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VOLUME III

UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA FIFTH DIVISION

United States of America, Plaintiff,

-vs.- 5-70 Criminal 19

Francis Xavier Kroncke and Michael Duane Therriault, Defendants.

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The above-entitled matter came on for trial before the Honorable Philip Neville, one of the Judges of the above court, and a jury, at Minneapolis, Minnesota, on January 11, 1971.

The following contains the proceedings had on January 13, 1971.

APPEARANCES:

Thorvald Anderson, Assistant U. S. Attorney, and Stephen Palmer, Assistant U. S. Attorney, appearing for the Government.

Kenneth Tilsen, Esq., and Stuart Wells, III, Esq., appearing for Defendants;

Defendant Kroncke also appearing pro se.

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**1 Photograph**

January 13, 1971, 9:45 o'clock a.m.

THE COURT: Colonel Knight was on the stand when we adjourned?

MR. ANDERSON: Yes, Your Honor.

THE COURT: ALL right.

Whereupon,

## **ROBERT P. KNIGHT**

having been previously sworn, resumed the stand and testified further as follows:

### ***CROSS—EXAMINATION (CONTINUED) BY MR. TILSEN***

Q Colonel Knight, very quickly, if I recall your testimony yesterday, you keep no records, as such, as to exactly what happens to persons who are selected for the military service, where they go, what they do?

A That is correct.

Q No records, as such, as to the numbers who are kill/ or otherwise casualties of the war in Southeast Asia, or otherwise, except you keep a record of deaths?

A That is correct,

Q As I understand it, you made no special effort to acquaint yourself with such material as might be available relating to those matters?

A That is correct. We don't keep that kind of record.

Q Do you maintain any record or maintain any particular statistics on the number of persons in the State of Minnesota who refuse to accept induction or otherwise refuse to comply with orders of the Selective Service System?

A We would know this only through the number of individuals who may be ultimately indicted. We don't keep track in a statistical manner. As such situations may develop we refer them to the United States Attorney.

Q A subsequent witness may quote you as having *said* on a prior occasion, and I will give you an opportunity either to admit or deny the truth of it, that there have been in the current year approximately ten to twelve refusals to accept induction per week in the State of Minnesota -

MR. ANDERSON: Your Honor, I object to the question because it's irrelevant as to whether he said it, and it's irrelevant as to whether there have been.

THE COURT: I will sustain the objection.

MR. TILSEN: Is it to the form of the question or --

THE COURT: No, I don't think it is relevant. If somebody is charged with an act and somebody else did the act or did some other act, I don't think that has any bearing on the question of guilt or innocence in the case here.

MR. TILSEN: We contend that the defendant acted to attempt to avoid what we have called in our memoranda forced criminalization. It's in connection with that that I ask the question.

THE COURT: I understand. I sustain the objection.

BY MR. TILSEN:

Q You say you do have a record as to the number of indictments of persons in the State of Minnesota. Do you know the number of persons indicted in the State of Minnesota during the last -- do you keep this on a calendar or fiscal year basis?

A On a running-record basis, I believe, I would say.

Q What figures do you have in that connection?

MR. ANDERSON: I would object on the ground it's irrelevant as to how many people have been indicted for any crime, if any have.

THE COURT: The objection is sustained.

BY MR. TILSEN:

Q Do you maintain a relationship with the Department of Justice and the specialist in the Department of Justice who specialize in the prosecution of the Selective Service cases?

MR. ANDERSON: Your Honor, I would object on the grounds that it is irrelevant to this case whether he does or whether he does not.

THE COURT: The objection is sustained.

MR. TILSEN: I would ask one more question and then ask the Court for information to make an offer of proof, Your Honor. I would like to ask one additional question.

BY MR. TILSEN:

Q Are you familiar with the reported statement of Judge Judson Bowes of the Justice Department?

THE COURT: Wait a minute. Don't read the statement. Is he familiar with the statement, that is the question. You are not to read the contents.

MR. TILSEN: I am not sure now what statement is being referred to.

THE COURT: Then come to the Bench and we will discuss it. (The following proceedings were at the Bench out of the hearing of the jury.)

MR. TILSEN: It is an important part of our case to which a substantial portion, not long in terms of time but significant in terms of facts, will go to show that among the reasons why the defendants perceived the necessity of their act was a circumstance

relating to the effect of the Selective Service System on the lives of the persons, young persons involved, specifically in the Selective Service System.

In that connection, it is our offer to prove through this witness and other witnesses, and I might say in no case am I relying exclusively on this witness, so that they are matters that would come up again with other witnesses that draft refusals in Minnesota have been running at the induction center at the rate estimated by this witness of ten to fifteen a week; that there currently is pending for trial approximately 100 Selective Service cases pursuant to indictments; that nationally, Mr. Bowes, according to Mr. Judson Bowes of the Justice Department, draft prosecutions nationally are running at the rate of 325 to 350 a month.

Now, these facts form a basis for our making the argument that a person faced with the reality takes recognition that his act relates not only to himself but relates to the effect they have upon the total attitude of the total community toward draft refusal, and particularly his act is an act to save individuals from prison and from becoming criminals.

This is one of the three major areas of the evils that we acted to avoid; the defendants position generally being that we acted to avoid the evil identified as a forced criminalization of the young of America. Evil number two is the injury and death to the Selective Service person himself; evil number three, which we agree is the principal evil, was the destruction of life and society of the Vietnam.

The questions that I am asking are directly related to the essentials of our defense in that regard.

MR. ANDERSON: Your Honor, the question is irrelevant because it simply is not encompassed in this lawsuit, whether no one was prosecuted or whether 1000 people were prosecuted.

MR. TILSEN: Could I make an analogy, Your Honor?

Let's assume we were in a situation when people were being arrested and charged with crimes for failing to go on the list as Jews and wear yellow bands. Let's assume that we went in to destroy the records of those people who potentially were going to be subject to the Law to require then to register as Jews and to have to wear yellow arm bands and be branded, and with other effects happening to these people, and we say that one of the things that we were trying to act is recognition of is that a large significant fraction, be it major or minor fraction, of the community is being thrown in prison or otherwise made into criminals by this law, and therefore, we took it on ourselves and the jury most decide, rightly or wrongly, with or without justification under the acceptable Legal principles, to decide whether our acts are or are not justified.

Mr. Anderson would have us say that the character of the record is totally irrelevant, but it is not. It is the fundamental beginning point to the argument as to the nature of the defense to establish what these records are.

It does relate to a major extent to the argument that Mr. Kroncke made at the opening of trial, "What are we doing in court? Are we sitting or are we dispensing justice?"

Mr. Knight says that the function of the Selective Service System-- and he described it in some detail, its function -- is to classify people and to spread induction orders. The function of the Selective Service System is also at this point to force young men to make a choice, some of whom end up in prison and some of whom don't.

THE COURT: In the first place, counsel has before him a clipping from the St. Paul paper, Monday, December 7th, on which he hopes to cross-examine this witness or indirectly get into evidence the contents of an article that is written by somebody who isn't here, who isn't a witness, and it would be the purest type of hearsay. But passing that, on the merits of the issue, I have never thought it is a



defense to a crime, if somebody is charged with speeding, that five other people were also speeding and were not stopped.

MR. TILSEN: That is not my argument.

THE COURT: And therefore, he shouldn't have been stopped.

The issue here is whether these gentlemen, the defendants, broke in and took or were about to take or were in the process of taking records.

Now, the argument is that among the records they took, some five percent or two percent, or whatever the percent might be, would have resisted, and that having resisted, they would be charged criminally, and therefore, you are saving that many people, of how many records you took, from being criminals. Of course, I don't know that.

DEFENDANT KRONCKE: You can't act in a vacuum. Little Falls is a very typical, as Colonel Knight will say, a very typical board, very exemplary of all other boards in the state. Therefore, it is ideally symbolic, it's typical, and the amount of percentage of people in the state involved in these statistics are logically the same percent that would be involved in that board; and the whole thing that we are trying to talk about is that we did a symbolic act in reference to an environment. We didn't act in a vacuum. We are also going to set up the facts of the peculiar nature of the Selective Service System.

THE COURT: It isn't any of your concern nor can you tell how many of these people that you took the cards from and might have spirited them away, how many would have resisted or how many would not have resisted, and the criminality that would have evolved upon some minor percentage of those.

MR. ANDERSON: Neither can you tell how many people would be denied a CO classification because the files were gone. But the point is that these

files are kept pursuant to a statute which has specifically been found to be constitutional.

MR. TILSEN: So are the German laws that said -

MR. ANDERSON: Well, not in the United States,

MR. TILSEN: -- that said Jews should register and wear arm bands.

MR. ANDERSON: We are in the United **States**.

MR. TILSEN: I understand, but I intend prove that these laws have this effect on people.

The only other thing I would say, Your Honor, in response to this specifically is that it isn't just the question of how many of these specific persons would have been forced to be criminals, because the effect of the act is not just to deal with the lives of those individuals but it has an effect throughout the state and perhaps throughout the nation. Nobody who acts thereafter --

THE COURT: But had you been successful you couldn't have saved more than a few out of how many criminal prosecutions there might be.

MR. TILSEN: We may have, of course, made people - the fundamental point we are making is that if we had been successful, that would have been a minor result. The major result is that we would have forced several hundreds of people, maybe thousands to make moral choices, which moral choices would have a profound effect on these issues. That is our fundamental point; that our act in several ways was responsive to a situation, and part of the situation that our act was responsive to was the recognition that people are disobeying the law, this law.

THE COURT: Well, I am going to sustain the objection. The offer of proof is rejected.

(The following proceedings were in open court.)

BY MR. TILSEN:

Q You were aware of the fact that the Federal Bureau of Investigation had the files that were shown you yesterday, the box of files?

A Was I aware that they had them?

Q Yes.

A Yes, sir, Yes.

Q Had they been duplicated and returned in duplicate form to the local board?

A Because we were without the files, I asked the Department of Justice if there was any way we could get them back to use at the draft board. They said the best they could do would be to quickly make a paper photocopy, Xerox, Thermofax, something of this nature, which they would consent to do, and did do, and supplied me with photocopies of the fronts of the cards only.

Q The local board in Little Falls then has been functioning with the photocopies of the registrant's cards instead of the original cards?

A Making do with the photocopies, the fronts only that we received, yes.

Q Has this impeded the function of the board in Little Falls?

A For the time we had no cards at all, it certainly did, and it still does.

Q How does it at the present time?

A Well, we don't have the signed cards back yet. We not real sure that we have all of them, of course. They haven't been processed mechanically. Certainly, the Thermofax paper copies are not as substantial or as easy to use as the cards.

Q Have any young persons in Morrison County who would have otherwise been forced to enter the Armed Services not entered the Armed Services as a result of this?

A We continued in the month of August with the draft call, yes. Three men were inducted from that county in August.

Q Then the answer to the question would be no, no young men have not been inducted as a result of this?

A That's right.

Q There hasn't been any effect on the induction of persons into the Army?

A Because we got the cards back, yes, that is true.

Q If you didn't get the cards back, am I correct that the effect would be that persons would not be inducted into the Army from Morrison County?

A Well, as I testified yesterday, this would break the sequence of record keeping, each step of which is dependent upon the previous step, starting with the cards, and without the cards, we would have been in very very bad shape.

Q "Bad shape," is a conclusion. The ultimate effect, good or bad, of not having those cards would be that people wouldn't go in the Army?

A We would have in some --

Q Well, isn't that true?

A Yes.

Q As you have indicated, from your point of view that amid be bad, if people didn't go into the Army under the Selective Service System?

MR. ANDERSON: I object to that. His opinion as to whether it *is* good or bad is immaterial.

MR. TILSEN: He has already stated it.

THE COURT: If he has, it is repetitious. If he hasn't it is immaterial. I will sustain the objection.

BY MR. TILSEN:

Q It isn't a major point, Colonel Knight, but I believe you testified twice yesterday, according to my notes, that after the cards are made up, the information is put on there, and you said that the lottery number of the person is put on that card at that time?

A The lottery number is entered on the master ledger.

Q At that time?

A At the time the entry is made, yes:

Q Just as a matter of clarity, actually, a person registers at age 18 and he obtains his lottery number during the calendar year in which he becomes 19, so that it would be impossible to do that task that you suggested under the lottery law?

A As we go along, we apply those numbers for individuals who have lottery numbers: If they don't have one, yes, this is true. We have adapted the form. Actually, the printed form does not provide for that, and we have adapted the form with a marginal note as to a man's lottery number.

Q It's not a major thing, as I said, but you couldn't have the lottery number until some time in the following fiscal year after the year of registration?

A That is correct.

Q It would be absolutely impossible to have a lottery number at the time of registration?

A That is true, yes.

Q Do you communicate to the members of the local board or have you communicated to the members of the local board your feelings and beliefs as Director of the Selective Service System relative to the progress of the war in Vietnam and the relationship of their job to the war in Vietnam?

MR. ANDERSON: I will object to that because it deals with what may be -- it deals with an irrelevant matter. It doesn't matter in this case whether he or whether he does not. If he does, it has nothing to do with whether these defendants are guilty, and if he doesn't, it has nothing to do with whether they are guilty.

MR. TILSEN: We would offer to prove that he has sent reprints of various articles concerning the war and his position to the members of the local board, recognizing the relationship between their duty and the war in Vietnam, and it is our position that the Selective Service --

THE COURT: The objection will be sustained and the offer of proof will be rejected.

BY MR TILSEN:

Q You have by your words and actions recognized yourself the relationship of your duties as Director of Selective Service to the progress of the war in Southeast Asia, have you not?

MR.ANDERSON: Your Honor, I would object because it doesn't matter as to the guilt or innocence of these defendants whether he did or whatever he did not. It is irrelevant.

MR. TILSEN: Your Honor, I don't want to -

THE COURT: The objection is sustained. It is the same line of questioning.

MR TILSEN: It is not to the form of my question, but it's to the line of my questioning?

THE COURT: Yes, the substance of it. I don't see its materiality.

MR. TILSEN: Your Honor, I realize this is cross-examination and I would, if the Court's ruling would be otherwise, I would call Colonel Knight as a witness for the defense. If to any extent the Court's rulings are influenced by the questions and the scope of cross-examination, then I would recall him to resolve that question.

THE COURT: If he were called as your own witness I would make the same ruling.

MR. TILSEN: Well, subject to the offer of proof and other questions that relate to and flow from matters referred to at the bench and in the questions that the Court has at this point ruled irrelevant, I would probably feel I shouldn't ask any more questions, because they are all related in one fashion or another to the several issues of the recognition of the relationship of his job to the war in Southeast Asia and the questions of the draft refusals and related issues.

With that, that is all I have.

THE COURT: ALL right.

### **CROSS-EXAMINATION BY DEFENDANT KRONCKE**

Q You and I have talked before about the Selective Service System together in private, have we not?

A I didn't hear the first part of your question. Have we talked before together privately about the Selective Service System, you and I?

Q Yes. In your office and stuff?

Q Yes.

A I recall your coming to see me in the office several months ago.

Q So before today, *before* coming to Court, you have sort of known of at as a person concerned about the Selective Service influence upon society?

A To the extent of our visit in the office, primarily on that occasion, yes.

Q Wasn't part of our discussion then also about the response of religious people to your position?

MR. ANDERSON: Your Honor, I would object because I don't see any relevance, at least as *it* relates to response of religious persons, of any conversation in Colonel Knight's office, that it has no relevance with what happened on the night in question; so that the question is, at least, irrelevant.

THE COURT: Well, Mr. Kroncke, did your discussions relate to the events on July 10 or 11 at Little Falls?

DEFENDANT KRONCKE: This is before July 10 and 11. I was present doing some research, present with clerical garb, and Colonel knight and I had a long discussion about the various ways of religious people, including his friends, understanding

the war, the draft in relationship to American culture. We talked about it.

I wanted to establish that.

THE COURT: All right, you have already said it.

DEFENDANT KRONCKE: All right.

BY DEFENDANT KRONCKE:

Q Is it true that every male American regardless of his age would -- excuse me when he is 18 has to sign up with the Selective Service, every American male?

A Registration is required, yes.

Q Of every American male, that is, regardless of his physical condition, say, for example he had polio or was blind, but would still have to sign up?

A He is still required to register technically, yes.

Q So it is absolutely impossible for any American male, regardless of his physical or mental condition, to avoid signing up with the Selective Service when he is 18?

A He is required under the law to do so, yes.

Q You said, and I will quote just a phrase that caught my ear in previous testimony, and correct me if I am wrong, you said that signing up with the Selective Service is the first duty a citizen has, first duty of a Citizen was to sign up with Selective Service when 18: You used the word "duty", is that correct?

A Chronologically, that is correct, yes.

Q The question is whether it is a citizen's duty, since he has no choice in the matter except that if he doesn't sign up, he has to go to jail or leave the country, would you so consider it a duty or is it a coercion?

MR. ANDERSON: Well, I object, Your Honor, because it is asking for an opinion and conclusion of the witness and it is irrelevant to the case.

THE COURT : The objection is sustained.



BY DEFENDANT KRONCKE

Q What is the alternative for a man who refuses to sign up with the Selective Service when he is 18 years old?

A He would be subject ultimately to prosecution for violation of the Selective Service Act.

Q That includes every American male, regardless of his physical or mental condition?

A Yes.

Q Regardless of his religious beliefs, also?

A Yes.

Q It is reported that as an arm of the Government, the Selective Service System is the second most widely dispersed institution in the country --

MR. ANDERSON: I object. Counsel is testifying. He started off not asking a question, your Honor, but making a statement.

**BY DEFENDANT KRONCKE:**

Q Is it true that the Selective Service is the second most widely dispersed arm of the Government next to the Post Office? In other words, there is a Selective Service office practically in every county in the country?

A Yes, there is a Selective Service Board in every county of Minnesota; one or more.

Q Would it be true or false to say that it is the most widely dispersed arm of the Government next to the Post Office?

A Yes, I believe you are right. I never thought of it that way.

**Q I am right?**

**A Yes, I believe you are.**

**Q Is the file that a young male has in your system his personal property?**

**A No, it's that of the Government.**

Q It's not his personal property?

A A registrant cannot remove his file at will, sell it?

A No.

Q Barter it?

A No.

Q Burn it?

A No.

Q Destroy it?

A No.

Q Its not his personal property?

A No.

Q Is it true that there have been movements recently to change the nature of the Selective Service System?

MR. ANDERSON: Well, I object because this is irrelevant, I object on the grounds that it is irrelevant.

THE COURT: The objection is sustained.

BY DEFENDANT KRONCKE:

Q Has there been a movement to change the Selective Service System within the Government itself, within the Selective Service?

MR. ANDERSON: I object to that. It is irrelevant, Your Honor, because if there has been such a movement or not it has no relationship to what happened on the night of July 10th, and therefore, has nothing to do with this lawsuit.

THE COURT: The objection is sustained.

BY DEFENDANT KRONCKE:

Q What is Mr. Tarr's title?

A He is Director of the Selective Service System.

Q Has he attempted recently to modify the Selective Service System by introducing --

THE COURT: Now, just a minute. I have sustained an objection to those questions and I don't want you to testify yourself, until you are a

witness, by reading something and then asking if it isn't true or not. On that subject matter, I have sustained the objection.

DEFENDANT KRONCKE: Well, I am just trying to get into -- the form of the question I am not familiar with.

THE COURT: Well, it's substantive, not the form of the question.

BY DEFENDANT KRONCKE:

Q If a young man has a problem with how the system rocks, how does he obtain information about the system?

A He may obtain information from his draft board, the executive secretaries of the draft boards, the employees of a draft board, or my headquarters, as you have done.

Q Has the Selective Service System set up draft counseling for young people?

A I think we would have to define "draft counseling." Providing his information, certainly; information as to his rights, procedures, method of deriving classifications, things of this nature, certainly.

Q Are there places outside of the Selective Service where a man can go to gain *this* information about *the* Selective Service outside the system itself?

A Yes.

Q Could you give me an example of a place like that in Minneapolis?

MR. ANDERSON: I object to that question your Honor, because where you go in Minneapolis to obtain draft information outside of the Selective Service System has absolutely nothing to do with the events of that night. It is irrelevant.

THE COURT: Well, I will overrule that objection. He may answer if he knows.

THE WITNESS: Could you state that again, now?

(The question was read.)

THE WITNESS:           The American Friends Service Committee, as I understand it, operates such as a part of its social program.

BY DEFENDANT KRONCKE:

Q     Have various colleges in the area introduced draft counseling offices and services to their students?

A     Frequently, the registrar's office does do this function.

Q     Does this indicate a deficiency in your office in providing

A     No, not at all.

Q     Does your office notify all people about all laws that concern their classifications when classifications are made at the national or state Level?

A     Do you mean, do we write a Letter to each and every **registrant?**

Q     Yes, do you keep them informed when there are new laws?

A     On an individual basis?

Q     Yes.

A     No, we have no mechanics to do this. Do you mean by letter or something of this nature to each man?

Q     **Yes.**

A     No, we have no procedure for this, for example, when here is an amendment to the Law.

Q     So a man could have his classification changed without knowing he is going to be changed?

A     On an amendment of the law and the application of a law by the draft board, he would be advised as to any change in his status as regards classification, and upon inquiry would certainly be able to find out what this change of law might be.

Q     So he could be one day in the middle of a semester at the University of Minnesota on a II-S classification and the next day he could be I-A, liable for induction, even

though he had the whole semester to find out that he could be inducted before the semester is over?

A That situation would require amendment by Congress; in order to have a situation of that nature arise, Congress would have to abolish the II-S deferment.

Q What I am saying is, that due to matters adjudged by the local board, they could change his classification at any me, even if he was half way through a semester?

A They could do this only if Congress changed the law. II-S is a statutory classification and would require an amendment in order to eliminate that as a college deferment.

Q As an official of the Selective Service System, you are conscious of what happens in the offices at a national level, is that correct?

A As relates to procedures, classifications, and items of this nature outside the state, yes.

Q Are you informed if something happens, for instance, another draft board in another part of the country has its records taken away and destroyed?

A Not within the State of Minnesota?

Q Yes.

A I would read of it in the newspapers, yes. I am not notified of it.

Q Are you familiar with such?

A I am aware of them.

Q Are you aware of their frequency?

A In Minnesota, yes; outside of the state, no.

Q How frequent are they in Minnesota?

A I would say that in my six years, there probably have been perhaps ten events involving vandalism, fire, things of that nature.

Q How many this year?

A In 1971?

Q 1970 and '71.

A In '71, none.

Q 1970?

A Well, counting the raid at our office and the one at Minneapolis and St. Paul as one, I think of seven or eight, perhaps.

Q Do you know that this is average for what goes on in other states?

A I believe it is above average.

Q Above average?

A Yes.

Q What does that indicate to you about the system?

MR. ANDERSON: I would object to that question as calling for an opinion, having no bearing on this case.

THE COURT: Yes. The objection is sustained.

BY DEFENDANT KRONCRE:

Q No one is prevented -- if a man loses his file, can he still enlist in the Army or Navy or --

A If he loses his file -- he doesn't have his file. Do you mean his card?

Q If he loses everything, can he still enlist?

A He loses everything, I don't --

Q Say by fire or by accident, the secretary of the board set the board on fire and burned the files?

A If we lose the man's Selective Service file, you mean, could he still enlist?

Q Yes.

A Yes, he could. It might require some additional paper work, but he could.

Q You mentioned before that there were 18 classifications, is that correct?

A I believe so.

Q I don't remember if the prosecution had you list some of those.

A I did list some, yes.

Q Did you list the one for student deferment?

A There are two, really, and I believe that I listed them the II-A for non-college and II-S for college.

Q So you discriminate according to deferment for intelligence, someone who doesn't want to go to college?

A There is adequate provision made for the non-college *deferment*, II-A.

Q That is what?

A A man who is in an area, vocational school, non-degree, non-bacalaureate granting situation.

Q Is it true that most of your inductees are people who haven't gone to college?

MR. ANDERSON: I would object to the question. I try not to object, Your Honor, to every question he asks because he isn't an attorney, but that is irrelevant.

THE COURT: The objection is sustained.

BY DEFENDANT KRONCKE:

Q There is a deferment for people who are called conscientious objectors, is that right?

A Yes.

Q I-0 deferment?

A There are two types, I-0. and I-A-0.

Q Are they hard to get?

A Hard to get?

Q How do you **go** about getting one of those?

A The individual must ask the draft board for such a classification. He is advised as to the availability of this classification immediately upon his registration

or upon his classification questionnaire which he gets right after he is registered.

That classification is brought to his attention, and he must indicate, as he would if he were a student or anything else, that he believes he may be a conscientious objector.

Q Then what does he have to do to get that?

A If he so indicates to his board, we supply him with a form, Selective Service application form for conscientious objector; asking him to complete it within a reasonable period of time, a month or so, and return it to the draft board.

The draft board will consider his written material, and at that time can grant him a conscientious objector classification or it can call him in for an interview or appearance before the board to permit him to further expand on what he had already written.

Q What is the ultimate criteria for granting C0 status?

A There are two criteria, really, I think I would have to say; one, the individual must be in conscience opposed to war in any form, not just one war or another but war in any form; and the second part, he must base this opposition to war in any form on essentially religious training and belief. Recent court cases have perhaps expanded on the definition of religion to include deeply held moral principles, but still it's opposition to war in any form, religious training and belief.

Q Is it proper to say that in order to obtain this status, anyone would have to be articulate to sway the board to believe in his sincerity?

A Frequently in my talking to draft boards, I get the impression that it's quite the opposite.

Q Will you explain that?

A What a draft board or an appeal board is really considering is the man's sincerity, his state of mind, and man who comes before the board and is sincere, the board doesn't have to have an articulate or polished presentation.



Q How many men are on a draft board, on an average?

A We attempt to have five members on each draft board.

Q Men and women?

A Yes. We must have at least three at all times, of course.

Q You said before that you were familiar with what you call draft raids, is that true?

A I am aware of them, yes.

Q Would you say that it is not an uncommon act?

A It is a matter of relativity, I guess. As I have indicated, we have experienced what we are calling draft board raids in Minnesota.

Q Would it surprise you that there were an average of 317 a year across the country?

A I didn't hear the question.

Q Would it surprise you if I said there were on the average 317 a year across the country?

A I wouldn't have any idea.

Q Would it surprise you if I said that most of the people involved are Catholics?

MR. ANDERSON: I object. I don't think it matters how many they are and whether they are Catholics or druids.

THE COURT: The objection is sustained.

BY DEFENDANT KRONCKE:

Q How long is a man under the system when he initially registers?

To what age is he under that system? By law under penalty of going to jail or leaving the country?

A Under the law, his liability extends to age 35; from a practical matter, it's considerably less.

Q So in America, a man from the age 18 to 35 has to relate to the Selective Service System, with the penalty of going to jail or leaving the country?

A We maintain his records, from a practical matter, only until he is age 26; during that time under this law, yes, he is required to keep his draft board advised as to certain things.

Q Who was the previous Director of Selective Service?

MR.ANDERSON: I would object to that, Your Honor, because I see no possible relevance.

THE COURT: Objection sustained.

BY DEFENDANT KRONCKE:

Q Are you familiar with the history of the Selective Service System in America?

A Somewhat.

MR. ANDERSON: I object to that, also, because I don't think it is important whether he is familiar with the history of it or not.

THE COURT: Objection sustained.

DEFENDANT KRONCKE:

Q Can you tell me when the Selective Service System was started?

A This country had a Selective Service System, I know, the Civil War.

Q Was it continuous up to the present from the Civil war?

A No. There have been times when we have not had draft in this country.

Q When in this century was the Selective Service System started again?

A I believe in 1940.

Q So it is not a continuous part of the American heritage to have the draft?

A There have been times when we have not had it.

Q There's just been times when we have had it? We haven't always had it?

A True.

Q It's not part of the Constitution to say we have to have a Selective Service System?

A Not enunciated in so many words.

Q When we visited in your office and were talking, you had plaques on your walls that we discussed. Do you recall what was on these plaques?

MR. ANDERSON: I object. I don't see how the plaques that he may have on his walls have Anything to do with --

THE COURT: The objection is sustained.

MR. ANDERSON: -- with this case.

THE COURT: Yes. The objection is sustained.

BY DEFENDANT KRONCKE:

Q Are you familiar with -- strike that. Was there what is called draft resistance during World War II?

MR. ANDERSON: I object. I think it's a line of inquiry that isn't relevant. I hate to always be objecting, but Mr. Kroncke is not an attorney and I hate for him to get started on a whole line of questioning that obviously has nothing to do with July 10th.

THE COURT: Objection sustained.

BY DEFENDANT KRONCKE:

Q When the index files which were offered by the prosecution were sent to Washington, did the draft board at Little Falls cease to function for the days that they were in Washington?

A You are speaking of the interim from the time they were taken until we got the paper copies back?

Q Yes .

A During that time, I brought in an additional person, Mr. Clang, one of our field men, and we made do as best we could.

Q But you functioned without them?

A We functioned in a manner without them, yes.

Q And what I understand is that these index cards were essential to the functioning of the draft board. Is that true?

A Certainly, we can't, as I testified yesterday, start the sequence of recordkeeping without them as a point of beginning.

Q During these days when you didn't have them, were you functioning illegally?

A I don't think we took any illegal action. We didn't open up any cover sheets during that time, for example. We couldn't do that until we got something back to go by.

Q You mentioned a previous draft raid in the Minneapolis-St. Paul office sometime last year. Was there much destruction?

A A great deal.

Q But you still continued to draft?

A Most of the boards in that instance, last March and April, we attempted to restore them as best we could, one board at a time, by employing many extra employees; and as a board became reconstructed, we went back into business. Some of our boards went two months without an induction call. One or two boards were able to accommodate a few volunteers who came in. Many of them were two and three months without an induction call.

Q This is Exhibit No. 31 and this is Exhibit No. 17. They are described as a garbage can liner. Do they look like a garbage can liner to you?

A Yes, they do.

Q Do they look strong enough to carry out draft files?

A I don't know the strength of that kind of material.

Q Well, you are familiar with draft files. Can people carry out the whole board in these two?

A All of the files, you mean?

Q Yes, all of the files in the whole board?

A I doubt it,

Q How many files would you conjecture they could carry out? Could they carry out from an average board maybe all the I-A files?

A Yes, I think you could. In many boards, the I-A files are in two or perhaps two and a half of these standard file cabinet drawers, if you know what I am referring to. I don't mean the whole file cabinet, I mean the drawers within them, if you know what I mean.

Q I think I do.

A Perhaps two and a half drawers of I-A files could fit into those, I don't know.

Q How many files would you say, or do you know, that there are at the Little Falls draft board?

A About 400.

Q Is this an average-sized draft board?

A About average, yes, for Minnesota.

Q Do you have any idea why people would want to take the I-A files?

MR. ANDERSON: I object, Your Honor, because I believe Colonel Knight's opinion on that subject is irrelevant.

THE COURT: Yes. Objection sustained.

BY DEFENDANT KRONCKE:

Q Do you know why people would take I-A files -

THE COURT: Objection sustained.

BY DEFENDANT KRONCKE:

Q Did you know about the activity at the Little Falls draft board on July 10th, before July 10th?

A No. No.

Q Is it true, again, that the Little Falls draft board is a fairly average size draft board?

A I believe so.

Q So would it be fair to say as Director of Selective Service, that what happened at Little Falls is sort of representative of what happens at all the draft boards in the State, percentage of people inducted, percentage of people claiming CO, and things like that?

A I would say it's average.

Q Would you say it is symbolic of the Selective Service?

A It's about average in size and in number of employees and floor space.

Q You would say that it is a typical board?

A I think so.

Q Would you say that it is symbolic of the boards in this state?

A Well, symbolic -- I would say it is average in its size and method of operating.

Q Average, typical, symbolic. Okay. It is a matter of semantics?

A Yes.

Q When your local boards make classifications, do they distinguish in classification between a man who dies in Viet Nam and a man who dies of natural causes while in the Army?

A No.

Q You mentioned yesterday, I think, in your testimony that your proper title is Colonel, is that true?

A Yes.

Q And that upon assuming the Directorship of the Selective Service, you had your choice between taking a civilian position and taking a military position, is that true?

A That was my understanding at the time.

Q And you took a military one because of pension benefits, right?

A Right.

Q Therefore, it's logical to imply that the Selective Service is directly related to the military?

A The great share of our employees, of course, are not in a military status.

Q I am asking about the system, not the employees. The system itself is related to the military functioning of the country?

A One of its applications, certainly, is to spread an induction call, as I indicated yesterday, an induction call into the military.

Q When you were describing some of the index cards yesterday, you read off one that was dated 1922?

A That was the year of birth of the individual that just happened to pick out, yes.

Q So you do continue to keep records, for example, of people who have died, historically?

A We keep the cards for everyone. We do have a record disposition program for men over age, and so forth, but we keep the cards forever.

Q Is the Director of the Selective Service System on the state level, you would be considered a man of authority, is that true?

A I administer the program. Yes, I guess you would say that.

Q You are also a man of responsibility?

A Yes.

Q Do you feel a responsibility for what is happening in Viet Nam?

MR. ANDERSON: Your Honor, that is an argumentative question, also irrelevant, and I will object.

THE COURT: The objection is sustained.

DEFENDANT KRONCKE: I would like to state this point, that I just can't for the life of me see how anything that happens in Viet Nam is irrelevant to this situation.

THE COURT: Well, you have heard the Court's ruling.

DEFENDANT KRONCKE: Yes.

DEFENDANT KRONCKE:

Q Do you have a personal interest in the outcome of this case?

A A "personal interest," how would you define that? Certainly, I want my agency to be well represented and to function properly under the law.

Q Would your job or your personal position be in jeopardy if the Selective Service System ceased to exist? Could you lose your pension?

A I doubt it.

Q I have here the Minneapolis Tribune from December 28, 1970, a photocopy of a release there. Would you read the lead line, what it is? Would you identify it?

A "North Viet Nam releases its official list of" -- is there a second page?

Q "POW." Will you take my word for that?

A POW. Then you are telling me the final word was "POW"?

Q Yes.

A All right.

Q POW's are prisoners of war, is that correct?

A Yes.

Q On the listing here there is a listing for Minnesota, is that correct?

MR. ANDERSON: I object, Your Honor. Whatever is in there is hearsay and irrelevant.

DEFENDANT KRONCRE: It is official, not hearsay.

THE COURT: The objection is sustained. I don't see what relationship that has to what transpired in Little Falls.

BY DEFENDANT KRNOCKE:

Q Do you change the classification of men who are prisoners of war?

A No, we don't, not while in that status.

Q Does the Selective Service System keep any record of what happens to men who are prisoners of war, except when they die, if they die?

A Except upon receipt of DOD notification, this is true.

Q You wouldn't have any way of knowing through the Selective Service System how many men are prisoners of war?

A No.

Q Are you frequently called as a witness in Selective Service cases?

A I have testified five or six times in the last year.



Q Do you know how many Minnesota Federal Court cases have involved prosecutions of people for draft offenses, draft resistance?

MR. ANDERSON: Again, Your Honor, that has nothing to do with this.

THE COURT: Objection sustained.

DEFENDANT KRONCKE:

Q Do you change the classification of a man when he indicted for draft resistance?

A No, we do not.

Q When the grand jury brings out an indictment in reference to draft resistance, are you called as a witness or is somebody from your office called as a witness?

A Very seldom.

Q Do you change the classification of the approximately 60 to 70,000 men who have fled to Canada instead of going along with the Selective Service System?

A Do we change, did you say?

Q Yes.

A No, we do not.

Q Do you relate to them in any way, ask them to come back, for example?

A No.

Q Do you feel there is any spiritual side to your job?

MR. ANDERSON: I think a spiritual analysis of Colonel Knight is irrelevant.

THE COURT: Objection sustained.

DEFENDANT KRONCKE:

Q I am giving to you what is entitled Exhibit No. 37, and the prosecution had one of the witnesses read this yesterday. I would like you to read the first paragraph so I can ask you a question about it.

A "Attention all draft age men of Morrison County. We, the Minnesota Conspiracy to Save Lives have destroyed all the I-A files for your county. In effect, what we are trying to communicate by our action is, do you want your life? If you do then use this opportunity to take control of it. If you don't want your life then go down to the Morrison County Draft Board and give it back to the Selective Service System so that the Government can use your body and life as a tool to make the richer richer and the poorer poorer."

Q Do you think that is just romantic rhetoric, or does the Selective Service System control people's lives from 18 to 26?

A I don't think -- I wouldn't describe it - I wouldn't have used those words.

Q Then feel free to respond.

A Do I think it is just romantic rhetoric? No.

Q What do you think about that type of statement?

MR. ANDERSON: I would object, Your Honor. I think a discussion of his opinions on a statement like that are irrelevant.

THE COURT: Objection sustained.

BY DEFENDANT KRONCKE:

Q As you have said, all young males in America 18 years of age, regardless of physical, mental or religious condition, must sign up and cooperate with the Selective Service System from 18 to 26 or possibly until they are 35 years old, is that correct?

A They must register and keep their board advised under the law, yes.

DEFENDANT KRONCKE: Absolutely no more questions.

MR. TILSEN: Your Honor, I have two more.

THE COURT: You have already had your opportunity, haven't you?

MR. TILSEN: I have, Your Honor. I ask permission to ask a few more questions that occurred to me as a result of Mr. Kroncke's examination.

THE COURT: Well, all right.

First, we will take our morning recess. We will remain seated while the jury leaves. We will be in recess for ten or twelve minutes.

(Recess taken.)

THE COURT: Mr. Tilsen, you have some more questions?

MR. TILSEN: Just a few.

***CROSS-EXAMINATION (Cont'd.) BY MR. TILSEN***

Q Mr. Knight, Mr. Kroncke questioned you at some length and you answered about how the Selective Service System works in connection with the classification of conscientious objectors. It is a fact, is it not, that if a person believes that he is conscientiously opposed to war and entitled to a conscientious objector classification and the board does not agree and he maintains his position and the appeal board maintains their position, that ultimately what happens is that he refuses induction, he becomes indicted and becomes a defendant in a case in the Federal Courts of the state in which he refused induction?

A Not necessarily. There have been many men who have made inquiry, application for conscientious objector, have not obtained it and have entered the military.

Q But insofar as a person who makes inquiry, as you put it, an application and does maintain his position, then as to that person who maintains his position, if the board does not agree, he ends up a defendant in a criminal case, indicted for refusing to enter the Selective Service, refusing to enter the Army?

A This happens.

Q And it happens with some frequency, does it not? The Court has already ruled that we won't get into the numbers, et cetera, but it happens with substantial frequency does it not?

A It's a matter of relativity. Compared to the number who do enter the service or the number who enter into the alternative work program for conscientious objectors, I would say it's a rather small group.

MR. TILSEN: I would ask the Court's permission to ask him his knowledge of the numbers, Your Honor. I do believe that in view of his answer, I ought to be able to show the facts with respect to numbers that I was discussing with the Court in the past, because it's my impression that those numbers are exceedingly substantial, and the jury can judge for themselves whether they are small or substantial, once having heard those numbers.

MR. ANDERSON: I object to the whole line of inquiry as being immaterial. It doesn't matter how many there are or how few there are.

THE COURT: I think that is right. I will sustain the objection.

BY MR. TILSEN:

Q Turning to one last matter, then, in your service as the Director of the State of Minnesota Selective Service System, have you noticed, been affected and been required to change practices of the Selective Service System as a result of changing attitudes of the public toward the Selective Service System?

A I can't relate --

Q Let me give you an example. The last few days you were quoted in one of the newspaper articles as saying that the Selective Service System --

MR. ANDERSON: I object to the whole line of questioning.

MR. TILSEN: May I finish the question?

THE COURT: No. Before you read something into evidence, you should bring it up here.

MR. TILSEN: I am not reading it.

THE COURT: You are going to read what he is supposed to have said, and then it is read, and that is not the way to do it.

MR. TILSEN: It's preliminary to the question I asked him before which he said he didn't understand, and to which -- I will rephrase the question. I will withdraw the question presently pending and ask it this way.

BY MR. TILSEN:

Q The public has changed their attitude toward the Selective Service System in the period of time that you have been Director, has it not?

MR. ANDERSON: I would object, Your Honor, because it is immaterial whether they have or not, and I ask that we end this line of questioning right now. It has nothing to do with July. 10th or whether a crime was committed or whether the defendants committed it.

MR. TILSEN: It's preliminary, Your Honor.

THE COURT: Well, the objection is sustained. I don't think this witness' observations, if any, as to whether the public attitude has changed or not makes any difference to what happened on July 10th, if it happened, at Little Falls. I don't equate those. Objection sustained.

BY MR. TILSEN:

Q Has the Selective Service System been required and has it, in fact, changed its processes and practices as a result of changed attitudes on the part of the public toward the Selective Service System?

MR. ANDERSON: Your Honor, that is jus a restatement of the previous question.

MR. TILSEN: No, it isn't.

MR. ANDERSON: I object to it because it is on a line of inquiry that is irrelevant.

THE COURT: Objection sustained.

MR. TILSEN: It's not a restatement of the previous question.

I would ask one final question, then, Your Honor.

BY MR. TILSEN:

Q Has the war in Viet Nam required you to change your practices, the Selective Service System practices, because of the changed attitude of the public toward the Selective Service System as perceived by you and as

perceived by the Selective Service System over the course of the continuing war in Viet Nam?

MR.ANDERSON: The question is objectionable for the same reasons as stated before. It is irrelevant.

THE COURT: Objection sustained.

MR. TILSEN: No further questions.

MR. ANDERSON: I have very short redirect, Your Honor.

### ***REDIRECT EXAMINATION BY MR. ANDERSON***

Q Colonel Knight, you testified on cross-examination that when the records of a board are substantially destroyed that for two or three months, I believe you said, a draft call couldn't be spread by that board, is that right?

A That's been our experience in some cases.

Q When that happens, does the obligation of the state to draft a certain number of people change?

A No.

MR. TILSEN: That is objected to -- I will withdraw the objection. I am sorry.

BY MR. ANDERSON:

Q You answered no?

A The draft call remains.

Q And how do you meet that draft call?

A By levying it upon other eligible men in other draft boards until the original draft board's records can be restored.

MR.ANDERSON: I have no further questions.

### ***RECROSS-EXAMINATION BY MR. TILSEN***

Q Well, let us take an example. You said that there was something that took place in March or April, 1970 that took some boards out of operation,

and I think those were your words, for two or three or more months, is that correct

A Yes.

Q Do you recall the number of persons -- I will back up. During March of that year the Director of the Selective Service System nationally made a call for a number of persons to be drafted in the United States, did he not?

A Yes.

Q And that call allocated a certain number which came to your office as the number to be drafted in Minnesota?

A Yes.

Q That number, for example, in March was how many?

A Four hundred, perhaps.

Q Those 400 persons were spread throughout the State of Minnesota, according to statistics; if I am correct, base upon expected manpower pool -- I think actually based on 20-year old data as to the number of draft age persons in every county is the way the 400 would be spread among the 87 counties among Minnesota, is that right?

A Under the lottery system, a ceiling is imposed, and thus, the word "availability" comes into the picture.

Q I wasn't yet at that point. Prior to that issue what happens is that 400 are spread among the 87 counties in relation to certain population data, certain demographic information that you have previously accumulated, you have a percentage?

A No, sir. No, sir, that isn't the method by which the call is spread.

Q How do you spread it?

A Each board reports to the state headquarters as to the number of availables it has, defining "available" as a man who is I-A and has taken the physical examination, been found acceptable, has a lottery number within the framework under which we are working, things of this nature. The number of availables is reported from the draft board so I know where the men are by lottery number; and

we spread the call back to them in tune, you might say, with the number of availables that have been originally reported by the board. The spreading of the call starts with the local boards, not with me nor with the Pentagon.

Q So that I understand it, you would have gotten a report on or about March 1st as to the number of I-A people in the State of Minnesota from each board?

A Yes.

Q And assuming that there were 40,000 persons I-A in Minnesota on that date and you needed 400, then you would need one person for every I-A person in that board or in each board?

A It wouldn't come out, of course, necessarily one per board --

Q Hypothetically, you need one for each so many people who are I-A, so one board you would assign five to and another board would need ten and another board two, and this would depend on the number of persons, roughly the size of, geographically --

A Available within the board.

Q So on March, 1 of that year, 1970, you then assigned the roughly 400, or whatever the actual number was, among the 87 counties in that fashion, and some boards might have as few as one or none, hypothetically?

A Yes.

Q Because they had none available, and other boards might have 15, 20, 40, 50, perhaps a large metropolitan board?

A Yes.

Q We were dealing with metropolitan boards, I think your testimony said, Minneapolis-St. Paul?

A Yes.

Q Did you assign the 400, approximately, in March of 1970, inductees or persons to be inducted, to all of the 87 boards, or did you assign it to boards exclusive of those boards where the records were in some way not in perfect shape?

A I assigned the call to those boards that I knew had been available, and the Twin City boards had none available, although they



might have reported it the day before that they had none available, and therefore, the impact of the call was we moved from those boards that were vandalized, and I levied within the framework upon other boards until the Minneapolis and St. Paul boards could catch up, so-to-speak.

Q You mean, then, that the entire 400 persons who were to be drafted in Minnesota were, in fact, drafted into the military in March of 1970 from boards other than those boards, or alternatively, what happened is that Minnesota did not meet its quota in 1970? Is that what happened?

A There was an element of each. We didn't meet our call in March of 1970.

Q And you did not meet your call in part because of this factor?

A Yes.

Q And this was true, also, in April of 1970?

A It continued on, yes.

Q So it's not entirely true to say that other boards bear the brunt of draft boards where calls cannot be made? To some extent, the net result is that people are not drafted to go to Viet Nam and wherever else they go, isn't that true?

A Until the board's records, primarily the cover sheet files, can be reconstructed, we cannot call from that board and we levy the call upon other boards.

Q But you do not levy the call for the people that were to come from that board 100 percent on other boards because you had, in-effect, a space, a difference between your quota and the number of persons actually called?

A And as a result, failed to meet our call in that particular month.

Q That is not the only month where you failed to meet your call?

A No. We have had months, rarely, where we haven't come up with our exact quota.

Q Would it be fair to say that you have failed to meet your call in other months where the records were intact and it was because persons refused to enter the military?

A That number of refusals is not decisive in a case like this.

Q But you have had other months where you have failed to meet your quota?

A Where we have failed and fallen short of our call by a few.

Q If you have fallen short of your call by ten men, and in that month you had 20 persons who were called and refused induction, it would be reasonable to say that the persons who refused induction in that month had a relationship between your failing to meet your quota?

A To that extent, yes.

MR. TILSEN: I have no further questions.

MR. ANDERSON: I have no further questions.

THE COURT: All right. You are excused, Colonel.

(Witness excused.)

MR. ANDERSON: Your Honor, the government calls as its next witness, Mrs. Jane Gedde. Whereupon,

## **JANE L. GEDDE**

a witness called by and on behalf of the Government, having been first duly sworn, was examined and testified as follows:

### ***DIRECT EXAMINATION BY MR. ANDERSON***

Q Good morning, Mrs. Gedde. Will you tell the jury where you live?

A I live at Pillager, Minnesota.

Q Where is Pillager located?

A Pillager is 28 miles north of Little Falls.

Q Are you employed?

A Yes.

Q Where are you employed, Mrs. Gedde?

A I am executive secretary of Local Board 73 in Little Falls.

Q Specifically, in July of 1970, did you hold that position as clerical assistant?

A Yes, as clerical assistant there, and also Local Board 18 in Brainerd.

Q Did you split your time between the two boards?

A Yes, I did.

Q How long had you been a clerical assistant, how long had you held that position?

A Since about September, 1965.

Q Why don't you tell the jury, roughly, what the duties of the executive secretary are?

A To perform all the clerical work for the local board, such as writing letters and answering correspondence.

Q What are the duties of the clerical assistant?

A To assist the executive secretary.

Q Now, going back to the 10th of July, 1970, which, I believe, was a Friday, were you on duty as a clerical assistant for Local Board 73 at that time?

A Yes.

Q And had you been at work at the local board office that day?

A Yes.

Q At that time, I believe you would have been clerical assistant rather than executive secretary?

A That is correct.

Q Were you in the office alone or was someone with you?

A I was alone all day.

Q Where was the executive secretary?

A She was on vacation.

Q Now, where is the local board located in Little Falls?

A You mean the address or building?

Q Yes.

A It's 122 East Broadway, on the second floor.

Q Okay. How many rooms constitute your office?

A Two.

Q And in some previous testimony, one of the witnesses drew a very rough characterization of at least part of the second floor. Can you see that from where you are sitting?

A Yes.

Q Are those rooms marked "reception room" and "file room" your local board offices?

A Yes.

Q And of those two rooms, which room is your office?

A The file room.

Q Now, is there a door between those two rooms?

A Yes.

Q And does each room have a door out onto the hall?

A Yes.

Q Now, during the working day what doors did you normally keep open, if any?

A The door to the file room.

Q That is from the outside hall?

A Yes; and the door between the two rooms, also.

Q I see. And what about the door to the reception room during the working day?

A I usually kept that closed.

Q I see. Now, what time do you close the office at night ?

A I only worked six hours a day at that time, and so on that day, I had closed at 4:00 o'clock.

Q And you specifically remember on the 10th of July closing at 4:00 o'clock?

A Yes.

Q What is your practice, if you have one, with reference to locking the office at night when you leave?

A Usually, I go to the file room door and close that from the inside, and then I would go out into the reception room and close

the door between the two offices, and then I would go out the door from the reception room into the hall and lock that door.

Q And did you have any practice that you used during that period of time to ascertain if the door from the reception room to the hall was locked when you left it?

A I would always try it afterwards.

Q What did you do with reference to the door between the file room and the reception room? Did you leave that locked or unlocked?

A When I left at night?

Q Yes .

A I would lock that.

Q Now, there is drawn on that picture a window from the reception room out, apparently over the back of the building. Did you have any practice with reference to that window, whether it was kept open or closed that summer?

A It was always closed in the summer because the air conditioner was on.

Q I see. And does that window have a lock, or did it at that time?

A Not at that time, no.

Q And was there anything outside of the window, was there a screen, for instance?

A Yes, there was a screen on the window.

Q Now, Mrs. Gedde, do you keep any tools or equipment in your office of any kind, like screwdrivers or claw hammer or anything of this type?

A No.

Q And when you left the night of July 10th to go home, the evening of July 10th, would you describe the condition of your office?

A Everything was put away.

Q What was the condition with respect to the file cabinets?

A They were all closed.

Q Do some of your file cabinets lock?

A Yes, two lock, and they were locked.

Q Do you have a regular practice when you close of locking them?

A Yes.

Q Do you remember doing it that night?

A Definitely.

Q Were all of your file cabinets in orderly condition

A Yes, they were.

Q I am showing you a box which is labeled Government Exhibit No. 18, and I am going to ask you to have a look at the contents of that box for a moment and familiarize yourself with what is in there.

A Yes.

Q Can you tell the jury what chose items you are holding in your hand are that you pulled from the box?

A They are registration cards from Local Board 73, because here is one with my signature on it.

Q Very fine. Does that box appear to be full of the same type of cards?

A Yes.

Q Now, were the registration cards in your office that night when you left on July 10th?

A Yes, they were.

Q Where did you keep them?

A In a little card file.

Q Where was that card file located?

A To the left of my desk on a little table.

Q Showing you a picture which has been labeled as Plaintiff's Exhibit 12, do you recognize anything portrayed in that picture?

A Well, the file drawers are open.

Q Well, what room is that a picture of?

A That is in the file room.

Q Of your local board?

A Yes.

Q Do you recognize those file drawers as being file cabinets of the board?

A Yes.

Q And how many are there pictured there?

A There's five and then part of one more.

Q As to the five that are there, are any of those five file cabinets normally kept locked?

A Yes, the two on the right.

Q And drawing your attention to the two filing cabinets on the right, particularly the upper drawer around the area where the lock is, do you notice anything different or unusual from the way that drawer was when you left that night?

A There are things lying on top which weren't there before when I left.

Q All right. What things?

A Is that a nylon jacket?. I believe it is.

Q What about this bent metal?

A Yes, it looks like it's sprung. It goes in.

Q Was the cabinet that way when you left?

A Not that I remember, no.

Q And, in-fact, had the cabinet been operable during the day in the normal fashion?

A Yes.

Q Showing you Plaintiff's Exhibit 31, have you ever seen this item before?

A No.

Q And you had not seen it, then, in your office at any prior time?

A No.

Q Showing you this can of charcoal lighter fluid, Exhibit 24, had that ever been in your office prior to July 10th?

A No.

Q And I am showing you a screwdriver labeled Plaintiff's Exhibit 35. Had that ever been in your office?

A No.

Q Had you ever seen it before?

A Not before yesterday.

Q Showing you a pry bar labeled Plaintiff's Exhibit 36, had you seen that before?

A No.

Q Was that in the office when you left on the 10th?

A No, it wasn't.

Q Showing you a claw hammer marked Plaintiff's Exhibit 33, had you seen that before this trial?

A No.

Q And was it in the office on the night of July 10th?

A No.

Q And showing you some strapping tape labeled Exhibit 25, does this belong to your board?

A No.

Q Had you seen it before the trial?

A No.

Q Is there a fire escape from your office?

A Yes, from the reception room.

Q Why don't you describe the arrangement in that respect?

A Well, it's sort of, I believe, two boards or something like a catwalk that extends from the window across to the roof of the opposite building.

Q I am showing you a picture identified as Plaintiff's Exhibit 16 and I will ask you to describe -I will ask you if you know what that portrays?

A Yes, that is looking from the roof of the opposite building into our office window.

Q I am asking you to notice the screen on that window. Do you notice anything in particular about its condition?

A It looks like it has been cut.

Q And I am showing you Plaintiff's Exhibit 15, and ask you if you recognize what that portrays?

A Yes, that is the window from inside our office looking out.

Q Does that also show the screen?



A Yes.

Q And is there anything unusual about the condition of the screen?

A Yes, it's been cut.

Q Was that screen in that condition when you left your office on the night of the 10th?

A No, it wasn't.

Q Now, a few moments ago you identified the registration cards, one of which had your signature on it. Have you seen those cards since the 10th of July?

A No.

Q Has your board, then, been without them?

A They were for about a month without them, yes.

Q What happened after about a month?

A Then we received Thermofax copies from our state headquarters.

Q I see. Was that Thermofax copy a complete copy?

A No. It was just the front.

Q How do you use these cards in the normal operation of your board?

A When correspondence comes in just giving the man's name, the first thing we have to do is look up the Selective Service number. We go to these cards to find that. About nine-tenths of the items that we receive don't mention the Selective Service number.

Q Did it interfere with your board not having those cards for that month?

A Yes, it did.

Q And about how many cards do you have, do you know?

A About 7,000, I believe, at that time.

Q Are all of them missing?

A Yes.

Q From the board?

A Yes.

MR. ANDERSON: I have no further questions.

MR. TILSEN: I am sorry, I didn't hear you, Mr. Anderson.

MR. ANDERSON: No further questions.

MR. TILSEN: I have no questions.

**CROSS-EXAMINATION BY DEFENDANT KRONCKE**

Q Mrs. Gedde, did you come over from Little Falls today?

A Yes.

Q Did you come yesterday?

A No.

Q Did you move?

A No. I came on Monday.

Q Okay. There were flowers in the reception room by the window. Were they your flowers?

A No, they weren't. They belonged to the executive secretary.

Q When you looked at the office the day afterwards, were they all still intact?

A Pardon?

Q When you came to the office after the day of July 10th were all the flowers still intact?

A I didn't come back until the following Thursday.

Q But did anyone complain that the flowers were destroyed or anything?

A The flowers were there when I came back on Thursday. Okay. Thank you, Mrs. Gedde.

DEFENDANT KRONCKE: No more questions.

MR. ANDERSON: I have nothing further, Mrs. Gedde.

THE COURT: Then you are excused, Mrs. Gedde.

(Witness excused.)

MR. ANDERSON: The Government rests, Your Honor.

THE COURT: All right.

MR. TILSEN: Call Mr. Lais.

Whereupon,

## **WILLIAM G. LAIS**

a witness called by and on behalf of Defendant Therriault having been first duly sworn, was examined and testified as follows:

### ***DIRECT EXAMINATION BY MR. TILSEN***

Q Mr. Lais, you are a special agent of the FBI stationed here in Minneapolis?

A I am stationed in St. Paul.

Q In St. Paul. And how long have you been with the FBI?

A About 20 years.

Q Were you in charge of the detail of, I believe, six men who went to Little Falls on July 10 of 1970?

A Yes, sir.

Q You have been sitting here in the courtroom since the trial started on Monday, have you not?

A Yes, sir.

Q Before you went to Little Falls, you had some reason to believe that some persons would enter the board at Little Falls, is that correct?

MR. ANDERSON: Your Honor, I am going to ask that counsel not lead the witness at this point.

MR. TILSEN: I will ask permission to lead the witness on the grounds he is obviously a hostile witness.

MR. ANDERSON: No hostility has been shown.

MR. TILSEN: Hostile only in the adversary legal sense of the word, your Honor.

THE COURT: Well, I will overrule the objection. You may proceed.

BY MR. TILSEN:

Q Is that correct?

A Could I have the question again?

Q I will restate it. Substantially, I think the question was whether or not before you went to Little Falls you had some information that some people were going to enter the board at Little Falls?

A Yes.

Q Did you know who would enter the board at Little Falls?

A Not specifically,

Q What did you know about the people who would enter the board or who you expected to enter the board?

A I expected any combinations of several possible people.

Q Did you have a list of the persons who you expect

MR. ANDERSON: I would object to that Your Honor. I think it is irrelevant whether he had a list or didn't have a list. The only issue is what happened that night and what did, in fact, transpire. Sheaves of paper that people carry around as to things that didn't transpire --

THE COURT: I think there is testimony about a list that had some license numbers on it.

MR. TILSEN: I was going to inquire specifically as to that.

THE COURT: You may inquire as to that.

BY MR. TILSEN:

Q I will move directly to that. There's been testimony by others about a list with license numbers on it. Did you have that list in your possession?

A Yes, I did.

Q Do you have it in your possession now?

A I don't have that list, no.

Q Where is that list?

A I am sure I destroyed it.

Q When did you destroy it?

A Well, I had no more use for it and I presume I destroyed it either that day or the following day.

Q About how large was the list in terms of numbers, approximately?

A This is just a very rough estimate, probably 20.

Q In terms of the numbers of combinations of person that is, numbers of individual persons who you thought might be going to Little Falls to enter the board, about how many numbers were involved?

A Probably close to 20.

Q Do you have a copy of that list?

A Yes.

Q The one you destroyed?

A Yes.

Q Where is it?

A I have it with me.

Q May I see it?

A Yes.

(Discussion at the bench between Court and counsel not within the hearing of the jury.)

(The following proceedings were in open court.)

MR. TILSEN: I have nothing further.

### ***CROSS-EXAMINATION BY MR. DEFENDANT KRONCKE***

Q Were you in charge of the group of people that went up to Little Falls that day?

A Yes.

Q Had you informed the members of your group to be prepared to stay overnight?

A I don't recall that we were prepared to stay overnight.

Q Did you take out motel reservations while you were in Little Falls?

A No.

Q Were you ever at Little Falls before July 10th?

A Yes.

Q Could you tell me when?

A Several times.

Q Were you there in connection with this matter before July 10th?

A Yes.

Q Would you tell me when?

MR. ANDERSON: Your Honor, I think this line of questioning is completely immaterial. It's not cross-examination or impeachment of the witness. He has not testified and the general investigative pattern of the bureau is not relevant.

THE COURT: Well, objection overruled. He said he was several times in Little Falls. The question was when was the last time.

BY DEFENDANT KRONCKE:

Q Yes, in reference to this matter?

A About, I would guess a month prior to July 10th; three weeks to a month, something like that.

Q Did you contact the secretary of the board at that time?

A Yes, I did.

Q Did you inform her of the possibility of a raid on her office at that time?

A That is not what I stated to her.

Q What was your discussion with her as it related to the July 10th incident?

A I asked to make a survey of the board and its premises.

Q Were you looking at other boards in the vicinity of Little Falls, also?

A It so happened that I did not.

DEFENDANT KRONCKE: I have no more questions.

MR. ANDERSON: Nothing, Your Honor.

THE COURT: All right. You are excused, Mr. Lais.

(Witness excused.)

MR. TILSEN: Defendants call Dave Gutknecht, to the stand.

Whereupon,

## **DAVID GUTKNECHT**

a witness called by and on behalf of Defendant Therriault, having been first duly sworn, was examined and testified as follows:

### ***DIRECT EXAMINATION BY MR. TILSEN***

Q How old are you, Dave?

A I am 23.

Q Where do you live?

A 2525 Fifteenth Avenue South, Minneapolis.

Q How long have you lived in Minneapolis?

A About five years.

Q What is your education?

A I completed high school. I went to Augsburg College one year and the University of Minnesota in Minneapolis one year.

Q What is your current employment?

A I have a part time janitor job.

Q What else are you engaged in?

A What else am I engaged in?

Q Yes.

A Well, I have been working for some time around the issues of the draft and the war in Viet Nam and draft resistance, things related to that, draft counseling.

Q How long have you been involved with that?

A I first became involved with that to any significant extent in 1967. I was one of a group of persons, including Don Olson, who helped form a group called the Twin City Draft Information Center, which was basically set up, this was in 1967, for the purpose of building a movement of opposition to the war and to the draft, providing information to young men in regards to Selective Service, information never provided by the Selective Service System, despite what Colonel Knight says. There is a tremendous lack of information --

MR. ANDERSON: I object. That is not responsive to the question asked.

THE COURT: No, it isn't.

BY MR. TILSEN:

Q The question I would ask, would you describe the function of the Twin City Draft Information Center?

A It had a number of different functions --

MR. ANDERSON: I object. I don't see that the transactions of the Twin City Draft Information Center has anything in the world to do with the lawsuit.

MR. TILSEN: It is preliminary, Your Honor, so the jury understands the witness on other matters that he will get into.

THE COURT: Was Mr. Gutknecht there that night on July 10th?

MR. TILSEN: No, Your Honor.

THE COURT: So he doesn't know anything about what happened?

MR. TILSEN: He knows -- he doesn't know anything about July 10th by being there, Your Honor, no.

THE COURT: All right. I will over-rule the objection. I don't know just where you are leading to.

THE WITNESS: The group we are with had a number of purposes and carried out a number of activities; putting out literature related to the war in Viet Nam and the draft and things of that nature; doing public speaking on those topics; organizing public rallies at which men would perhaps refuse induction or state their opposition to cooperating with the draft; helping men who are being prosecuted for refusing the draft; different projects of this sort.

BY MR. TILSEN:

Q Have you been, to the extent there is a head, the normal head of the Twin City Draft Information Center? Have you been one of the most active persons in the Twin City Draft Information Center?

A Yes, I have.

Q Does it consist of a group of counselors, group of persons?

A Counseling was always one of the main activities This involved providing objective information about all the different alternatives faced



by a man under the draft, such as deferments, CO, leaving the country, refusing the draft.

Q Over a period of time, do you have any idea the number of people counseled by the Twin City Draft Information Center?

A Well, it was certainly hundreds, probably several thousand. It's hard, really, to say. We didn't keep any records on it.

Q Did you yourself at any time involve yourself directly in a refusal to become inducted?

A Yes, I did, toward the beginning of 1967, the period we are talking about, I was one of a number of persons who decided to take the position of public non-cooperation with the draft. As a consequence of this, as a consequence of turning in my draft card to the Government and stating my position, along with others, I went through a procedure called delinquency whereby the board takes away your deferment and you are placed on top priority for induction, your induction is speeded up, I-A, top of the list ordered right away. It happened to me and several others. We refused induction.

Q Were you indicted and convicted as a consequence?

A In 1968 I was indicted for refusing induction and was tried in a different court than this one in the Twin Cities and was convicted and sentenced to four years in prison. I stayed out on appeal while the decision was being appealed, first to the Circuit Court in St. Louis, and they affirmed it; then it was appealed to the Supreme Court, and about a year ago they finally ruled in my favor and said that this practice of draft boards of speeding up the induction of people who had turned in their cards or didn't report their address, violated the regulations in some way was illegal, that the draft board couldn't speed up induction of men like that because it was being applied as kind of a punishment for expressing free speech rights and other constitutional rights.

So as a result, I was acquitted and many other men, several thousand, probably, had their situations reversed; either the draft

board had to reconsider or they even had indictments or convictions against them dismissed because of this ruling.

Q So is it fair to say that as a result of your action, several thousand indictments against persons charged with violation of the Selective Service System were reversed or were dismissed?

A I think that is fair to say. I don't know the exact figure.

Q Now, have you maintained records or advice about the persons who refused induction or otherwise indicted or otherwise became involved with the Selective Service System in that fashion in Minnesota?

A Yes. The prosecution of draft resisters --

MR. ANDERSON: I object. The answer is no longer responsive. He answered the question and then went on.

BY MR. TILSEN:

Q You do have those records?

A Yes.

Q Have you maintained them over a period of the last several years?

A Yes.

Q Do you have the records as to the numbers of persons currently awaiting trial, for refusal to accept induction, in the district courts in the State of Minnesota?

A Yes.

Q What is that number?

MR. ANDERSON: I object. I think the number of people awaiting trial on any case, draft cases or any case, is irrelevant to what happened on the night of the 10th, and it's irrelevant to the issue of guilt or innocence, and I would object on that grounds.

THE COURT: The Court is going to sustain the objection.

BY MR. TILSEN:

Q Are there persons in the federal prisons from the State of Minnesota who are there as a result of their refusal to cooperate with the Selective Service System?

A Yes.

MR. ANDERSON: On the same grounds, Your Honor, I object and move the answer be stricken.

THE COURT: The objection is sustained and the answer may be stricken.

BY MR. TILSEN:

Q Just yes or no, do you have the names of the persons and their whereabouts and the prisons they are at, that is, Minnesotans who have violated the Selective Service System laws in the State of Minnesota, young persons in this state, and who are currently in prison?

A Yes.

MR. ANDERSON: I would object because that is a misleading question, that is to say, it incorporates within the question items not in evidence and it is simply a way to try to get around an irrelevant line of inquiry.

MR. TILSEN: I will restate it if you object to the form.

BY MR. TILSEN:

Q The question is whether or not you have with you and available to the Court, the names of persons who are in prisons as a result of their violation of and refusal to cooperate with the Selective Service System in the State of Minnesota.

A Yes, I do.

MR. ANDERSON: Your Honor, that question is irrelevant because whether he has the list or whether he doesn't have the list, the subject matter is not one relevant to the discussion and would not be admissible, and I would humbly and respectfully ask the Court to ask counsel not to pursue that line of inquiry.

THE COURT: The answer is yes, he has it, but the next question, I suppose, is, what is on it, and I will sustain the objection to it or any reference to it.

(The following proceedings were at the bench out of the hearing of the jury.)

MR. TILSEN: I realize that we have been in session almost continuously since Monday morning, but I do want to call the Court's attention to the fact that this line of inquiry should not be of surprise to the Court or counsel; that I did supply the Court before the trial started with a trial memorandum and supplied counsel with a trial memorandum, and I don't know if the Court has had an opportunity during this short period of time to review

THE COURT: I have reviewed it.

MR. TILSEN: The trial memorandum reveals that Mr. Gutknecht will be called to testify and does reveal the specific matters that I hoped to get into.

THE COURT: Yes.

MR. TILSEN: So there can be no surprise. I can only repeat what I said before, that it is one of the evils of the defendants' attempt to deal with one of the immediate problems facing the defendants their observation of persons around them in the State of Minnesota forced to make impossible actions and choices, the choice of entering the military or violating the law; that they acted in response to that situation, that the defendant acted in response to it.

The argument that the defendants' acts were necessary are predicated fundamentally and first of all upon a recognition of what these records constitute, what happens to people because of these records and the observations of the defendant in connection therewith.

As the Court knows from the material I have supplied the Court, it is our position that at the conclusion of the case, the jury will be asked to make a finding or will be given an

instruction, and I will ask for this instruction, at least, as to justification; that if they find that the defendant acted to avoid evils and if the evils he acted to avoid were greater than the evils attempted to be avoided by the law and if his perception of the situation was reasonable and if his acts were reasonably calculated to deal with the evils as he saw them, then the jury may find that he is justified.

I am not bringing this out because I want the jury to acquit him because other people violated certain laws. I am not bring --

I maintain we have a right to have the jury confronted with the question of whether or not the greater evil is that upon which the defendant acted or the greater evil is the evil of tearing up pieces of paper or attempting to destroy pieces of paper involved in the Selective Service System, and whether or not, in their judgment, the defendant's act was a reasonable act and reasonably necessary under the circumstances.

The jury may well find that they are not, that their act was not justified, either because it wasn't a reasonable act or because there was no necessity for them to act.

I might say that there are three people who are going to be flying into Minneapolis from various places tomorrow morning. They will all be here tomorrow. The testimony will not be repetitive, but it will be in different areas analogous.

I do believe a reasonable putting forth of the defense of necessity requires us to at least apprise the jury in some general fashion as to the effect the Selective Service System has in this country and in Minnesota, in a very limited kind of scope.

I am not trying to go all over the ball field.

I am trying in a very limited way to show one of the effects on large numbers of young men forced to become criminals or do become criminals, that this is one of the things that happens

THE COURT: I suppose the same is true of the tax laws. We have tax laws to collect taxes and that forces a certain number of people who don't pay their taxes to become criminals. I don't think that showing the number of tax evaders is relevant in prosecution for tax evasion.

MR. ANDERSON: As a matter of law, obedience to the Selective Service System and prosecutions under it cannot be an evil that can be used as a defense in a criminal prosecution for violating the same law, just, as a matter of law, a prisoner cannot say that, "My incarceration forced me to escape because it's a greater evil to be in prison than it is to escape," and what he is saying is that a law which has been constitutional can be used as an evil to justify obedience of law, and that is just not -

THE COURT: Well, I understand his theory. I have held to the view, and I say it again, that whether other people have been convicted or have not been convicted and how many or how few has no bearing on whether in this particular case the defendants are guilty or not guilty. I just don't equate the two.

DEFENDANT KRONCRE: How do you argue the necessity unless you set up the situation and the culture? If you want to continue to argue the absurd situation that we acted in a vacuum and all of a sudden we found ourselves in Little Falls because we ate something for dinner that got us there, or some absurd thing like that, if you are not willing to go into the situation in which we acted, what is the sense of what we are doing at all? You have got to set the cultural background, what the people are thinking.

THE COURT: I suppose everybody knows that some people have been convicted of evading the draft or violating the draft law.

DEFENDANT KRONCKE: Well, it's one of the biggest problems in the country right now. Anybody with a grain of sense can look at any of

the newspapers, you can look at Newsweek and Time and see the same issues week after week, they are there. They have to be taken into consideration by somebody. If you want to play games, that somehow we arrived there out of the blue like Santa Claus -- we come out of a community and we come out of a tradition, and at least we should be able to --

THE COURT: Well, you are talking about your motive in what you did.

DEFENDANT KRONCKE: Talking about the act, an act of necessity, that is what I am talking about. We think that act was a necessary act.

THE COURT: I know you are going to argue that and I won't try to stop you, but to prove that some other people were convicted or not, does not establish your innocence or guilt.

DEFENDANT KRONCKE: It is our opinion that because it is a law, and therefore, everybody will abide it and will not break it, we have to set up a situation as to why we consider it not to be a law, do not consider it to be a proper human law. You have a tacit assumption just by the makeup of this Court in his favor already.

THE COURT: Of course, what it simmers down to is that you don't like the law, and therefore, you felt justified in violating it.

DEFENDANT KRONCKE: That is right, and that is why --

THE COURT: If you feel that way, that's a matter of argument, but that isn't helped or hurt by showing how many other people are guilty or not guilty.

DEFENDANT KRONCKE: We can attempt to lead people to believe we didn't think of violating this Law all by ourselves.

THE COURT: Well, the objection is sustained and the offer or proof is denied.

(The following proceedings were in open court.)

THE COURT: It is now 12:30. We will be in adjournment until 2:00 o'clock.

(Whereupon an adjournment was taken until 2:00 o'clock p.m., January 13, 1971.)

January 13, 1971 2:25 o'clock p.m.

Whereupon,

## **DAVID GUTKNECHT**

having been previously sworn, resumed the stand and testifies further as follows:

THE COURT: Members of the jury, I am sorry for the delay, but we were in chambers with counsel discussing some matters.

MR. TILSEN: Your Honor, in view of the Court's ruling, I would have no more questions of Mr. Gutknecht.

## ***CROSS-EXAMINATION BY DEFENDANT KRONCKE***

Q Would you go into a little bit of what type of activities you get involved in when you work for the Twin City Draft Information Center?

MR. ANDERSON: Objection, Your Honor, on the theory that I don't see that his activities with the Twin City Draft Information Center is relevant.

THE COURT: I didn't hear the question, Mr. Kroncke.

DEFENDANT KRONCKE: I was trying to establish what he does. I asked him what type of things he does when he works for the Twin City Draft Information Center.

THE COURT: Objection overruled.

THE WITNESS: I was involved with draft counseling for some time, that is, talking with different young men confronted with the draft, about what their alternatives were and the advantages and disadvantages of different courses of action, such as refusing induction or getting a deferment and so forth. I did public speaking at times. I worked on reprinting literature; basically trying to educate people about the nature of the



draft and the war in Viet Nam and our foreign policy and why I thought it was important to resist those policies to the extent possible, and just generally trying to educate people is what I was trying to do.

**BY DEFENDANT KRONCKE:**

Q Could you basically say that the Twin City Draft Information Center was an institution which tried to communicate?

A Very much so, the basic purpose of encouraging education and action, and they both went together, in our minds, so we tried to educate people about the nature of society and political institutions, the war and the draft, and so forth, and encouraging opposition to those policies; and more specifically, we were trying to encourage resistance to the draft on the part of young men as a means of confronting the Government's ability and authority to carry out the draft and the war.

Q Before you established the Draft Information Center in Minneapolis, had there ever been one established in the state before?

A There was some draft counseling going on, but, no, there wasn't really any draft group of any sort, any anti-draft group established.

Q What were the reasons behind the need to organize this Council?

A Well, there was a tremendous ignorance on the part of the general public, especially the young men most affected by the draft, about just what their so-called rights and so-called obligations were; information as to such things as deferments, and there are 18 different classifications. Whoever knows those, the draft board never informs the men.

For example, the CO procedure, as Colonel Knight previously outlined this morning, it is a very complicated thing which no one

would ever really learn about if it weren't for independent draft counseling agencies.

Similarly, people don't know what is involved in registration for the draft or entering the military, for that matter, or refusing the draft, and this is one very basic purpose for establishing our group, to provide in a small way needed education and action on this issue.

Q Do you have any publications which are put out to keep people concerned about the draft up to date upon what is actually happening nationally?

A Yes.

MR. ANDERSON: Your Honor, again I object to the line of questioning.

We have listened to some of it now and I fail to see how it even touches on the evening of July 10th. Whether they put out publications or whether they don't that doesn't seem to me to have any relationship to the events of July 10th, and he has admitted he wasn't there and doesn't know anything about it.

THE COURT: I will sustain the objection.

BY DEFENDANT KRONCKE

Q Your clientele at the Draft Center was basically what, whom?

A It was mixed, a lot of students, a lot of ex-students, mostly white people, middle-class or lower class, that type of person, students or working young people, basically.

Q Were there any women involved in the Draft Information Center?

A There were.

Q In what capacity?

A Basically the same ones, speaking, working on literature, draft counseling. It is the same type of activities that I outlined before, and they had the same views in regard to refusing the draft, or something like that, the same views, the same position, the same ability to work as the men involved.

Q Tell me again, when was the Draft Information Center organized?

A In the fall of 1967.

Q Did anything particular happen that year that caused it to be organized?

A well, it grew out of a community-oriented anti-war project called Viet Nam Summer. This was a loosely organized project that was being carried out throughout the country with autonomous local units carrying out various projects involving leafletting, canvassing neighbors, holding public forums, and that sort of thing. From the project I was involved in, I drew the idea of forming an on-going anti-draft organization.

Q How was your organization funded?

A Well, the organization has been funded by almost entirely voluntary contributions. A number of persons for a period worked full time for the organization, probably 40 or 50 hours a week at salaries usually ranging around \$70 a month living very simply just to get along in order to get along with as little expense as possible, and putting in as much work as possible in things they believe in.

Q Would it be fair to say that your organization responded to the change in attitude among the young of this country toward the way the Government was conducting the war?

A Very much so. I think it could not have been organized and grown the way it did if there hadn't been very widespread and deep opposition to the war and draft already, and conversely, I think we helped encourage the growth of those attitudes, too.

Q From your experience at the Draft Information Center, is it true to say that the people who intend to seek a deferment or resist the draft do so out of moral conviction rather than trying to escape through a legal loophole?

MR. ANDERSON: Again, Your Honor, that is an irrelevant question. I object to the question.

THE COURT: Yes. The objection is sustained.

BY DEFENDANT KRONCKE:

Q Do you see a moral dimension to the work you do?

MR. ANDERSON: I object there, too, on the same ground.

THE COURT: Objection sustained. Do you have anything further?

DEFENDANT KRONCKE: I am sorry, Your Honor, but your rulings make it very difficult for me to bring out the questions and answers as to the moral dimensions that I want to talk about. I guess we can't talk about morality, so I guess that is all. No more questions. I don't know how to ask them without asking them straightforwardly and with honesty.

THE COURT: All right. Anything further?

### ***CROSS—EXAMINATION BY MR. ANDERSON***

Q Mr. Gutknecht, you have described the Twin City Draft Information Center as an anti-draft organization, is that correct?

A Yes.

Q That group is an organization of people, isn't it, who oppose the war in Viet Nam? Is that correct?

A Among other things, that is correct.

Q And oppose the draft?

A That is correct.

Q So, really, it's a political action group?

A Oh, yes. I tried to make that clear.

Q And nothing more and nothing less?

A Well, I don't -- it is probably more than that, but it is certainly that.

Q You are here today because you definitely want an acquittal of one of these defendants, isn't that correct?

A Yes. I am here to give some background in the way of talking about the enormous scope of draft resistance in the country, but that doesn't seem to be allowed.

Q But you are here with an interest in the outcome, aren't you?

A Yes. They are my friends and I have basically the same beliefs they do.

MR. ANDERSON: I have no further questions.

MR. TILSEN: Nothing further.

DEFENDANT KRONCKE: I have nothing more.

THE COURT: You are excused.

(Witness excused.)

MR. TILSEN: Defendants will call Gordon Neilson.

whereupon,

## **GORDON S. NEILSON**

a witness called by and on behalf of Defendant Therriault, having been first duly sworn, was examined and testified as follows:

THE COURT: Before you commence with this witness, I want to say a word to the jury. We have had a conference between the attorneys and the Court in my chambers at some length at 12:30 and again at 2:00. The defendants have outlined the evidence they intend to produce and the witnesses they intend to call. It is impossible for the Court preliminarily, without hearing the evidence, to rule on its relevance or irrelevance, and I have indicated that the defendants within limits might proceed. There is a continuing objection based on what the Government anticipates these witnesses will be asked and their testimony.

I have ruled against that objection and have said that they can appear and testify. But that does not mean that at this time the Court is thereby saying that their testimony is or is not relevant or entitled to great or little or no weight.

I just want you to understand that when they start, because until we hear it and until it is presented, it is impossible for the Court to rule on it.

With that understanding, these next several witnesses that will be called are called on that bas The Court has indicated to counsel, to both

counsel certain restrictions as to some matters that in any event won't be gone into, and I trust you will abide that.

All right. You may proceed.

MR. TILSEN: I will try, Your Honor.

***DIRECT EXAMINATION BY MR. TILSEN***

Q How old are you, Mr. Neilson?

A I am 23.

Q Where do you live?

A Minneapolis.

Q Are you married or single?

A Married.

Q Do you have any children?

A One.

Q Boy or girl?

A A girl; Sunday.

Q Congratulations. How is your wife?

A Pretty sore.

Q How long have you lived in the metropolitan area of Minneapolis?

A About two years, since I got out of the service.

Q Where did you live before you went into the service?

A Big Lake, which is about 30 miles outside of the city.

Q Did you go to school in Big Lake?

A No.

Q Where did you go to school?

A I went to Sterling School, a private school in Craftsbury, Vermont.

Q Is your family in Big Lake?

A No.

Q Where do they live?

A In New York City.

Q Where do you work -- what kind of work do you do?

A I am a cabinetmaker.

Q Do you work in a cabinet shop herein town?

A Yes, I do.

Q Were you in the military service?

A Yes, I was.

Q From when to when?

A February '66 to February '68.

Q In what branch?

A United States Marine Corps.

Q While in the military service, where did you obtain your basic training?

A San Diego, California.

Q Did you go through the same basic training and were you taught the same things as the other Marines at San Diego?

A Yes, I was.

Q Upon leaving boot camp, where did you serve next?

A I went to Camp Pendleton to pick up my basic infantryman's training.

Q How long was your training, first, at San Diego?

A Eight weeks.

Q Then how long were you at Camp Pendleton?

A Four weeks.

Q Then what happened?

A Then I got, I believe, 20 days leave and then I was sent to Viet Nam.

Q How long were you in Viet Nam?

A Thirteen months.

Q That would cover the period from when to when?

A Roughly, from August until September; running a year or 13 months. August of '66 to September of '67?

A Right.

Q What kind of discharge did you get?

A I haven't received one yet.

Q You are still a member of the Marines?

A Yes, I am on the inactive reserves.

Q What was your rank while you were a Marine?

A Corporal.

Q That is, when you left after duty, you were a corporal?

A Yes.

Q What company were you with in Viet Nam?

A India Company, Third Battalion, Fifth Marines.

Q Where were you stationed?

A Well, I was stationed -- the regimental headquarters was out of Chu Lai and later it moved to Tam Ky and then to Thang Binh.

Q Where is Chu Lai?

A Chu Lai is south of DaNang and Tam Ky and Thang Binh are northeast from Chu Lai.

Q Did you serve as an infantryman?

A Yes, I did.

Q As a corporal, what was your relationship to the infantry? Were you a gun man or what was your position?

A Well, I started out as an ammo carrier and I became a section leader my last four months in Viet Nam. I was a section leader and I was in charge of 16 men; two 60 millimeter mortars, their operation, their firing. I did the F.O. for both guns, forward observer.

In an indirect way, I was responsible or at least my duty required my guns firing when the company needed them, so I was responsible for my company.

Q Did your particular section have any particular name?

A My company, India Company, was known as Igniting Eye.

Q To what did the name Igniting Eye have reference?

A Igniting Eye stood for the --

MR. ANDERSON: At this point, Your Honor, I would like to enter an objection to the specific question because it is irrelevant, and an objection to any line of questioning which might lead to his



experiences or observations in Viet Nam, and based on the foundation questions he has asked, it looks like that is where he is going. I would like to object to the witness testifying as to any characterizations of the war or any experiences he may have had, because I think it is irrelevant to the crime charged.

I wanted at this time to state that objection, cognizant of what the Court has said previously.

THE COURT: Well, at this time I am going to overrule the objection, but as the questions progress and you feel you should object further, you may do so.

BY MR. TILSEN:

Q Well, I just asked you what the Igniting Eye stood for, Mr. Neilson.

A It stood for the burning eye, we burned every village we went through in a number of our operations.

Q Is there a name for the particular type of operation that your squad or battalion was assigned?

A Search and destroy.

Q Did you spend your time then as a section leader in search and destroy missions while in Viet Nam?

A Yes, part of my time was as section leader and the other as a gunner, and so forth.

Q Will you describe what is meant or what was meant in Viet Nam by a search and destroy mission?

A The search and destroy mission was outlined in boot camp as being a mission where a suspected North Vietnamese was building up, and we were to go in and search and destroy the enemy, its food, its homes, villages, supplies, if we found any, and so forth.

Q You made reference to the villages, the homes. Did you have any particular duties with respect to the homes in which the people lived?

MR. ANDERSON: I would object, Your Honor. He has described the search and destroy mission, and I think within the context of the Court's description of allowable testimony, that is objectionable.

MR. TILSEN: Oh, come on, that's -- We haven't begun to get into anything.

THE COURT: Well, if you are going to have him attempt to describe alleged atrocities of the war, everybody knows that war has atrocities, and I do not think there is any point of a detailed description of that.

MR. TILSEN: Your Honor, as I understand your ruling, you have asked me not to have him describe the specific incidents that I told you the witness would describe. I understood that he could describe the nature of search and destroy missions, the nature and description of the type of missions that went on, and things like that. I don't think we are anywhere near a point where we are even getting into individual incidents that Mr. Neilson could testify to, except for the Court's ruling.

MR. ANDERSON: If he is getting to an individual incident, I will object.

MR. TILSEN: No, he is not getting to individual incidents. We are talking about the nature of search and destroy missions in general and what he participated in in that regard.

THE COURT: You may proceed.

THE WITNESS: Would you repeat the question?

BY MR. TILSEN:

Q The question is to describe what the search and destroy missions were as they related to the homes in the villages.

A When we entered a village, we entered each individual home, searching it. Each individual home has a bomb shelter located in what would be the most secure position. The general procedure was to

holler at the people in there to bring up an interpreter and to ask anyone to come out. If noises were heard still down in there or if people were heard down in there, the next thing was to throw a grenade in and walk on.

Q What about the house itself?

A If we had received any sniper fire, or depending on the individual captain or lieutenant in charge, or sergeant, he would give the order to burn or not to burn. It was just indiscriminate, how he felt about it.

Q Burn or not to burn what?

A The homes they lived in.

Q Did you participate in a number of search and destroy missions in which the homes of the people were burned?

A Yes, I did.

Q Would this be all the homes in the village or hamlet?

A As many as we had matches for.

Q Were search and destroy missions of this type a daily or almost daily function of the battalion with which you were connected?

A When we were in the bush, yes.

Q What would happen to the people who lived in the village under those circumstances?

THE COURT: I will sustain the objection to that. You have had him describe generally what the search and destroy mission was and how it worked and what he had to do with it. I will sustain the Government's objection to anything further.

BY MR. TILSEN:

Q You described the throwing of a grenade into a hut, or sometimes you call it a hutch?

A Hutch.

Q Would you describe a hutch?

THE COURT: I am going to sustain the objection to anything further along that line.

BY MR. TILSEN:

Q Could you describe what happens when you throw a grenade into a hutch in which there are people?

THE COURT: I will sustain the objection to that.

MR. TILSEN: I am not quite sure, Your Honor, how it fits with the limitation that I understood you wanted me to follow.

THE COURT: I am not sure how this fits with whether these men on July 10th went into the draft office in Little Falls, except that I know they have a feeling about the Viet Nam War, and a general description of this by this witness I have permitted. As to individual details and what happens when you throw a grenade, and things that everybody knows are atrocities in war, I am not going to receive any evidence on that.

MR. TILSEN: I am not talking about atrocities. I am talking about official United States policy.

THE COURT: You are talking about this man's individual policy. He is one out of many many thousands.

MR. TILSEN: No, Your Honor, I am not.

THE COURT: Well, that is the Court's ruling.

BY MR. TILSEN:

Q Were the actions that you have described, to the extent you have been able to describe them, were they in accordance with the instructions and training you were given in boot camp and subsequent training, or were they in violation of these instructions and training that you were given?

A No.

Q No, what?

A No, they were not in violation. It was just the other direction; I mean, you were a better Marine if you did more fantastic things, if you could burn more hutches, if you could be more, you know, it was

just the whole idea of when you were in boot camp, the meaner you could be, the more gooks you could kill, and the whole idea continued on into the field.

Q Did the throwing of grenades, search and destroy missions, the burning of villages, take place at the direction of people, of officers?

A In some cases, yes, and in some cases it was the chain of command. If the sergeant told you to burn a hutch, you burned the hutch. If a sergeant told you not to burn it, you didn't burn it.

Q Did you at any time have any duty that related to prisoners?

A Only once.

Q What was that duty?

A It was on my first operation, and I helped interrogate a prisoner.

Q Without telling us -- I guess the Court doesn't want the details of the interrogation. Was the person -- well, did he live through the interrogation?

A I don't know.

Q Is there some doubt about it?

A We only put him on a helicopter, and whether they got back or not, I don't know.

Q What is the effect of the kind of duty that you had in Vietnam upon yourself and the other persons who had that same kind of obligation?

A Well, speaking for myself --

MR. ANDERSON: Excuse me. First, can we limit this to himself?

THE COURT: Yes.

THE WITNESS: In dealing with myself, coming back and thinking that I was right and thinking that the things I had done were right because it was what I had been taught in boot camp, and then viewing it from the other side, a side that instead of being a

gook, it was a human being, instead of being a hutch, it was a home, that really socked it to my head.

It really blew my mind, because I had never thought of a hutch as being a home, it was just an old grass hutch, and they were peasants, they weren't people.

It hasn't been until just in the past year, in 1970, that I have been able to sleep at nights and have been able to live a normal or what would be normal if I had not been in the service, sort of live without hassling about it, forgetting it.

It comes up at night, and stuff like that.

Q If you were permitted, there are incidents that you told me about when we talked involving individual person to-person stories that involved injury or death to Vietnamese people, are there not?

A Yes, there are.

Q Is it even at this time, three years afterwards, difficult for you to discuss those incidents or your role in them?

A Yes, it is.

MR. TILSEN: I take it that the Court doesn't want me to go into that, under the Court's instructions?

THE COURT: No, I do not.

BY MR. TILSEN:

Q Did you receive any awards while in Viet Nam?

A Two Purple Hearts.

Q For injury in combat?

A Yes.

Q Do you know either of the defendants here?

A No, I don't.

Q Have you ever met them?

A No. {Odd statement. He had a major influence on Frank.}

Q Except for once, did you ever meet me?

A Except for once, I have never met you.

Q I met you in connection with questioning you about the possibility of your testifying?

A Yes.

Q You have participated, have you not, in an organization of returning combat veterans from Viet Nam?

A Yes, myself and John Sherman started on Memorial Day of 1969.

Q What is it called?

A Veterans for Peace.

Q John Sherman is another combat veteran from Viet Nam?

A No. He is a veteran of the Armed Forces, but not a veteran from Viet Nam.

MR. TILSEN: Well, I don't believe I can ask any other questions without violating the Court's instructions.

THE COURT: All right.

Mr. Kroncke, do you have any questions?

DEFENDANT KRONCKE: Yes, I do.

### ***CROSS-EXAMINATION BY DEFENDANT KRONCKE***

Q You have to enlist to become a Marine, is that right?

A Yes.

Q During boot camp, were any of the men with you trained in the language or the culture of the country you were going to?

A No, they weren't.

Q After being in Viet Nam a year -- you were there a year, is that correct?

A Yes.

Q After being there a year, did you gain any knowledge of the language or the culture?

A Of the language, no; of the culture, a little.

Q It's not standard practice to train people in the language or the culture?

A No, it is not. No.

Q From your experience, is it rare to find a soldier who knows the language or is familiar with the culture?

A There were a few sent through that were interpreters that were stationed with the different battalions and there was a small group of people that worked with the popular forces in the Vietnamese Army.

Q Basically, the bulk of Marines you were with were ignorant of the language and culture of the country they were in?

A Yes.

Q Where does the word "gook" come from?

A Gook is a Vietnamese word for foreigner.

Q When you entered the Marines, what did you think they were going to train you for?

A I really didn't have any idea what they were going to train me for. I enlisted for the sole purpose of going to Viet Nam to find out what was going on there. I was of draft age and my draft board had told me that I was going to be drafted soon. It seemed to me that if I was going to go, I would rather pick my own poison.

Q Did you feel that the Marines would make you from a boy to a man?

A Somewhat, yeah, but then I didn't consider myself a boy.

Q You stated that you were a section leader, correct?

A Yes.

Q In a certain sense, you had some authority?

A Yes.

Q And some responsibility?

A Yes, I did.

Q As an individual, do you feel responsible for what goes on in Viet Nam now?

A Very much so, yes.

Q Do you feel that many of the people that you were over felt that responsibility, also, over there?



A No, they didn't.

Q What about the men above you, the commanders?

A No, they didn't.

MR. ANDERSON: Your Honor --

BY DEFENDANT KRONCKE:

Q You mentioned in previous testimony that an infantryman would burn a hutch or not burn a hutch, depending upon if he was given an order, is that true?

A Yes.

Q Was there a lot of emphasizing as to doing your job?

A Yes, there was.

Q Has your experience in Viet Nam as a Marine changed your attitude toward America's leaders?

MR. ANDERSON: I object to that. I think that his attitude toward America's leaders might lead us into a long line of questioning that not only doesn't have anything to do with the events of July 10th, but has nothing to do with what might have transpired in Viet Nam, which, as I understand it, is the purpose of his testimony.

THE COURT: Objection sustained. His opinion as to national leaders is not relevant here.

DEFENDANT KRONCKE: I am trying to a principle.

THE COURT: He may have whatever beliefs he has, but I don't believe they are relevant to this.

DEFENDANT KRONCKE: I am trying to establish the principle that there have been cultural principles established in America by men who participated in the war, particularly.

THE COURT: Objection sustained.

BY DEFENDANT KRONCKE:

Q Is it true and is it often said that when you go into boot camp, the purpose of a service like the Marines is to make boys into men?

A Yes, it is.

Q Do you feel or have you experienced the fact that what they basically do is train you to kill?

A Yes.

Q Can you think of a greater evil than war?

A No.

DEFENDANT KRONCKE: No more questions, Your Honor.

THE COURT: Mr. Anderson, do you have any?

MR. ANDERSON: It will be very brief, Your Honor. I might be confused on one point.

### **CROSS-EXAMINATION BY MR. ANDERSON**

Q You say that you are 23?

A Yes.

Q That means that you were 15 when you went in the Marine Corps?

A '66 to '68 --

Q That would be 16?

DEFENDANT KRONCKE: I will subtract it for you, if you want me to.

MR. TILSEN: He was 19 when he went in This is January, 1971.

MR. ANDERSON: Okay.

BY MR. ANDERSON:

Q How long is a Marine Corps enlistment?

A At the time I entered, or now?

Q Well, how long was your enlistment?

A Two years. .

Q Two-year enlistment?

A Yes.

MR. ANDERSON: I have no further questions.

THE COURT: All right. You are excused, Mr. Neilson.

(Witness excused.)

MR. TILSEN: Call Robert Anderson, please.

Whereupon,

**ROBERT E. ANDERSON**

a witness called by and on behalf of Defendant Therriault, having been first duly sworn, was examined and testified as follows:

***DIRECT EXAMINATION BY MR. TILSEN***

Q Your name is Robert Anderson?

A Yes.

Q How old are you, sir?

A I am 27.

Q Where do you live?

A I live in Minneapolis.

Q Are you married?

A I am single.

Q What work do you do?

A I am a student at the University of Minnesota, and I am also a research assistant for a state senator.

Q How long have you lived in Minnesota?

A I believe my family moved here, and I moved with them, in 1949.

Q Where were you born?

A Topeka, Kansas.

Q Where did you go to school?

A I went through grade school in Wood Lake, Minnesota

Q Where is Wood Lake?

A It is near Marshall, Minnesota, in the Southwestern part of the state. I attended junior high school in Minneapolis, and high school in North Branch, Minnesota.

Q Have you been a member of the Armed Forces of the United States?

A Yes.

Q What branch?

A I was in the Army.

Q When did you enter the United States Army?

A August 31, 1966.

Q How long were you in the United States Army?

A I was separated from active duty on the 27th of May, 1969.

Q And are you still in the Army Reserve?

A I am in the inactive reserve, yes.

Q What was your rank when you were discharged?

A The last 14 months I was a sergeant E-5.

Q Mr. Anderson, upon entry into the Army, where did you have your basic training?

A I had my basic at Fort Leonard Wood, Missouri.

Q How long were you at Fort Leonard Wood?

A Approximately two and a half months.

Q Where did you go from there?

A Fort Ord, California.

Q What did you do there?

A Advanced infantry training.

Q How long did you have that training there?

A Eight weeks.

Q What happened at the end of your eight weeks of advanced infantry training?

A I returned to Fort Ord, had a leave, and returned to Fort Ord for five months waiting on orders to go to officer candidate school.

Q Then what happened?

A It was determined on the basis of bad vision that I couldn't go to officer candidate school, and I was then put on orders to go with the 198th Flight Infantry Brigade at Fort Hood, Texas.

Q Did you go there?

A Yes, I went there in June of 1967.

Q How long did you stay at Ford Hood, Texas?

A I departed with the 198th for Viet Nam in October of '67.

Q And did the 198th Brigade then leave as a unit from Fort Hood to Viet Nam?

A Yes.

Q You entered Viet Nam in October, 1967?

A Right.

Q How long were you there?

A I left in November of '68.

Q About 13 months?

A Yes.

Q During that period of time while you were in Viet Nam, you were a sergeant in the 198th?

A Yes, the last eight months.

Q As such, what were your duties?

A As a sergeant, I was an infantry squad leader.

Q As a sergeant in charge of an infantry squad, what did you have under your command? What is an infantry squad, I guess that is the question?

A You are assigned, the strength is usually ten men. It depends on what the actual strength is. Many times it varied from four to twelve.

Q Did the 198th have a name?

A It was called the Brave and Bold.

Q During your stay in Viet Nam, where were you located physically?

A We operated mostly southwest of Tam Ky, which is southwest of DaNang and west of Chu Lai. That is in the northern part of Viet Nam, the northernmost province. And were you there, then, during the 1968 offensive? {Tet Offensive.}

A Yes.

Q What were the duties of the 198th at that time, particularly as it related to you and the squad that you were in charge of?

A Most of our time was spent on operations that were search and destroy.

Q And would you describe a search and destroy operation from the Army infantry point of view?

A We would have a selected area, perhaps a village or a number of villages, that we would move through and search for any evidence of

enemy activity or presence. If we encountered any resistance or if we thought we detected any possible evidence of any past or present enemy activity, then we would destroy the village or villages.

Q What do you mean by past or present evidence of enemy activity?

A If we found what we thought was a N.V.A. rain poncho, if we moved anywhere near a village and got one or more rounds of sniper fire, whether it came from the village or not.

Q What would you do when you destroyed a village?

A We would kill the animals, break up the tools.

Q What kind of animals would you kill?

A Cattle, water buffalo, chickens.

Q How would you kill them?

MR. ANDERSON: I think that is far enough on that, Your Honor.

MR. TILSEN: I don't think I have --

MR. ANDERSON: He said he killed the animals.

THE COURT: I will sustain the objection.

BY MR. TILSEN:

Q Were they killed by bullets or by hand or what?

A Depending on the animal. You would stomp on chickens and you would shoot cows, and so on.

Q What about the dwellings themselves?

A You would burn them, as many as you had time for, and you usually had time for all of them.

Q What kind of dwellings were they? Were they made of material that would burn?

A They were made out of thatch material and bamboo, and they were burned completely.

Q You mentioned tools, I believe. What would you do with the tools?

A Well, they generally had a few simple farm implements, saws, things like that. You would break them. You would take the time to break a saw?

A Yes.

Q How?

A Well, they usually had a metal blade and a wooden sort of holder deal, and you would break that by stomping on it and twist up the blade and tie it up in knots so they couldn't use it again.

What about the food, did you --

A They usually kept their rice, which is basically the staple of their diet, they would keep that in pots with plastic tops, large earthenware pots, and we would scatter it on the ground so it would rot.

Q Was this a typical search and destroy operation that you have described, destroying the tools, the animals, the shelters?

A Yes.

Q It was done under orders of officers and orders of command?

A Yes. The enlisted men would never initiate an action like this. It was always done on a direct order.

Q What would happen to the people involved in the villages which were destroyed in this fashion?

A If we received any sniper fire, we would move through the village and usually as much as possible they would run out ahead of us, and we would destroy the hutches as we went by, or at least throw grenades in all the holes. If we had a security element on the other side of the village, they would round them up and detain them until they called in helicopters and hauled them off.

Q What happened to those that couldn't run fast?

A They just kind of stayed wherever they were at an hopefully, I guess, from their point of view, that they didn't get in the way of any fragments or small-arm fire.

Q Did some get in the way of --

A Yes, on occasion.

Q In addition to your responsibility in connection with search and destroy missions, did you have any other particular duties yourself?

A I spent six weeks on top of a hill in charge of five other people manning an outpost a couple of miles from anybody else, and then I spent the last six weeks as kind of a non-commissioned officer in charge of base camp defense at night for the 198th.

Q Did you spend any amount of time in connection with matters relating to the handling of prisoners?

A No; only in connection with search and destroy.

Q In connection with search and destroy, did you have occasion to observe the handling of prisoners?

A Yes. Most of them are usually referred to as detainees, anybody left over after you got through the village or who have run off and you have rounded them up. They were kept until they could get in helicopters and then they would be loaded on that and taken to a U. S. base or refugee camp and interrogated.

Q Did you observe and participate in interrogation of prisoners?

A No, not as a part of my regular duty. I was present on one occasion, yes.

Q Did you make any general observations about the way the prisoners or detainees were handled?

A Well--

THE COURT: I will sustain the Government's standing objection to that. He said that he didn't have anything to do with prisoners and had no connection with them and didn't interrogate them. The objection is sustained.

MR. TILSEN: Well, Your Honor wants me to avoid getting into the specifics that would lay a foundation. You instructed me not to ask him the specifics that I know would lay a foundation for that question.



THE COURT: Didn't he say that he didn't have anything to do with prisoners?

MR. TILSEN: Except some occasions which he can describe. I could ask him to describe what he saw about the treatment of prisoners.

THE COURT: No. I will sustain the objection.

BY MR. TILSEN:

Q Was the burning of the villages, spreading the food on the ground, shooting of animals, smashing up of tools, were these things that were done in violation of the training that you received in the Army, or were they done in accordance with your training that you had received?

A It was part of the training policy. We were instructed as to what search and destroy meant before we went over there.

Q Do you have any medals or awards?

A Just the standard ones for going to Viet Nam, plus a combat infantry badge and a Bronze Star.

Q You have a Bronze Star?

A Yes,

Q Do you know either of the defendants?

A No.

Q Have you ever met them?

A No.

Q Other than the one time that I interrogated you, have you ever met me?

A No.

Q Since returning from Viet Nam, have you participated with other veterans in an effort to bring peace to the world and to Viet Nam?

A Yes. I am also a member of the Veterans for Peace.

MR. TILSEN: You may inquire

### ***CROSS-EXAMINATION BY DEFENDANT KRONCKE***

Q Mr. Anderson, you mentioned that you were research assistant for a senator. Which senator is that?

A It's a Conservative senator, George Pillsbury.

Q State senator?

A Yes.

Q Was your total time in Viet Nam taken up with these search and destroy missions? Is that all you did?

A No. As I said before, I had other duties toward the end, managing a night base camp.

Q Now, Fort Hood, California, is a language school, is that right?

A No. It was Fort Hood, Texas, and I was at Fort Ord, California, which is adjacent to the Monterey Language School there.

Q Do you know about the language and culture of Viet Nam?

A I don't know any Vietnamese except for a couple of catch words and phrases, and the culture is what I observed. Is it part of the training, or not, for Army infantrymen in boot camp that they are trained of the language and culture of Viet Nam?

A I received no training along those lines.

Q You mentioned that you were an infantry squad leader, is that correct?

A Yes.

Q As an infantry squad leader, you had some authority.

A Yes.

Q And some responsibility?

A Yes.

Q Do you presently feel responsible for what goes on in Viet Nam?

A Yes, in the sense of being a citizen of this country and the policy we are carrying out. Yes.

Q Do you think that most of the men who served with you had that same feeling?

MR. ANDERSON: I would object, Your Honor. There is no reason shown that he knows or does not know.

THE COURT: Objection sustained.

BY DEFENDANT KRONCKE:

Q Has your experience in Viet Nam changed your attitude toward America's leaders?

MR. ANDERSON: I don't think that his attitude toward the leaders has any relevancy here on any possible theory. I object.

THE COURT: The objection is sustained.

BY DEFENDANT KRONCKE:

Q Will you define the use of the term "enemy" as used in Viet Nam, as a result of your training, whom the enemy is?

A The enemy is loosely defined that it could be any Vietnamese in any given situation, man, woman or child. It depends entirely on the situation as you see it happen.

Q In effect, the enemy could be all the people in the whole country by the Army's training definition?

A Yes.

Q How old were you when you entered the Army boot camp?

A I believe I was 22.

Q Do you feel that Viet Nam is creating a moral crisis for many?

A Yes, I do.

MR. ANDERSON: I object to that and move that the answer be stricken, Your Honor.

THE COURT: Well, he has answered. The motion is denied.

BY DEFENDANT KRONCKE:

Q Mr. Anderson, can you think of any greater evil than war?

A No, I can't.

DEFENDANT KRONCKE: No more questions.

MR. TILSEN: Your Honor, I forgot to ask him one question that I would like to ask.

THE COURT: All right.

## **FURTHER DIRECT EXAMINATION BY MR. TILSEN**

Q Mr. Anderson, what effect did your participation in the search and destroy missions, the kinds of things you described, have on you personally?

A It's hard to come back to this country and reconcile what I had seen and done with the everyday activities going on here. People generally are oblivious to what is going on. It was a total disorientation that took months, really, to overcome.

Q When you did overcome it, what response did you find within yourself?

A It's been harder and harder for me to understand why I did what I did. I understand why I did it, but it's harder and harder to accept having done what I did.

MR. TILSEN: You may cross-examine.

MR. ANDERSON: Well, Your Honor, on the theory that the whole subject matter is irrelevant, I am not going to cross-examine. For the record, I would like to move that Mr. Anderson's testimony as a whole be stricken.

THE COURT: Well, I am aware of your position and you heard my statement on it generally. I will deny that motion for the time being. All right, you are excused, sir.

(Witness excused.)

THE COURT: It is time now for an afternoon recess. We will be in recess for ten minutes. (Recess taken.)

MR. TILSEN: Defendants will call Dr. Romeyn Taylor, please. Whereupon,

## **ROMEYN TAYLOR**

a witness called by and on behalf of Defendant Therriault, having been first duly sworn, was examined and testified as follows:

***DIRECT EXAMINATION BY MR. TILSEN***

Q Mr. Taylor, what is your age?

A My age is 45.

Q Where do you live?

A Minneapolis.

Q Yes.

Q Do you have children?

A Yes, five.

Q What is your occupation?

A I am a professor of history at the University of Minnesota.

Q You are the holder of what degrees?

A A Bachelor from Harvard, and a M.A. and PH.D. from the University of Chicago.

Q M.A. and Ph.D. from Chicago?

A Yes.

Q And how long have you been at the University of Minnesota?

A Ten years.

Q Have you been there as a professor all of this time?

A Yes.

Q Particularly, what is your field of history?

A I teach Chinese history and Asian history.

Q Have you written and published in the fields of Chinese history and Asian history?

A Yes, I have.

Q Have you testified before Congressional hearings and has testimony of yours appeared in the Congressional Record on these related areas?

A Yes, I testified in Congressman Fraser's open hearings in December, 1965, and my statement was printed in the Congressional Record the following spring.

Q Have you in your professional capacity maintained a knowledge of the life, culture and historical events of Southeast Asia?

A Yes, I have maintained a continuous interest in the area, and I would have to say both as a citizen and as a historian.

Q And you teach courses related to that area?

A Yes.

Q What are some of the courses that you have taught and that you are currently teaching related to that area?

A Related to Southeast Asia, the Viet Nam area in particular, I have taught a survey course in Asian history, the history of Asia, an undergraduate survey course. In that course, I have given lectures on the Southeast Asia area. I have also given lectures in a special course on Viet Nam which was set up by the special sciences program a year ago, and, again, the year before that.

Q Have you participated or played any part in efforts to educate the public generally with respect to problems of Southeast Asia?

A Yes, I helped to organize the first Viet Nam teach-in on the campus of the University, and it is so long ago that I can hardly remember, it was in 1964 or '65, in the spring.

Q So from either '64 or '65, have you continued your interest in trying to keep the public aware of or to educate the public concerning the basic facts as to Southeast Asia and America's military development therein?

A Very much so. I have talked to church groups off campus, and at community forums. Also, I chaired the committee that organized the Faculty Speakers Bureau during the student-faculty strike last spring.

Q In connection with your professional work as a historian, both your public and professional work in an effort to communicate facts concerning Southeast Asia to the public, generally, has it been your function to become and keep yourself aware of all facts relating to the nature of American military involvement?

A This is a large order, but I do my best. For the last year, I have been maintaining a clipping and periodical file for an organization called the Committee of Concerned Agents and Scholars, a student-faculty group trying to make material available to students and faculty, which is current information on what is going on.

Q As one or some of the facts, is it important to understand the nature of the military operations in Viet Nam as it affects the life and society of the various people of Southeast Asia?

A To my mind, it's critically important in determining the way people respond as American citizens to their responsibility in the war. Obviously, if one is unaware of the impact of the American military effort on Vietnamese people and the Vietnamese society, then one is not going to be able to exercise his function as a citizen effectively and render judgment on policy.

Q Could you describe the impact of the American military operations on Southeast Asia?

MR. ANDERSON: Your Honor, at this time I would like to make, one, a standing objection to any testimony by Professor Taylor as to his impressions of what such impact would be, as irrelevant to the case; and number two, I object because there is no foundation that he has ever been to Viet Nam or knows anything about what the military is doing over there or that he would be in any position to know what the impact was.

THE COURT: Well, he hasn't given us very much foundation, has he?

MR. TILSEN: Well, he testified that for over --

THE COURT: That he has kept newspaper clippings and lectured on the subject.

MR. TILSEN: He teaches the subject, Your Honor. How else does a person in the United States become familiar?

BY MR. TILSEN:

Q I will back up and ask you, Professor Taylor, how does a historian gather data and information concerning a subject, such as a person who has the kind of background you have with several degrees from Harvard and the University of Chicago, et cetera, how do you gather data and information of this sort?

A Well, obviously, in relation to anything as recent as the Viet Nam War, historians do not have access to the great bulk of official documentation, and a historian is in very nearly the same boat as the ordinary citizen, the difference being that at the University, we do have access to an excellent library. We are able to collect information from the French Newspaper Le Monde, which has maintained excellent correspondents in Southeast Asia, and the Far Eastern Economic Review, published in Hong Kong, and British correspondents' reports, and, at least, I have the convenience of the library and an opportunity to use that kind of material.

MR. ANDERSON: May I cross-examine, Your Honor, with a view toward determining whether there is any foundation for this?

THE COURT: You may.

MR. ANDERSON: You have never been in Viet Nam, have you?

THE WITNESS: No.

MR. ANDERSON: And you are a professor of history, is that correct?

THE WITNESS: Yes, that is correct.

MR. ANDERSON: And you read the newspapers?

THE WITNESS: Yes.

MR. ANDERSON: And you go to the library?

THE WITNESS: Yes.

MR. ANDERSON: And you read the French newspaper?

THE WITNESS: Yes.

MR. ANDERSON: And you have studied history?

THE WITNESS: Yes.

MR, ANDERSON: And that is the basis for this opinion that you were about to give as to the impact of --



MR. TILSEN: I haven't asked for his opinion. I have asked for facts.

MR. ANDERSON: You were asked a question as to the impact of American military involvement in Viet Nam, and you are going to base that on the things I have just described, are you not?

THE WITNESS: On my understanding of history and my reading from periodical sources, yes.

MR. ANDERSON: Then I would object to the line of questioning, Your Honor, because he hasn't done anything that a million other people haven't done, and there is no reason that his opinion on that would be of any more interest or value or relevance than anyone else's opinion.

MR. TILSEN: I would like to make clear what the nature of the question is. I think there is a misunderstanding as to the question pending before Dr. Taylor. The question does not call for his opinion so much as it calls for him to apprise us of the facts concerning that impact. The opinions and conclusions to be drawn there from are matters that we may or may not get into at a later point.

Right now, I would simply like to ask Dr. Taylor if he is familiar with such facts as the impact on the civilian population, the impact on the people, the impact on the nation, and I think he can simply advise the Court and the jury of those facts as those facts are known to him in his field.

THE COURT: Well, I can't subscribe to your view that it doesn't, in effect, call for an opinion, because there are many hundreds of opinions, probably, about the impact of one thing and another on something else, but if he is an expert, he is entitled to give an opinion based on his background and studies and knowledge.

He has indicated that he has never been to Viet Nam but that he has kept abreast of current events and is a history professor.

I will overrule the objection. He may answer.

BY MR. TILSEN:

Q Would you describe to us the impact of the war on Southeast Asia?

A All right. As a source of information, I would like to cite the published report of Senator Edward Kennedy's Subcommittee investigating the condition of refugees and the civilian population in South Viet Nam.

I am reading directly from a Xerox copy of this published report by the United States Government Printing Office, and the authority is the Government of the United States.

MR. ANDERSON: Your Honor, my understanding was that we weren't going to read reports of other people. If this gentleman has an opinion, he can give it. It is not responsive to the question of what the impact is when he says that he has recently read a report and is now going to read that report. That is not responsive to the question. It is not a proper question of him, anyway, because we don't need a history professor to come in and read reports from the Congressional Record.

I think it is an improper question, according to the guidelines the Court set down.

THE COURT: It is true that the report, as far as we are concerned here, is hearsay. The ones who made it, the people who testified, the basis on which it was made are not here to tell us or to be cross-examined.

He may not read the report, but he may give his opinion.

BY MR. TILSEN:

Q Will you give your opinion, Dr. Taylor, without reading the report?

A All right. I might add that the source of the information is not hearsay. The source is the United States of America.

THE COURT: I think that is a legal conclusion, Dr. Taylor, whether it is hearsay or not. I have ruled that it is hearsay.

THE WITNESS: Excuse me.

THE COURT: Go ahead.

THE WITNESS: I would like to cite a few figures -- I won't read the report -- figures on the hospital admissions of civilian war casualties over a period of years. These are civilians in South Viet Nam who have been admitted as war casualties to government hospitals and, also, another set of figures for such casualties admitted to U. S. military hospitals.

South Viet Nam hospitals, admissions of civilians, 1967, 46,773. In 1968, 80,359. 1969, 59,186. The figures for 1970 are incomplete. U. S. military hospitals, 1,951 were admitted in 1967. 7,790 were admitted in 1968. 8,554 were admitted in 1969. Again, the 1970 figures are incomplete.

These are civilian war casualties admitted to the hospitals.

BY MR. TILSEN:

Q All right. You may continue.

A The damage to Vietnamese society cannot be measured alone by the statistics of war casualties. The Vietnamese society is a peasant society. This has been clear, I think, from earlier testimony. Most of the population lives in villages. The village population in Viet Nam has in large measure been uprooted and transported to other areas as detainees or refugees of the war. The number of refugees runs into the millions, which is a fantastic consideration in view of the fact that the population is only about 15 million.

A substantial portion of the population is refugees. For a Vietnamese village to be uprooted from its original site means separation from its lands, separation from its ancestral burial sites, which is very important from a religious point of view. They are also separated from their local religious cults, which is very important to maintain.

To simply transport a village from one place to another results in a drastic disorganization of the community, quite apart from the physical hardships involved in this kind of operation.

I should further add that the same process is beginning to occur in Cambodia where whole communities have been destroyed by allied operations, U. S. aerial bombardment and South Vietnamese artillery bombardment. The process is continuing into Cambodia.

Q What about Laos?

A Laos has been subject to the heaviest sustained aerial bombardment in history, and a bombardment which is being maintained at a very high level at the present time, much of the bombing being of an extreme high altitude-type by B-52's.

Q What is the effect of this on the Laotian society?

A The effect of the bombing has been to compel many of the hill tribes to move out of their homelands and down into the lowland areas which are inhabited by a different and generally hostile ethnic group.

Q Also, the organization of the hill tribes by both sides, by the C.I.A. on one side and by the North Vietnamese or by the Laos Communists on the other side has resulted in the decimation of some of the hill tribes.

They have almost run out of adult males in some of the hill\_tribes in Laos.

Q You gave us some figures regarding the civilian casualties and refugee problems in Viet Nam. Can you give us any indication of the scale of civilian casualties and refugees in Cambodia?

A It is very difficult to do because the government of Cambodia is not publishing casualty figures. Something is known of the mass transfer of the Vietnamese minority out of Cambodia. There was something like half a million initially. Approximately half of these have already been moved to South Viet Nam. Many of the Vietnamese, of course, were killed by the Cambodians after Hong Ngu last March.

Q When you say "many," on what scale or dimension are we talking about?

A The reports indicated that thousands were killed. Photographs have been published showing the river filled with bodies. In fact, the television news programs --

THE COURT: I will sustain the objection to that. What the television news programs show is not anything of your own knowledge except as you saw it somewhere else.

BY MR. TILSEN:

Q With respect to Cambodia, do we have any figures concerning refugees or concerning population figures?

MR. ANDERSON: I will object to any question relative to Cambodia.

I don't think the argument has been made to this point that Cambodia had anything to do with it, and the Government doesn't think Viet Nam has, either, as far as what happened on July 10th in Little Falls. We are not drafting people for there, so I guess Cambodia would be a good place to stop.

DEFENDANT KRONCKE: I object to that. I don't think the prosecution can offer proof that we are not sending draftees to those parts of the world.

THE COURT: Well, I will overrule the objection. You may answer.

THE WITNESS: All right. According to the same Kennedy Subcommittee report, there are approximately 200,000 Vietnamese remaining in Cambodia, and I cannot be specific about the proportion of those who are still being held in refugee camps. Many of them moved into refugee camps with the expectation to be shipped out of Cambodia, but the transfer stopped sometime ago and many of them are stuck there in the camps.

BY MR. TILSEN:

Q The people we have been talking about, the number of persons, we have been referring to civilian casualties and civilian populations as distinct from so-called military, combat figures?

A Yes.

Q What effect has this had on the society, culture and society of Viet Nam?

A I am afraid the only answer I could give to that is a common sense one based on the knowledge, based on official figures that The number of refugees runs to several million, and the number of people killed, Vietnamese killed in the war, civilians and military, -- and the distinction, I gather, is not always very clear -- is approximately 1,100,000.

The total injured and wounded is approximately 2,200,000.

So you have 1,100,000 people killed, and two and one-fifth million people wounded, plus several million more refugees.

I feel it is unnecessary to say more to indicate That this society has been torn apart. We are talking about a population of 15 million.

Q As a historian, have you been able to draw any conclusion as to whether or not the impact on the people of Southeast Asia from the war has, as has often been reported or suggested by some, been reducing or has it been increasing or has it been staying the same?

MR. ANDERSON: I object to that. I don't think there is any foundation for a conclusion such as that.

THE COURT: I will sustain the objection to that. I don't know of any foundation for that.

BY MR. TILSEN:

Q Do you have any comparative information concerning the entry into hospitals or other data from which any conclusions can be drawn from which you may or may not have drawn conclusions as to the

character of the war in terms of its increasing or decreasing effect on the people?

A Yes, because in the year ending June 1, 1970, civilian casualties were running at the rate of 5,000 per month, and that is 60,000 per year. That is the latest information that I have as of June. This is Viet Nam. This excludes Cambodia. We don't know the number of civilian casualties there.

Q How does that compare with prior years' figures?

A It somewhat exceeds every year except 1968, the rate. It exceeds the rate for '69 and for '67.

Q Do you have any opinion as to whether or not the rate of entry of civilians into hospitals as war casualties of 5,000 a month, whether or not that is a good indicator or reasonable indicator of the level of military activity in Viet Nam?

A Yes, because the civilian casualties, as I understand it, result from aerial bombardment and search and destroy operations and combat between the United States and the Viet Cong and the North Vietnamese troops. These are what caused the casualties. As the casualties increase, it indicates that the activity must be at a high level.

Q Based on your study of the situation in Viet Nam, have you formed any opinion as to present American policy with regard to the war in Viet Nam?

MR. ANDERSON: Again, I would object to that. The foundation that he has established gives his political opinions no more weight and authority than anybody else's political opinions.

THE COURT: Objection sustained.

MR. TILSEN: I have no further Questions.

## **CROSS-EXAMINATION BY DEFENDANT KRONCKE**

Q You stated that your occupation is a professor of history at the University of Minnesota, is that correct?

A Yes.

Q How long have you been at the University of Minnesota?

A Ten years.

Q The University of Minnesota is the highest institute of education in the state, is that correct?

A That is correct.

Q Historians, basically, write about the past, isn't that true?

A That is correct.

Q Have you ever known anybody who has ever visited the past?

A No.

Q So would it be safe to say that part of the technique of a historian is to look at information and discuss events which have actually occurred and at which he has not actually been present?

A Yes.

Q Has every historian of Asian studies that you know of in the United States been in Viet Nam? Is this a prerequisite of being a historian on Asian studies?

A No.

Q Is it acceptable in the community, by the State of Minnesota which funds the University of Minnesota, that you can be a historian of Asian studies without ever having gone to Asia?

A I didn't say I hadn't gone to Asia.

Q Well, Viet Nam.

A I have been to India and to Formosa, but not to Viet Nam.

Q And they still allow you to teach?

A Yes.

Q And the state pays you through the taxpayers' money?

A Yes.



Q And the study of history is a standard part of everybody's education, is that true, anybody who goes through the school system?

A I think it should be.

Q Did you find Mr. Anderson's statements rather strange, then, about --

MR. ANDERSON: Well, Your Honor, I will object to that question.

THE COURT: Objection sustained.

BY DEFENDANT KRONCKE:

Q When did you start, what year did you start teaching this course on Viet Nam?

A The course on Viet Nam specifically is the one that was introduced just two years ago. However, I taught a course in Asian history in which I spent a great deal of time on Viet Nam in as early as 1956 before I came here.

Q If the University establishes courses, does it indicate anything as to the interest of the student body in those courses?

A In a case such as this, it most certainly reflects student interest. It was a non-departmental course offered by the social sciences program as a response: to student interest.

Q How long have you been teaching, how many years?

A I have been teaching for about 14 years.

Q Would you say that there has been a marked interest in the study of Viet Nam among the students at the University of Minnesota in the last five years?

A Yes.

Q You referred to an educational tool called the teach-in. Can you explain what that is?

A Yes. The teach-in began about 1963 or '64 as a device to bring together the largest possible number of hearers with the most authoritative people in the field of the Viet Nam war in order to disseminate information as rapidly and as intensively as possible.

Q How, precisely, did they do this? What were some of the ways that they did it?

A The only one I can speak to directly is the one I participated in here at the University of Minnesota. The initiative in this case came from the students. The help of some of the faculty members was solicited. We and the students got together and arranged for Northrop Auditorium to be provided for the teach-in.

Then we scoured the country for the best speakers that we could find on both sides. The administration side was represented by Mr. Clark MacGregor; and by a representative of the State Department, and we asked them to send the highest-ranking officer they could. The other side was represented by Norman Thomas and by Hans Morgenthau, Professor of Political Science at the University of Chicago.

Q These teach-ins were for the public, open to anyone, correct?

A It was a public meeting and attended by approximately 4,000 people, or whatever the capacity of Northrop Auditorium is. It was filled.

Q Was it a standard practice to follow up these teach-ins by smaller informal group seminars?

A Yes. The crowd then broke up and moved over to Coffman union, and there were panel discussions on specific topics in the evening.

Q Did this style of education, this teach-in technique become fairly national, did practically every college and university have this?

A Yes. Minnesota came to it rather late. It had been going on about a year when we had our first teach-in.

Q Would you say from your knowledge of the educational system in the United States, would you say that this is sort of an original and new educational technique of bringing experts in?

A It was novel, in my experience.

Q Is it novel in the history of American education, do you know?

A I don't know that much about American education. I have never heard of it before.

Q When you were in college, were there such things as teach-ins?

A No.

Q o this happened around 1963, at the earliest, and that would mean that most of the adults here over 30 would not have been exposed to something like this?

A Yes.

Q So you could say basically that -- I won't ask that. The judge gets angry about that.

A I would say that the teach-in movement and its subsequent development and the even more dramatic expression of campus activity last spring indicates a profound and widespread anxiety about the war in Viet Nam.

Q You mentioned also in your testimony something that happened, what you called a student-faculty strike over Cambodia? There was such a strike?

A Yes.

Q Did this affect very much the normal working of the University of Minnesota?

MR. ANDERSON: I object, Your Honor. I don't see the relevance of that.

THE COURT: Well, objection overruled.

DEFENDANT KRONCKE: Will you read back the question?

(The question was read.)

THE WITNESS: It affected it drastically for those students who participated in it, students and faculty who participated, and very little for those students who did not. The number of students participating was, I think, around 2,000, that were actively involved.

BY DEFENDANT KRONCKE:

Q Were there other types of educational tools or techniques which came out of the strike last year peculiar to the University of Minnesota that you know of?

A Yes. One of the most novel, so far as I am aware, was the rural community action program. It was a metropolitan community action program, the purpose of which was to acquaint the general public with the issues in Viet Nam, for the students to go out and talk to people on their doorsteps, and also to organize community groups which would hold discussions, invite speakers, and so forth.

A similar program was organized for rural Minnesota. Both of these were done on the initiative of the students.

Q Did this have any relation to what is called the Peace College at the University?

A Yes.

Q Are you familiar with that?

A Yes. I am familiar with it as an outgrowth of the strike, but I am not very well acquainted with the Peace College.

Q In your experience as a professor, and, I guess, as a student in the American educational system, have you ever experienced or known of a strike over a national foreign policy by students such as occurred last year?

A Never.

Q As an expert concerned with what goes on in Southeast Asia, and as a citizen, do you feel that the average-day American citizen is poorly informed about what goes on in Viet Nam?

A Yes, I do.

Q Did you make a comparison about the length of the war which is still going on in Viet Nam and the length of World War Two?

A It is difficult to measure the length of the war in Viet Nam. It's been going on since the end of World War Two.

At first, the war was with the French. The Vietnamese were trying to liberate themselves from French control. At that time, the French military effort was armed and financed by the United States. The American military personnel were present. There was an integration of American weapons into

the French Army. We have been involved in the Viet Nam war continuously since about 1945, or a little earlier if you want to count the military assistance at Ho Chi Minh, in 1945 or a little earlier if you want to count the military assistance that we gave to the guerrillas at Ho Chi Minh who were then fighting the Japanese.

Q As a scholar and teacher, can you tell me when the war in Viet Nam was declared by the Congress of the United States?

A No, I cannot.

Q Why not?

A Because it has not been declared.

Q From your studies, can you tell me anything about the amount or percentage or the quantity, number of orphans in Viet Nam created by the war?

A I can, yes. As of the middle of 1970, there were approximately 258,000 orphans in South Viet Nam. This, again, is from the Kennedy Subcommittee report. Also, 131,000 widows.

Q Does the United States have a military alliance with what it considers friendly countries in Southeast Asia?

THE COURT: I will sustain the Government's standing objection to that.

BY DEFENDANT KRONCKE:

Q Are you familiar with the foreign policy approach set up by John Foster Dulles, one-time Secretary of State, called the --

THE COURT: I will sustain --

THE WITNESS: Yes, I am.

THE COURT: Wait a minute. I will sustain the objection. We have gone into the question of the impact of the Viet Nam war on the Vietnamese, the purpose for which this witness was called. Now you are getting far afield and into other things that are speculative and historic and not of consequence here, in any event.

DEFENDANT KRONCKE: I am at a little bit of a loss, Your Honor. That seems to me to be quite commonly understood as a fact, that John Foster Dulles was 15 years ago --

THE COURT: Well, we are not living 15 years ago. July 10, 1970, was six months ago, in Little Falls, and --

DEFENDANT KRONCKE: I wasn't born on July 10th, either. I have lived for 26 years.

THE COURT: -- that is what we are concerned about here. The objection is sustained.

BY DEFENDANT KRONCKE:

Q Does the term "genocide" have any relevance in an historian's vocabulary?

MR. ANDERSON: I object to that. I don't think it matters whether genocide does or does not.

THE COURT: The objection is sustained.

BY DEFENDANT KRONCKE:

Q We had some previous witnesses who were members of the Armed Forces who have served in Viet Nam. They attested to the fact that even though they were trained, they had very little knowledge of the culture or the language of the country. Do you have any opinions or facts concerning America's attitude toward the Vietnamese?

MR. ANDERSON: I object to that, Your Honor. There is no foundation for that particular conclusion.

THE COURT: The objection is sustained.

BY DEFENDANT KRONCKE:

Q Have you studied in that area?

A America's images of Asia, for example?

Q Yes.

THE COURT: I sustained the objection to that.

DEFENDANT KRONCKE: Excuse me.

THE COURT: When I sustain it is it sustained. I am sorry and I don't like to be mean, but that is my ruling on it.

BY DEFENDANT KRONCKE:

Q You said there are 258,000 orphans, as far as you know, in Viet Nam, is that right?

A Yes.

Q That's a lot of orphans.

DEFENDANT KRONCKE: No more questions

### **CROSS-EXAMINATION BY MR. ANDERSON**

Q Dr. Taylor, were you in or near Little Falls on July 10, 1970?

A No.

Q Did you know that the defendants were going to go to Little Falls?

A No.

Q Do you know anything about what transpired up there that night?

DEFENDANT KRONCKE: Your Honor, I object. I think the Government has not allowed us to pursue the question of the informant. I would hate to have them reveal it at this point, if Dr. Taylor is such.

I object to this line of questioning.

THE COURT: Well, he already stated that he wasn't there and he didn't know that you were going to be there. Isn't that what you said?

THE WITNESS: Yes.

BY MR. ANDERSON:

Q You don't know as to anything that happened there?

A I thought that is what we are trying to find out. I don't know.

MR. ANDERSON: I have no further questions. For the record, I would move that his testimony be stricken on the basis that none of it is relevant.

THE COURT: Well, I will, again, take the motion under advisement. I shall deny it at this time. You are excused, Dr. Taylor. (Witness excused.)

MR. TILSEN: Defendants will call Mary Davidov.  
Whereupon,

## **MARV DAVIDOV**

a witness called by and on behalf of the defendants, having been first duly sworn, was examined and testified as follows:

### ***DIRECT EXAMINATION By MR. TILSEN***

Q How old are you, Marv?

A I am 39.

Q Where do you live?

A I live in Minneapolis.

Q Where were you born?

A Detroit, Michigan.

Q Where did you go to school?

A I went to Central High in Detroit, Michigan. I attended Macalester College from 1950 until 1953. I was drafted into the Army of the United States in 1953. I served from 1953 until 1955.

I returned to Macalester College for a summer session in 1955, and then transferred to the University of Minnesota.

Q What are you doing at the present time?

A Bless you. At the present time, I am teaching in the Experimental College at the University of Minnesota. I am working with a group of brothers and sisters who are involved with the Honeywell Project. I am what you might call manager of the Mississippi Cooperative Shop called Liberty House, where we are selling handcrafted items made by black people and Indians and



Mexican-Americans, and is on the corner of Sixth and Cedar, for everybody's information.

Q Maybe we ought to back up a bit. You served in the United States Army from 1953 to 1955?

A That's right.

Q Upon your return out of the Army, you returned to Macalester College, did you say, and then you went to the University?

A That is correct.

Q And did you thereafter become involved in some of the activities that involved large numbers of persons at that period of time?

A Not at Macalester College because the period from 1950 to 1960, during that time there wasn't a great deal of activity in the country in opposition to the policies of the United States Government. Most of us had never met radicals, per se, or people who were opposing the system which had created racism and exploitation around the globe. However, I did get involved in 1958 with the group sponsoring the annual Easter Peace March that began, I think, in 1956 or '57.

A group of Minnesotans, men and women, were protesting atmospheric testing of nuclear weapons, not only by the United States Government but by the Government of the Soviet Union; and the same 150 or 200 of us used to walk down Nicollet Avenue carrying signs in opposition to the atmospheric testing which scientists and others claimed was destroying human beings or had the potential of destroying human beings by creating radiation in the air. So I did get involved in the peace movement as early as 1958. However, there were no massive demonstrations at that period.

Q In the subsequent year or two, did you get involved in something else related thereto?

A Yes, in June, 1961, I and six other Minnesotans, men and women, became Freedom Riders. We went down to Jackson, Mississippi, at the request of black men and women in

Mississippi; attempted to enter the Negro waiting room of the Greyhound Bus Terminal. We were arrested on a breach of the peace charge, sentenced to two months and a \$400 fine, and whereby we did seven days in the Jackson City Jail and 38 days in the Mississippi Penitentiary as a result of that activity, along with 315 other men and women, black and white, who had gone to Mississippi. We appealed our cases. I went to Jackson, Mississippi in September of 1961 for my appeal trial. I was convicted in Hines County Appeal Court of the breach of the peace charge.

Four years later, the United States Supreme Court ruled that the officials of Hines County were breaking the law of the land; that all terminal facilities had been ordered to be desegregated in 1954, and were, in fact, not desegregated. It was the demonstration itself which at least raised that issue before the American people, the issue of racism and exploitation.

Q You get way ahead of me. See if you can slow down a bit. I don't know if we can follow all that.

A All right.

Q You went down with the early Freedom Riders in June of 1961, is that correct?

A That is correct.

Q And the primary purpose of your going there was in relationship to the question of the rights of black Americans in Mississippi and throughout the country, is that correct?

A That is correct.

Q You went there, and as I understand it, you violated some Mississippi law?

A Yes.

Q And you violated it on purpose and you were thrown into jail?

A Yes.

Q And you served some time in the penitentiary and in jail, is that correct?

A That is right, in the Mississippi penitentiary.

Q Now, the specific law that you broke at that time had to do with the segregation of the bus terminal facilities?

A That is correct.

Q And as I understand your testimony, the bus terminal facilities in Mississippi, at least at Jackson, are today no longer segregated?

A That is correct, as a result of the demonstrations conducted by the 325 of us in Mississippi, with supporting demonstrations all over the country.

Q Would you say that was at least, in part, as a result of your breaking the law?

A I would say that very definitely, and I would say it was definitely a precedent for civil disobedience throughout American history. I noticed earlier that somebody was referring --

MR. ANDERSON: Your Honor, I object as not responsive.

THE COURT: Yes, you just wait and answer the questions that are asked of you, please.

BY MR. TILSEN:

Q Following the Jackson Freedom Ride, 1961 Freedom Ride, did you thereafter within the next year or two engage in another reasonably well-publicized and well-known historical event in America?

A Yes.

MR. ANDERSON: And at that point, I object as being irrelevant.

MR. TILSEN: The witness is simply describing himself and his background.

THE COURT: The objection is overruled. He can tell what he has done.

BY MR. TILSEN:

Q What did you get involved in then?

A In 1963 and 1964, for some 17 months, with other brothers and sisters in the movement, I was involved with the long Peace Walk. We walked from Quebec, Canada, to Miami, Florida, protesting the Bay of Pigs Invasion of the United States of the Island of Cuba, and the Cuban missile crisis, which brought the world and all its citizens to the brink of thermonuclear war with the missiles that the Soviet Union had put on Cuba.

THE COURT: Let me interrupt now. He asked you what you did. You walked from Quebec to Miami. Now, your conclusions as to why you did it or what you accomplished, he didn't ask, and it may not be relevant. The question is what you did, and you were involved in a peace walk, period.

BY MR. TILSEN:

Q That peace walk, can you name a few of the other persons on it?

A David Dellinger --

MR. ANDERSON: I object to that. I don't see that that is relevant, Your Honor.

MR. TILSEN: I think there are some people of national --

THE COURT: Well, if the witness would stay to answering the question.

BY MR. TILSEN:

Q Try to listen to the question and answer it.

A Everybody who knows me knows that I tell stories.

Essentially, I am a story-teller. I am trying to work within this structure, but it is very difficult for me.

Q Who were some of the people, Marv, who were there?

A David Dellinger, and Dave was editor of Liberation Magazine, and one might say he was one of the leaders of the American Freedom and Peace Movement.

Q Name one or two others:

A Barbara Demming, who was also an editor of Liberation Magazine, who had worked for the Nation Magazine as a film editor.

Q Who else?

A Well, there were a number of others; Bradford Little; Kipp Havis, a medical student from Stanford; E. D. Snyder, who had been a secretary, and a Danish student, and many others.

Q Now, was this peace walk from Quebec to Florida, was this widely covered on television and the news media?

A Near the end of the project when we attempted to take a boat to Cuba to talk about our experiences with the Cuban Government, it was.

MR. ANDERSON: He is not responding, Your Honor.

THE WITNESS: Yes, it was.

MR. TILSEN: I think that is responsive, Your Honor, fairly responsive.

THE COURT: Well --

THE WITNESS: It was covered by the Today show on NBC. It was covered by the New York Times. It was covered by the Minneapolis Star and Tribune at that time.

BY MR. TILSEN:

Q As a result of that and other things that you were involved in, have you been on a number of TV programs?

A Yes. I have been on the Joe Pyne Show five different times. I have been on the Les Crane Show. It seems that all of these people pass after have been on, pass away or move from the air after I have been there.

Q All right. Other TV shows like that, also?

A Yes, many, the Henry Wolff Show on radio, television, mollies, you know.

Q Would it be fair to describe you as a pacifist?

A I think it would be fair.

Q As an active pacifist?,

A Yes, someone who believes in the philosophy of non-violence as a means of resolving human conflict.

Q You do not believe in necessarily obeying all laws?

A Definitely not. I think some laws ought to be disobeyed, very obviously.

Q Were there some other major events in the history of the last five or six or seven years after the Peace Walk that you were associated with in a prominent way?

A Yes. I was involved with the first mass protest against the war in Viet Nam, which was held in Washington in 1965. I and perhaps 20,000 other men and women, students and non-students, union people, professional people, came to Washington to protest America's involvement in Viet Nam, and to demand a negotiated settlement at that time with the Vietnamese people and to begin to think about ways of withdrawing the United States from Vietnam.

Q What was the next major thing you participated in?

A Well, as a result of that activity, numbers of people, black and white, men and women, again created the Assembly of Unrepresented People in August of 1965, where approximately 5,000 people attempted to hold a demonstration on the steps of the Capitol in Washington, where we would hopefully make peace with the people of Viet Nam; remove the Mississippi Congressional delegation, which everybody knew was illegally elected; abolish the Taft-Hartley Act, and do other things of this nature which were concerning all of us.

At that time, 365 of us were arrested on a breach of the peace charge for attempting to go to the step: of Congress to hold the meeting.

I was one of them.

Q What was the next major thing you participated in:

A Well, I went to the Far West at that point, going out to Berkeley, and I worked with the Berkeley Viet Nam Day Committee, which had engaged in massive demonstrations on the West Coast, not only against America's presence in Viet Nam, but racism and many other things; and I was involved with helping it organize and marshal the demonstrations in Berkeley at that period and helped to organize approximately 20,000 men and women who walked from the

campus at the University of California at Berkeley to the Oakland Army Terminal from where GI's and shipments were sent to Viet Nam.

Q All right. That would bring us to about 1966?

A Yes.

Q All right. And following 1966, what was the next major --

A Well, in January of 1966 I left Berkeley and went to Los Angeles to try to work with pacifist groups in the Los Angeles area. I was involved with the creation of the draft resistance movement in Los Angeles. I was involve also, with the development of tax resistance movements, against what many people felt was a racism and American imperialism, their exploitation of people in other lands, specifically Viet Nam.

I began then in 1966 to work with the Liberty House people, that is black people organized into Mississippi cooperatives in a self-help project to let themselves out of the incredible poverty they were subjected to in Mississippi.

Q You are still to some extent involved with that, in the operation of Liberty House in Minneapolis?

A Yes.

Q What was the next major thing you were involved in?

A It was in Los Angeles during 1967 and I helped organize a demonstration involving 20,000 men and women, again black and white, students, working people, middle-class people, professional people, when President Johnson came to speak in Los Angeles before the California Democrats; and 20,000 of us demonstrated in what we hoped would be a peaceful demonstration, which was brutally attacked by the Los Angeles Police; 300 people going to the hospital, incidentally.

Q All right. What was the next event?

A In 1967 I worked with local peace groups, peace and freedom groups in the Los Angeles area in support of national demonstrations which were being held against the war, and this time our analysis being that we demanded immediate withdrawal from Viet Nam. I went to

San Francisco which was the site of the West Coast demonstration, and marched with 70,000 Americans demanding immediate and total withdrawal of the United States in Viet Nam, and we went into the streets of San Francisco and marched to the stadium there in San Francisco, and the stadium was packed.

In 1968 I returned to Minnesota and I helped to organize the Honeywell Project. The Honeywell Project is an attempt by local citizens to stop the directors of the Honeywell Corporation from producing antipersonnel fragmentation bombs and many other hideous weapons which have been used indiscriminately against men, women and children in Viet Nam. I organized, with other people who have been in the peace movement, that project.

In the course of the next two years, we attempted to reach out to the citizens of Minneapolis with our information and our demands that the directors of Honeywell were making money off the production of these weapons, to stop that production and seriously consider reconverting so that the thousands of men and women who are working --

THE COURT: Again, you are editorializing about things. He asked you what you did. You returned to Minneapolis in 1968 and helped organize the Honeywell Project. We are not here trying the Honeywell Project.

THE WITNESS: I wonder why, sometimes, Judge Neville.

BY MR. TILSEN:

Q Following your return in '68, your organization of the Honeywell Project, does that bring us substantially up to the present and your involvement in Liberty House?

A In October, 1969, I worked with the October Moratorium Committee in which 8,000 to 10,000 Minnesotans demonstrated at the Old Federal Building, which is not far from here, demanding an immediate end to America's presence and brutality in Viet Nam, asking to bring the troops home.

Then this spring I worked with the Student-Faculty Workers Strike Committee at the University of Minnesota, also involved with



the organization of massed protest against American military involvement in Cambodia, which drew 50,000 Minnesotans in a demonstration and march to the State Capitol.

Q During this period of time, did you involve yourself in any way in what has been called electoral politics?

A In the early period of what you might call my political involvement, I worked in Grassroots Campaigns for Senator Humphrey, for then-Congressman Eugene McCarthy, Congressman McCarthy/s first campaign. I worked also in 1952 and 1956 for the election of Adlai Stevenson to the Presidency. I worked also in 1960 for the election of John F. Kennedy to the Presidency.

Q During all of this period of time -- well, before we get into that, let me ask you this. You made reference to your current activities with the Honeywell Project, the fragmentation bomb. (Defendants' Exhibit 1 marked for identification.)

BY MR. TILLSSEN:

Q Showing you what has been marked for identification as Defendants' Exhibit 1. I will ask if you will describe what that is?

A This is he antipersonnel fragmentation bomb which is produced at Honeywell Corporation at the request of the directors of Honeywell. It's used in Viet Nam to indiscriminately kill and maim men, women and children in Viet Nam.

Q When you say that it's an antipersonnel fragmentation bomb, you mean by that that it's used against personnel as distinguished from being against objects or used against people?

THE COURT: I will sustain the objection. He hasn't seen it and he doesn't know what it does. He has been told by somebody that that is what it is supposed to do.

THE WITNESS: If I might say something --

THE COURT: No. You may not.

BY MR. TILSEN:

Q Is there a research project of which you were the instigator, one of the main instigators, involving the use of antipersonnel weapons that has been published widely dealing with this full question of antipersonnel weapons, such as at Honeywell?

A Yes.

Q Have you met with the president of Honeywell and discussed the problem of their production and their use with James Binger, the president?

A He is the board chairman. On three different occasions, I have, yes.

Q You have discussed this with Mr. Binger on three different occasions?

A Yes.

Q Have you also attended other meetings involving other administrative personnel of Honeywell?

A Yes. A number of us from our project met with Bruce Dayton, director of Dayton-Hudson and also director of Honeywell. We met also with Paul Gerot, retired chairman of Pillsbury Corporation, who is also on the board of Honeywell.

Q Have you also met with engineers and personnel involved in the production and design and use of the antipersonnel weapons?

A Yes.

MR. ANDERSON: Your Honor --

BY MR. TILSEN:

Q would you say --

MR. ANDERSON: Your Honor, I am going to object to the line of questioning. We have an individual here who testifies to nothing more than the fact that he has been politically active and has supported various candidates for election and has attended many Projects. Now he is talking about interviews with Mr. Binger, and I

think that the interviews are irrelevant Mr. Tilsen earlier said that we were having presented the background of the witness, and now I think maybe there is enough background, and if there is any relevant testimony, it ought to be offered.

MR. TILSEN: Well, the reason I went into this, he objected to the foundation, that Mr. Davidov wouldn't know anything about the Honeywell bomb.

THE COURT: We are not here trying Minneapolis Honeywell. Whether they are just or unjust or proper or improper in what their board of directors do, that has nothing to do with what happened in Little Falls on July 10, 1970, and I am going to sustain the objection and I am going to dismiss the whole subject matter on that because I can't see any possible relation.

THE WITNESS: I don't understand that, because I think --

THE COURT: You are not to talk. You are not to talk. You are a witness to be asked questions of and to give answers.

BY MR. TILSEN:

Q During the period of your activity and up to the present time, has your activity, as you have described it, generally involved, from your own description, your personally involving yourself in various problems of the day or primarily peaceful and civil rights problems?

A Definitely. This is my work. This is my identity.

Q Have you written -- . You have indicated that you have been on all these various TV shows. Have you also spoken widely of your activities and of your experience, your personal involvement in political activities.

A In at least 100 American universities and churches and synagogues, forums of many different kinds, before chamber of commerce groups, before high school groups almost every type of voluntary group, yes.

Q When you have spoken, have you spoken to the question of pacifism and your belief in non-violence?

A Among other things, certainly.

Q And have you spoken at these various groups, your various TV appearances, as to the question of changing policies of the Government by the actions of individual persons?

A Yes, definitely. I have understood the assumption that --

MR. ANDERSON: Your Honor, nothing further would be responsive. He testified that he has, and that was the question.

BY MR. TILSEN:

Q The question I would ask you is whether or not -

THE COURT: Let me interrupt. Do you have more than one or two questions left? It's 5:00 o'clock.

MR. TILSEN: I think we probably ought to adjourn.

What I probably would do would be not to continue with him as my first witness tomorrow morning, but continue with him after one or two other witnesses tomorrow morning, Your Honor, because I am sure we will be getting into areas that should be of interest to the jury.

THE COURT: Well, all right. We will stand in recess until 10:00 o'clock tomorrow morning.

(Whereupon an adjournment was taken until 10:00 o'clock a.m., January 14, 1971.)