees then we will accept the funds and as a conduit we will conduct them out.

Mr. CORMAN. This is the crux of the matter. Then they make a donation to you as a trustee for the Walsh Foundation.

Mr. WALSH. That is correct.

Mr. CORMAN. Now, Counsel, let's let him answer that question or tell him that he can't, and tell me why, but don't give him the answer yourself.

Mr. RAY. I haven't opened my mouth, Mr. Corman, in the last 5 minutes.

Mr. CORMAN. Oh, yes, sir, you have talked to this gentleman every time he has responded to a question, he has responded to a question, he has changed three times in the middle of a sentence.

Now, Mr. Walsh, do you care to answer that one?

You don't remember what it is?

We will have the clerk read it back.

Mr. WALSH. Let the clerk read it back.

Mr. PATMAN. We only have a couple of minutes, Mr. Corman.

Mr. CORMAN. Will the gentlemen be back tomorrow?

Mr. PATMAN. We will not be here tomorrow, but commencing Monday we have hearings Monday and Tuesday, and possibly Wednesday and Thursday. We will have Mr. Michael Saxon among the witnesses after we get through with Mr. Walsh. We want to finish with him Monday if we can.

Mr. WALSH. You are going to ask me to come back?

Mr. PATMAN. Yes, sir, we expect you to come. And we also have Mr. Lauren, T. Alton Lauren, trustee of ABC, and Mr. Richard J. Stephenson, trustee of ABC. They are the only two trustees with Mr. Hayes, and Mr. George Schuyler, and then we will have Secretary Fowler, Secretary of the Treasury, and Commissioner Cohen. But commencing Monday at 10 o'clock here in this room we expect to proceed with Mr. Walsh as a witness.

Mr. CONTE. Monday?

Mr. PATMAN. Monday, yes.

Mr. CORMAN. Mr. Chairman, may I ask that the Chair or the counsel ascertain from the Internal Revenue Service the entities that are under investigation and the period of time in which they are being investigated.

Mr. PATMAN. We will have them here.

Mr. CORMAN. But before this witness gets back so we may know what he may properly refuse to answer, in view of the investigation and when he must take the fifth and when he must answer.

Mr. WALSH. I am never going to take the fifth, so let's understand that right now, not before this committee.

Mr. PATMAN. The committee will stand at recess, and your subpena will be continued.

Mr. WALSH. I understand all that. Will you tell Mr. Hayes——

Mr. PATMAN. And Mr. Hayes the same thing, until Monday at 10 o'clock here in this room.

(Whereupon, at 12 noon, November 7, 1967, the subcommittee was recessed to reconvene on Monday, November 13, at 10 a.m.)

TAX-EXEMPT FOUNDATIONS: THEIR IMPACT ON SMALL BUSINESS

MONDAY, NOVEMBER 13, 1967

House of Representatives,
Subcommittee No. 1 on Foundations
of the Select Committee on Small Business,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10:10 a.m., in room 2359 Rayburn House Office Building, Hon. Wright Patman (chairman of the subcommittee) presiding.

Present: Representatives Patman, Corman, Irwin, and Morton.

Also present: H. A. Olsher, director, Foundations Study; Myrtle Ruth Foutch, clerk; and John J. Williams, minority counsel.

Mr. Patman. The committee will please come to order.

Dr. Saxon was subpenaed to be here this morning at 10 o'clock. Mr. Ray, you are his attorney, are you not, Dr. Saxon's? That is for the record, now.

TESTIMONY OF JAMES R. WALSH, ACCOMPANIED BY WILLIAM C. RAY, JR.—Resumed

Mr. Ray. I am representing Dr. Saxon before this committee.

Mr. Patman. That is right. Well, he is not here.

Mr. Ray. May I see a copy of the subpena, Mr. Patman?

Mr. Patman. I just wanted to know if he was here. Now then, Mr. Walsh is here, and Mr. Hayes, do you know about Mr. Hayes? Do you know about him, Mr. Ray?

Mr. Ray. Yes, Mr. Patman, I do.

Mr. Patman. He is supposed to be here.

Mr. Ray. That is correct.

Mr. Patman. And he is not here.

Mr. Ray. He is under doctor's care, Mr. Patman.

Mr. Patman. Well, of course, if he has a doctor's statement, that is different.

Is he in town?

Mr. Ray. No, he is not.

Mr. Patman. Of course, if he has a doctor's statement, why we would be very sympathetic toward whatever request he has made for him in view of that. My information was incorrect with respect to Dr. Saxon. I said that we had gotten out a subpena for Dr. Saxon returnable at 10 o'clock. Dr. Saxon told Mr. Olsher he didn't want a subpena, that he would rather come here voluntarily, and he would be here at 10 o'clock this morning. Therefore, we didn't have a subpena served on him.

We will proceed, if it is all right with the members of the committee, to finish interrogating Mr. Walsh.

Mr. Walsh has had the oath administered to him. He is a witness before the committee.

On matters relating to the ABC scheme, Mr. Walsh, you have made your headquarters with the ABC offices on Kelsey Road in Barrington, Ill.

That is correct, is it not?

Mr. WALSH. Last time I appeared before the committee, you agreed not to refer to this as a scheme. You agreed that it was a plan, and I am not going to agree to your calling this a scheme.

Mr. PATMAN. Oh, excuse me. I will certainly correct that.

Mr. WALSH. Thank you.

Mr. PATMAN. Every time I say scheme, it is really a plan.

Mr. WALSH. Thank you, Congressman.

Mr. PATMAN. Fine.

Mr. RAY. Chairman Patman, I have a statement from Mr. Robert D. Hayes to the committee, if I may be permitted to read it.

Mr. PATMAN. You mean it is a sworn statement?

Mr. RAY. Yes, Mr. Chairman, it would be sworn.

Mr. PATMAN. Let me see the statement. It might not be necessary to read it.

Mr. RAY. I would like to read it.

Mr. PATMAN. Is it in connection with his illness?

Mr. RAY. No, it is not, Mr. Patman.

Mr. PATMAN. Well, that is all we want; a statement from him to be read by you.

Now, of course, we want him here in person to deliver any statement, and if he is not able to be here in person, why, of course, we will have to fix another time for him.

Mr. RAY. May I have his statement inserted in the record, Mr. Chairman?

Mr. PATMAN. All we want now is a statement about why he is not here, and you say he is ill, which is understandable. If he is ill he is not here, and if you want to file a statement about that, a doctor's statement, it will be perfectly all right.

Do you have one like that?

Mr. RAY. I don't have a doctor's statement with me.

Mr. PATMAN. Well, you can get it sometime today maybe, so we will just say nothing about it today, with the understanding that you believe that he is ill and he is not able to be here.

Mr. RAY. Mr. Chairman, because he was not able to be here, he prepared a statement to make to the committee which he asked that I deliver to you.

Mr. PATMAN. Oh, no; we couldn't do that. That is substituting a witness, you know. We don't allow that, and he is under subpena.

All right, Mr. Walsh, no matters relating to the ABC plan, you have made your headquarters at the ABC offices on Kelsey Road in Barrington, Ill.; is that correct?

Mr. WALSH. My headquarters——

Mr. CORMAN. Mr. Chairman, each time that the Chair asks a question, the counsel turns to the witness, the witness turns to counsel, the counsel tells him with his lips what the answer should be and he then responds.

I do not believe that is a proper role for counsel.

If the advice of counsel is to refrain from answering the question, I suppose that would be proper depending on the ground, but I will not remain in this committee and have this witness or any other witness instructed on each answer by this counsel. We have done that for 3 days. It seems to me that we ought at this point to stop that practice.

Mr. PATMAN. You will have to refrain from doing that, Mr. Ray.

If you want to confer with the witness, of course you will be given an opportunity to do so. And that will be in order, and it is correct, there is no question about it. However, it is improper for you to prompt the witness, in other words, put words into his mouth.

Mr. RAY. Mr. Chairman, I resent very much any insinuation by this committee that I am putting words in the witness' mouth.

Mr. PATMAN. Well, that is my language.

Mr. RAY. I have the right as counsel to advise this man.

Mr. PATMAN. Of his constitutional rights. That is the advice, not factual information.

Mr. RAY. I am not advising him as to the facts.

Mr. CORMAN. Mr. Chairman?

Mr. PATMAN. Yes, Mr. Corman?

Mr. CORMAN. Counsel, I don't want to let you think I am insinuating or implying. I am saying you are giving answers to your clients. It is a matter of record, your own statement on the record if you will read it, where you said that your client had made a misstatement under oath, and you were correcting him. That is not the proper role of counsel.

Mr. RAY. I believe it is to warn a client when he has made an inadvertent statement for the record, that he had better get it corrected on the record, Mr. Corman.

Mr. PATMAN. Instead you would just ask for an opportunity to confer with your client, which would be granted every time. All right, are you ready to answer?

Your address is the same as Kelsey Road in Barrington, Ill., address?

Mr. WALSH. My address is Box 217, Fontana, Wis.

Mr. PATMAN. Fontana, Wis.?

Mr. WALSH. That is right.

Mr. PATMAN. I am talking about your headquarters, where are your headquarters?

Mr. WALSH. Box 217, Fontana, Wis.

Mr. PATMAN. You were present much of the time when Mr. Olsher, the director of the staff——

Mr. WALSH. I was present all of the time.

Mr. PATMAN (continuing). Interviewed Mr. Hayes at the ABC offices in Barrington last July. You were present all the time?

Mr. WALSH. All the time, that is right.

Mr. PATMAN. Was there any reason why you should be there every time?

Mr. WALSH. Every time? There is only one time.

Mr. PATMAN. Have you been acting as Mr. Hayes' counsel, Mr. Walsh?

Mr. WALSH. No, I am not acting as Mr. Hayes' counsel now nor have I ever acted.

Mr. PATMAN. Who asked you to be present at these interviews?

Mr. WALSH. I decided to be present.

Mr. PATMAN. You decided to be present?

Mr. WALSH. James Walsh, that is right.

Mr. PATMAN. Just on your own?

Mr. WALSH. That is exactly right.

Mr. PATMAN. On November 7, you stated that you have had no connection with ABC. Isn't this somewhat inconsistent with the fact that you were answering questions for Mr. Hayes during the Olsher-Hayes interview last July?

Mr. WALSH. I did not answer questions for Mr. Hayes. Mr. Olsher knows better than to say that.

Mr. PATMAN. Well, you answered all the questions, didn't you?

Mr. WALSH. Pardon?

Mr. PATMAN. You answered all the questions.

Mr. WALSH. I did not.

Mr. PATMAN. You answered some of them.

Mr. WALSH. The ones that pertained to me, yes.

Mr. PATMAN. Is ABC a philanthropic organization?

Mr. WALSH. I believe that ABC is an educational organization.

Mr. PATMAN. Who benefits from ABC?

Mr. WALSH. Its membership.

Mr. PATMAN. Have you ever inspected ABC's accounting records?

Mr. WALSH. No, sir.

Mr. PATMAN. Have you ever seen an ABC financial statement?

Mr. WALSH. I have not.

Mr. PATMAN. Has anyone ever told you how much ABC's assets are worth?

Mr. WALSH. I would like to remind the committee that I made the statement that I am not a trustee and I have no access to those records; no.

Mr. PATMAN. Has anyone ever told you how much ABC is worth?

Mr. WALSH. No, sir.

Mr. PATMAN. Have you ever inquired as to the value of ABC's assets?

Mr. WALSH. Not concerned with that, Mr. Patman.

Mr. PATMAN. Have you ever asked the trustees of the ABC for a copy of their organization's financial statements?

Mr. WALSH. No, sir.

Mr. PATMAN. You do receive compensation, either fees or commission, from ABC, do you not?

Mr. WALSH. I told you that I did not.

Mr. PATMAN. You do not receive anything from them, and have not in the past?

Mr. WALSH. I am going to tell you what I said the last time I was here. There is a contract between ABC and the Walsh Family Foundation. There is a contract.

Mr. PATMAN. All right; fine.

Mr. WALSH. But it didn't run to Jim Walsh.

Mr. PATMAN. Did you advise ABC that it does not have to file an application for Federal tax exemption?

Mr. WALSH. I didn't advise ABC at all. They have attorneys that they employ from time to time for that purpose.

Mr. PATMAN. And you did not advise them not to file tax returns 990(A)?

Mr. WALSH. I am going to tell you again that I did not advise them, period.

Mr. PATMAN. All right.

Mr. WALSH. That includes form 990(A).

Mr. PATMAN. Tell us again; what is the correct name of your foundation, Mr. Walsh.

Mr. WALSH. Walsh Family Foundation.

Mr. PATMAN. Walsh Family Foundation. Under what name was the foundation created; Walsh Family Foundation?

Mr. WALSH. I think I told the committee when I was here last how that came about. Do you want me to reiterate it?

Mr. PATMAN. Well, speak for the——

Mr. WALSH. It evolved out of an organization that I created here in 1947, known as the National Committee for Alcoholism.

Mr. PATMAN. Yes; I remember.

Mr. WALSH. Yes; okay, it still stands. I am not changing it.

Mr. PATMAN. The Walsh Family Foundation.

Mr. WALSH. Evolved out of that.

Mr. PATMAN. That is right.

Mr. WALSH. And I told you why.

Mr. PATMAN. When was it created by the exact name, Walsh Family Foundation, last year, 1966?

Mr. WALSH. It is recorded with the recorder of deeds in King County, Ill., on August 25, 1966.

Mr. PATMAN. All right; that is the Walsh Family Foundation.

Mr. WALSH. That is right.

Mr. PATMAN. Is it a corporation or a trust?

Mr. WALSH. A trust.

Mr. PATMAN. A trust. As I understand it, your foundation, the Walsh Family Foundation, has not filed an application for Federal tax exemption, and has not filed a form 990(A) tax return since the date of its incorporation; is that true or not true?

Mr. WALSH. I think I told the committee the other day that during the Internal Revenue criminal investigation that I was not going to answer that question.

Mr. PATMAN. Well, anyway, you have either filed or not filed.

Mr. WALSH. I am going to say that I am not going to answer that question at this time, Mr. Patman.

Mr. PATMAN. All right.

Mr. WALSH. Okay.

Mr. PATMAN. Who advised the Walsh Family Foundation that it does not have to file an application for Federal tax exemption?

Mr. WALSH. I don't need any advise for that, Mr. Patman.

Mr. PATMAN. You don't need it yourself?

Mr. WALSH. No, sir; I read the law and I think I understand it.

Mr. PATMAN. Well, what is your understanding of the law as to the reason why you haven't filed a Walsh Family Foundation——

Mr. WALSH. I will remain silent on that one.

Mr. PATMAN. Why hasn't the Walsh Family Foundation filed?

Mr. WALSH. I will remain silent on that.

Mr. PATMAN. Who advised the Walsh Family Foundation?

Mr. WALSH. I just told you I didn't need any advise.

Mr. PATMAN. What is your answer to that?

Mr. WALSH. I said I read the law and I don't believe I need any advice on that one.

Mr. PATMAN. As I understand it, your interpretation of the law is that, since foundations were authorized by law, they have tax exemption without doing anything further, is that correct?

Mr. WALSH. That is what you said; I didn't say that, Congressman.

Mr. PATMAN. You didn't say that?

Mr. WALSH. No, sir; I sure didn't.

Mr. PATMAN. I am now ordering you to answer the following questions: what was the total income of the Walsh Family Foundation, excluding contributions, during 1966?

Mr. WALSH. I am now refusing to answer your order.

Mr. PATMAN. You are refusing?

Mr. WALSH. That is correct.

Mr. PATMAN. And although you are ordered to answer it, although you are directed to answer this one?

Mr. WALSH. I said I am refusing.

Mr. PATMAN. What is the total value of the contributions received by the Walsh Family Foundation during the year 1966?

Mr. RAY. I will object, Mr. Patman, on the grounds of pertinency, for the purposes for which this committee was formed, I don't understand and I don't believe my client can understand.

Mr. PATMAN. The total value of the contributions?

Mr. RAY. No; how that question relates to the impact on the economy of small business in the purposes set forth in House Resolution 53.

Mr. PATMAN. All right; you have made your point, and you are overruled, and the witness is directed to answer this question.

Mr. WALSH. And I am refusing to answer.

Mr. PATMAN. What is the total value of the contributions received by the Walsh Family Foundation during the year 1966? You refuse to answer? The witness remains silent.

How much money has the Walsh Family Foundation received from ABC since January 1, 1966?

Mr. RAY. Objection.

Mr. PATMAN. You are directed to answer that, Mr. Walsh.

Mr. WALSH. I am refusing.

Mr. PATMAN. How much did the Walsh Family Foundation pay out in grants during the year 1966?

Mr. RAY. Objection.

Mr. WALSH. I will refuse.

Mr. PATMAN. You are directed to answer that, Mr. Walsh.

Mr. WALSH. I am refusing the direction.

Mr. PATMAN. What were the total expenses of the Walsh Family Foundation during the year 1966, excluding the grants paid out?

Mr. WALSH. I am refusing to answer.

Mr. PATMAN. I am directing you to answer that, Mr. Walsh.

Mr. WALSH. And I said, I am refusing to answer.

Mr. PATMAN. All right.

Mr. CORMAN. Mr. Chairman.

Mr. PATMAN. Yes, sir.

Mr. CORMAN. Sir, perhaps it would be useful if they stated the grounds on which they refuse.

Mr. RAY. Pertinency.

Mr. PATMAN. The attorney has pleaded the pertinency.

Mr. IRWIN. I wonder, Mr. Chairman, if on every response you shouldn't have either Mr. Walsh or his attorney cite the grounds on which they are refusing, on every one. It seems to me that you want to lay down the——

Mr. PATMAN. Yes; but where they just say, "pertinency," why the——

Mr. IRWIN. Except he has answered about nine times and only said "pertinency" twice.

Mr. PATMAN. That is right; if that is all the answer he wants to give, it is all right.

Mr. IRWIN. Except there are some answers that he hasn't given the grounds for at all.

Mr. PATMAN. That is the only answer that he has given.

Mr. IRWIN. Except that on every single response I would think, Mr. Chairman——

Mr. PATMAN. I would think from his standpoint he would want to do that, but if he doesn't want to do that, why he is restricted to that one.

Mr. IRWIN. I guess we can assume every response has been "pertinency"; is that correct?

Mr. RAY. You may assume that, Mr. Irwin.

Mr. CORMAN. Mr. Chairman, it seems to me that it is such a simple matter to establish the pertinency that perhaps he would be persuaded if the Chairman restated that, because it is so clear, it is pertinent.

Mr. PATMAN. The way I construe it, Mr. Corman, if he wants to rely upon that himself, as an attorney representing his client, that is his privilege to do so.

Mr. CORMAN. Yes.

Mr. PATMAN. And he is restricting himself, and it is not my duty to try to enlarge it to help him.

Mr. RAY. I will state the grounds upon which I object, Mr. Chairman. As you know, I have apeared as representative for Mr. Hayes and Mr. Walsh before this distinguished subcommittee. My clients appeared pursuant to subpena and testified on four occasions, October 30, October 31, November 6 and 7, 1967. My clients have responded under protest to many of the subcommittee's questions and produced certain records of organizations with which they were associated. Unfortunately, this subcommittee has failed to reciprocate my efforts, or my clients' efforts, at cooperation.

Mr. PATMAN. Is that your statement? Whose statement is that?

Mr. RAY. This is my statement, Mr. Patman.

Mr. PATMAN. Your statement. You are not reading the statement of Mr. Hayes?

Mr. RAY. I am reading my statement.

Mr. PATMAN. Your statement, yes. Well, get right down to the point as to the objection.

Mr. RAY. Mr. Hayes and I and Mr. Walsh have repeatedly asked the subcommittee to disclose the text of the resolution or other document authorizing it to conduct the present investigation. The subcommitee has refused to comply with this request. Accordingly, I am unable to determine whether the subcommittee is properly authorized or whether in questions put to me and my clients, and documents demanded, bear any relevancy to an authorized subject of inquiry.

I was tendered House Resolution 53. However, that resolution is so vague and indefinite as to be of no aid. Furthermore, a supplementary written grant of authority from the select committee to the subcommittee is a necessary prerequisite to this subcommittee's power to conduct any inquiry.

My clients are entitled to be advised of the text of that grant of authority, if it exists, before responding to this subcommittee's questions or demands for documents.

Furthermore, in violation of rule 11.26(j) of the Rules of the House of Representatives, I have not been supplied with the rules of the select committee, of this committee, or of the House, so that I and my clients may be fully advised of our rights.

The committee has also failed to consider and to grant me and my clients an evecutive hearing when it became apparent that defamatory and degrading matter might become involved. Another example of this subcommittee's failure——

Mr. PATMAN. Wait just a minute. I never heard of that before. When did you make that request?

Mr. RAY. If I may be permitted to continue. The committee requested my grounds for objection.

Mr. PATMAN. You are raising a point that I take issue with you on. I never heard of that before.

Mr. RAY. We can discuss the issues when I complete the grounds for my objection.

Mr. PATMAN. When did you make that request?

Mr. RAY. I said, we will discuss the issues——

Mr. PATMAN. I have no recollection of it.

Mr. RAY (continuing). When I have completed the grounds for my objection.

Mr. PATMAN. I have no recollection of that at all.

Mr. RAY. Another example of this subcommittee's failure to treat my clients with cooperation and courtesy is the committee's persistent demands for lists of, and other information respecting, the members of Americans Building Constitutionally. The names of the members cannot conceivably advance a legitimate purpose of this investigation, nor has the subcommittee the power to compel Mr. Hayes to disclose the membership lists.

The subcommittee's repeated demands for the membership lists, however, raises the implication that ABC either is ashamed of its membership or has something to hide. This is not true.

But Mr. Hayes and I do intend, as is our right and duty, to protect the privacy of ABC and its members against unauthorized encroachments by the subcommittee. We will not expose them to unwarranted publicity or harrassment.

Another example is the practice adopted by the subcommittee of putting questions to Mr. Hayes and Mr. Walsh, which contain assertions of supposed facts and damaging inuendoes. Such questions are purely outside any proper purpose of this investigation. These questions appear to be designed to heap abuse upon my clients, and the organizations, and ideas with which they are associated, rather than to advance any proper legislative purpose.

Legislative investigation committees may not engage in pilloring of witnesses or exposure for exposure's sake. Furthermore, if the subcommittee were properly authorized to conduct this investigation, and were conducting the investigation in a proper manner, my clients and I would question the validity of House Resolution 53 creating the Select Committee on Small Business.

I submit that House Resolution 53 runs afoul of the principles announced by the U.S. Supreme Court in cases such as *Kilborn* v. *Thompson*, 101 U.S. 168, an 1881 case; and *Swazey* v. *New Hampshire*, 354 U.S. 234—a 1957 case.

The vagueness of this resolution creates the further problem to which I have alluded before. I am unable to determine, and my clients are unable to determine whether the subcommittee is authorized to conduct the present investigation, and whether questions put to them are pertinent to an authorized subject matter.

Despite their misgivings and mine as to the legality of these hearings and my uncertainty as to just what is being investigated, we have cooperated to the utmost with this subcommittee, except when I have been prevented from doing so with Mr. Hayes from performing his fiduciary obligations and protecting his constitutional rights and the members of ABC.

It has become increasingly clear that Mr. Hayes and my clients' presence before this subcommittee serves no purpose other than to permit the subcommittee to heap scorn and ridicule upon Mr. Hayes personally and upon the ideas and organizations which he represents and of which he is a symbol.

The subcommittee has violated his rights and those of his associates and the members and potential members of ABC under article I section 9 of the U.S. Constitution and the first, fourth, fifth, sixth, eighth, ninth, 10th and 14th amendments to the U.S. Constitution.

Mr. PATMAN. Did you say the fifth in there?

Mr. RAY. The subcommittee has violated Mr. Hayes' rights and those of his associates and the members and potential members of ABC under article I, section 9, of the U.S. Constitution and the first, fourth, fifth, sixth, eighth, ninth, 10th and 14th amendments to the U.S. Constitution.

Notwithstanding the serious incursions upon their constitutional rights, and upon the constitutional rights of those who have similar beliefs and ideals, Mr. Hayes and I will continue to attempt to answer any questions which the subcommittee may put pertaining to technical aspects of tax-free foundations, of which we have knowledge.

We will, however, respectfully continue to decline to answer questions or produce information with respect to the identity of members of ABC.

Mr. Hayes and I expressly state that our participation in these hearings heretofore and hereafter is not to be deemed a waiver of any of the objections made by Mr. Hayes or by me to the authority and methods of the subcommittee and its parent select committee. Those are the grounds for my objections.

Mr. PATMAN. Those are the grounds. And you represent Mr. Walsh, too, as well as Mr. Hayes?

Mr. RAY. That is correct, Mr. Patman.

Mr. PATMAN. Well, your objections are overruled, and Mr. Walsh, you are directed to answer this question.

Mr. WALSH. And I am going to stand on that statement, Mr. Patman, as my statement.

Mr. PATMAN. What was the value of the Walsh Family Foundation?

Mr. WALSH. I am going to stand silent.

Mr. PATMAN. What is that?

Mr. WALSH. I don't care to answer that or any other question.
Mr. RAY. Objection.
Mr. WALSH. May we be excused, please?
Mr. PATMAN. No, you can't be excused.
Mr. WALSH. Well, then I am going to sit here and you can read.
Mr. PATMAN. What was the value of the Walsh Family Foundation as of December 31, 1966?
Mr. RAY. Objection.
Mr. PATMAN. Could you answer that?
Mr. WALSH. No, sir.
Mr. PATMAN. You are directed to answer it.
Mr. CORMAN. Mr. Chairman, so we can have the record complete, I wonder if counsel would tell us the time that he requested executive session, because I do not recall it, though I may not have been in the room.
Did counsel make a request for executive session?
Mr. RAY. I believe it is all in the transcript, Mr. Corman.
Mr. CORMAN. Counsel, did you make a request for executive session of this committee since it started.?
Mr. RAY. You may check the transcript, Mr. Corman.
Mr. CORMAN. I am asking you to answer yes or no, counsel. It is a matter of a slip of the memory. Did you ask this committee for executive session?
You raised that as one of your objections. It seems to me that——
Mr. RAY. I don't believe that is the proper forum for us to discuss this, Mr. Corman. It is in the transcript.
Mr. CORMAN. You stated in your objections to this committee that you were denied executive session.
I am asking you whether or not you made a request for it in writing or verbally when the committee was in session. I do not recall that you did. I have been here most of the time.
Now, that really can't involve any of your constitutional rights to respond to that one.
Mr. PATMAN. I have no recollection of any such request being made, and I believe I would remember it.
Mr. CORMAN. Counsel, it would seem to me that you either ought to withdraw your objection to these hearings that you pose concerning denial of executive session, or tell us when you made the request, or if you made the request at all, because I believe you did not make it. If you are making it now, the chairman could consider it.
Mr. IRWIN. Mr. Chairman?
Mr. PATMAN. Yes, Mr. Irwin?
Mr. IRWIN. I wonder if counsel would mind repeating his objection as read just now under oath. I am asking you a question.
Mr. RAY. I am not a witness before this committee, Mr. Irwin.
Mr. IRWIN. You are making a claim here about what you have done and haven't done before the subcommittee.
Mr. RAY. I believe——
Mr. IRWIN. You just listen for a minute, young man, I am simply asking you whether you want to make that request, whether you will agree to make that request you just made now under oath. You don't have to argue with me. You can just say "Yes, I will, Mr. Irwin," or "No, I won't, Mr. Irwin."

Mr. RAY. Mr. Irwin, I believe you are confused as to the right, duties, and obligations of people, witnesses, or committees. The courts consistently hold that we do not have to demand an executive session. It is the responsibility of the Representatives of Congress.

Mr. IRWIN. I am not arguing with you about that. You try hard to keep your cool, now.

Mr. RAY. I am.

Mr. IRWIN. You made an assertion about whether you did or not, and that is the question we are talking about now. We are not arguing about whether you are obliged to ask for it, but whether you did ask for it as you assert you did.

Now a way to get this clear and, you know, on the record, is to have you make that objection under oath.

Now do you want to do that or don't you?

Mr. RAY. I don't believe I have to, Mr. Irwin.

Mr. PATMAN. May I make this suggestion.

Mr. IRWIN. You don't have to.

Mr. RAY. Thank you, sir.

Mr. IRWIN. Do you want to?

Mr. PATMAN. You are leaving your role as an attorney when you commence to testify as a witness.

Mr. RAY. I stated the grounds for my objection.

Mr. PATMAN. You are now testifying as a witness.

Mr. RAY. I am not. I was objecting as counsel.

Mr. PATMAN. But you testimony was that you sought an executive session from this committee and it was denied, and members of the committee have no recollection of that. I personally have no recollection of it, and I do not believe it actually occurred. And a member of the committee just raised the question if you would be willing to be sworn on that statement.

Mr. RAY. Sir, I am going to remain in my role as counsel.

Mr. CORMAN. Mr. Chairman?

Mr. PATMAN. Yes, sir?

Mr. CORMAN. Mr. Chairman, here is one thing for the record that may help this a little bit. This is the record of October 31. Mr. Conte asked the question of Mr. Ray:

> Are you insinuating you would be glad to give us this information in Executive Session?
>
> Mr. RAY. No, sir; I am not.

Now, that is the only reference we have in the record to executive session. There is the clear implication that executive session really didn't seem to be very important to you at that time. Counsel, you are the one that raised this in your objection.

Mr. PATMAN. Until I can confer with the members of the committee in executive session, I will not pursue this matter further, but I will ask you to answer this question, Mr. Walsh.

Mr. IRWIN. Mr. Chairman?

Mr. PATMAN. Yes.

Mr. IRWIN. Do we have copies of the statement that he just read?

Mr. PATMAN. Yes, we would like to—you read it all, I assume, for the record, and the reporter took it down, is that correct?

Mr. IRWIN. I would like to be able to look at it right now if I may.

Mr. RAY. You may not look at the copy.

Mr. PATMAN. Let him have the copy.

Mr. RAY. You may not have the copy.

Mr. PATMAN. You mean you refuse to let us see a copy of it?

Mr. RAY. Of my notes?

Mr. PATMAN. Yes, of the statement that you read.

Mr. RAY. Those are the notes, the basis for my objection.

Mr. PATMAN. You were reading a statement there word by word.

Mr. IRWIN. May I say this, Mr. Chairman. Mr. Ray, I think you are misconstruing, you know, the way we are trying to work with you here. We have the record and I will have a chance to read it later. I wonder whether you would be kind enough to let me read your statement now. I heard it but there are certain parts that I would like to reread to make sure that my ears were serving me right.

Will you let me see your statement?

Mr. RAY. The members of this committee's ears don't seem to fail them from any information over the past 3 or 4 days. Five minutes ago it is different.

Mr. IRWIN. Now you are getting argumentative. I am trying to ask you if you will let me look at your statement.

Will you or won't you?

Mr. RAY. I will not.

Mr. PATMAN. All right. We did notice you pleading the fifth amendment.

Mr. RAY. The statement is in the record.

Mr. PATMAN. Are you going to answer this question, Mr. Walsh?

Mr. WALSH. No, I am not.

Mr. PATMAN. All right. You are directed to answer it, and you do not answer it.

Mr. WALSH. That is what you said.

Mr. PATMAN. What were the total liabilities of the Walsh Family Foundation as of December 31, 1966?

You are directed to answer that question, Mr. Walsh.

Mr. WALSH. I am not going to answer the question.

Mr. PATMAN. All right. You are directed to answer this one.

Who has the books and records of the Walsh Family Foundation as of today, November 13, 1967?

Who has the books and records?

Mr. WALSH. I am not going to answer that question, Mr. Patman.

Mr. PATMAN. All right.

You are directed to answer this one.

Have the trustees of the Walsh Family Foundation kept minutes of their meetings and copies of the resolutions considered by them?

Mr. WALSH. I am going to stand on that statement for my statement, the one that Bill Ray read.

Mr. PATMAN. You refuse to answer?

Mr. WALSH. That is right.

Mr. PATMAN. You are directed to answer this one.

Who has the minute book and supplementary records? Who has the minute book and supplementary records?

Mr. WALSH. I think I am going to at this point refuse to answer all further questions.

Mr. PATMAN. You are directed to answer this one.

In your testimony of November 7, 1967, you stated there was a contract between the Walsh Family Foundation and ABC.

I hereby order you to furnish this committee not later than November 16, 1967, a copy of this contract as well as a copy of the trustees' resolution accepting the contract and copies of all contracts to which the Walsh Family Foundation is a party.

Mr. RAY. Objection.

Mr. PATMAN. That is by November 16.

Mr. RAY. And I refer to my statement previously read.

Mr. PATMAN. Objection overruled, and you are directed to answer this, Mr. Walsh.

You refuse to answer?

Mr. WALSH. No, I am not going to refuse to answer that because that is a few days down the road, and we might see some interesting developments between that time and now.

Mr. PATMAN. Today is the 13th and that is the 16th.

Mr. WALSH. All right.

(The information has not been submitted to the subcommittee.)

Mr. PATMAN. Also I now order you to furnish to this committee by November 16, 1967, the records of the Walsh Family Foundation which will disclose the following information——

Mr. RAY. Objection.

Mr. PATMAN. The same objection you had a while ago?

Mr. RAY. That is correct. Mr. Chairman.

Mr. PATMAN. Objection overruled.

Mr. RAY. I object on those grounds to any further questions to Mr. Walsh.

Mr. PATMAN. Overruled and overruled before.

Mr. IRWIN. Mr. Chairman, I think counsel left one little door open, and that was that he would answer technical questions.

The defense he is making against answering these questions is that he is not going to answer questions about people and their personal private problems and situations, but he will answer technical questions.

Mr. Walsh, what makes you think that you don't have to go to IRS to have them clear your conviction that you don't have to get their clearance?

Mr. WALSH. I am not going to answer you, Congressman.

Mr. IRWIN. That is a technical question.

Mr. WALSH. I refuse to answer.

Mr. IRWIN. On what grounds?

Mr. WALSH. Sufficient to say I refuse to answer.

Mr. IRWIN. No, that is not sufficient.

Mr. WALSH. Well, it is going to be sufficient for the time being right now.

Mr. IRWIN. You just are simply refusing to answer at this point. You are not giving any grounds.

Mr. WALSH. That is right, you got the message.

Mr. IRWIN. Okay, all right.

Mr. PATMAN. Now this statement, I will just give you the statement of the information that is desired by the committee by November 16.

Would one of you take that down to him, please, ma'am, and get another for the reporter.

(The material referred to follows:)

The Foundation's Articles of Incorporation or the trust instrument.

The Foundation's by-laws.

The Foundation's income and disbursements for the year 1966.

The names and address of the Foundation's donees during the year 1966 and the amount contributed to each of them by the Foundation.

An itemized schedule of the Foundation's assets and liabilities as of December 31, 1966.

If the Foundation owned 5% or more of any class of stock of any corporation at the close of the year 1966, please submit the following information:

(a) Name and address of the corporation.

(b) Nature of the business.

(c) Dates on which the stock was acquired by the Foundation, number of shares acquired, and manner of acquisition.

(d) Number of shares of each type of stock owned at the close of the year.

(e) Percentage of each class of outstanding stock of the corporation owned by the Foundation at the close of the year.

(f) Identification of the stock as voting or non-voting.

(g) Book value and market value of the stock at the close of the year. Re market value, if the stock is not traded, please submit the Foundation's equity in the net assets of the corporation at the close of the year.

Minutes and supplementary information relating to the trustees' meetings beginning January 1, 1965.

(The information has not been submitted to the subcommittee.)

Mr. PATMAN. You are directed to answer this question.

Have the trustees of the Walsh Family Foundation given the Internal Revenue Service access to any of the foundation records?

Mr. WALSH. Refuse to answer.

Mr. PATMAN. You are directed to answer this one.

Has the Internal Revenue Service taken any records or copies of records from the Walsh Family Foundation?

Mr. RAY. Objection.

Mr. PATMAN. Same objection? Overruled. Answer the question. You are directed to.

Mr. WALSH. I refuse to answer.

Mr. PATMAN. You refuse to. You are directed to answer this one.

What type of records has the Internal Revenue Service been permitted to inspect, Mr. Walsh?

Mr. RAY. Objection.

Mr. WALSH. Refuse to answer.

Mr. PATMAN. Objection overruled, and you refuse to answer.

You are directed to answer this one.

What foundations other than the Walsh Family Foundation are you connected with?

Mr. RAY. Mr. Chairman, objection, and if this committee persists in this line of questioning, you will leave us no choice except to leave this committee.

Mr. PATMAN. Well, of course, you would certainly be in contempt, if you want to assume that burden. It is always available to people.

What foundations other than the Walsh Family Foundation are you connected with?

Mr. WALSH. I respectfully request to be excused. Thank you, gentlemen.

Mr. RAY. As do I, Mr. Patman.

Mr. PATMAN. You are not excused. If you want to leave——

Mr. WALSH. That is up to you.

Mr. PATMAN. That is up to you, but there will be another day on that. The record will disclose that the witnesses left the committee room and refused to answer questions or further participate in the proceedings of the committee, contrary to my instructions on behalf of the subcommittee.

Is Mr. Schuyler here?

Mr. SCHUYLER. Yes.

Mr. PATMAN. Fine, come around.

Will you stand up and be sworn, please?

Do you solemnly swear that the testimony that you shall give before this committee, the subcommittee of the House Small Business Committee, will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. SCHUYLER. I do.

Mr. PATMAN. You may repeat your name and address too for the reporter, please.

TESTIMONY OF GEORGE SCHUYLER, NEW YORK, N.Y.

Mr. SCHUYLER. I am George Schuyler, 270 Convent Avenue, New York City.

Mr. PATMAN. What is your occupation?

Mr. SCHUYLER. I am a writer and editor.

Mr. PATMAN. Writer and editor?

Mr. SCHUYLER. And president of the Philippa Schuyler Memorial Foundation.

Mr. PATMAN. The officer of the Philippa Schuyler Memorial Foundation is yourself, you are president, is that right?

Mr. SCHUYLER. Yes.

Mr. PATMAN. Your wife is Josephine Schuyler, Secretary-Treasurer?

Mr. SCHUYLER. Right.

Mr. PATMAN. And Robert Speller, vice president?

Mr. SCHUYLER. That is right.

Mr. PATMAN. The same persons are also the directors and trustees of the foundation, is that correct?

Mr. SCHUYLER. That is right.

Mr. PATMAN. Now your foundation is a member of ABC and its membership application dated May 16, 1967, shows a membership fee of $10,500. The sponsoring foundation is Hough's Encyclopedia of American Woods Foundation of New York City.

From whom did your foundation receive the $10,500 to pay for its membership in ABC?

Mr. SCHUYLER. I believe from the Hough's Encyclopedia Foundation.

Mr. PATMAN. From Hough's Encyclopedia American Woods Foundation.

Why did they furnish it to you, the $10,500?

Mr. SCHUYLER. Well, I suppose in order to obtain membership. I am just really familiarizing myself with this whole thing, but that is the way it develops.

Mr. PATMAN. You mean you were not acquainted with it at that time?

Mr. SCHUYLER. No. I never heard of this ABC before.
Mr. PATMAN. Until $10,500 was furnished to you?
Mr. SCHUYLER. Well, I won't say until that time. I heard of it before then because——
Mr. PATMAN. Was the check from the ABC or form the Hough's Encyclopedia?
Mr. SCHUYLER. That I don't know.
Mr. PATMAN. Did you endorse the check?
Mr. SCHUYLER. No.
Mr. PATMAN. Well, how was the $10,500 delivered to you?
Mr. SCHUYLER. Well, I presume that it was signed for if signature was necessary by Mrs. Schuyler and Mr. Speller.
Mr. PATMAN. They did sign for it?
Mr. SCHUYLER. I presume they did.
Mr. PATMAN. You presume they did, all right.
Mr. Robert Speller, president of the Hough's Encyclopedia of American Woods Foundation says that his foundation hadn't paid a membership either. Yet other people are alleged to have paid $10,500 for membership in ABC.
How do you explain this?
Mr. SCHUYLER. I can't.
Mr. PATMAN. You can't explain it.
How did the organization Americans Building Constitutionally come to your attention?
Mr. SCHUYLER. It came to my attention about the latter part of May.
Mr. PATMAN. Of 1967?
Mr. SCHUYLER. 1967.
Mr. PATMAN. 1966 or 1967?
Mr. SCHUYLER. 1967.
Mr. PATMAN. 1967?
Mr. SCHUYLER. This year.
Mr. PATMAN. How did it come to your attention?
Mr. SCHUYLER. Well, of course my daughter was killed in Vietnam on May 9, and she was buried in New York at the Cathedral on May 18, and then the Philippa Schuyler Foundation was incorporated under the laws of Illinois about May 21, so it had already been discussed before, that is——
Mr. PATMAN. With whom?
Mr. SCHUYLER. With Speller.
Mr. PATMAN. With Speller?
Mr. SCHUYLER. Yes.
Mr. PATMAN. Was he connected with ABC?
Mr. SCHUYLER. Well, now, I can't speak of the——
Mr. PATMAN. I don't believe he was, but evidently Mr. Speller contacted, it must be been, Mr. Hayes, or someone of the trustees.
Mr. SCHUYLER. I don't know the presidents of these things. All I know is that they happened.
Mr. PATMAN. You don't know. All right.
Why were you incorporating the foundation in Illinois when you lived in New York?
Mr. SCHUYLER. Because I think the legal and clerical work connected with it was done.

Mr. PATMAN. It was done there in the ABC offices?

Mr. SCHUYLER. Yes.

Mr. PATMAN. You didn't have anything to do with preparing that yourself?

Mr. SCHUYLER. Oh, no.

Mr. PATMAN. You looked upon ABC as the one to do that?

Mr. SCHUYLER. Yes.

Mr. PATMAN. And they prepared it and filed it there?

Mr. SCHUYLER. Yes, sir.

Mr. PATMAN. You don't know whether any $10,500 was actually paid or not, do you?

Mr. SCHUYLER. I didn't see it.

Mr. PATMAN. You didn't see it.

Has ABC imparted to you legal and tax expertise? I assume they did all the work, ABC, for your foundation?

Mr. SCHUYLER. I have had some advice from a lawyer who was connected with ABC as to the line of procedure.

Mr. PATMAN. The line of procedure.

What is the purpose of your foundation?

Mr. SCHUYLER. Well now, we are trying to carry forward the memory of my daughter and what she accomplished.

Mr. PATMAN. The one who was killed in Vietnam?

Mr. SCHUYLER. Yes, and also her desire to help the people of South Vietnam, and to that we have sought to address ourselves in a very limited way so far.

Mr. PATMAN. And who benefits from this foundation and who is to benefit from it, just the memory of your daughter, I——

Mr. SCHUYLER. That is all, because we certainly haven't benefited from it. I am out.

Mr. PATMAN. I beg your pardon?

Mr. SCHUYLER. I am out money on this, so that we haven't benefited, and that wasn't the intention.

Mr. PATMAN. As I understand it, your foundation has not filed an application for Federal tax exemption.

Is that true or not true?

Mr. SCHUYLER. This is not true.

Mr. PATMAN. You have filed?

Mr. SCHUYLER. No; we have not.

Mr. PATMAN. You have not?

Mr. SCHUYLER. For the reason——

Mr. PATMAN. Why hasn't your foundation filed an application for Federal tax exemption?

Mr. SCHUYLER. Well, I was told that the form 990 would not have to be——

Mr. PATMAN. Would not have to be filed?

Mr. SCHUYLER. Pleaded until around December, around the end of the year, and that the other form, 1093, for tax exemption would not necessarily have to be filed until near the end of the fiscal year, and——

Mr. PATMAN. Therefore the time has not arrived.

Mr. SCHUYLER. No, sir.

Mr. PATMAN. According to the information you have.

Mr. SCHUYLER. That is my understanding, sir.

Mr. Patman. Who advised you, your foundation, that the application for Federal tax exemption doesn't have to be filed before the end of the fiscal year?

Mr. Schuyler. A lawyer who was connected with the——

Mr. Patman. With ABC?

Mr. Schuyler. ABC.

Mr. Patman. Do you recall his name?

Mr. Schuyler. Michael M. Ushijima.

Mr. Patman. Yes, his name was mentioned here the other day.

Mr. Schuyler. Yes.

Mr. Patman. As the attorney for the ABC.

Mr. Schuyler. He was. I think he has now severed his connection.

Mr. Patman. You think he has severed his connection?

Mr. Schuyler. I think he has.

Mr. Patman. Severed his connection. Did the organization known as ABC help the Philippa Schuyler Memorial Foundation raise funds?

Mr. Schuyler. Yes.

Mr. Patman. In what way did the ABC help your foundation to raise funds?

Mr. Schuyler. Well, it prevailed upon foundations which were its members to make grants to the Philippa Schuyler Foundation.

Mr. Patman. On July 27, 1967, ABC held a meeting in Barrington, Ill., relating to the Philippa Schuyler Memorial Foundation. Was it a successful meeting?

Mr. Schuyler. Well, I presume so. I wasn't there, but my wife so reported to me that there were a great number of people there whom I suppose were connected with ABC.

Mr. Patman. I understand a number of foundations pledged grants, is that correct?

Mr. Schuyler. That is true.

Mr. Patman. Were all these foundations members of the ABC?

Mr. Schuyler. Well now, that I can't say. I am speaking now of what I know, and I don't know that.

Mr. Patman. That is all right; yes, sir. I have here a copy of a press release dated July 16, 1967, which was sent out by the Philippa Schuyler Memorial Foundation. It lists more than 40 foundations which had pledged grants to the Philippa Schuyler Memorial Foundation. Subsequently, newspaper reports referred to those pledges as amounting to $30,000 to $40,000. However, I understand that only $14,937 in pledges had been paid.

What do you think is the reason for this?

Mr. Schuyler. Well, that is a puzzle to me. I don't know why. There were a number of foundations which apparently pledged grants, but did not make them.

Mr. Patman. But did not make them?

Mr. Schuyler. Actually.

Mr. Patman. Pledged them but did not make them. The Philippa Schuyler Memorial Foundation's press release of July 16, 1967, shows that the Alentar Foundation of Santa Fe Springs, Calif., is one of its donors. Yet, our letter to the Alentar Foundation was returned to us, marked "Address Unknown."

Do you know anything about that?

Mr. Schuyler. No, sir.

Mr. PATMAN. Also, the foundation press release of July 16 shows a number of foundations, four in particular: The Carol Terrell H. Root, of Costa Mesa, Calif.; Layman Foundation of Union Gap, Wash.; J. Orkney Foundation, Yakima, Wash.; Glaspey Foundation, Yakima, Wash.; each of the alleged founders said that he had no such foundation.

Do you have any explanation for it, yourself?

Mr. SCHUYLER. No, sir; and we didn't receive anything from them, either.

Mr. PATMAN. You didn't receive anything from them?

Mr. SCHUYLER. No, sir.

Mr. PATMAN. The articles of incorporation of the Philippa Schuyler Memorial Foundation, Inc., were filed in the State of Illinois on May 25, 1967. Why was this foundation incorporated in the State of Illinois. I believe you have explained that, because the ABC people got it up for you and filed it and did everything themselves.

Mr. SCHUYLER. I should say, "Yes," to that; yes.

Mr. PATMAN. That is correct?

Mr. SCHUYLER. Yes.

Mr. PATMAN. According to the articles of incorporation, the registered office of the Philippa Schuyler Memorial Foundation is Post Office Box 575, Kelsey Road, Barrington, Ill. This is also ABC's address. You understand that, do you?

Mr. SCHUYLER. Yes, sir.

Mr. PATMAN. The base of operations of the Philippa Schuyler Memorial Foundation appears to be your home in New York City. Why wasn't the Philippa Schuyler Memorial Foundation incorporated in the State of New York instead of in Illinois? I asked you that question awhile ago, and you explained that the papers were gotten up by ABC there in Illinois and filed by them in Illinois.

Mr. SCHUYLER. Yes, sir.

Mr. PATMAN. That is correct, isn't it?

Mr. SCHUYLER. Yes.

Mr. PATMAN. Have you or your wife received any salary or expenses from the Philippa Schuyler Memorial Foundation?

Mr. SCHUYLER. No, sir. On the contrary, we spent money.

Mr. PATMAN. Just the other way?

Mr. SCHUYLER. Yes.

Mr. PATMAN. Who writes the checks for grants made by the Philippa Schuyler Memorial Foundation?

Mr. SCHUYLER. Two members, two of the officers, have to do it. It could be Mr. Schuyler and Mr. Speller, or it could be Mrs. Schuyler and myself.

Mr. PATMAN. All right. What foundations, other than your foundation, are you connected with?

Mr. SCHUYLER. Well, I am not connected with anything.

Mr. PATMAN. This is the only one?

Mr. SCHUYLER. This is the only one.

Mr. PATMAN. Did you ever meet James R. Walsh?

Mr. SCHUYLER. Yes, sir.

Mr. PATMAN. When and where did you meet him?

Mr. SCHUYLER. Well, on the occasion that the Philippa Schuyler Memorial Foundation held a press conference at the Overseas Press Club.

Mr. PATMAN. Where did that happen?
Mr. SCHUYLER. At the Overseas Press Club.
Mr. PATMAN. In New York or Chicago?
Mr. SCHUYLER. In New York City.
Mr. PATMAN. In New York City. And Mr. Walsh was there?
Mr. SCHUYLER. Yes, sir.
Mr. PATMAN. Was he a participant in the ceremonies?
Mr. SCHUYLER. No, sir; he wasn't a participant. He was just sitting there at the table.
Mr. PATMAN. Was he with the ABC people, the officials?
Mr. SCHUYLER. Yes.
Mr. PATMAN. Is that the only time you met him?
Mr. SCHUYLER. That is the only time.
Mr. PATMAN. Did you have any conversation with him?
Mr. SCHUYLER. Yes. We had a brief conversation as one would when one first meets a person, but I don't think it was protracted.
Mr. PATMAN. In what way did you think Mr. Wash was connected with ABC?
Mr. SCHUYLER. Well, I presumed that he was an officer. I presumed that. I didn't know that because it wasn't——
Mr. PATMAN. Do you presume from your conversation, or his associates at the time?
Mr. SCHUYLER. Well. I guess it was a matter of association. He was there with Mr. Hayes, and so I presumed that he was connected with ABC.
Mr. PATMAN. How long have you known Robert D. Hayes?
Mr. SCHUYLER. Well, no longer than I have Mr. Walsh. I met him first at the same time.
Mr. PATMAN. You met him at the same time?
Mr. SCHUYLER. At the Overseas Press Club in New York.
Mr. PATMAN. In New York. Is there any statement that you would like to voluntarily make about this, that you have not been asked about?
Mr. SCHUYLER. No. I came here voluntarily to answer any questions that I could answer.
Mr. PATMAN. You were very cooperative, I will say that. From the beginning, you said that you would be very glad to give any information you had concerning it.
Mr. SCHUYLER. Yes, sir.
Mr. PATMAN. Are there any questions by members of the committee?
Mr. CORMAN. Yes, sir.
Mr. PATMAN. Go ahead.
Mr. CORMAN. Is this our last witness for the day, or do we have others?
Mr. PATMAN. This is the only witness we will have today.
Mr. CORMAN. Yes, I would like to ask a few questions.
Mr. PATMAN. We have witnesses for tomorrow, whom I will announce later.
Mr. CORMAN. Mr. Schuyler, I would like to say as the chairman did, that I sincerely appreciate your cooperating with this committee. I realize that in some ways this must be a painful experience for you.
We are attempting to ascertain whether or not existing statutes are being enforced in the area of tax exemption or alleged tax exemption

of not-for-profit foundations, and whether or not there ought to be different laws passed. Our concern is what relationship you had with ABC and with the officers of ABC, so that we can ascertain how they operate.

I wonder if you could tell me when you first became aware that there was such a thing as ABC, how you became aware of that?

Mr. SCHUYLER. Well, let me see. It must have been in May after the organization was incorporated, and I——

Mr. CORMAN. You mean after the memorial foundation for your daughter was incorporated?

Mr. SCHUYLER. Yes, or about that time.

Mr. CORMAN. The thing I wasn't quite certain about is whether or not they had influenced you to create this foundation, or whether the foundation was already created and then they came along and gave advice.

Mr. SCHUYLER. Well, I would like to answer that by saying that I thought of the idea of a foundation even while I had a speaking engagement in Florida, and en route I thought about it because it was just 2 or 3 days after she had died, and then when I came back, we held a gathering at my home and Mr. Speller was there and Mr. Speller felt that this was the thing to do, and I agree with him, so did everybody.

Mr. CORMAN. Up to that point, you had had no contact with ABC?

Mr. SCHUYLER. Oh, I didn't even know it existed.

Mr. CORMAN. Yes, sir. Mr. Speller, what was your prior relationship with him?

Mr. SCHUYLER. Well, we have known Mr. Speller for about 8 to 10 years.

Mr. CORMAN. I see.

Mr. SCHUYLER. Because he was the publisher of my daughter's book.

Mr. CORMAN. Yes, sir. All right, if you will go on after that step.

Mr. SCHUYLER. Well, then they came up with the "Winning the Peace Program", which was of course all right with me, because it would carry out the ideals of my daughter, and Mrs.——

Mr. CORMAN. Who was it that came up with this "Winning the Peace Program"? Was this one connected with ABC, or with no connection at all with ABC?

Mr. SCHUYLER. The reason I can't answer that is because I don't know what Mr. Speller's relations with ABC was at that time, but I know that it all developed and on July 27, they had this big meeting in Barrington, Ill., and things went on from there.

Mr. CORMAN. Do you know what Mr. Speller's relationship is with ABC?

Mr. SCHUYLER. Well, except indirectly, that he is a director of the Philippa Schuyler Foundation—Memorial Foundation—and he also directed this Hough Foundation, which I presume is his foundation, and that is the only relationship that I know that he has. Now, he may have other relationships, but I am only speaking about what I know.

Mr. CORMAN. Did you first become aware of the existence of ABC through Mr. Speller?

Mr. SCHUYLER. Yes.

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Mr. CORMAN. Could you relate to us, as well as you can remember, what the conversations were between yourself and Mr. Speller at that point, when you first became aware of the existence of ABC?

Mr. SCHUYLER. No.

Mr. CORMAN. Just as clearly as you remember.

Mr. SCHUYLER. Well, it was sometime back there in late May or June, and we met on the occasions, sometimes at his home, sometimes at mine.

Mr. CORMAN. Did he suggest to you that ABC might offer some services that you might need in setting up your foundation, or just how did you become aware of ABC through Mr. Speller, if in fact you did?

Mr. SCHUYLER. Well, I am trying to remember. Now, I don't say that it is vague, but it is not very explicit in my mind. I was told that there were a large number of foundations that would want to contribute, give grants to the Philippa Schuyler Memorial Foundation, and that of course was all right with me.

They specified what the money was to be for, and so finally the list was compiled and then Mr. Speller had a public relations woman who prepared the release to go out to the press, listing all of these foundations that had made contributions, and then stating a flat sum that would be the total of what had been given, and of course, I did not know this for sure.

I was just going by what they said, because most of—well, all of the foundations I had never heard of before, but it was all right with me if they wanted to contribute to this. This was mutually advantageous.

Mr. CORMAN. Was it your understanding that ABC was the one that was getting these foundations to make these contributions?

Mr. SCHUYLER. I can only say that I presumed. I don't know from what other source it would have come, because we didn't know any foundations, and no other foundations came forward to perpetuate the memory of this girl, and what she had done, and all that, so naturally one is very favorably inclined toward ABC, because it was mutually advantageous.

Mr. CORMAN. Was it ever suggested that you take an educational course from ABC, that they would give you any instructional material?

Mr. SCHUYLER. No. I have never received any instructional material, and it was never suggested to me that I take any course. It is kind of old for me to be taking courses now in anything.

(Whereupon, there was a short discussion off the record.)

Mr. PATMAN. They had the $10,500.

Mr. SCHUYLER. Yes. This has never been explained or suggested to me, nor did I request it.

Mr. PATMAN. Would you yield just a second?

Mr. CORMAN. Yes, sir.

Mr. PATMAN. We don't have it very clear about the payment of this $10,500, except that you didn't pay it. You made that very plain. You didn't know how it came about, but you thought the Hough Encyclopedia paid it. The truth is, we have it in the record here, documentary proof to the effect that they did not even pay their own fee, and it would be unlikely that they would pay yours when they didn't pay their own.

Mr. SCHUYLER. Well, the only thing that I can go by is the application and of their granting the application. I have seen the copies of these documents, but as to the $10,500, I have never seen it, but seen it on the application, signed there. I presume that the transaction did occur, but I don't know that.

Mr. PATMAN. Go ahead, Mr. Corman.

Mr. CORMAN. All right, sir. After your initial contact with ABC, did you subsequently become a member, either yourself or your foundation, become a member of ABC?

Mr. SCHUYLER. Well, yes; that is the application to which I refer.

Mr. CORMAN. And are you the one who filled out that application?

Mr. SCHUYLER. No, sir; it was a form, and it was made out and signed by two of the three members.

Mr. CORMAN. Were you a signator to that?

Mr. SCHUYLER. No, sir.

Mr. PATMAN. It is unnecessary for you to sign it, I assume?

Mr. SCHUYLER. It was unnecessary.

Mr. PATMAN. And they had it all filled out.

Mr. SCHUYLER. That is what was said. I don't know now. As you know, I am very busy at other things, and I couldn't do everything myself.

Mr. CORMAN. What was your understanding of what this membership meant to you? Now, you were a trustee of the foundation that became a member of ABC. You were aware of the fact that the membership fee was $10,500, laying aside for the moment who paid it. What was you understanding of what this meant?

Mr. SCHUYLER. That is what was said. I don't know now. As you know, I am very busy at other things, and I couldn't do everything copy of it myself, and then I discovered that such was in existence, and when I did, I immediately had copies made because I had informed Mr. Patman that I would send copies as soon as I could have them made, because I had just received the documents myself.

Mr. CORMAN. When did you first become aware of the existence of the application and the purported transfer of the $10,500.

Mr. SCHUYLER. Well, it must have been last month or maybe about the middle of October. I am not certain about the exact date, but immediately I wrote to Mr. Patman and said that I would, I was looking it up, and that as soon as I got it, I would send him copies of it.

Mr. CORMAN. Did you become aware of that reported transaction through this committee, or how did you become aware of it?

Mr. SCHUYLER. Yes; the chairman, Mr. Patman, asked me when we had applied, or did we apply for membership in ABC, and so when I said to myself, you know, I had heard about this, so I asked Speller about it, and then Speller got the documents and sent them to me, and I had copies made of them, whereupon I immediately sent them to the chairman.

Mr. CORMAN. Was Speller one of the signators on the application?

Mr. SCHUYLER. Yes.

Mr. CORMAN. And your wife was the other?

Mr. SCHUYLER. The other was Mrs. Schuyler, or at least it says on there that it was signed by Mrs. Schuyler.

Mr. CORMAN. Do you have any present knowledge of whether or not Mrs. Schuyler signed the document herself?

Mr. SCHUYLER. I think she did, but I think that she was very distraught at that time and she had lost her daughter.

Mr. CORMAN. Yes, sir.

Mr. SCHUYLER. Naturally she wasn't, her mind wasn't clear to go through a lawyer at that time, and she undoubtedly signed it, but I had never seen it originally.

Mr. CORMAN. You didn't really know that you were a member of ABC until this committee contacted you? You weren't aware of your being a member of ABC?

Mr. SCHUYLER. I wasn't aware that the Philippa Schuyler Memorial Foundation was a member of ABC until I was reminded, or rather asked about it by the chairman of the committee.

Now that may be due to negligence on the part of the other two directors. With so much going on, after all, you know we put on one of the largest concerts in history there at Town Hall, playing Philippa Schuyler's music, compositions, and all that. It took a great deal of work, and any time you fill Town Hall, you have got to have a lot of people there. And so this was considerable work. And so there was really not much time to go into such details as that, not that I didn't want to go into them, but you can only want to go into something that you know about.

Mr. CORMAN. Had you ever had any conversations with Mr. Speller about ABC, what the benefits might be of membership?

Mr. SCHUYLER. Well, I knew what the benefits would be, but as I say, we didn't converse about the membership, because I didn't know that we had any membership, and I wasn't consulted as to taking out membership, but I suppose it was just a formality.

Mr. CORMAN. Yes, sir. The benefits that you anticipated were donations to your daughter's memorial from other foundations?

Mr. SCHUYLER. Yes.

Mr. CORMAN. Nothing else?

Mr. SCHUYLER. No. We weren't expecting to get anything out of it, except through whatever foundations were persuaded to make grants.

Mr. CORMAN. Were you getting any advice from Mr. Speller or from anybody connected with ABC about how to conduct the financial transactions of the Philippa Schuyler Foundation?

Mr. SCHUYLER. Yes, sir. I got advice from Mr. Ushijima, who was evidently the ABC attorney assigned to this foundation.

Mr. CORMAN. What advice did he give you?

Mr. SCHUYLER. Well, he told how the business of the foundation should be conducted, and that wasn't very much, but we were grateful for that.

Mr. CORMAN. Did he indicate to you what expenditures could be made that would be tax exempt, and what expenditures might be made that would have tax consequences?

Mr. SCHUYLER. Well, we presumed that such grants as we made would be tax exempt. That was our presumption. And we didn't anticipate any other expenditures other than perhaps printing or reprinting some of her music.

My daughter wrote music from the age of 5 years old on, and that music has been printed, but we have thought of printing some of it in a larger volume, so that piano students throughout the United States could play them.

Mr. CORMAN. Was there any specific discussion as to how the foundation—I am not talking about the money that you personally put into the foundation, but rather the expenditures of the foundations' funds—did he indicate to you what you had to do to be sure that the foundation's funds as they were spent would be tax exempt?

Mr. SCHUYLER. Well, in the list that I received of donors of grants, it was explicitly stated what the grants were for.

Mr. CORMAN. There was a specific purpose stated?

Mr. SCHUYLER. Yes.

Mr. CORMAN. Could you give us an example?

Mr. SCHUYLER. Well, in music and music appreciation, and based on that we made contributions to the Saigon Conservatory of Music, and those contributions consisted of parts that they had been unable to get, concerto and other things that they needed for the instruction of their classes, owing to the war and those considerations they hadn't been able to get them, because I imagaine people are interested in winning the war, rather than playing Bach and Beethoven.

And so Mrs. Schuyler bought those concerto, and she bought certain parts of not only music but of instruments, and took them to Saigon herself, and that was typical of it, because we couldn't use the money that was explicitly stated to be used for one purpose and used for another. We wouldn't be involved with anything like that.

Mr. CORMAN. Sir, I don't mean by my questions to indicate that you did anything improper. The reason for my inquiry is to attempt to ascertain what ABC tells people they can do.

Mr. SCHUYLER. Well, I don't know whether I should let that pass without saying that these explicit instructions that we got for the use of these grants were sent to us by ABC, but it was indicated that these foundations themselves had specified for what purpose the money was to be used.

Mr. CORMAN. Was there ever any discussion about your personal expenditure, your personal expense involved in carrying out the purposes of the trust?

Mr. SCHUYLER. No, nothing was said about that. As a matter of fact, we have spent considerable money that nobody had given us except we just saved it, because we got no insurance from my daughter's death, because of the circumstances under which it occurred, that is, it was in a military vehicle, and the vehicle collapsed over Da Nang, and so the insurance company wouldn't pay for that because it was in a military vehicle, and under ordinary circumstances, an air accident, it would come to around $75,000 or $80,000, but we got none of that and on top of that, we had to pay all the expenses of a very elaborate funeral, and all that goes along with it.

Mr. CORMAN. Is it fair to assume that you did not create this foundation as a method of attaining tax exemption?

Mr. SCHUYLER. No, sir. We didn't have anything to exempt until we got the grants that were given.

Mr. PATMAN. Have you finished?

Mr. CORMAN. Yes, sir.

Mr. PATMAN. This $14,000 you received, that was all accounted for through your wife's efforts to get the music reprinted and get the different things made to carry out the object of the grant. That money was spent for that purpose, is that correct?

Mr. SCHUYLER. Well, less than $1,000 was spent for that purpose.

Mr. PATMAN. Less than $1,000?

Mr. SCHUYLER. Yes.

Mr. PATMAN. What happened to the other?

Mr. SCHUYLER. Well, it is still in the bank.

Mr. PATMAN. Still in the bank?

Mr. SCHUYLER. Yes.

Mr. PATMAN. Now what happened to the money that was subscribed? Do you know whether it was ever paid to anyone? Up to $40,000, the press release said, and it even gave the names of foundations that had subscribed the money. Since your foundation only got about $14,000, do you know if the other was actually paid to someone or whether ABC got it or what happened to it?

Mr. SCHUYLER. No, sir, I don't know anything about that. All I know is that about 17 or 18 of the foundations which were listed as saying that they would make grants, I know that if they had made them, at least we haven't received them.

Mr. PATMAN. You had not received them?

Mr. SCHUYLER. We have never received them.

Mr. PATMAN. Although the information that was given out convinced you that they had actually made the grants?

Mr. SCHUYLER. Yes, and I think that the person who prepared the news releases was a little too optimistic in that they listed all of these foundations.

Mr. PATMAN. When they probably had not actually made the grants?

Mr. SCHUYLER. Well, no. They might have made it, but they wouldn't know.

Mr. PATMAN. Yes, sir.

Mr. SCHUYLER. They had no way of knowing whether they made them or not. All we could go by was what we had listed, and the actual checks that were received.

Mr. PATMAN. All right.

We certainly appreciate your testimony and appreciate your coming here. You have cooperated every way in the world, and we appreciate that, and we are very sorry about your daughter, and we are glad that you are doing something to perpetuate her memory.

Mr. SCHUYLER. Thank you.

Mr. PATMAN. Is your foundation presently a member of ABC?

Mr. SCHUYLER. Well, I presume so from the forms that have been made out and signed.

Mr. PATMAN. For you?

Mr. SCHUYLER. Yes.

Mr. PATMAN. In perfecting the organization for you and everything?

Mr. SCHUYLER. Yes, I presume so.

Mr. PATMAN. You presume that it is?

Mr. SCHUYLER. Yes.

Mr. PATMAN. Well, thank you very much. We appreciate your testimony.

Mr. SCHUYLER. Thank you.

Mr. PATMAN. The committee will have a meeting soon and decide our procedure on the walkout of the lawyer and the witness. One thing is certain about the lawyer's statement, he made it very plain that he was pleading the fifth amendment, and his clients were pleading the fifth amendment. He hadn't done that before, until this morning.

Tomorrow we will have as witnesses subpenaed to be here at 10 o'clock the other two Trustees of ABC. We have had Mr. Hayes, he is one of the three.

Now then, we will have Mr. Richard Stephenson, and Mr. J. Alton Lauren, the other two trustees of ABC.

We will have them here tomorrow.

We will notify Dr. Saxon we will expect him here Friday, since he was very positive that he would be here. He just didn't want a subpena. As evidence of that fact, he prepared and sent to us a copy of his testimony, and since it was to be delivered today, it will be inserted in the record at this point and copies of it given to the press.

(The material referred to follows:)

PREPARED STATEMENT OF MICHAEL R. SAXON, M.D., MEDICAL ADMINISTRATOR, SAXON FOUNDATION

Chairman Patman and members of the Small Business Subcommittee, Honorable congressmen, distinguished guests, members of the press and Americans all, in appearing before this committee to give tetimony regarding my foundation activities as a member of Americans Building Constitutionally, I would like to express my deep appreciation to Rep. Wright Patman and his associates for making possible this national platform.

I come to Washington as a respected citizen to fulfill my obligations and responsibilities in order that I and others might still retain those privileges inherent in our Constitution. Life, liberty and the pursuit of happiness as a right in our America are closely aligned with economic freedom and can only be preserved when citizens are willing to meet the challenge to preserve them. My testimony will be sincere, and the truth, as I know it, shall prevail. I trust that this committee will respect my position.

At the outset, it is my impression that this committee is charged with the responsibility to study the influence of foundations on the economy and that such a study is in the public interest. It is also conceivable that those who participate in foundation activities in accord with legal permissibility do so in the best public interest. In order to discharge their responsibilities to the American people, this committee will have to decide whether foundations organized under the auspices of Americans Building Constitutionally serve to benefit mankind and whether they are entitled to equality under the law, even though their individual assets are smaller than the giant foundations that apparently operate with immunity, glorification and respect.

It has always been my feeling that not-for-profit procedure and corporate status is a state legislative authority relegated to the secretary of a state. Permission to operate under this authority is subject to acceptance by the secretary of state of every state in the Union. The Saxon Foundation now operates under an official charter in the State of Illinois and is fulfilling its obligations under this charter.

It is also my impression that when a chartered NFP corporation participates in activities under Section 501(c)(3) of the IRS Code, it is also entitled to tax exemption. Again, the Saxon Foundation, in my opinion, qualifies for such exemption. Furthermore, I do not believe that it is in the public interest to disallow or delay approval of the Saxon Foundation and its program of activities.

As a practitioner of the noble art and science of medicine, I would beg the indulgence of this committee in allowing me the privilege to relate the value and virtues of improved quantity and quality of medical services that can be available to society through the use of NFP procedure. (See attached exhibit: Improving Medical Services for the Public Welfare via Not-For-Profit Procedure.) The Mayo Clinic and Foundation, the Ochsner Clinic and Foundation and many others have demonstrated the worth of medical foundations. If improved quantity and quality services, research, development and progress are possible in the field of medicine, under foundation auspices, those who produce other worthy and needed commodities and services could also bring many more benefits to mankind were they to use NFP procedures.

In closing, I believe that America's greatest strength and resources are to be found in the talents, energies and will of its people to perform.

I further believe that those who have a talent and a will to follow should be encouraged by government and supported by private foundations to make their major contributions to society.

I further believe that ABC and its member foundations are dedicated to assist such people, encourage economic growth, and bring abundance to society by assisting government in these good works.

I believe further that Americans Building Constitutionally and Mr. Robert Hayes have furnished me a life preserver in a stormy sea, renewed my incentive and sparked my energies to bring improved medical services to my community.

I believe that the foundation mechanism makes it possible to develop a fund to carry out these activities.

I would beg the support of this committee for the program sponsored by Americans Building Constitutionally.

SAXON FOUNDATION,
Aurora, Ill.

To: Responsible Officers of the Illinois State Medical Society
Subject: Improving Medical Services for the Public Welfare via Not for Profit Procedure
From: Michael R. Saxon, M.D.

PHILOSOPHY

1. Public health agencies and the private sector of medical practice have a common goal—adequate medical services in quantity and quality for those in need.

2. Limitations of public health agencies:

a. They are unable to supply the needed services without contracting with practicing physicians.

b. Fixed fees are essential for the establishment of budgets for most governmental agencies but are economically Freedom-eroding to the practicing physician.

c. By design and intent, public health agencies are obligated and have passed laws to control, regulate, and expand medical services for the public and they propose extending this service to larger portions of our population.

d. Monies for public health agencies like all other governmental agencies must come from taxation. Public agencies do not generate new money.

e. Governmental health agencies are forceful, coercive and aggresive and will eventually lock the Free practice of Medicine out of the market place and discourage incentive and willingness of our doctors to perform. Force by economic need and survival into governmental medicine, our physicians will become unenthusiastic and unwilling dispensors of standardized medical care and restrictions of the system, will by their nature be unable to supply adequate medical care to those in need.

f. Governmental health agencies are encouraging contract medicine through the state societies and in so doing invite strikes by professionals who, by such actions, would be reduced to tradesmen. Homogenized medically talented protoplasm bridled to perform for survival will destroy the competition necessary to supply quantity and quality medical care.

g. A bridled and regimented existence does not entice students to study the art and science of medicine. Hence, a continuous doctor shortage can be predicted under present plans.

3. Not for Profit procedure could make possible maximum quantity and quality medical services and facilities to meet the need.

a. Physicians by declaration of their interest and desire to benefit mankind can legally conduct their businesses under the Illinois State Not for Profit Corporation Act.

b. Seed money from dollars earned by contributing honest services, could be siphoned into Not for Profit foundations and furnish immediate resources for funds earmarked to expand and build medical facilities and hire personnel to meet the selective needs of all communities.

c. Individual physicians would not have the fruit of their labors depleted by taxation and would by a purposeful commitment be able to assist the government in the promotion of the *General-Welfare.*