

really dying by the hundreds in order to keep South Vietnamese villagers free from Vietcong rule? Or does Mr. Rusk really mean that the United States is attempting to stop Communist expansion 50 miles from the border of China?

Furthermore, just how far is the United States willing to go in assisting its friends? In 1964, this meant supplying them with arms and advice. A few months later it meant defending strategic bases with our own troops. Finally, it came to mean search-fix-and-destroy missions by U.S. Marines pitted against the Vietcong army. Does assisting friends mean that next we are to fight China on the Asian mainland? Of this last prospect, President Eisenhower said in 1961, "no man could be more bitterly opposed to getting the United States involved in a hot war in that region than I am."

Republican spokesmen who were willing to ask questions about the policy statements being made by Administration officials might well be surprised by the reaction they would get from the American people. An honest and candid dialogue on the issue of Vietnam has been demanded of the Democratic Administration by a large and responsible segment of the American people. That this has not been forthcoming is an unparalleled opportunity for a GOP strategy that would be both politically useful and patriotic in the right sense of the word. Messrs. Ford, Nixon, et al., get close to the issue every so often. But their obsession with more bombs and their fear of dealing with the vital questions have prevented them from attaining the role of responsible minority leaders by advocating a policy for peace

and suggesting an end to secrecy.

Perhaps the final irony in all this is that the most promising Republican heroes of 1964 became the disappointing mutes of 1965. The Scrantons, Rockefellers, Romneys, Percys and others have steered safely clear of this most vital issue of the '60s. Once again their reluctance has allowed the Old Guard to step into the limelight, thus dimming the hopes of progressive, thoughtful Republicans throughout the country. The war in Vietnam is likely to continue for a long time. The Johnson Administration will, if present and past tactics continue, be the legitimate target for responsible criticism. If the Republicans realize in time the potential of the opportunity that waits to be seized, there may yet be a serious struggle for the White House in 1968. As yet, this prospect is unlikely.

Strip-Mine Morality

THE LANDSCAPING OF HELL Wendell Berry

"No!" interrupted the doctor. "There is no peace and no rest in the development of material interests. They have their law, and their justice. But it is founded on expediency, and is inhuman, it is without rectitude, without the continuity and the force that can be found only in moral principle."

Joseph Conrad, *Nostromo*

I have had quite a bit of trouble with this. I know what it means. Our homes are being destroyed, our wildlife destroyed, our peace destroyed. . . . our dead rooted out of the grave.

Elder Dan Gibson of Fisty, Ky., at a hearing on new strip-mine regulations

Port Royal, Ky.

At Frankfort, Ky., last August 25 and October 4 and 5, there was a hearing on three new strip-mine regulations proposed by the Strip Mining and Reclamation Division of the Kentucky Department of Natural Resources. These new regulations were later adopted and put into effect, and now even stricter

measures are pending before the present session of the state legislature. And so there begins to be some evidence that the state government has at last undertaken a serious interest in one of the state's most urgent problems. But since they face a powerful and determined opposition, the supporters of Governor Breathitt's new legislation might do well to consider the attitude and the morality displayed by the mining companies at the hearings of last August and October.

The proposed rules, as was made clear, were based on the careful research of trained men. Their purpose was to control—if not stop, then at least reduce—the erosion and water pollution that have so far been the inevitable by-products of strip mining. The gist of much of the testimony of the division's expert witnesses was that the authors of the regulations had striven toward a maximum leniency. For instance, the table of standards that would regulate contour stripping of the steep slopes of East Kentucky was based upon a safety factor of one, which would assure control only under ideal conditions—the lowest possible safety factor. "To recommend a factor lower than one," a University of Kentucky pro-

fessor of Civil Engineering testified, "is to recommend failure." It was also stated, without contradiction by the coal companies, that of the 112 coal operations in East Kentucky all but twenty-two were at present working within the proposed limits as to extent of cut and degree of slope—which suggests that the regulations are lenient indeed.

But in spite of the minimal nature of the proposals, the opposition of the coal companies was inflexible and absolute. The company lawyers in their rebuttal made it clear that they would not be satisfied except by the defeat of even the least attempt to establish not only stricter controls but *any* controls whatsoever. They displayed no disposition to compromise, and no interest in discovering less destructive ways of mining. (Their witnesses indicated that the companies spend little or nothing on experimentation which might lead to less wasteful methods of extraction and reclamation.) The testimony of the expert witnesses who appeared in behalf of the companies was peculiarly clouded and disordered by the assumptions and intentions of the company lawyers, and by the testimony of several coal operators who also appeared as witnesses.

Wendell Berry is a poet, now living in Kentucky. His latest collection of poems is *The Broken Ground* (Harcourt Brace & World).

There was a very obvious intent to use scientific evidence to prove that the best method of mining is the one that is most profitable, and that the best method of reclamation is the one that is cheapest. There was much yielding to the temptation to present theory and opinion as fact, and to look upon the failure to discover a remedy as proof that there is no remedy

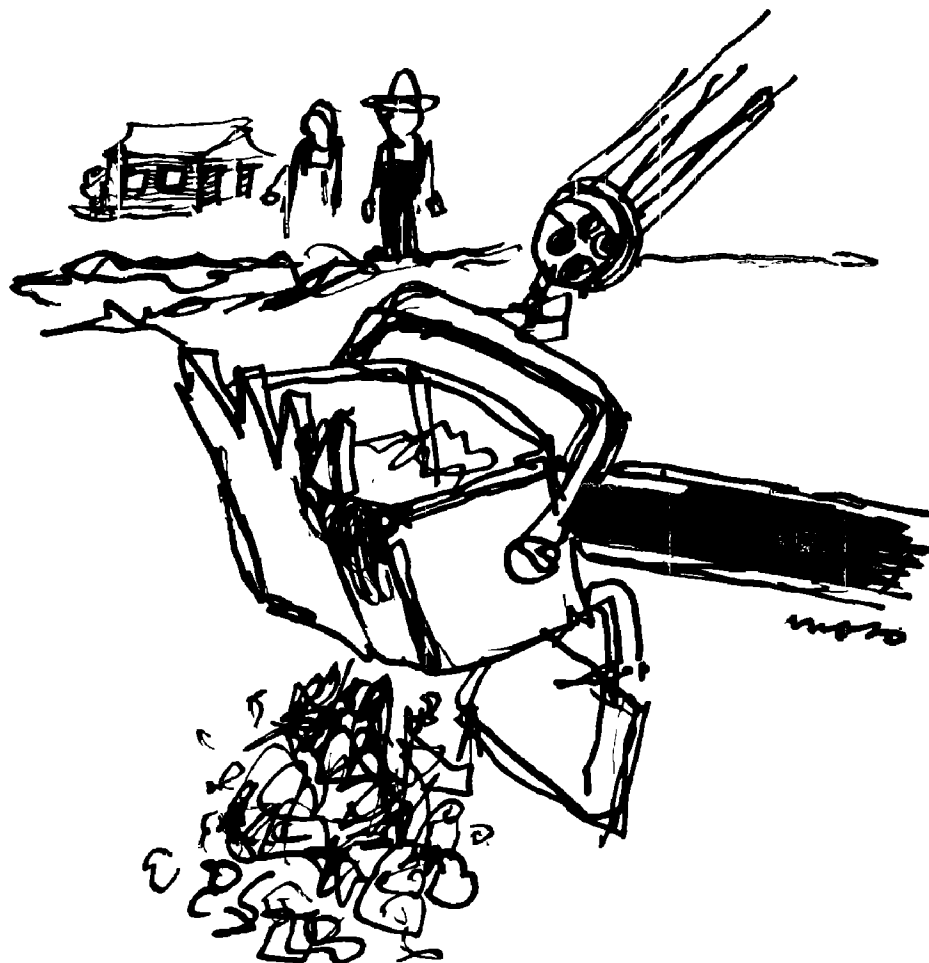
The testimony of one after another of the company witnesses turned on the same two arguments

(1) Any regulation that would reduce profit would be wrong; (2) control is impossible, in any case, because of the diversity of mining conditions ("every job is different"). I believe that most, if not all, of the scientists who testified for the coal companies repeated the second argument, as if ignorant or oblivious of the moral and legal—and scientific—implications. One of them, F. A. Braley of Pittsburgh, a former member of the Ohio River Valley Sanitation Commission, testified that there is not much that can be done about acid water from the mines ("a very minor factor as far as water pollution is concerned"): "Best thing to do is pay for the fish that you kill and forget about it." This was pronounced with an oracular glee unaccountable in a scientist. And one of the engineers admitted that he had got his figures, in connection with an alternative proposal which would favor the coal operators, from the coal operators.

Instead of the proposed maximums of a solid bench* width of 60 feet on a slope of 30 degrees, the operators almost unanimously asked for a solid bench of 175 feet on a slope of 35 degrees. At least one of them suggested regulations that, under cross-examination, proved to be not only more lenient than the ones proposed, but more lenient than the ones already in effect.

There was in the statements and questions of the coal company attorneys, and in the testimony of the operators, the unmistakable implication that anything can be justified by profit; that a man may own the land in the same sense in which he would own a piece of furniture or a suit of clothes, it is his to exploit, misuse or destroy alto-

* The "solid bench" is the horizontal plane of the cut in the mountainside.



gether should he decide that to do so would be economically feasible. The question of the morality of any practice, for these men, has been completely replaced by the question of its profitability: if it makes money it is good; if it makes money for *them* they are doomed and eager to defend it. Evident in the testimony of some was the assumption that the steep mountain sides, now being ruined on an almost unbelievable scale and at great speed, are good for nothing else.

In short, the strategy of the coal companies was simply to ignore or redefine the issue. The issue, so far as the division was concerned, was to determine how much control there should be. The coal companies hardly bothered to deal with that question. The issue they persisted in raising and speaking to was whether or not there should be any control at all.

At the close of the hearing one of the company lawyers rose to offer the "assurance" that, though the operators are working for profit, they do not wish to do so at the expense of the public welfare, or the welfare of their neighbors. They're concerned about the economic fac-

tor, he said, because they operate on a narrow margin of profit. There are a lot of irresponsible people in the coal business, he admitted, but he predicted reassuringly that those irresponsibles will bring about their own failure. He did not explain this process, presumably they will be dealt with by the same just and unerring Fate that so effectively deletes irresponsibility from the legal profession.

If the formalities and quibblings of the hearing room tended to diminish the urgency of the strip-mining problem, if the rebuttal of the coal companies seemed to imply that the issue of control was extremely debatable and surrounded by doubts, one had only to travel for a few hours on the back roads of East Kentucky to acquire a knowledge that would show the coal companies' self-justifications to be not only arrogant but vicious—and the division's proposals to be mild.

Standing at the edge of the bench of a new strip mine on the mountain in back of the coal camp of Hardburley, one can look down into a narrow cove at a house which might reasonably serve as model

and emblem of the predicament of the whole region. As mountain houses go, this is an exceptionally good one. It has been well cared for. There is a neat grassy yard with a hedge fence, and a garden. The slope above it has been planted in young pines—undoubtedly with the help of the federal reforestation program. One can see, even from the height of the mine bench, that a man has taken a proud stand there, has put into the place the long and dear investment of his attention and love and work and hope; that because of the expenditure of himself there he has come to be in that place what he would not have come to be in any other place on earth. And one cannot stand there looking down without some sense of the great value, the great human potential—beyond profit making and productivity, and all our other fashionable and belittling sociological measures—of that man's response to the demands and attractions of that place.

But overhanging the house on three sides is the spoil bank of the mine. When I was there—in dry weather, soon after the cut had been opened—the spoil was already beginning to slide. The rest of the story is sorrowfully predictable. As soon as the winter rains have soaked the ground, great masses of muddy spoil will begin to flow down the slope toward the house, destroying the timber and all the life of the mountainside as it comes. Since there is no natural law that protects the plantings and buildings of men, it is probable that the descending spoil will eventually destroy the stand of young pines, the garden, the yard and the house itself. Or if the slide stops short of the house, the acid water from the opened coal seam will get into the well and make it unfit to use. It will pollute and kill the stream in the crease of the cove; where it once ran clear and glittering over the rocks it will begin to slide over a residue of mine filth, yellow, greasy-looking, stinking, utterly dead. Waters farther down will be polluted in their turn. And following the pollution will come the rubble and mud, filling up the stream beds, increasing the hazard of floods, destroying the health and the beauty of whole valleys. If the man of the house is not forced to move out of the danger of the sliding spoil, if in spite of all he chooses to stay, then he will live in a place as ugly and desolate as

a city dump—the place, his life in relation to it, his hopes, his work, all as utterly destroyed as if bombed. And what then will his dreams be, and his hopes? How will he live then without a bitterness that will corrode and destroy him—and that none might dare hope would destroy only him?

Or one might drive up the valley road along Clear Creek at the foot of the same mountain—feeling the quietness and pleasantness of the pretty valley, and then coming aware of the presence in the tributary coves of the gray looming masses of spoil; coming aware that one is entering a doomed place—to see the story's end, not in prediction, but in fact: a house literally swept from the mountainside by a flow of mud and rubble from a spoil bank. And below the house, seeing the sterile earth and rock and splintered timber already cramming in to choke the little stream that runs there, one realizes that through its comely valley Clear Creek already runs as dead as a sewer.

Or one can travel the Little Shepherd Trail, recently built along the backbone of Pine Mountain to attract tourists to see the natural beauty of Kentucky. But even there if one wishes to specialize in natural beauty one dare not look to the east, for on that side, paralleling the Trail for many miles, the most prominent feature of the scenery is a huge strip-mine scar in the side of Big Black Mountain. After one looks to the east the mountains to the west will seem to stand precariously in the same storm light that surrounds the bison and the whooping crane. To look east is to receive the poison of a doom that one did not expect at all to come upon in the woods.

Most of the mineral rights in the Kentucky mountains were bought up sixty or so years ago, long before present mining practices had become imaginable, for as little as \$1 an acre. If the price were all that was objectionable in those transactions, that alone would be cause to suspect any good intentions ever professed by the coal companies. But that is far from all.

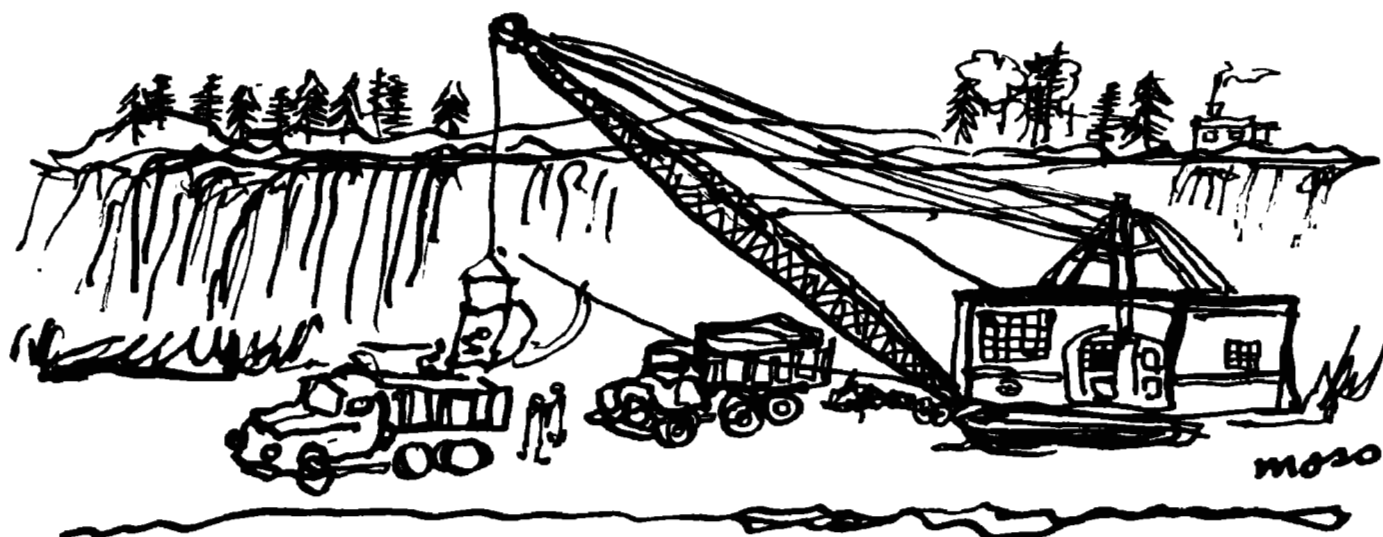
Most of these purchases were legalized by deeds which conveyed, in addition to the ownership of the mineral, the right to build such roads, tipples, pit openings, etc., as would be necessary to remove the

mineral from the property. The Kentucky courts—for reasons that may safely be left to the imagination—have until now held that this right implies the right to strip mine a person's farm or tract of timber without further payment. In other words, the surface rights on a piece of property, the mineral rights of which are held by a coal company, are now virtually worthless. At any time it pleases, the company may overturn the surface and whatever is on it—timber, croplands, buildings, roads, graveyards—without paying compensation or damages. And the point is not that this is legally possible, but that it is *being done*. Now, in the mountains of East Kentucky, it is common practice. The following complaint, printed in *The Hazard Herald* on September 30, is not unique, but typical:

... they brought a scraper and pushed red dog from the road over into my garden and yard. When I got after them about this, they promised to get the red dog off my property and to replace my fence. My fence and fence posts are still lying flat on the ground where they left them. . . . One of their bulldozer operators unloaded his bulldozer right in the edge of my yard, drove it over a weeping willow tree that was about fifteen feet tall, breaking the tree off level with the ground. The men . . . told me that this . . . operator had been shell shocked in the war so he didn't know any better. So one cannot help wondering if all of these men have been shell shocked as none of them seems to have any respect for the other man's property. Next, the culvert at Jack's Branch was stopped up, by mud, rocks, and trees . . . and flooded my barn, my pig pen, washed away a large stack of lumber, and washed out my chicken lot.

You can call their representative about all of this, and he tells you he has nothing to do with it. . . . Finally I managed to get a couple of calls through to this operator, but he practically makes fun of me for trying to get him to take care of the damage he has done to my property. I wonder what this man would do if someone treated him in the way he has treated me.

When the hearing was being held at Frankfort, a number of boulders (as large, it was estimated, as 60 tons) were allowed to roll off the bench of a strip mine into the vicinity of homes; three families were forced to move out for a time to avoid the danger. No warning had been given. (An officer of the com-



pany whose mine this was, testifying in Frankfort, said that it was "possible" that such incidents might have taken place, but he could not "remember" that any had.) At about the same time similar boulders were rolled across a county road at a time when a school bus might have been passing, again without any warning to anybody. One afternoon a housewife discovered, only by accident, that a blast was to be set off in a strip mine immediately above a road which a school bus would soon be traveling, and was able to call the principal in time for the children to be kept at school until the danger had passed.

The mining companies, then, have made it abundantly clear that they will destroy anything, they will stop at nothing, so long as the result can be inked in black on their accounting sheets. They have been abetted by the mischief and greed of local officials, by public indifference, by state paralysis, by federal cross-purposes and confusion. Against them there has been only a local organization of small landowners, The Appalachian Group to Save the Land and the People, headed by Leroy Martin of Hazard.

It has become plain that if there is to remain any hope at all for the region, strip mining, at least in its present methods, will have to be stopped. Otherwise, all the federal dollars devoted to the region's poor will have the same effect as rain pouring on an uprooted plant. To recover good hope and economic health the people need to have their land whole under their feet. And much of their land, seemingly beyond the reach of the bemused and fumbling powers that might have

saved it, has already been destroyed.

To destroy a forest or an ecology or a species is an act of greater seriousness than we have perhaps yet grasped, and it is perhaps of graver consequence. But given even a comparatively short time, these destructions will mend. The forest will grow back, the natural balances will be restored, the ecological gap left by the destroyed species will be filled by another species. But to destroy the earth itself is to destroy all the possibilities of the earth, among them the possibility of recovery. The land destroyed by strip mining is destroyed forever; it will never again be what it was, it will never be what it would have become if let alone. Such destruction—which can now be accomplished on a vast scale by a few men in a short time—makes man a parasite upon the source of his life; it implicates him in the death of the earth, the destruction of his meanings. Those men who send the bulldozer blades into the mountainsides bear the awesome burden of responsibility for an act that no one can fully comprehend, much less justify.

And though violence to the earth must seem in the long view to be the gravest of their offenses, one is no less troubled by their violence to justice. For do not all our rights have as their ultimate expression and meaning the right of a man to be secure in his own home? When this right is no longer defended by any power greater than himself, his days begin to come to him by accident, in default of whatever caprice of power may next require his life. When the possessions and households of citizens are no longer honored by the acts, as well as the principles, of their government, then

the concentration camp ceases to be one of the possibilities of human nature and becomes one of its likelihoods.

The new strip-mine legislation that Governor Breathitt is asking the 1966 legislature to pass would, according to the *Louisville Courier-Journal*, "come close to making the coal companies leave the land in the shape they found it." It would require that, in mining operations on steep slopes, the overburden be piled back in the cut, rather than pushed down the mountainside; it would promote an interstate strip-mining compact to create uniform controls among the states; it would stop damage to private property, and in other ways limit the surface destruction.

Today, before the enactment, and enforcement, of this legislation, some skepticism is still in order, but one must be encouraged by the apparent willingness of the Governor to risk measures based on an honest evaluation of the need. The new bills, if they are not so strict as some might have liked, are nevertheless more strict than might have been expected. They are too strict, they too willingly risk a bitter fight and the making of powerful enemies, to be merely a gesture. And so, in a state where political conflicts tend to be purely political, these bills give reason to begin to hope.

What is particularly hopeful about them is that they seem to be an effort by the state to pre-empt its own political and moral ground. If they are passed and enforced, we may be spared the necessity of a federal solution. And that—in a time when the federal government

is often not only the ultimate authority but also the most immediate—is a most pleasing prospect.

No one, I think, welcomes the intervention of federal power in the affairs of a state, except as a last resort. That seems the crudest of solutions. It is not a moral solution at all. In being forced to do what is right, men lose the dignity of being right. The right itself is debased as an aim and incentive.

A state solution to the strip-mining problem is, of course, less desirable than a personal solution. One wishes that the *persons* who own the mineral rights and run the mines had taken for themselves the prerogative of responsible and just behavior. If they had been willing to govern themselves strictly enough, it seems unlikely that they would now face the prospect of *being* strictly governed. But a state solution is, by the same token, more desirable than a federal one. The closer to home the correction is made, the better it is—the more moral it is.

Mining interests will, as a matter of course, bitterly oppose the new laws. They can be expected to argue, as they have before, that further controls will seriously impair the coal economy, and that to impair the coal economy will be to impair the economy of the state. Their moral poverty is shown by the fact that this, their principal argument, has already been publicly discredited. It is now generally known that, while their profits are enormous, their contribution to the state's economy is small. Their property taxes, for instance, are notoriously low, and Kentucky has not imposed a severance tax. That in the last three-quarters of a century coal worth billions of dollars has been mined in East Kentucky, with the result that the region is now a "depressed area," ought to testify sufficiently to the real nature of the coal industry's contribution to the state's economy.

Another danger, not so much to the passage of the legislation as to its ultimate effectiveness and meaning, may lie in the idea of "control." There is a possibility that the legislation can have its fullest meaning only as an intermediate step, leading toward a law that will abolish strip mining altogether. Nagging at the hope aroused by the Governor's bills is the fear that the idea of controlled destruction may be as

much a rationalization, as potentially a delusion, as the idea of limited war.

Still another danger is the possibility that the proposed laws will be looked on simply as a local solution to a local problem. Their importance seems to me to be much greater than that. They represent what may be the most advanced effort on the part of a state to deal with the problem of strip mining. But more significantly, they are part of an effort, still young and faltering, to correct our abuses of the earth. They are part of an awareness that the earth belongs not only to us but to our children. They take a stand against a crippling and peculiarly modern discrepancy between power and principle, the predicament of men whose use of the most powerful machines is governed by a morality that would be barely adequate to the use of a team of mules. The strip-mine issue brings to light only one of many monstrous possi-

bilities created by the selfish use of principle—which is to say, contempt for principle—and by a moral climate in which a man can be, without discomfort to his conscience, *only* a coal operator, or *only* a doctor or *only* a general.

In attempting to control the local activities of a few men, Governor Breathitt and his supporters have become, in fact if not by intention, the opponents of a widespread and widely respected set of attitudes toward life and toward the earth: the assumptions, inherited from the frontier, that the natural world is an enemy to be conquered and exploited, and that its riches are inexhaustible, the identification of economic license with political freedom, and the corollary that a free man is somehow morally obligated to get rich, his worth directly proportionate to his wealth, the willingness to be subsidized by posterity, to become rich at the world's expense.

LETTERS

(Continued from inside front cover)

Siglo XXI. There is hope, then, that there will be a Spanish edition of *Pedro Martinez*. And if *The Children of Sánchez* created an uproar, *Pedro Martinez* may produce an earthquake.

M Tejada

Adequate counsel

New York City

Dear Sirs: I sympathize with Margaret A. Fellows' defense of the memory of Emanuel Bloch, attorney for Julius and Ethel Rosenberg (letters column, *The Nation*, Dec. 27). It usually serves no purpose to slur anyone's memory, especially of one who, like Bloch, went through so much agony in a fight against overwhelming odds.

However, Fred J. Cook, in his review of *Invitation to an Inquest* makes a valid point, as the trial minutes in the Rosenberg case show. *Gold was not cross-examined*. It is incredible to any attorney versed in the trial of criminal cases that this should have occurred. Contrary to what Miss Fellows states, cross-examination of a witness does not depend on whether you have evidence which will contradict the testimony given by the witness. The purpose of cross-examination is to attack the witness' credibility. Since Gold left the stand without being cross-examined, the jury was permitted to believe that Gold's story was true.

Although we cannot undo the Rosenberg result, we must understand that

every defendant needs adequate counsel, not *any* counsel. This understanding is of prime importance today in view of the trend to provide indigent defendants with counsel paid by government. Such counsel should be experienced, independent, and possessed of the necessary determination to fight for their clients. Otherwise, we shall continue to witness the conviction and punishment of innocent people.

Samuel B. Waterman
Attorney at Law

Right to petition

New York City

Dear Sirs: Your readers might be interested to know of the difficulties I have encountered in trying to circulate the Freedom House petition, which supports the American commitment in Vietnam, at the New School for Social Research where I am a part-time student. . . . The New School just plain forbids me to collect signatures for this petition in its lobby, although analogous privileges plus the use of meeting rooms are generously bestowed upon the New School Radical Union and the New School Committee to End the War in Vietnam. . . . Currently I am pinning my hopes on the Civil Liberties Union, which has kindly interested itself in this matter, to restore the New School to the path of righteousness.

Jules Sandock

The NATION

Copyright of Nation is the property of Nation Company, L. P. and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.