Wilson's Air Secretary and "Flying Coffins", See Page 2

I. F. Stone's Weekly

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What They Confirmed With Wilson

It would take a Balzac to do justice to the hearings on the nomination of Charles E. Wilson to be Secretary of Defense. The Business Man and the Politician confronted each other, each ready to turn a forgiving eye on the derelictions of his own kind. Senators who had just voted to seat a McCarthy were in no position to be righteous about Wilson's reluctance to dispose of his stock in General Motors. Wilson was taken aback. Had the Republicans not won the election? "I would like to tell you men," he told the Senators at one point, "there is a change in the country. The people are not afraid of businessmen like me right now."

The full transcript of the executive sessions showed that Wilson spoke not with arrogance but with naivete when he said he could not conceive of any conflict of interest in his new position "because for years I thought what was good for our country was good for General Motors, and vice versa." He was proud of his record in industry and proud of his company, as he had a right to be, and genuinely hurt that no one was giving him credit for leaving a $200,000 a year job. "I am now risking a failure, in my old age," he said. "It is quite a challenge. Now, as far as I am concerned, General Motors is finished. I closed up my desk in Detroit Saturday with mingled feelings of regret and nostalgia." And here he was being treated with suspicion!

The retirement bonus provided that it would go on being paid only if the recipient did nothing inimical to GM's interest. Wilson had this specially changed (a fact which did not appear until the transcripts were released) to read that nothing he did in government service would be considered inimical to GM "so that no one would feel like I had any club over me." When Senator Russell still questioned the bonus arrangement at the second hearing, it was more than Wilson could bear. "I know what you are talking about," he said, "but I really feel you are giving me quite a pushing around. If I had come here to cheat, by God, I wouldn't be here."

From a big business man's point of view here were Senators whom he could buy and sell several times over, and perhaps some whom he had. Among their colleagues were men not averse to taking money by various subterfuges and sometimes in plain cash. Sure there were crooks in business as elsewhere, but hardly to match what went on in politics! One could almost hear Wilson's honest indignation.

On the other side, among the politicians, were conservatives like Byrd and Russell with an old-fashioned sense of rectitude and honor, to whom Wilson and his fellow business men must have seemed exasperatingly indifferent to elementary legal standards. The law forbade an official to have an interest in any company with which he negotiated on behalf of the government. Scandalous experience, often repeated, had shown the necessity for such safeguards. Their application was no personal reflection on Wilson; his record in business is, indeed, an honorable one; no one questions his integrity. But how can you staff a government with business men who have no conception of the conditions necessary for public service!

In the clash between the two points of view, subtler and larger considerations were neglected. The conflict of interest the law sought to avoid required more than the divesting of stock, as Senators Morse, Lehman and Smith tried to make clear in the inadequate one day of debate by the Senate; a man cannot divest himself of his past, his point of view, his accustomed associations. Wilson himself volunteered at one point during the second hearing, "We had exactly the same problem in General Motors: We had a very strict rule that any of our purchasing agents and buyers, none of them should have any interest in any company that they bought from." Was it sound policy to go to the biggest company dealing with the armed forces, and pick its chief executive to head Defense?

Beyond this there was a larger area which went completely unexplored. This has to do with past experience in arms production and industrial mobilization. Wilson's GM and Wilson himself in the mobilization for World War II resisted conversion of automotive facilities to war production, insisted on "business as usual" for months after Pearl Harbor.

The man Wilson picked to be Secretary of the Army, Robert T. Stevens, a textile manufacturer doing a $125,000,000 business with the Army, was a Colonel buying textiles in the Quartermaster Corps in the last war. When the resignation from the War Production Board of Robert R. Guthrie, in the spring of 1942, focussed attention on the lag in conversion to war, textiles was one of the horrid examples. Wool and jute were being wasted while the army was short of cotton duck. Facilities which could have produced the vital cloth were standing idle. Stevens at one point was prevailed on to force the grant of cotton duck contracts to idle carpet mills, but beyond this the business men in uniform would not go. The record should have been gone into and questions asked.

Above all questions should have been asked of Talbott, Wilson's choice to be Secretary of Air. The post is the most important one of all in many ways. The story disclosed on page two makes Talbott seem a shocking choice for it. Aviation is the one major American industry today which must live or die on war scares. Peace, real peace, would leave it withering on the vine. The air lobby today is what the armorplate and naval lobbies were before World Wars I and II. The Secretary for Air should be free in every way of industry ties; this one is reluctant to divest himself even of the obvious ones. Wilson's choice of Talbott reflects no credit on Wilson. What the Senate confirmed with Wilson was its readiness to acquiesce in handing over war production completely to big business. Experience with these same men and companies in World Wars I or II show that this is unwise from the standpoint of war production, and hazardous for the prospects of peace.

The "Flying Coffins" and Wilson's Air Secretary

Of all the scandals in World War I, the one which most shocked public opinion were the "flying coffins" turned out for the U. S. Air Force. The man who helped to build them is the man C. E. Wilson picked to be Secretary of the Air Force, Harold E. Talbott.

The record of the hearings before the Senate Armed Services Committee shows that Talbott was less than forthright about his past with Wilson and the committee.

Had it not been for Senator Russell of Georgia, the story would have stayed buried. Russell asked Wilson on his first appearance before the committee whether he had checked carefully into the background of the men he had chosen as Secretaries of Army, Navy and Air. Wilson said he had. The Senator from Georgia wanted to know if Wilson had found anything disturbing. Wilson said he had not. Russell asked whether he had looked into the report made by Charles Evans Hughes about Talbott's company, Dayton Wright Aircraft, in World War I.

Wilson said he knew about that: "Harold . . . was repeating it to me again coming over in the car this morning." The briefing seems to have been as simple-minded as it was tardy. "From his angle," Wilson explained, "It was all an attempted shake-down. It was finally all settled on the basis he had done no wrong." *Senator Russell asked Wilson whether he thought Charles Evans Hughes would participate in a shake-down.* "No, *sir*," Wilson replied staunchly, "I do not," and admitted he had never read the Hughes report.

Talbott's first description of the affair when before the committee was almost idyllic. Talbott told how his father and C. F. Kettering formed the Dayton Wright Company during World War I. He was then "a youngster" and "had nothing much to do with the negotiations" but "the result of it was that during the period of the war we produced, I think, more aircraft for the Signal Corps than all the rest of America put together." This, though true, was as we shall see nothing to boast about. *Talbott didn't think there were "any other things of particular importance in that background."*

Again it was Senator Russell who brought up the Hughes report. "The Hughes report on our work," Talbott admitted, "was not complimentary except as to our production." Talbott said "finally it came out in the newspapers that we had been war profiteers, and a suit was brought against us to recover improper profits" but they filed a "counter-suit" and recovered $600,000 and "we were completely exonerated."

Talbott seems to have begun to worry about this rosy picture after he left the stand. Three days later he sent the Senate committee a letter admitting that the suit had nothing to do with the Hughes report. The Hughes report was in 1918. The government filed suit four years later to recover $2,500,000 in alleged overpayments. The government finally lost in the Circuit Court of Appeals, but it could not truthfully be said that this verdict "completely exonerated" the Talbotts of the Hughes charges. Talbott also explained in his letter that the action he referred to as a "counter-suit" was in fact concerned with excess profits taxes "and in no way connected with the litigation mentioned above." Thus, by his own admission, Talbott's picture of complete exoneration and a victorious counter-suit was a false one.

Left uncorrected but equally disingenuous was Talbott's statement that Hughes "was very complimentary as far as our work was concerned." The nearest approach to a compliment in the Hughes report was his dry remark, after a summary of the production snafus, "The provisions of the criminal statutes do not reach inefficiency." As misleading was Talbott's reference to himself as just "a youngster" in those days who "had nothing much to do with the negotiations." Talbott was then already well above the age of consent. He was thirty, and he admitted in response to a question by Russell that he was president of the Dayton Wright Company during World War I.

The fact is that the man now picked by the Republicans as Air Secretary in preparing for World War III was regarded by them thirty years ago as a horrid example of what went on under the Democrats in World War I. Talbott's company was severely criticized in three official investigations: by the Senate Military Affairs Committee inquiry into aircraft production in the early months of 1918, by Hughes in a special inquiry on behalf of the Attorney General later the same year, and by the Republican majority of the House special subcommittee on war expenditures in 1920.

This is the story, as told in the old reports. A man named Col. Edward A. Deeds had been closely associated in business in Dayton, Ohio, with C. F. Kettering and the elder Talbott. In April, 1917, Deeds was put on the Munitions Standards Board in Washington and in May on the Aircraft Production Board. On April 9 of that year Deeds, Kettering and the two Talbotts incorporated the Dayton Wright Airplane Company, but Deeds while an incorporator did not become a stockholder. By *September, on the recommendation of the Aircraft Production Board,* the new company had cost plus contracts aggregating more than $30,000,000. In August Talbott senior put himself on the payroll at $35,000 a year and Talbott junior at $30,000 a year, though the former was already getting $60,000 and the latter $18,000 from the Dayton Metal Products Company which was the "holding company."

"Practically at the inception of the Government's aviation activity in connection with the war," Hughes reported, "and within the sphere of Colonel Deed's important, if not commanding influence, his former business associates were placed at once, through government contracts, in a position where they had the assurance of very large profits upon a relatively small investment of their own money and in addition were able to secure generous salaries which they charged against the Government's part of the cost of manufacturing."

The Senate report which preceded that by Hughes called attention to the fact that "enormous contracts" were given the Dayton Wright Company "before its factories were completed" while "a number of plane manufacturers . . . in the business years prior to the war, have been unable to obtain contracts." The Senate report said that of the first 1,000 planes delivered many were in such bad shape that they "should never have been permitted to leave the factory in their defective condition." A cable from Pershing reporting the defects in the de Havilland 4's Talbott's company produced covers two full pages of small type in the Senate record. There is also a report forwarded by Josephus Daniels declaring the planes "not safe for flying." The chairman of the Aircraft Production Board was Howard E. Coffin. The planes became known as "flying coffins."

It was not merely the bad quality of the planes but the false reports about the quantity being produced which led to investigation. As early as February 1918 public opinion was led to believe that planes by the thousands were available but Pershing himself said it was not until August 7, 1918, three and a half months before the Armistice that the first squadron—18 planes—finally got into action. An official statement of February 21 that the "first American built battle planes are today en route to the front in France" had set off these over optimistic reports.

Before the Senate Military Affairs Committee on April 2, 1918, Deeds denied under oath that he had seen this statement before it was issued. But before the Hughes inquiry, Deeds admitted that he did see and revise this statement before its release. The Hughes report recommended that Colonel Deeds be court-martialled for giving information on Signal Corps business "in an improper manner" to his former business associates in the Dayton Wright Airplane Company and for giving out "a false and misleading statement with respect to the progress of aircraft production. . . ." The Republican majority of the House special committee on war expenditures complained two years later that Deeds had not been court-martialled. When Senator Russell asked Wilson his opinion of Deeds, Wilson said "A fair and honest man, a capable man also."

Maybe the Senate committee and the House committee and Charles Evans Hughes were wrong. A board of review appointed by the Judge Advocate General voted against court martial for Deeds. Newton D. Baker defended him. What one can say is that Wilson hardly investigated his choice for Air Secretary very thoroughly, and the Armed Services Committee was far from fully informed on the facts. The insistence of Talbott and his associates on keeping their stockholdings recalls what Hughes said in his aircraft report, "The absence of proper appreciation of the obvious impropriety of transactions by government officials and agents of firms or corporations in which they are interested compels the conclusion that public policy demands that the statutory provisions bearing upon this conduct should be strictly enforced." This, the issue involved in the new Eisenhower appointments, is where we came in as World War I drew to its close.

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Wrong Way to Water The Tree of Liberty

The Emergency Civil Liberties Committee is holding a conference on the bill of rights in New York City this week-end. The conference has been attacked by the American Committee for Cultural Freedom of which Prof. George S. Counts of Columbia is chairman. Irving Kristol, its executive director, first attacked the Emergency Civil Liberties Committee as a Communist front and then lamely "admitted" (according to the New York Times of January 20) "that he had no knowledge that 'outright Communists' were among the sponsors and said it would have been more tactful to use the phrase 'popular front' instead of 'Communist front'." For these graceful amenities of political controversy in the USA, 1953, the editor as a member of the committee and a participant in the conference is grateful. He would feel more grateful if the American Committee for Cultural Freedom for once did something about cultural freedom in this country, where much can still be accomplished, and worried less about Berlin and points East thereof. The latter is one of those de luxe crusades which can be carried on in the warm assurance that neither McCarran nor McCarthy will ever disapprove.

As soon as a medal can be struck off, the Weekly will send one to James C. Bay, superintendent of public schools in Easton, Pa., for his telegram to the Emergency Civil Liberties Committee, which answers Dr. Counts in the kind of terms called for by this high level controversy. "Strongly urge holding conference and forum as planned," Dr. Bay wired. "Program will be incomplete without exposure of background of Counts who was documented Red in 1935. Underwent brain washing and became uncivil opponent of civil rights. The withering tree of liberty should not be further wet by dogs who were once Communist pups, viz., Counts, Hook, Budenz, Bentley, Dodd."

Honorable mention in the controversy goes to the ever tart and courageous Prof. H. H. Wilson, who teaches politics at Princeton in the free tradition and will yet be heard from in a big way, as was another Wilson out of Princeton before him. On receiving a wire from Dr. Counts saying that he was "distressed" to learn that Wilson was taking part in the civil liberties conference, Prof. Wilson replied, "Regret your illness. Suggest immediate psychiatric care. Prospects of American democracy dim. Quote, the situation is made to order for the demagogic, the charlatan, the adventurer, the madman. Unquote." The quotation was from Dr. Counts' book, "The Prospects of American Democracy," published in 1938. It's bad enough to see liberals turn rabbit under pressure. It's worse to take rabbits seriously when they begin to hunt their old friends in packs, making like wolves.

Wigmore Himself

The Supreme Court's refusal of certiorari in the Baltimore-Washington Smith Act cases is discussed on page four of this issue. The verdict in the trial of the 13 Communists in New York will be the subject of comment next week. I have just finished reading Judge Dimock's charge to the jury and I doubt whether the great Wigmore himself ("Wigmore on Evidence") would understand it, much less an ordinary juror. This is no reflection on Judge Dimock, but the effort to explain the Talmudic subtleties of conspiracy to advocate on top of the more familiar difficulties of reconciling free speech with unlawful advocacy resulted in something close to parody. I hope to provide sufficient samplings next week to turn Max Beerbohm green with envy. The effort to treat unpopular political ideas as crime must end by making the Federal courts deservedly ludicrous.

Jim Crow in the Capital

Those with a taste for caviarish legal humor of the unintended variety will enjoy the 61 pages in which the nine judges of the U. S. Circuit Courts of Appeals for the District of Columbia decide 5-4 in three separate opinions that a local ordinance of 1872 forbidding restaurants to discriminate against colored persons is not valid. The majority among other things argues the proposition that Jim Crow laws are within the province of municipal government, but laws against Jim Crow are not. The majority also argues that the old ordinance if valid has lost its efficacy through disuse, learnedly citing James v. Commonwealth in which the Supreme Court of Pennsylvania decided 125 years ago that the ducking stool was no longer a proper mode of punishment, though still on the statute books. The majority also turned up with a decision out of the days of rugged individualism holding that the city of Washington had exceeded its proper powers as a municipality in ordering a freeborn American to shovel the snow off his sidewalk. Such were the majestic libertarian precedents marshalled by the revered senior judges of this Circuit in defense of the proposition that no decent fellow would want to have his sister forced to masticate a ham on rye beside a Nigra, suh. The younger Fair Deal and New Deal judges, Fahy, Edgerton, Bazelon and Washington, argued in vain against the South's peculiar prejudice, and the issue is now up to the Supreme Court.

Hat's Off

To Dr. James Bryant Conant, outgoing president of Harvard, on the eve of becoming U. S. High Commissioner in Germany, for his defense of dissent and his warning to the Congressional witch-hunters. Instead of being sent to Germany on the hopeless task of de-Nazifying the Germans, Dr. Conant ought to stay home and help us de-Nazify some of our fellow Americans. The District of Columbia could use a U. S. High Commissioner like Dr. Conant.

Neither Rain nor Snow But . . .

Weeklies go to press on Mondays or Tuesdays and are dated the following week-end when the paper is delivered. They are dated ahead to give the reader the illusion that he is getting his news by jet-propelled carrier pigeon. We engage in the same flim-flam. We are dated Saturday. Our final copy deadline is the previous Tuesday morning. We are mailed off in Washington on Wednesday afternoon, and there—with all due respect to the new Postmaster General—is where the trouble begins. Our first issue dated the 17th was mailed right on the dot of the 14th, but it did not begin to be delivered in New York until the following Wednesday. A second hand covered wagon could have done better.

The second issue dated January 24 was mailed on the 21st, right on schedule, but again the postman, whom rain, snow, hail, nor spring fever, delays, set no Olympic record in getting there most cities (except Washington itself). The first went out third class. This issue goes out on second class permit pending, and should arrive more swiftly. Send me your beefs. I will share them with the Postmaster General, who has little else to worry about now that inaugural is over. And don't forget to prod your friends into subscribing with that handy subscription blank on page 4, or give me their names and I'll send them a sample.

I. F. Stone

The Supreme Court Breaks Its Word

The U. S. Supreme Court made a promise in upholding the conviction of the top 11 Communist leaders under the Smith Act. The Court said that in future cases "Where there is doubt as to the intent of the defendants, the nature of their activities, or their power to bring about the evil, this Court will review the convictions with the scrupulous care demanded by our Constitution."

There were several reasons for this pledge. In the first case the Court passed only on the issue of constitutionality. The Court implied that it would grant review of the other issues in later cases. Another reason for the promise was to underscore the Court's insistence that it was not outlawing the Communist party nor making membership in it a crime. Future prosecutions were to require proof of each accused individual's own intent and activities. A third reason for the Court's promise of "scrupulous care" in later cases was to allay misgivings expressed in conservative circles (Washington Star, Sept. 20, 1952; NY Times, Aug. 7, 1952) lest conviction of the leaders open the way for mass prosecutions.

This promise, at its very first test, has been broken by the court, in refusing to review the convictions of six lesser Communists from Baltimore and Washington. The refusal to review is made striking by the character of the U. S. Circuit Court decision in these cases. The Fourth Circuit went further than any other court in Smith Act cases in making membership in the Communist party automatic grounds for conviction. The standards indicated by the Supreme Court—"intent . . . nature of their activities . . . power to bring about the evil"—were violated by the trial judge in instructing the jury and by the Circuit Court in upholding the convictions. There was no evidence produced to show that any of these six defendants intended the overthrow of the government by force, carried on activities to achieve that end or had the power to bring about the evil feared.

From the standpoint of the legal proprieties the question of intent was crucial. The Smith Act makes it a crime to advocate revolutionary doctrine or to organize a party for such advocacy. The statute does not require that this must be with intent to overthrow the government. Mere philosophical discussion could thus become a crime. Judge Medina shrewdly felt in the first trial that without such a requirement the statute might be unconstitutional. He in effect revised the statute by instructing the jury that for conviction they must find intent. Chief Justice Vinson echoed Medina in saying "We hold that the statute requires as an essential element of the crime proof of the intent of those who are charged with its violation to overthrow the government by force and violence." But in the Baltimore-Washington cases the trial judge permitted the jury to infer intent from the fact of party membership.

The feebleness of this conviction-by-inference is thrown into sharp relief by the character of the testimony. The government produced five witnesses who had been in the Maryland-Washington district of the Communist party during the period of the indictment. Four had been working for the FBI while they were in the party. There was no evidence, however, that any defendant had advocated overthrow. On the contrary, two of the FBI informers testified that they had never heard any defendant suggest such doctrine. The case rested essentially, like all the Smith Act cases, on what Marx, Lenin and Stalin at various times wrote. This is guilt by association with ideas.

The judicial conscience is comfortably elastic, but the Baltimore-Washington cases stretched it a bit far even for Vinson and the Truman appointees. As for Jackson and Frankfurter, their failure to vote for review with Black and Douglas is a surrender to reaction. Their queasy concurring opinions in the first Communist case indicated with what misgivings they regard prosecutions of opinion when divorced, as these are, from the safeguards of the clear and present danger rule. Their eloquent warnings a few years ago in the Krulewich case against the historic political dangers in conspiracy prosecutions makes inexplicable their apparent failure to vote for review.

The muddy metaphysics of the law of "conspiracy" has traditionally been the favorite concealment for dirty business on the part of the prosecution. But there is in the Baltimore-Washington cases much which goes beyond even the flabby standards of proof normally allowed in conspiracy trials. To deny the pending petition for rehearing would make it seem that the Court was prepared to acquiesce in the removal of all restraint on wholesale Smith Act arrests.

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