

discretion to overrule the conclusions of those surveys and investigations if you so desire.

Mr. BLACK. I do not know that the survey studies and investigations necessarily are intended to come to conclusions as such. I think that the Secretary is the one who draws the conclusions from the studies that are made, and if the Fish and Wildlife Service makes a gratuitous conclusion—

Mr. McCLOSKEY. Let us, as lawyers, look at this. If the Congress had intended that, it would have been simply stated that the Secretary of Interior was to make surveys and investigations and base his report on those. But the statute specifically states that in furtherance of such purposes the reports and recommendations of the Secretary of Interior on the wildlife aspects of such projects, and any report that the head of the State agency exercising administration of the wildlife resources of the State, based on surveys and investigations conducted by the U.S. Fish and Wildlife Service—

Mr. BLACK. If I might argue with you just a little on this, I think the stronger argument can be made for the converse—that if the Congress had intended that the conclusions of the Fish and Wildlife Service were going to be controlling, they would not have mentioned the Secretary of Interior. Why mention an official who, under your interpretation of this law, would be a mere rubberstamp?

Mr. McCLOSKEY. Well, the top man in the Bureau here, the U.S. Fish and Wildlife Service, recommended against granting this permit, did he not?

Mr. BLACK. But that was not the study or survey. That was a recommendation.

Mr. McCLOSKEY. Based upon the surveys and investigations conducted by his agency in accord with the law.

Mr. BLACK. I am sure that he considers his recommendation flows from his study. I think that it does not.

Mr. McCLOSKEY. Well now, if Congress intended the contrary, Mr. Black—and, incidentally, may I ask you if the head of the U.S. Fish and Wildlife Service—is that a civil service position?

Mr. BLACK. I am not sure it is a civil service graded position.

Mr. McCLOSKEY. It is not a political appointment?

Mr. BLACK. Apparently not.

(Subsequently, the Interior Department advised the subcommittee as follows:)

As a matter of fact, the head of the U.S. Fish and Wildlife Service, who is the Commissioner of Fish and Wildlife, is a Presidential appointee, not a civil service appointee. The Commissioner of Fish and Wildlife has not figured in this hearing. It appears upon reading the transcript that Mr. McCloskey was referring to the Director of the Bureau of Sport Fisheries and Wildlife, John Gottschalk, who testified the day before, and who is indeed a career civil service appointee, not a political appointee. Mr. Gottschalk's Bureau is one of two comprising the Fish and Wildlife Service, the other being the Bureau of Commercial Fisheries, but Mr. Gottschalk's Bureau is often referred to as the Fish and Wildlife Service, rather than by its official title.

Mr. McCLOSKEY. So if the Congress intended that it come from the professional in the business, the language, in your judgment, is not clear enough to so state; is that correct?

Mr. BLACK. If that is the intention of Congress, I think your conclusion is correct. That certainly is not what it means to me.