THE WHITE HOUSE
WASHINGTON

12/3
5:12

JC

Bill Chapman of
General Motors
called to thank
you for support
given them past
few days

775-5092

THE WHITE HOUSE
WASHINGTON

DATE: 12/8

TO: Jim Cicconi

FROM: Bob Bonitati

For your info X

Per our conversation _____

Other:

INSIDE LABOR
RELEASE ON RECEIPT/DISPATCHED 11/18/81
BY VICTOR RIESEL
Kennedy Pledges Labor Chiefs He Will
Fight New Bills on Picket Violence

NEW YORK -- When the greatest massing of virtually all the nation's top labor chiefs -- delegates to their national centennial convention -- exploded into a frenzied, standing continuous roar of cheers for Sen. Ed Kennedy, it wasn't because he told them "now that the '80s have come, you and I are the keepers of that dream" of his late brother Jack. They gave him the only mid-speech convention ovation because he pledged to fight alongside them against a congressional bill which would make picket-line violence a federal criminal offense.

He lit the fuse of the emotional bomb which has been on the delegates' tables and in national and local union headquarters everywhere.

Pounding the podium he told the 900 delegates that the federal criminal code shouldn't be used against them. They knew what he meant. He was referring to bills S-613 and H-450.

S-613 would amend the 47-year-old Hobbs anti-extortion law to make any picket-line disturbance or threat of violence a federal crime under which strikers and their officials would be felons if convicted. This would put the federal government into policing strikes.

Kennedy added he would fight any effort to put unions under anti-trust regulations and he "will continue to speak and stand for the rights of trade unionists whatever the issue, whatever the cause, whatever the political risks in the months and years ahead."

"Teddy" is a ranking member of the Senate Judiciary Committee and thus can slow the drive to put labor under the Hobbs Act on which the subcommittee on criminal law will begin hearings Dec. 10. The AFL-CIO and the Teamsters have launched a national campaign against the bill. Thousands of rank-and-filers are being organized to flood the Congress. Though the battle with the bill's sponsors has gone practically unreported, it's (SET ITAL) the (END ITAL) sizzling issue inside labor.

The bill isn't an amendment to the Criminal Code which has taken Congress 15 years to rewrite and is about to be voted on. The picketing-violence bill would get lost among 120 proposed amendments, including the death penalty. So the anti-picket-line-violence forces, which include the National Association of Manufacturers, the National Right to Work Committee and Construction Contractors, are backing the separate S-613.

The Teamsters Brotherhood, fighting it intensely, puts their reasons most tersely:

"The penalty scheme of S-613 is severe: if death results (from picket-line violence -- VR), an automatic fine of $250,000 or up to life imprisonment. If bodily injury results or property damage exceeds $100,000, an automatic fine of $250,000 or up to 20 years of imprisonment or both.

"In all other cases, a fine of $100,000 or up to 10 years imprisonment or both."

The AFL-CIO is fighting S-613 with a hard-hitting propaganda campaign. The drive against the proposed act soon will reach the whirlwind strength of the unions' offensive for what they called "Labor Law Reform" several years ago. They lost that one by one vote. Today the Senate is controlled by their political opponents and the House is loaded with conservative Democrats.

Federalization of laws against picket-line violence, making even melees or blocking of plant gates extortionist felonies, could have catastrophic impact on the nation's 60,000 locals and about 110 national unions.

National Labor Relations Board records are filled with "cease and desist" decisions ordering unions to end blocking of plant entrances, carpeting them with nails, attacking non-striking employees, threatening management executives and terrorizing homes of non-sympathizers.

These NLRB directives have been issued against unions running the political and philosophical spectrum from the most prominent liberal unions to the toughest hardhats. Some violence has been gory. Some has destroyed equipment worth millions of dollars.

Strikes are volatile. And S-613 would make national labor officials responsible for melees, arson or worse. It could reach into the highest national labor headquarters, which call the proposed bills, introduced by Sen. Strom Thurmond and Rep. Kenneth Robinson, "union busting." These are the words Kennedy used to swing the delegates into their cheering spree.

The bills' backers say it's time to end all picket-line violence and only the federal government can do it. Both sides say that the bills might be passed in this 97th Congress. The drive to put labor under the Hobbs Anti-Extortion Act is the top legislative priority of the National Right to Work Committee, which has been battling the union shop for years.

The showdown is due early next year. So both sides are fighting furiously. The Right to Work Committee has documentation of bloody violence. Union campaigners deny such violence frequently is part of strike strategy.

For years labor did come under the anti-extortion act. But the Supreme Court in the 1573 Enmons case ruled that violence during legitimate strikes for wages and benefits wasn't a federal offense. In the Enmons case men were accused of shooting high-powered rifles at utility transformers. But the Supreme Court freed them.

Now critics of unions want it all back in the Hobbs Act -- charging that violence never is legitimate.

THE WHITE HOUSE

WASHINGTON

December 8, 1981

MEMORANDUM FOR ELIZABETH H. DOLE

VIA: JACK BURGESS/RED CAVANEY

FROM: BOB BONITATI

SUBJECT: Hobbs Act

You should be aware that the AFL-CIO has received from the Senate Judiciary Committee an advance copy of the Justice Department's testimony on the proposed amendment to the Hobbs Act (to be presented at hearings on December 10). The AFL-CIO seems to feel that the testimony, which argues strongly for the revision of the Emmons decision, is inconsistent with the President's statement to the AFL-CIO Executive Council on Wednesday (December 2).

I have brought this to the attention of Mike Uhlmann who promises to investigate. You should also be aware that Tom Donahue, Secretary-Treasurer of the AFL-CIO, has discussed their concern about the subject with the Vice President. Thad Garrett further informs me that the Vice President has raised the subject with Ed Meese.

After reading over the draft testimony of the Justice Department, I must confess to regretting for the first time in my life that I never went to law school.

My only hope is that no one will perceive the President to be reversing what appeared to be a clear signal on the Hobbs Act last Wednesday.

I have attached a copy of the draft Justice Department testimony provided to me by OMB, as well as a memo to Mike Uhlmann detailing the President's comments.

THE WHITE HOUSE

WASHINGTON

December 7, 1981

MEMORANDUM FOR MIKE UHLMANN

FROM: BOB BONITATI

SUBJECT: President's Comments on the Hobbs Act to AFL-CIO Executive Council

During last Wednesday's meeting with the AFL-CIO Executive Council, Lane Kirkland raised the issue of the proposed amendment to the Hobbs Act.

According to the notes we have, Kirkland stated that the amendment to the Hobbs Act now pending before Congress represented a "direct action on trade unions" and would allow the federal government to interfere in what is now a state and local police matter regarding offenses committed on the picket line by strikers. Kirkland stated that he viewed this amendment as a "desire to intimidate union activities that brought workers the advantages of collective bargaining."

The President responded directly to Kirkland's discussion of the Hobbs Act amendment, stating that while a formal position had not been taken, per se, we have no evidence that these matters shouldn't be handled at the state and local level. He then moved on to discussing other subjects.

cc: E. Dole
F. Fielding
H. Ellingwood
T. Garrett

DRAFT

STATEMENT

OF

JOHN C. KEENEY
DEPUTY ASSISTANT ATTORNEY GENERAL
CRIMINAL DIVISION

UNITED STATES
DEPARTMENT OF JUSTICE

BEFORE THE

SUBCOMMITTEE ON CRIMINAL LAW

OF THE

COMMITTEE ON THE JUDICIARY

UNITED STATES SENATE

ON

AMENDMENT OF THE HOBBS ACT SECTION 1951 OF TITLE 18, UNITED STATES CODE (S. 613)

DECEMBER 10, 1981

DRAFT

Summary

The Deparment of Justice recommends enactment of those portions of S. 613 which would overturn the decision in United States v. Enmons, 410 U.S. 396 (1973), and clarify the position, in the context of both labor disputes and disputes outside the field of labor relations, that the Hobbs Act (18 U.S.C. 1951) proscribes the actual or threatened use of force or violence to obtain property regardless of whether or not the extortionist has an otherwise lawful claim to such property. The Department of Justice supports the increase of maximum penalties which are proposed by S. 613, but recommends against enactment of that portion of the bill which would lower the maximum prison sentence from twenty to ten years in cases where death, bodily injury, or property damage in excess of $100,000 of aggregate value do not result. The Department of Justice recommends against enactment of those provisions of S. 613 which would create new crimes consisting of affecting interstate or foreign commerce by "inflicting, or threatening to inflict, death or serious bodily injury on any person," or by "willfully damaging to the extent of $2,500 or more any property, including real property, used for business purposes."

I am pleased to be here today to present the views of the Department of Justice on S. 613, a bill to amend the federal extortion and robbery statute, commonly referred to as the Hobbs Act, which is found at Section 1951 of Title 18, United States Code. The proposed amendments have considerable importance to the Administration's program to deal with violent crime in our society, a program which the Attorney General has designated as a matter of high priority for the Department of Justice. Because the bill seeks both to strengthen enforcement of the existing statute and to significantly increase federal enforcement responsibilities over conduct which is not currently covered by the Hobbs Act or other federal criminal law, I shall separately discuss each of the bill's proposals.

First, I shall address the Justice Department's reasons for supporting those portions of the bill which would overturn the decision in United States v. Enmons, 410 U.S. 396 (1973), and clarify the position, in the context of both labor disputes and in areas outside the field of labor relations, that the Hobbs Act punishes the actual or threatened use of force or violence to obtain property regardless of whether or not the extortionist could have obtained such property through the use of non-extortionate, legitimate means. Second, I will set forth the reasons why

the Justice Department recommends against enactment of those provisions of the bill which would create new violations for affecting interstate or foreign commerce by "inflicting, or threatening to inflict, death or serious bodily injury on any person" or by "willfully damaging to the extent of $2,500 or more, any property, including real property, used for business purposes." Finally, I shall explain why the Justice Department supports an increase of the maximum penalties proposed by the bill, but recommends against enactment of that portion of the bill which would lower the maximum prison sentence in certain cases to ten years.

1. The Effect of the Proposed Legislation on the Enmons decision.

Until the Enmons decision in 1973, the Department of Justice held the view that any actual or threatened use of force or violence to obtain property was a "wrongful" use of force or violence and therefore constituted extortion as that term is defined by the Hobbs Act. It was thought that an extortion prosecution could typically arise in the context of labor management relations, for example, out of three basic situations: first, where the objective of the extortionate scheme and the means used to reach the objective are both "wrongful," as in the case of a union official who uses actual or threatened violence to seek some

personal enrichment or tribute rather than some economic benefit for the workers whom he represents; second, where the objective is "wrongful," such as personal tribute for the union official, but the means employed are apparently legitimate, for example, a peaceful strike; and third, where the objective is a legitimate labor goal, such as a wage increase, but violence or the threat of violence is a "wrongful" means of obtaining the goal.

The Enmons decision eliminated the applicability of the Hobbs Act to the last situation which I have described. Because the property which was demanded during the course of a violent, but otherwise lawful strike consisted of only higher wages and employment benefits and was a legitimate objective of collective bargaining, the Supreme Court found that the Hobbs Act's prohibitions on extortion did not apply to the facts in Enmons, even though the acts of violence charged included blowing up one of the employer's transformer substations. The Court stated at one point in its opinion that the word "wrongful" in the definition of extortion "has meaning in the Act only if it limits the statute's coverage to those instances where the obtaining of the property would itself be 'wrongful' because the alleged extortionist has no lawful claim to that property."

The effect of the decision was to leave the punishment of such extortionate conduct, where violence is undertaken in pursuit of a legitimate labor goal, to state and local law enforcement authorities. However, according to the Federal Bureau of Investigation, the Bureau's experience has shown that these authorities often lack either the resources or the will to vigorously investigate and prosecute these crimes. The Justice Department has undertaken to prosecute serious violent conduct in similar cases where other federal criminal statutes have specific application to the facts, as for example, in cases where labor union funds are used to finance the violence or where interstate travel or interstate facilities are used to further the extortionate scheme. However, the Enmons decision precludes the federal government from punishing the underlying activity directly by means of the Hobbs Act which has the broadest jurisdictional application, namely, any actual or potential effect in any way or degree on the channels of interstate or foreign commerce. Furthermore, although recent prosecutions under the Racketeer Influenced and Corrupt Organizations Act, commonly known as the RICO statute, have demonstrated considerable infiltration of

certain labor unions by organized criminal elements, use of the RICO statute requires proof of a pattern of racketeering activity, whereas the Hobbs Act is aimed at singular criminal acts.

Moreover, where the occurrence of serious violence during the course of a labor dispute is not accompanied by demands for outright tribute payments from an employer, the Enmons decision requires that prosecutorial judgments as to whether to proceed under the Hobbs Act consider fine questions of whether or not the labor goals sought by those persons making economic demands on the employer are otherwise legitimate under federal labor law. Federal labor law affords disparate treatment to different industries and economic interests which may often have no relationship to whether disputes in these industries may be accompanied by violent injury to persons and property. For example, the National Labor Relations Act, as amended, generally outlaws the making of economic demands on neutral employers who are not parties to the primary labor dispute, but exempts the garment and construction industries from those restrictions in certain cases.

Finally, the Enmons decision's central analysis of what constitutes a "wrongful" use of force, violence, or fear has given rise to attempts by Hobbs Act defendants to apply the

reasoning of Enmons outside a labor-management context. We are aware of four United States Courts of Appeal that have indicated to date, in cases which did not involve labor disputes, that Enmons should be confined to its labor facts and not applied to cases involving the use of force or fear to settle contractual disputes among businessmen, to effect the collection of debts, and to solicit political contributions. None of these cases has clearly laid the so-called "claim of right" defense to rest inasmuch as the courts also found alternative grounds for reaching their decisions in these cases. In other words, the appellate courts have sustained the convictions in three of these cases by also finding sufficient evidence to conclude that the defendants did not in fact have lawful claims to the property which they sought to obtain. In one case which involved a defendant who was a public official, the appellate court concluded that the conviction could be sustained under that portion of the extortion statute which does not require the use of force, violence, or fear, namely, the public official's obtaining of property "under color of official right." Nevertheless, we believe that the opinions in these cases do represent a definite trend in the federal courts toward the isolation of the Enmons decision

to its labor context. As a result of this trend, labor groups are afforded an exemption from the statute's broad proscription against violence which is not available to any other group in society. We believe that this bill will make clear the position that the Hobbs Act punishes the use of force and violence to obtain any property without regard to whether or not the extortionist has a colorable claim to such property and without regard to his status as a labor representative, businessman, or private citizen.

For the foregoing reasons, the Department of Justice supports the bill's proposed amendment of Subsection (b)(2) of the Act which would carefully distinguish extortion by the "use of actual or threatened force, violence, or fear thereof" and extortion by the "wrongful use of fear not involving force or violence." Fear under the Hobbs Act has been interpreted in a long line of cases to reach extortionate conduct which is predicated solely on fear of economic loss or injury. Economic coercion by labor unions in the form of strikes and work stoppages during the course of otherwise peaceful labor disputes is recognized as an appropriate means of achieving legitimate labor objectives. Therefore, the proposed legislation makes clear that property demands in the form of wages for necessary labor

and legitimate employment benefits could never become the subject of a Hobbs Act prosecution when such demands are backed only by peaceful strikes, work stoppages and picketing. Purely economic pressures would continue to be a basis for Hobbs Act extortion only where the alleged extortionist's claim to property was clearly "wrongful," as for example, in the case of demands for personal payoffs, wages for unnecessary labor, and employer payments prohibited by Section 302 of the Taft-Hartley Act (29 U.S.C. 186). On the other hand, in both labor-related and non-labor-related situations, the added presence of the actual or threatened use of force or violence by a person making some property demand could give rise to Hobbs Act extortion regardless of whether the claimant was entitled to the property under contract or otherwise.

Similarly, the Justice Department supports the bill's proposed amendment of Subsection (c)(2) of the Act to include a statement of Congressional intent. The effect of the statement would be that prosecution may be undertaken in regard to conduct which takes place in the course of a legitimate business or labor dispute if such conduct involves "force, violence, or fear thereof." Extortionate conduct involving only fear of economic loss in the context

of a legitimate business or labor dispute is not included in the statement and therefore would continue to be exempt from prosecution unless the alleged extortionist had a "wrongful" claim to the property demanded. This distinction is fully consistent with the separate treatment of violent and non-violent conduct by the bill's proposed definition of extortion.

Although the phrase "force, violence, or fear thereof" is the same as that used in the bill's proposed definition of extortion, we read the statement as being generally applicable to any violent offense under the Act as amended. For example, although we are unaware of any attempt to impose the reasoning of the Enmons decision on the robbery provision of the Act, we see no reason why any claim of right should be a defense to the use of actual or threatened violence to obtain a victim's personal property by robbery as opposed to extortion.

The proposed statement of intent also contains language which in effect would permit federal prosecution under the Hobbs Act despite any asserted defense that the alleged conduct is also a violation of state or local law. This language is in accord with existing case law which supports

Pres. Statement implicitly contrary

the argument that Congress did intend to proscribe as a federal crime under the Hobbs Act conduct which it knew was already punishable under state robbery and extortion statutes.

We do recommend that the statement of Congressional intent in the bill be amended to include additional language, however, for the sake of clarity. Because the proposed definition of extortion in the bill and the existing definition of robbery in subsection (b) of the Act would continue to apply the Hobbs Act to both the actual and the threatened use of violent conduct, we recommend that subsection (c)(2) include language which clearly indicates that the statement of intent shall apply to the "actual or threatened use of force, violence, or fear thereof."

Before, I discuss other provisions of the bill, I want to allay any apprehension that the Department of Justice is interested in prosecuting isolated, low-level violence which might occur during the course of an otherwise lawful and peaceful strike or labor dispute. We believe that the incidental injury which might arise from the single worker who throws a punch on a picket line or from the act of a single striker who deflates the tires on his employer's truck is more appropriately handled by state and local law enforcement authorities. The Department of Justice does not

have the investigative and prosecutorial resources to pursue isolated instances of minor violence.

Moreover, because the focus of the phrase "actual or threatened force, violence or fear threof" is directed at the victim's state of mind and standard of proof is whether a reasonable person under the circumstances would have consented to the extortionist's obtaining of his property, the injury to a single employee as the result of isolated, low-level violence on the picket line is not likely to present a prosecutable case of extortion where such incidental act of violence is not undertaken at the instruction of those persons who alone may be known as the claimants of the employer's property. Those who applaud the Enmons decision as a barrier against the federal government's unwarranted policing of the orderly conduct of every labor strike appear to assume that every spontaneous act of violence that arises during the heat of the strike will fully support a prosecutable case of extortion. But without a demonstrated, purposeful linkage of those who demand the employer's property and the deliberate commission of acts of violence to enforce those demands, the government cannot support its burden of proof for extortion. On the other hand, where the pattern and scope of significant acts

of violence are shown to be deliberately linked to the demands for property, the federal government ought to be able to effectively deal with those who would violently abuse their right to collectively bargain with their employers, a right which they enjoy as the result of the federal labor laws.

2. The New Predicate Offenses Proposed by S. 613.

The bill would also create new federal crimes, predicated independently of extortion or robbery, where the channels of interstate or foreign commerce are affected by violence constituting actual or threatened infliction of death or serious bodily injury, or actual damage to commerical property to the extent of $2,500 or more. The Department of Justice believes that these provisions would result in an extremely broad expansion of federal criminal enforcement responsibilities which is not justified and which could severely tax the resources of the Department.

The jurisdictional element of a Hobbs Act violation requires proof of either an actual, albeit de minimis, impact on interstate or foreign commerce, or in the absence of proof of an actual impact, a realistic probability of

some potential effect on such commerce. Accordingly, under these new provisions, the mere assault on a cab driver, who as part of his business occasionally makes interstate trips, or the destruction of his cab would become a federal crime. The federal government could be called on the prosecute such crimes which are now more appropriately handled by the local police.

We are aware that the enactment of these broadly worded new crimes would result in some positive benefits to federal law enforcement. However, these benefits are outweighed by the breadth of the new crimes. First, the Department has neither the investigative nor prosecutorial manpower to pursue every alleged violation which could arise under the statutory language. Second, although we do not question Congress' Constitutional authority to enact such crimes under its power to regulate commerce, there are delicate considerations of federalism involved here, so that federal investigation and prosecution of every alleged violation would not be appropriate. Because of these considerations, the Department of Justice has maintained a policy of limiting Hobbs Act robbery prosecutions, for example, to those situations in which organized criminal activity or some wide-ranging scheme is present. These same factors, lack of resources and consideration of federal-state

relations, would undoubtedly restrain the effective enforcement of these broader new federal crimes. Third, enactment of these new crimes is not necessary to remedy the specific problems raised by the Enmons decision.

For the above reasons, the Department of Justice recommends against enactment of the new crimes in subsections (a)(1) and (a)(2) of the bill.

3. New Sentencing Provisions

The Department of Justice supports the sentencing structure created by the bill insofar as it would raise the maximum sentence from the current fine of $10,000 or imprisonment for twenty years, or both, in accordance with statutorily prescribed degrees of actual injury to persons or property. Under the bill as it is presently worded, conviction could result in fine of $250,000 or imprisonment for any term of years or for life in cases where death results. In cases where bodily injury results or where property damage exceeds an aggregate value of $100,000, conviction could result in a fine of $250,000 or imprisonment up to twenty years, or both. We believe that this gradation of punishments is especially appropriate in view of the gradation of injuries which would be covered if

the bill is enacted in its entirety. However, the Justice Department supports this gradation of punishments even if the new crimes contained in the bill, which I have already discussed, are not enacted into law.

In cases where neither death, nor bodily injury, nor property damage exceeding an aggregate value of $100,000 results, the maximum penalty of imprisonment under the bill would be reduced by half to ten years. The Department of Justice recommends against lowering the maximum prison sentence in such cases. We believe that the maximum sentence of imprisonment should continue to be twenty years under these circumstances as in the case of any Hobbs Act violation under current law.

Sentencing schemes give signals to those who would commit crimes. They tell them how seriously society views those crimes. It is an unsound public policy to signal that society views these crimes only half as seriously as it did when the Hobbs Act was originally passed in 1946. Because the sentencing gradations in the bill are addressed to the actual infliction of property damage or bodily injury, examples of the crimes for which the maximum sentence would be reduced by the bill include all extortion by the wrongful use of fear of economic loss, all extortion by the

threatened use of force, violence, or fear thereof, all extortion "under color of official right" and all robberies where no bodily injury or property damage over $100,000 results, and all kidnapings for ransom where no bodily injury results and the jurisdictional elements of the federal kidnaping statute, 18 U.S.C. 1201, are not present.

Moreover, in certain jurisdictions, the Hobbs Act is a necessary supplement to the federal bank theft statute, 18 U.S.C. 2113, because it provides a means of prosecuting certain types of attempted bank extortions which are not prosecutable as bank robberies or bank larcenies. That is, in certain jurisdictions it has been held by the courts that the bank robbery statute, 18 U.S.C. 2113(a), which requires proof of a trespassory taking from the person or presence of another, does not apply to an extortionate plan which requires that a bank employee should deliver money to a specified "drop site" outside the bank and then return to the bank. Because the bank larceny statute, 18 U.S.C. 2113(b), has no provision covering attempts, the extortionist who does not succeed in obtaining the money under these circumstances must be prosecuted under the Hobbs Act in these jurisdictions. Because most bank extortion

cases do not involve bodily injury or actual property damage in excess of $100,000, there would be a wide disparity between the maximum penalty for Hobbs Act-bank extortion (ten years) which the bill contemplates in such cases and the maximum penalty for unarmed bank robbery (twenty years) which would be available in jurisdictions where the bank robbery statute could be used.

For the above reasons, the Department of Justice recommends that the reference to a maximum sentence of ten years found in S. 613 should be changed to retain the present maximum of twenty years, and especially with respect to those offenses presently covered by the Hobbs Act.

Finally, I call the Committee's attention to what we believe may have been a drafting oversight. You will note that the bill provides for a fine or imprisonment, or both a fine and imprisonment where bodily injury or property damage results. Where death results, however, the bill as presently worded provides for a fine or imprisonment in the alternative, but does not expressly provide for both. However, we see no reason why a conviction where death occurs should not also result in the possible imposition of both a fine and imprisonment. The Department of Justice recommends that the bill be amended to permit the imposition of both forms of punishment where death results.

In summary, for the reasons which I have discussed, the Department of Justice recommends that S. 613 be enacted with the changes and amendments which we have suggested. It is the Department's view that the bill and the proposed revisions which we have proposed will have the effect of strengthening the federal government's ability to protect the channels of commerce from significant acts of violence while at the same time maintaining an appropriate balance and division of law enforcement responsibilities between the federal and state governments.

MEMORANDUM

THE VICE PRESIDENT

WASHINGTON

TO: THE PRESIDENT December 2, 1981

FROM: THE VICE PRESIDENT

RE: Telephone Call from Lane Kirkland

Lane Kirkland called me this afternoon following the meeting with you. He felt the meeting was : "worthwhile", "in the bounds of civility".

They put out a statement saying that we differed on the answers to unemployment, recession, etc., but that they welcomed further contacts. He again mentioned the airline service -- the human issue. Kirkland:

> "If we could only find some decent way to restore full service. No-one expects them all to come back, but if some could return it would make a tremendous difference as far as Labor is concerned."

He was pleased with your comments on the Hobbs Act, and asked for clarification as to what the Justice Department would testify to on that Act. I called Ed Meese and then called Lane back, telling him our testimony would be "there is no factual basis to amend the Hobbs Act to create new federal offenses."

G.B.

cc: Ed Meese
Mike Deaver
Jim Baker

call Wallop
-- seen letter
-- had K in,
will
be in touch shortly

[redacted]

THE WHITE HOUSE
WASHINGTON

12/9/81

MEMORANDUM FOR JIM CICCONI

FROM: BOB BONITATI

I thought you might be interested in the attached December 9 Employment Relations Report concerning labor's perception of the President's comments on proposed amendment of the Hobbs Act.

The rubber industry, sharing in the decline in U.S. auto production and foreign tire competition, has won contract concessions since the 1979 pact. More than 10,000 rubber workers have lost their jobs, and 40,000 have been on temporary layoff. Job security is the union's primary goal in bargaining.

Meat Products.

Contracts covering 50,000 meat packing workers expire Aug. 31. The 1979 negotiations led to a strike by the United Food and Commercial Workers (UFCW) against Oscar Mayer. Advancing technology and plant closings make job security a prime union concern in the 1982 bargaining.

Autos.

The United Auto Workers (UAW) contracts with General Motors, Ford and Chrysler expire September 14. The 1979 contract was reached first with GM barely before the deadline. Since then, UAW has granted contract concessions to Chrysler; and GM and Ford are seeking concessions leading up to the 1982 negotiations. Profit-sharing is likely to be a key issue.

MINIMUM THAW ANTICIPATED IN AFL-CIO/REAGAN RELATIONS

AFL-CIO leaders came away from their meeting with President Reagan last week heartened by the prospect that he won't support legislation that would subject union picketers to federal criminal penalties for picket line violence. They interpreted the President's views on proposed Hobbs Act legislation to be in line with theirs, in opposition to the measure being advanced by the National Right-to-Work Committee.

Members of the AFL-CIO executive council visiting the President came away with the view that the White House "is not likely to take a position" on the bill, which has evolved into an emotional issue, but one whose impact seemed relatively limited. Should the President decline to support the measure, its prospects for passage were considered slim.

The Hobbs Act legislation was one of four subjects advanced by AFL-CIO President Lane Kirkland in the meetings, which included 26 union officials in all. Besides Reagan, White House participants included Vice President Bush, Labor Secretary Raymond Donovan, and Edward Meese, James Baker and Robert Bonitati of the White House staff.

The labor officials appeared to gain some ground on the controllers' issue, with the President indicating some loosening in his position barring them from federal employment for three years. But the extent of the reprieve remained undecided. The President rejected a Kirkland appeal to withdraw the nomination of John Van de Water to be chairman of the National Labor Relations Board.

The widest gap between the participants was over economic policy, which was likely to set the atmosphere between the Reagan Administration and the AFL-CIO for its ensuing years in the White House. Kirkland, describing the union presentation on the subject, said, "We noted our deep, principled differences with the Administration's budget and tax policies and our concern that they will serve only to aggravate the human problems of working people in a time of severe recession."

Future Meetings

Bush and Donovan were assigned by the President to meet with union officials "on a regular basis," and the AFL-CIO said it was "prepared to cooperate in any arrangements established to carry out this new policy." But policy and political differences were sufficiently wide to make prospects of compromise on substantive issues highly unlikely.

But the new communications link between the White House and organized labor, if it

is sustained, provides unions with the input into labor issues it has been seeking. For the Reagan Administration, it means at least a slight thaw in relations with labor that could dampen the AFL-CIO claim that it is shut out of considerations on public policy while representing a 13 million worker constituency.

LABOR-BUSINESS GO TO MAT OVER VAN DE WATER FOR NLRB

A test of labor's clout with Congress is coming over the nomination of John Van de Water to be chairman of the National Labor Relations Board (NLRB). President Reagan, joined by business organizations, is pushing the Senate to draw the Van de Water nomination from the Senate Labor and Human Resources Committee, where it has been blocked by a tie vote.

The President, in meetings with AFL-CIO officials last week, rejected their appeal to select a replacement for Van de Water, who is serving under a recess appointment. Reagan, describing his candidate as an "excellent" choice, is backing the Senate leadership's effort to win support for a discharge resolution that would bring the nomination to the Senate floor.

The AFL-CIO and the U.S. Chamber of Commerce are lobbying extensively on opposite sides of the issue. In letters to all senators, the Chamber urged support for the discharge resolution, while the AFL-CIO asked its rejection, and not to support cloture if the issue reaches the Senate floor. Federation officials are pushing for a filibuster if the issue comes to a vote, with 60 votes required to cut off debate.

For organized labor, which has managed to stave off unwanted legislation so far in the Senate, blocking the nomination would be a big plus for its lobbying effectiveness. While the nomination could be expected to win approval if the vote reached the Senate floor, the Senate has never moved to discharge a committee that failed to approve a nomination. The Committee's 8-to-8 vote came when Sen. Lowell Weicker (R.-Conn.) joined the Committee's seven Democrats to oppose the nomination.

With the White House and the business community joined in backing Van de Water before the GOP-led Senate, an inability to win approval for their position would be viewed as a set-back for chances on other labor legislation. The Chamber, pointing to the AFL-CIO opposition to Van de Water, stated, "Organized labor is backing up the boast it can win union-management battles in Washington even when the GOP controls the Senate and a Republican resides in the White House."

Pro and Con

The AFL-CIO opposed Van de Water on grounds that he developed anti-union stragegies for employers as a management consultant in California. AFL-CIO legislative director Ray Denison's letter to senators stated that Van de Water, "for many years made his living planning and leading employer anti-union campaigns in response to employee efforts to organize, by his own admission, as a labor management consultant, he advised employers to use tactics that went to the very edge of the law and sometimes beyond...." Denison said the role of an NLRB chairman should "be one of impartiality toward labor and management."

The Chamber letter, from Hilton Davis, vice president of legislative and political affairs, countered that the AFL-CIO was the only opposition to Van de Water, and said the candidate's "competence is unquestioned." It described the AFL-CIO charge against Van de Water as an "advocate as "ludicrous" because "every attorney acts as an advocate." The Chamber also pointed to support from other union representatives for the Van de Water appointment.

The Chamber's Washington Report saw "another motivation for waging this battle"