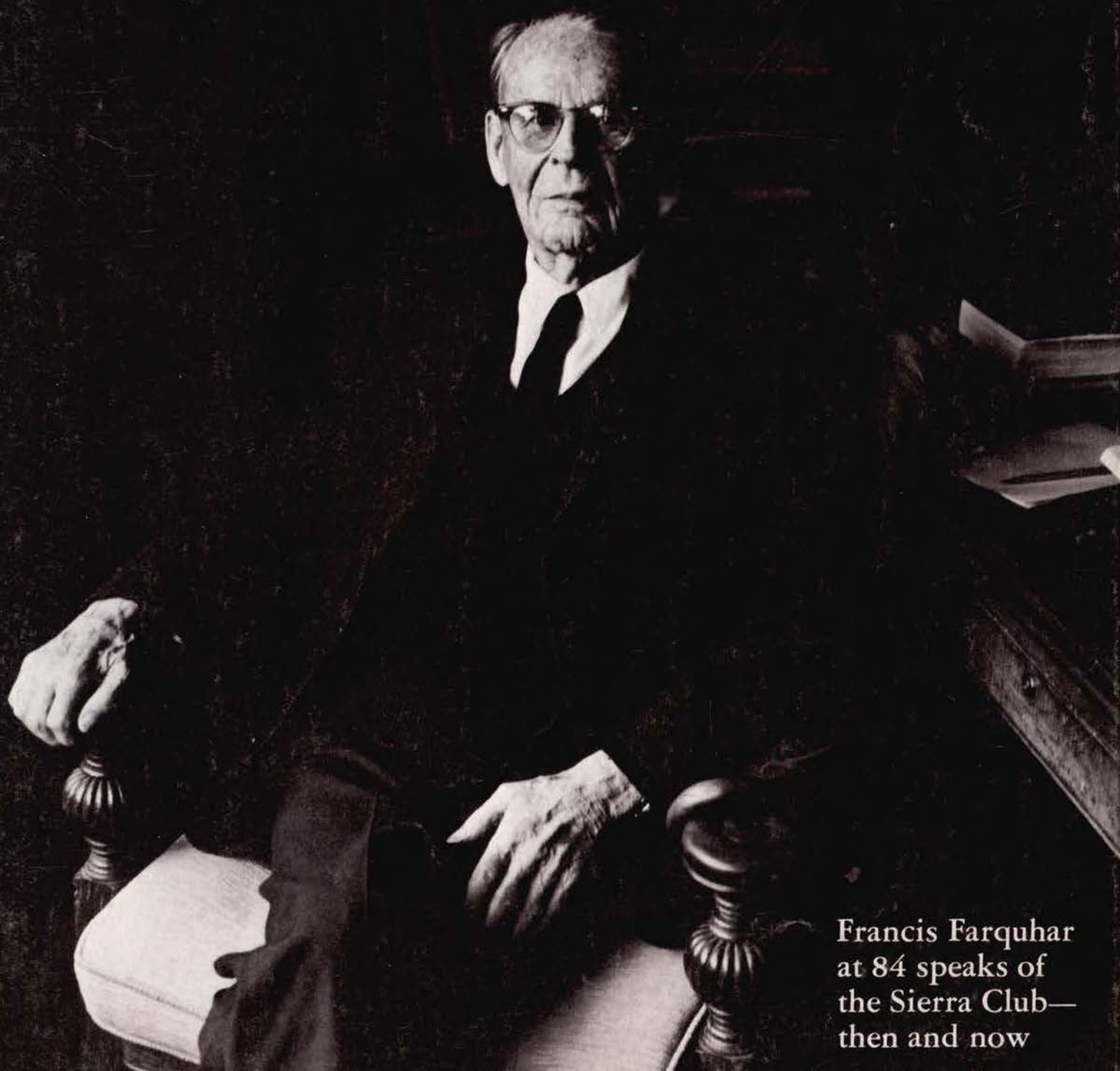


Sierra Club Bulletin

JUNE 1972



Francis Farquhar
at 84 speaks of
the Sierra Club—
then and now

Among the Sioux, there was a different rite later, after the buffalo were gone and the sun was no longer enough on which to fix one's faith. The whites called it the Ghost Dance. They feared it, too, because it held that the ghosts of the dead were at large to help the living in the Indians' hour of need. It was said then that the one known as Christ had appeared in the light of a campfire. The Indians at the campfire examined Christ and saw the scars on his wrist and forehead, but those on his feet they could not see, for he was wearing moccasins. Then the one called Christ said he would tell the Indians about their relatives who were dead and gone, and he would teach them how to dance. And the Indians danced, and they were told that if they wore a sacred shirt like Christ's—the Ghost Shirt—then nothing would hurt them, not even bullets. All the Indians had to do was dance and sing and wear shirts, and the buffalo would come back and their dead friends and relatives would return and, best of all, the white man would disappear. There would be no violence. The Messiah would come. And everything would be the way it should be again.

But nothing was ever the way it should be again. Neither the buffalo nor the dead—not Crazy Horse, or Red Cloud, or Sitting Bull, or Gall, or Spotted Tail—would ever return. And there would be violence of a most dreadful kind on the fourth day of Christmas in 1890, when the ghost shirts were raked by the Hotchkiss guns and the bodies froze where they fell in the gully at Wounded Knee. And the Messiah? The Messiah would come later, and he would be known as the man from the United States Bureau of Indian Affairs. . . .

Of the nearly five million acres in the Dakotas officially recognized as Sioux lands, the tribes control barely one half. There was a time when the Sioux did not miss the other half. They still had the rich Missouri River bottomlands for hunting and for raising crops on thick aprons of fertile alluvial loam. But now much of that is gone as well, drowned under the waters of artificial reservoirs. The reservoirs—and the dams that impound them—are called multipurpose facilities in the argot of the white engineer. And out of the benefit ratio comes flood control for downstream cities, hydroelectric power for the entire region, and outdoor recreation on Sunday afternoon for white middle-income plainsmen who can afford such things as motorboats and trailers and folding chairs and hibachi's. And the Sioux look out from the plains to the great chain of lakes where the hunting was best in the time when the river ran free. The sun hangs red in the west, but there is nothing to worship.

from *Floor of the Sky*



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Sierra Club Bulletin

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Cover: Francis Farquhar seated in the library of his Berkeley home following an afternoon of interviewing by Dave Bohn in April. His observations on the Sierra Club, past and present, begin on page 8. (Photo by Dave Bohn.)

Founded in 1892, the Sierra Club works in the United States and other countries to restore the quality of the natural environment and to maintain the integrity of ecosystems. Educating the public to understand and support these objectives is a basic part of the club's program. All are invited to participate in its activities, which include programs to "...study, explore, and enjoy wildlands."

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Native Mollusks—



Helminthoglypta arrosa, a widespread snail of central and northern California.

little known and little loved

ROLL OVER an oak log in the limestone belt of the central Sierra Nevada, between Tuolumne and San Andreas. Or poke in the humus under a salmonberry thicket on the California north coast. If the season is right, temperature and moisture conditions correct, you may find, clinging to the decaying bark or nestled among the leaf litter, one of the country's silent, aboriginal residents: a native snail.

This discovery may or may not excite you. Most people think of snails as garden pests, unpleasant creatures to be squashed underfoot or killed with snail bait; and it is true that certain snails and their shell-less cousins, slugs, do thousands of dollars' damage annually to crops and gardens. Less commonly known is the fact that virtually all commercially important snail and slug pests are *introduced* species—kinds which naturally inhabit other parts of the globe but have hitchhiked here, generally unnoticed at first, with the comings and goings of man. This is a continuing process, and potentially troublesome species are still intercepted regularly by inspection and quarantine officers.

Far less familiar is the large and diverse fauna of mollusks native to North America (*Mollusca* being the great phylum of animals which includes snails, slugs, clams and squid). Each climate-zone and floristic province is inhabited by a characteristic group of mollusks. In the rivers, lakes and streams, particularly those of the eastern half of the continent, live roughly half the known species of river snails and half the known species of naiads (freshwater clams) in the world. Popular opinion correctly associates snails and slugs with damp, shady places; but the deserts of the western United States support a unique and

highly interesting snail fauna. Some of the desert species live in a state of suspended animation for most of the year, becoming active only during the brief seasonal periods of rainfall and subsequently raised humidity. They are of interest also as "relict" species—the scattered survivors of more favorable conditions in geologic ages past. Between the extremes of desert and boreal zones live most of the North American native mollusks, some species ranging over considerable distances, others narrowly restricted.

In contrast to the introduced mollusk pests, the native varieties do practically no damage to cultivated plants. Conversion of land to agricultural use, in fact, is likely to eliminate them from a district. Having evolved in natural, undisturbed habitats, they prefer, and generally require, the specific combination of environmental factors which only an undisturbed biotic community provides. The delicate and beautiful snail, *Helminthoglypta allynsmithi*, for instance, has been found only in a few mossy rockslides in the canyon of the Merced River below Yosemite National Park. It occurs there because the particular combination of shade and exposure, temperature, moisture, soil chemistry, and vegetation is to its liking. The choice rockslides are "islands" in the midst of territory which, at least under present climatic conditions, is uninhabitable to the species; and the snail does not have the ability to pack up and migrate to other places which might be suitable—even if these do exist, some miles away. Obviously, construction of a highway through the rockslides, or quarrying for their stone, would work great hardship on *Helminthoglypta allynsmithi*, and probably bring about its extinction.

It is fortunate for most native snails

that they do go generally unnoticed. Pressure from amateur herpetologists has brought many similarly narrow-ranging reptiles and amphibians to the brink of extinction. A few species of snails which, because of their attractive coloring and form, have attracted the attention of hobbyists, have been nearly wiped out by intemperate collecting. The Florida tree snails of the genus *Liguus* are the most notable American examples. These too are restricted to small geographic areas, in this case the hardwood groves known as "hammocks" on the Florida Keys and southern mainland. *Liguus* is known for distinctive banding patterns on its conic shell; all specimens in a particular hammock may show the same pattern, or there may be different patterns present. The extinction of certain color forms has been documented.

As the speed with which man changes the American landscape increases, simply noting the presence and location of certain rare or narrowly endemic species of mollusks will not be enough to save them from extinction. A case in point is that of the freshwater clams, or naiads, which at one time existed in great numbers and variety in the waters of the Mississippi and southeast coastal drainages. These were discovered by pioneer naturalists and thoroughly described and named, their ranges for the most part well charted. In these areas, man has worked such great changes on the habitats that from 40 to 50 percent of the naiad species living in those streams and rivers are considered in imminent danger of extinction. Dr. David H. Stansbery, a malacologist at the Ohio State University Museum of Zoology, has summarized the processes at work here in the following account:

"With the initial clearing of the

forests and tilling of the soil great quantities of humus-rich topsoil were washed into our streams. This loss to early agriculture was also a loss to stream life through a reduction of dissolved oxygen and an increase in organic acids. The removal of topsoil decreased the ability of the land to hold water, hence producing greater floods in the wet seasons and dryer droughts in the dry part of the cycle. . . .

"The fine silts and clays which followed the topsoil into our streams may well have had a smothering effect on some species by the simple effect of clogging of gills. . . . In the early days the rivers were commonly the direct recipients of lumbermill sawdust, brewery slops, and slaughterhouse refuse. With the coming of community sewage systems, raw domestic sewage was added without benefit of treatment. The discovery of new energy resources in the form of coal and petroleum led directly to an upsurge of technology and a mushrooming of industry. Not only did the mining and drilling operations add new pollutants in increasing amounts to our waters but the industries they supported contributed a whole new spectrum of soluble and insoluble wastes to our already overloaded rivers.

"The advent of the chemical pesticide industry over the past 20 years has given additional cause for concern since the bulk of most of these toxins are washed into our streams."

A natural watercourse is a complex system, fostering varied habitats and supporting a diverse fauna. Stream channelization and damming simplify the pattern, reducing some habitats and eliminating others outright. Thus fewer species of animals can survive. Commerce has taken its toll of the naiads too; from the 1890's until after World War II they were harvested for the production of pearl buttons. More recently, pellets cut from their shells have been used as nuclei of cultured pearls. Placed in the tissues of a Japanese pearl oyster, the pellet accumulates a coating of pearl. Capture of naiads for this purpose has depleted one species after another.

No mollusk of North America has yet appeared on the Department of the

Interior's official Endangered Species roster—in fact, no American invertebrate of any kind is listed. But many species, both terrestrial and freshwater, are as definitely endangered as the more publicized California Condor or Trumpeter Swan. A recent tabulation listed 11 naiad species known to be extinct, and 213 species of freshwater mollusks considered "rare and endangered." Of these latter species, 82 are snails and 131 are clams. A study now in press, sponsored by the Sierra Club Foundation, turned up 127 species of terrestrial snails and slugs in California which also can claim the dubious distinction of being "rare and endangered."

Until recently, mollusks, and invertebrates in general, have been animals without advocates. They have, however, had their enemies, both in the field and in the lobbies—if not the actual halls—of government. The exclusion of the entire class Insecta from the Endangered Species Conservation Act of 1969 can probably be laid to pressure from the pesticide industry, which did not want the responsibility for vanishing species of butterfly laid on its carpet. Mollusks, however, are specifically included in the act, and the Office of Endangered Species and International Activities of the U.S. Fish and Wildlife Service, with the assistance of the American Malacological Union, is maintaining a tentative list of endangered native mollusks. With interest rising in the preservation of ecosystems—rather than just the management of conspicuous species of animals—this list is sure to be enlarged.

The precise definition of "rare and endangered" is not yet a matter of general agreement. Every species, and every group of animals or plants, of course, presents its own particular problems. Given the intense pressure which industrialized mankind places on the environment, rarity of a species is likely to equal endangerment. Anything with a very restricted geographic range can be wiped out by a single housing development or mining operation. But certain relatively common species are also endangered. The *Red Data Book* of the International Union for Conservation of Nature and Nat-

ural Resources lists and defines, among others, the following categories:

Endangered. In immediate danger of extinction. Continued survival unlikely without implementation of special protective measures.

Rare. Not under immediate threat of extinction, but occurring in such small numbers and/or in such a restricted or specialized habitat that it could quickly disappear. Requires careful watching.

Depleted. Although still occurring in numbers adequate for survival, the species has been heavily depleted and continues to decline at a rate which gives cause for serious concern.

Obviously, since changes in the landscape take place with great speed, a species could move from the rare status (or no status at all) to the endangered status overnight; the opening of a new chemical plant upstream from the territory of a localized species of naiad could do this effectively. Clearly, continued monitoring of the status of various species is necessary; and official lists and data books are merely tools to help the procedure.

A new concept of sanctuary, if it were to gain official acceptance, would help the picture. Land set aside as ecological reserves can sustain the native mollusks living there. Designation of molluscan habitats as ordinary game refuges or public recreational areas will not suffice. The management of marshland for the benefit of waterfowl, as in one instance uncovered by the Sierra Club Foundation study, may as a side effect exterminate terrestrial mollusks originally living in the area. Several species of rare snails, considered during the same study, inhabit national parks and monuments; but parks concentrate vacationers in much the same way that a hospital concentrates illness. The needs of a snail, and of a natural biotic community, are different from those of a game animal alone, or of a vacationer, and a different sort of refuge is required.

The story of man's alteration of the landscape is largely a story of simplification and the loss of diversity. Mollusks have been on the earth for 600 million years. Major groups of North American land snails have been present on the continent at least since the Upper Cretaceous period, some 80

million years ago. During their stay they have diversified and proliferated to occupy the various habitats open to them—from hardwood groves in Florida to high-altitude forests in the mountain states and the arid mountain ranges of the Mojave and Colorado deserts. The combination of ecological factors which enables a given

species to inhabit a given place usually represents a delicate balance. The ecologist Kenneth E. F. Watt has recently written, "An argument for preserving anything, particularly something rare, often turns out to be an argument in disguise for diversity." The argument for preservation of our mollusk fauna is a perfect example.

And in the case of mollusks, preservation means not merely leaving them alone, but arresting the processes which cause deterioration of their habitat. In saving snails, slugs and clams, we shall be saving a good many other things, too, not the least of which may be the vital diversity of the natural world.



Above: Only a few rockslides near Yosemite National Park are home to endangered *Helminthoglypta allynsmithi*. Above right: *Helminthoglypta arrosa miwoka*, unique to the Point Reyes Peninsula where grazing has reduced its available habitat. Right: *Monadenia hillebrandi*, from the canyon of the Merced River where either highway or dam construction could endanger its existence. Below: A shade-loving snail from the Santa Cruz Mountains, *Helminthoglypta exarata*. Below right: An immature specimen of the curiously "hairy" *Monadenia mormonum hirsuta*, restricted to a few outcroppings of basalt in Tuolumne County, California.



Barry Roib is a biologist and free lance writer. He specializes in malacology.

Francis Farquhar at 84 speaks of the Sierra Club—

Francis Farquhar and I did two tapes, each of them about an hour, on two consecutive days. Prior to beginning the first tape, I rambled a bit, to let Francis know what direction his reminiscences might take. That is, it was not that a history of his twenty years as editor of the Sierra Club Bulletin was wanted, but rather some thoughts on what the Sierra Club was in earlier days as opposed to what it is now; what continuities, if any, could be traced from those days on through to the present. The two sessions with Francis were quiet ones in the Farquhar living room, and only two extraneous sounds are heard on the tapes. The clock chimes musically and lends an additional sense of time to Francis' voice. Also, three times the cat jumped onto the middle of the recorder, and yowled when I kicked her off the couch. But all those sounds, and all the questions from me have been edited out. The words are entirely Francis Farquhar, although rearrangement of the tapes was necessary because we skipped around some, and came back to a number of things on the second day.

*Dave Bohn
Glacier Bay, Alaska
April, 1972*

CERTAINLY there is a distinct difference between the Sierra Club as it was in the 1890's and the first part of this century, and what it is now. It's just a different Club, but the seeds of its present activities were there in the beginning and it was from those seeds that the Club sprouted and grew, and it was adherence to the high ideals that made this possible.

My view of it depends very largely on personalities and I was fortunate in knowing the leaders of the Club, or most of them, from the beginning. I met John Muir once in Will Colby's office and had a little talk with him but can't say that I really got acquainted with him. I never was in the field with him. I joined the Club in 1911, and Muir had been on the outing in 1909 and was still active in the Club for the next few years, but the people I knew,

were Joe LeConte (Little Joe, as we called him), J. N. LeConte, Will Colby, William Badé and Walter Huber, Duncan McDuffie, Bob Price, and a few others of that caliber. It is about their influence on the Sierra Club that I'd like to speak.

The Sierra Club was founded in the early nineties by a remarkable group of men, mostly from the University of California and Stanford. The intellectual quality of the members was high, and they in turn attracted others so that we had, at that time, a strong national membership. It was these members who established the ultimate ideals of the Club. John Muir was, of course, the recognized leader and was ably supported by such people as J. N. LeConte, Vernon Kellogg of Stanford, and David Starr Jordan of Stanford, among others. In 1910, I came out

from the East, my first trip out of New England, and fell in love at once with California's High Sierra on the 1911 outing. Not only the character of the country itself, but the people associated with it, convinced me that this was the place I wanted to live for the rest of my life, which I have done. My recollections of the leading members of the Club in those days are still very vivid.

Will Colby was one of the strong influences in my life, and I shall ever be grateful to him for his kindness. He was a professor of Mining Law at the University of California and a disciple of Curtis Lindley, who was considered a leader on that subject. Colby was a devoted follower of John Muir, and never failed to bring up Muir's name in any talk that he gave to members of the Club. His wife was Rachael Vrooman, who was also a lawyer in her own right, and once in a while when Colby was unable to give his lectures at his law classes in Berkeley, she substituted for him. A remarkable team.

In the 1890's, the Sierra Club's first decade, the exploring of the great river systems was the main feature. These efforts were distinguished by Theodore Solomons, who pioneered in the exploration of the headwaters of the San Joaquin River. My estimate of Solomon's work appears in my *History of the Sierra Nevada*. It was not quite as conclusive as he himself considered it, but his pioneer work was followed advantageously by others, especially J. N. LeConte. Walter Starr was also a pioneer in this exploration

Francis Peloubet Farquhar belongs to the great tradition of the American conservation movement. Like Colby and LeConte before him, he is a man distinguished in many fields, yet one who has perhaps left his most lasting mark in his expression of his love for the Sierra Nevada and his work with the Sierra Club. He edited the Sierra Club Bulletin for 20 years, served as president of the Club in the mid-1930's and the late '40's, and was made honorary president in 1969. He won the Club's John Muir Conservation Award in 1965, and for his writings on the Sierra earned the California Historical Society's Henry B. Wagner Medal in the same year. The History of the Sierra Nevada (1965), Yosemite, the Big Trees and the High Sierra: A Selective Bibliography (1948), Place Names of the High Sierra (1926), his many articles for the Bulletin and other publications, and above all his personal example have inspired generations of Californians. In recognition of the scope and importance of his contributions, the University of California awarded him an honorary Doctor of Laws degree in 1967.

then and now

but he did not come into active leadership of the Sierra Club until long afterwards, when he became one of my closest friends.

Quite early it became obvious that the Club should have a publication, and it began under the editorship of Professor J. Henry Senger of the University of California, one of the real founders of the Club. Also, the Club fortunately invited Charles A. Murdock, one of the pioneers of fine printing in California, to do the printing of the initial *Sierra Club Bulletin*. Murdock had the highest ideals of typography, and this was centered around simplicity, a quality that characterized the *Bulletin* for the next 25 years.

Later, because of larger press runs, the *Bulletin* became more of a "manufactured" product. When Murdock retired, the printing went into the hands of his successor, the Blair Murdock Company. Blair tried to carry on with the earlier quality, but not quite successfully. When I came into the editorship of the *Bulletin*, I was already interested in typography, largely through the leadership of my younger brother Sam, who established the University of California Press in its modern character. I had become acquainted with Taylor and Taylor, who were the successors of Charles Murdock in fine printing in California, and I brought the *Bulletin* into their offices and it continued there for some time.

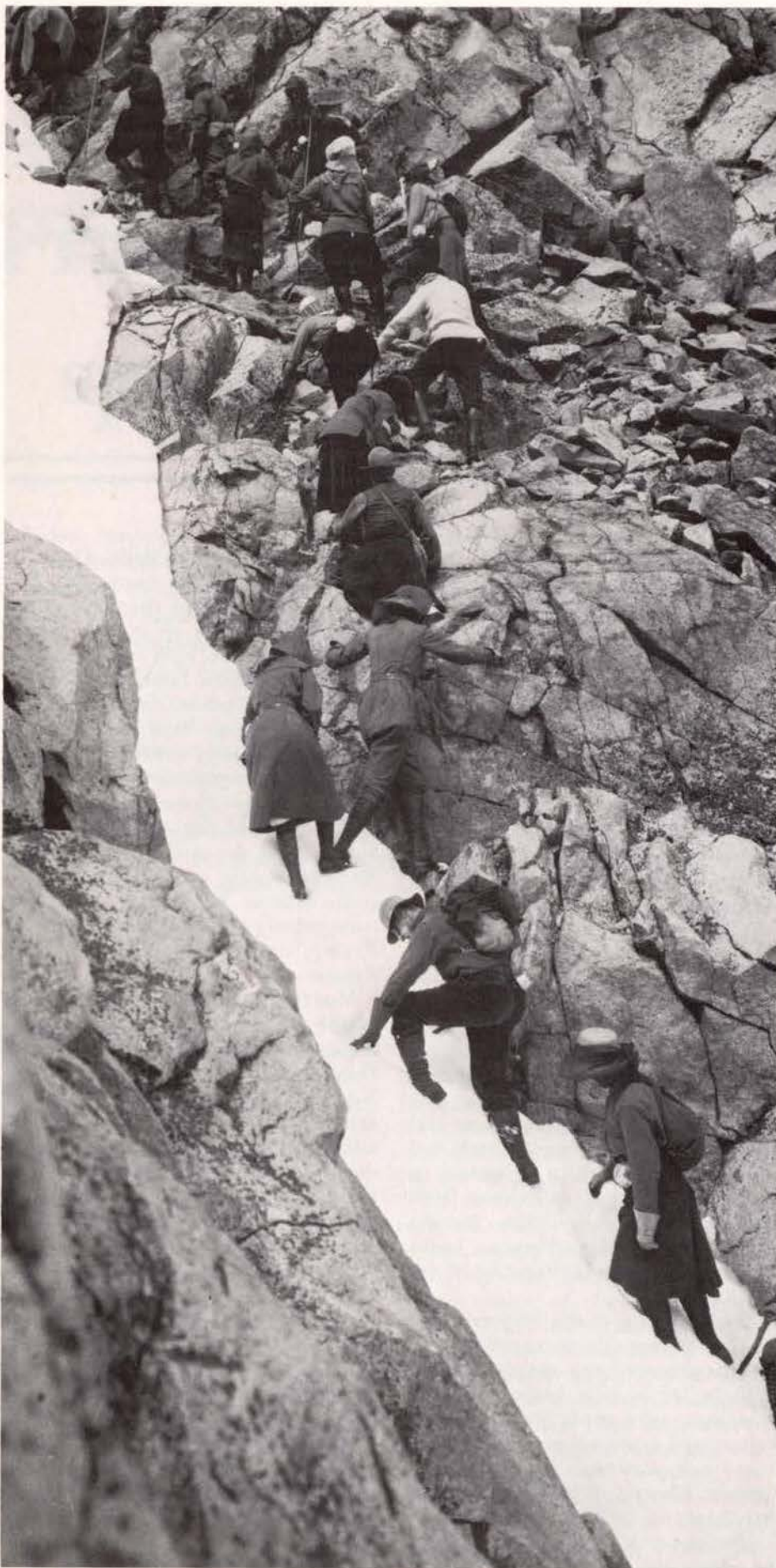
My own personal connection with the *Bulletin* came after the summer of 1911, which was my first summer outing with the Club, during which I was

invited by Will Colby and Bob Price to join them on a pioneer ascent of Milestone Peak on the Kings-Kern Divide. I did not join in the writing of the story of that ascent, but I did take a photograph which appeared in the *Bulletin*, although I think my picture of Tower Peak, in the Yosemite region, was my first contribution. At all events, I did not join the writing until a little later. Badé was then the editor, and throughout his long period of editorship he brought the *Bulletin* to be one of the finest mountaineering publications in the country. Badé was an extraordinary man. He was educated in Pennsylvania in the Moravian pastorate, and was active in the Pacific School of Religion in Berkeley. He later produced one of the great contributions of Sierra Club literature, *The Life and Letters of John Muir* in two volumes. In contrast with this was his work on the Old Testament and the life of today. Later on he conducted archaeological work in Palestine. In the early numbers of the *Bulletin*, Badé was ably assisted by Miss Marion Randall, later Mrs. Parsons, who added much to the high quality of the publication.

The character of the leadership of the Club in those days was reflected in the character of the articles in the *Bulletin*. In the very beginning contributions were made by competent writers and later on we had articles from such distinguished writers as Stewart Edward White. But in the early years of the Club as reflected in the *Bulletin* articles, three figures stand out above the rest; Will Colby, Joe

LeConte and William Badé. Their influence continued for many years and really established the character of the Club. There were of course others from time to time, such as Bolton Coit Brown of Stanford, James Hutchinson, Theodore Solomons, and later on, Vernon Kellogg and David Starr Jordan. The early articles dealt primarily with exploration of the river systems and with the opening up of the unexplored regions of the High Sierra. Also, the early numbers of the *Bulletin* usually carried one or two contributions by visiting members from other regions, for example Van Trump, one of the pioneers of Mt. Rainier.

Mountaineering was another feature of the early-day articles, particularly the exploits of J. N. LeConte and Jim Hutchinson. In 1903 they climbed the North Palisade, which was a notable achievement then, and I would like to add the name of another member of that party, James K. Moffitt, who was a California banker. Another outstanding event in the history of mountaineering in the Sierra Nevada was the first ascent of the east face of Mt. Whitney in 1931. I was with the party that approached the face, but was overtaken with a temporary illness and had to wait while the others made the ascent. It was accomplished by a group of remarkable mountaineers. The older ones were Norman Clyde and Robert Underhill of the Appalachian Mountain Club, but they were ably supported by some younger Sierra Club members, notably Jules Eichorn and Glen Dawson. They climbed with



precision and always with the belays necessary for safety. I recovered enough to go up what we call the mountaineers route, which was rather to the right of their route, and got up there just before they did. There were some Boy Scouts on top, who had come up by the ordinary route, and I asked if they had seen anybody come up over the east face. They answered that nobody could do that because it was a precipice. Just then Jules Eichorn popped his head over the top and refuted the boys' statement.

But the men I have been mentioning were not only interested in the physical activities of the Club. They were also much concerned in the objects of the Club, one of which was the development of the conservation movement. The concept was not nearly as widely recognized as it is today. The natural resources then seemed to be unlimited, and only beauty spots were the ones that needed to be preserved. But as these beauty spots became occupied by hotels and campsites, it became apparent that a much wider range of preservation was necessary and I think that the Club took the leadership in that area. It was not any change in the thought, but rather a development and expansion, and I think that the influence of the early leaders and so many others who were associated with them at the time. Thus, the Club was active in establishing the Yosemite National Park and the Sequoia National Park, which led to continued activity in their protection and to the expansion of Sequoia and the establishment of Kings Canyon National Park. There is a clear line of continuity from the very beginning in this direction, but in all those years the Club was primarily a California organization, divided, I should say, about two-thirds from the northern part of the state and about one-third from the Los Angeles and San Diego areas.

Later on, attention was turned outward and in 1905, for instance, the Club made an expedition to Mt. Rainier, and it is notable that a large number of Club members reached the summit. Among the Rainier climbers was a very remarkable man who was just an ordinary Club member at the time, Stephen T. Mather, graduate of the University of California, but then from Chicago, I believe. Mather was one of the founders of Smith's Twenty-Mule-Team Borax Company. Later he became head of a Borax company of

his own, but his great claim to fame was that he was the first director of the National Park Service, and the character and quality of the service is greatly indebted to his influence. He was a native Californian and grew up in the traditions of the Sierra Club, and these traditions unconsciously persisted throughout his career. It is a remarkable coincidence that the National Park Service should be founded and developed by three Californians, all of them graduates from Berkeley: Mather, Horace Albright, and Newton Drury, all members of the Sierra Club who were motivated by the ideas developed by the Club. I do not mean to say that these were the only ones who were responsible for the development of the park service, but they were evidently the leaders.

I was fortunate in being very close to Stephen Mather and accompanied him on many of his visits to the na-

tional parks, particularly a memorable excursion to the North Rim of the Grand Canyon in 1923. Mather invited me to join him at Salt Lake City and motor down through the Southwest. Included in the party were Albert W. Harris of Chicago, and James W. Good, then a representative in Congress, afterwards Secretary of War, and Dan Hull, the landscape architect of the park service. The primary purpose of Mather's trip was to see what could be done in developing Zion and Bryce Canyon and other Southwestern monuments into the main current of the national park idea. We visited Kanab, in southern Utah, then just a small village, and met with the Mormon people. On one memorable Sunday evening we attended the young people's meeting at the Mormon Church and were invited to address them. From there we went south into the great Kaibab Forest towards

the North Rim of the Grand Canyon, and looked across from a point 1,500 feet higher than the South Rim. This was not my first view of the Canyon, but my first view from the North Rim. I had seen the Canyon from El Tovar some years before. I never thought at the time that I would actually ride the waters of the Canyon in a boat, but that took place later on.

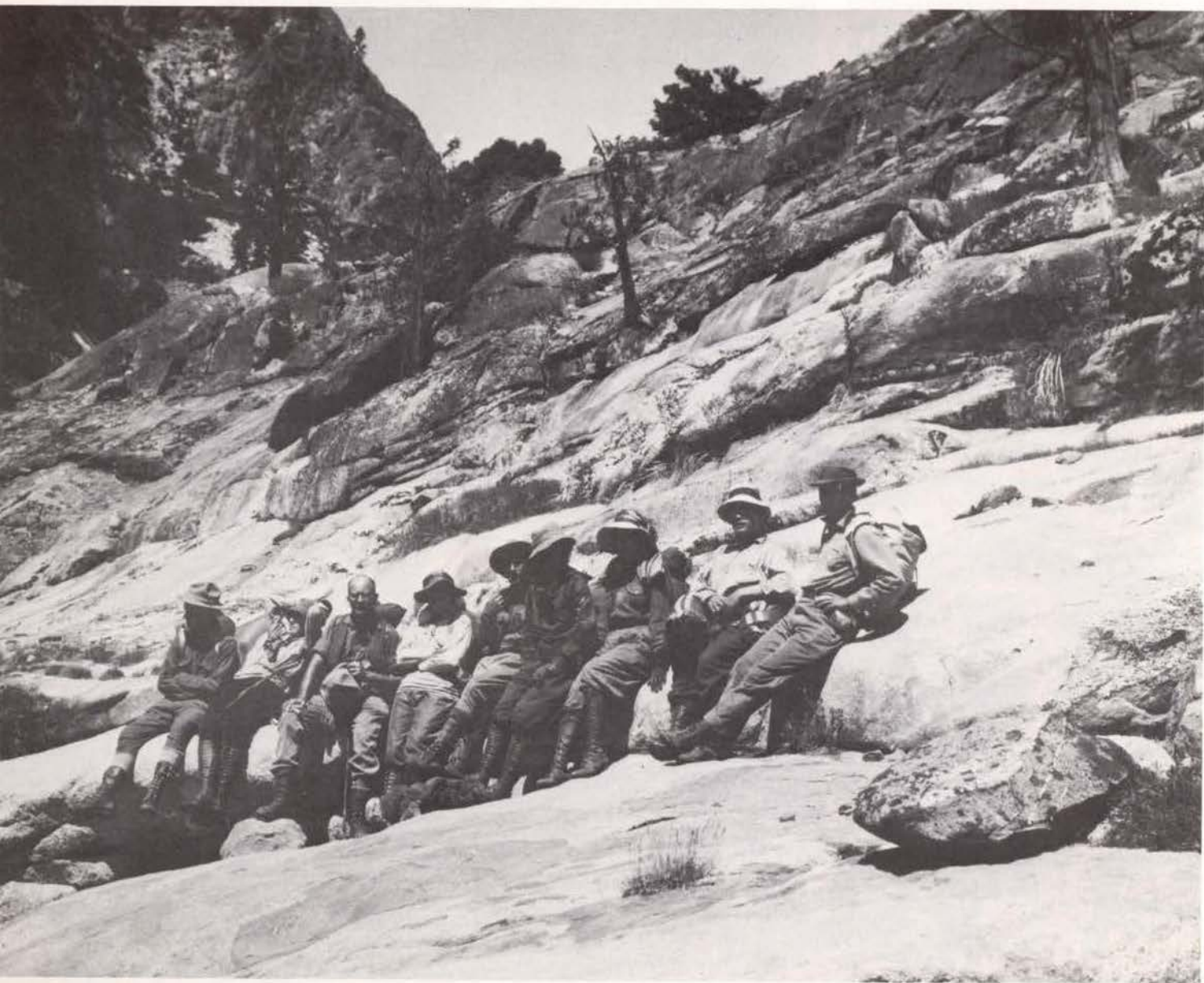
One thing that developed from that trip was the concept of what was then called the President's Forest, the protection of the great primeval forest that spreads back from the North Rim. Mather was able to enlist the enthusiastic support of George Horace Lorimer, editor of the *Saturday Evening Post*, and the idea was given wide publicity. The Kaibab Forest eventually became a forest preserve and only part of it went into the Grand Canyon National Park. But the concept served its purpose in preserving the trees.

Sierra Club outing on Mt. Lyell, Yosemite's tallest peak, in 1914.
In the photo on the opposite page, the party ascends a snow chute.





Left, Robert M. Price, Francis and Walter Huber at the summit of North Palisade (14,254 feet), July 21, 1920. Below, Sierra Club knapsack party in Tuolumne Canyon, 1914. Below right, Francis piggybacks Theda Burham across Delaney Creek, 1914.



With the passing of Colby and Le-Conte and Badé, the leadership fell into new hands, and some of them very capable. I have not dwelt on the influence of Walter Huber and Bob Price, as well as southern members Clair Tappaan and his son, Francis, Ernest Dawson and his son Glen, Phil Bernays, and later on, Professor Joel Hildebrand and his son Alex. Although I have mentioned the men whom I consider to have been the great leaders of the Club in its early years, I have omitted a great many who were less prominent, but these others were very active and effective in their work.

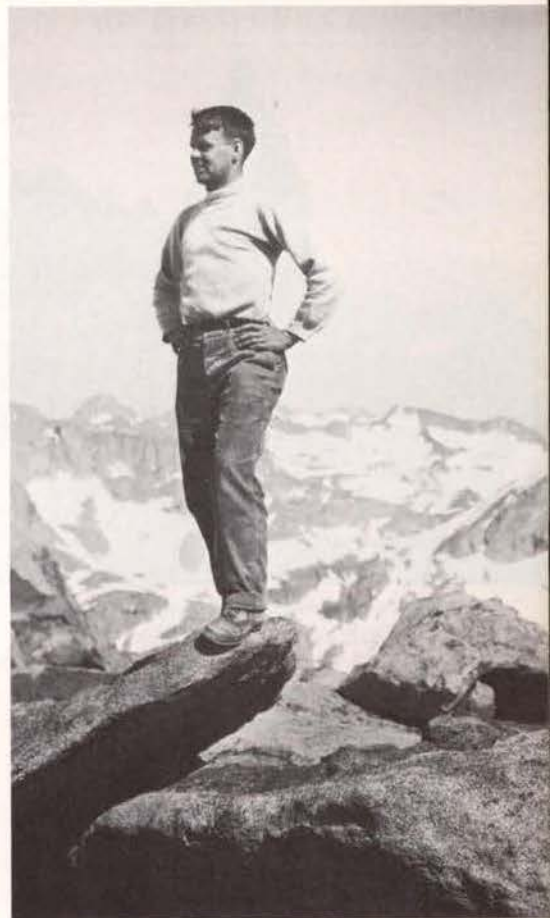
As to what the early leaders would think of the present activities of the Club, I believe that they would be



astonished at the Club's magnitude but gratified to see the continuity of its objectives maintained. These men would undoubtedly, if in their prime today, alter the course of the activities of the Club from its present course but I do not think they would disagree with the ultimate results. For instance, in the publications, we are a long way off from the original dignified format of the *Sierra Club Bulletin* to the present-day active, polemic books on such subjects as the oil lands in Alaska, but it is all part of the whole great system of the Sierra Club.

It would be interesting if one could conjure up in imagination a visitation of some of our early leaders, into the Club rooms in Mills Tower, which are so vastly different from the modest little room—number 402—where so much of the early work of the Club was carried on. One little room with one girl taking care of everything that came in. Although I can hardly imagine John Muir participating very much in the internal affairs of the Club, he would not disapprove of what is going on. As for Will Colby, his influence would at once be felt should he enter the room, and I think all of the pioneers of the Club would react with pride to the great distinction that the name *Sierra Club* now carries. And as soon as our imaginary visitors got used to the surroundings and caught on to what was being discussed, such as lawsuits and legislative activities, both in California and in Washington, I think they would immediately resume their places as leaders in the Club and join the work that is now being carried on.

I kept up my editorship of the *Bulletin* for 20 years, but finally, by 1946, I found other responsibilities taking precedence and I needed assistance more than ever. I was fortunate in having David R. Brower, a very good writer and staunch conservationist, take over the editorship. From that time on his ideas dominated and I had very little to do with the *Bulletin*. Outstanding among Brower's new ideas was the use of colored illustrations. These tended, in my opinion, to obscure the textual part of the *Bulletin* which became a bi-monthly rather than a semi-annual. Also, the printing today conforms to present-day ways of doing things, but it would not be appropriate to carry on the original plans. The same is true of the contents of the textual matter. There are entire-



Francis at the top of Mt. Florence, 1916.

ly new problems today and they cannot be treated in the same tone and the same rate of expression as pertained in the early days. The needs of today require different treatment, and the point that I want to emphasize is that the same type of high ideals and leadership pertains today that did in the past, although quite different in outcome.

Today we have a kind of book that did not appear in the early days. Well, there are two different kinds that the Club has produced. One is the great, illustrated format book that is largely due to the activities of Dave Brower, with beautiful photographs by members of the Club, particularly Ansel Adams, Phil Hyde, Eliot Porter and others. The other type of book is the paperback produced for large consumption at moderate prices. These are reflections of the times, and again I emphasize that the Club has kept its leadership in these things as well as it did in the early days. The illustrated format books are a great achievement and they will remain for a long time as records of the Club. They are beautiful



Mt. Brewer with Francis on the top, 1921.

books that stimulated the world at large to join in the work of preserving our primitive country and to prevent despoliation by modern industry.

And speaking of photography, I would like to talk about Ansel Adams. Ansel was a very important person in the Sierra Club for many years, and still is. He was a musician at first, trained to be a concert pianist. But afterwards, as time went on, he became interested in photography and he developed the techniques much along the line of his musical education. The concepts of beauty and order that prevail in music carry into Ansel's photography with remarkable results, not only in the pictures themselves, but also in the techniques that produced them. There is a clarity and precision in Ansel's work that is comparable to the performance of a Beethoven piano sonata. Of course, the reproduction of so many of Ansel Adams' photographs in the *Bulletin*, and in other publications of the Club, had a wide effect in stimulating public interest in the natural scene. Ansel can dramatize the beauty of the scene and carry it through to the public. He was closely identified with Yosemite Valley, for there is where he began his photographic work, and then he married Virginia Best, daughter of the artist Harry Best, who had a studio in Yosemite. Together, Ansel and Virginia had a great influence on visitors to the valley.

But Ansel was a good deal more than a photographer. He had a philosophic mind that gave him insight into what

he was photographing, and I think he always had in mind with every photograph a concept aside from and above the actual physical subject. He also had a great influence on other photographers, particularly Cedric Wright, who accompanied him on many Club outings, and he conducted a photographic class in Yosemite Valley each year which stimulated other photographers, not to copy his ideas but to develop their own. Ansel's keen intellect was also a valuable asset on the board of directors, of which he was a member for many years.

Mention of the board brings up another point. Throughout the early history of the Club, members of the Board were intimate friends and were able to reach others personally at any time. But in the latter part of my editorship of the *Bulletin*, namely in the 1940's, more and more attention was given to parts of the country other than the Sierra Nevada. The Club up to that time had been almost entirely Californian, although we had members from other parts of the country, particularly some very strong members from New England who helped to

broaden the views of the Club. But at last, some of the members from the Northwest wanted to establish a chapter of their own. Hitherto the only other chapter outside of the Bay Area was located in Los Angeles, and then one in San Diego. Now we had a chapter in the northwest and later on there was expansion all over the country. The Atlantic Chapter was established, which took in New York and New England.

In my opinion, this expansion contributed to a deterioration of the Sierra Club. For many years most of the members knew each other well, largely through the outings, but now there were hundreds of new members who never knew the pioneers of the Club and were having no personal contact with present-day leaders. In other words, my personal feeling is one of regret that the Club expanded. I wish that it had devoted its efforts to expanding some other organization, such as the Wilderness Society, and that the Club had been kept small and compact. However, there is no use in speculating on that now. The deed has been done, and it is up to us to make the best of it. I am certainly not one of those who wants to live in the past. I believe I have demonstrated that I live in the present and have an eye to the future, and that I wish to continue and not regret the loss of things that are irretrievable.

Today there are perhaps 50 different Sierra Clubs with some ideas in common but different ways of expressing them. Whether this is a good thing or not I am not prepared to say. It certainly has brought into the conservation movement thousands of people who would not otherwise participate, and I think we should not think too much about the fine history of the past but rather rejoice that the original Sierra Club has produced such a vast group of conservationists throughout this country.

F. F.

Berkeley, Feb. 18 & 19, 1972

When our second and final session was done with, Francis agreed to some portraits downstairs in his library, but he insisted he had to put on a coat and tie and in general spruce up. Marge Farquhar and I went down and opened the drapes, and Francis showed up in about twenty minutes. The library is a huge room, and housed perhaps the greatest private collection of mountaineering books in America. The other books, hundreds, are still there. The big desk by the window—and the oak swivel chair—is where Francis did his writing for some twenty-five years. It was a gray day but there was enough light for the camera. We were only in the library for fifteen minutes, because I knew it had been a long afternoon. D.B.

Big Money Backlash

JEANNE HUBER

HAS IT EVER occurred to you when you spoke up at a public hearing on a matter of public business and interest that you might afterwards be visited by a process server with the news that you were invited to defend yourself against a ruinous suit?

Recently, in Sacramento, a California development firm brought an incredible \$80 million law suit against conservationists it accuses of conspiring to prevent "lawful real estate development" of the firm's Elliot Ranch property. The suit, filed by McKeon Construction against five named defendants and 50 John Does, claims the defendants conspired to deprive the firm of its property rights when they "made false statements concerning the amenities of the Elliot Ranch" for park and public-use purposes, "falsely described" the public's attitude toward McKeon and his proposed development, made "false statements" about the costs and feasibility of the original Corps of Engineers' Morrison Creek flood control project, made "false statements" about the cost to the public if McKeon were to develop his land, made "false and misleading statements that potential damage to wildlife and nature areas would result" from construction of a freeway interchange on the Elliot Ranch, and made statements "falsely asserting" that the Elliot Ranch is prime agricultural land.

McKeon Construction, a multi-million dollar nationwide development firm, filed the suit in April against five individual conservationists, including a college student, a college teacher, a housewife and two state employees, none of whom has assets anywhere near \$80 million. The suit also lists 50 yet-to-be-named John Doe defendants, a provision which has

the effect of warning potential critics of McKeon's development that they'd better not speak out, for fear of being named as defendants in the suit too.

The named defendants include Bruce Kennedy, past chairman of the Mother Lode Chapter of the Sierra Club, Frederick Styles, the Sierra Club's representative on the Environmental Council of Sacramento (ECOS), Bruce Swinehart, chairman of the Life Science Division of American River College, Linda Best, the American Association of University Women's representative to ECOS, and Bruce McNitt, a Sacramento State College student active in conservation.

The suit is directed against individuals who have:

- Successfully prodded the U.S. Army Corps of Engineers to change a flood control plan for the Morrison Creek basin near Sacramento, which called for draining two of the last lake and swampy areas in California's central valley so that the lake and adjacent farm land can be more profitably developed. The present plan, not yet finally approved, would preserve the lakes—important resting places for birds migrating along the Pacific Coast Flyway—as natural storm water run off and ponding areas. The Elliot Ranch owned by McKeon includes one of the lakes, North Stone Lake, and surrounding farm land.

- Urged that an interchange not be built where the proposed Interstate 5 freeway route crosses Elliot Ranch on the theory that the interchange would only encourage urban sprawl in a largely undeveloped part of the country and would be an expensive public subsidy of McKeon by providing easy access to the 50,000-person planned community the firm wants to build on its land. The Division of Highways now says it won't make plans for the interchange because of the contro-

versy and because the county supervisors haven't asked for it.

- Testified at public hearings in support of the proposed 1972 Sacramento County General Plan designed to halt urban sprawl by authorizing a new zoning classification — "agricultural-urban reserve" — in which urban growth would be discouraged for the next 20 years with the intent of directing growth to other more suitable areas. The plan draws a controversial urban limit line around the Sacramento metropolitan area to encourage growth during the next 20 years only on the undeveloped land near the city which was skipped over when subdivisions leap-frogged into the neighboring farm lands. The 5,380-acre Elliot Ranch south of Sacramento which McKeon bought in the early sixties for future development lies 2.5 miles outside the proposed urban limit line.

McKeon has lashed out at those who would hinder development of its property by filing a string of law suits: the first week of April this year it filed the \$80 million suit against individuals who spoke publicly to preserve the Elliot Ranch; it filed a suit against the Corps to force it to drop the revised Morrison Creek-Stonelake flood control plan which calls for preservation of the lakes; and it announced that it was preparing a suit against three members of the planning department staff. (Legal technicalities have so far kept the firm from filing this suit.)

With its suits in progress, the firm submitted an application to the county to subdivide the west half of Elliot Ranch, an area which includes North

Jeanne Huber is a recent graduate of the University of Santa Clara now working as a reporter for the Sebastopol Times. She served as an intern with the Sierra Club Bulletin staff this spring.

Stone Lake, into 757 lots of a minimum two acres each to create "Elliot Ranch Estates." The lake arms would be blocked off and the body of the lake dredged as part of a 1,500-foot channel planned for the west side of the property to provide the needed flood protection. The subdivision application was seen by two Sacramento County supervisors as a way of forcing the board to decide whether it wants the Stone Lakes area preserved badly enough to actually buy the land. If McKeon's intent was to force the supervisors to take definite action regarding Stonelake, the firm was successful: on May 24th the Board of Supervisors voted four to one to deny the subdivision plans because it would "cause substantial environmental damage" and to begin a search for funds to buy the land.

The fact that McKeon tried to start draining the North Stone Lake the very week he filed the massive suit has made defendants and their lawyers speculate that the suit—with its 50 yet-to-be-named defendants—was filed to inhibit public protest against development of the Stonelake basin and to force the supervisors to decide whether they want the lakes preserved badly enough to buy the land. The drainage work was halted temporarily, but a federal judge has since ruled that the Corps of Engineers can't prevent drainage of the lake. But since the supervisors have finally said they want to buy the land as permanent open space, wildlife refuge and low-use recreation area, it seems McKeon is choosing not to drain any more of the lake.

McKeon's \$80 million suit strikes directly against those who have supported the proposed 1972 Sacramento County master plan. The plan, which would replace an often violated and amended one adopted in 1965, has been bitterly opposed by realtors, land developers, land owners, chambers of commerce, and labor unions who feel the plan will cut growth and therefore mean fewer jobs. It has been praised by many individuals and a coalition of existing community organizations, the Environmental Council of Sacramento. ECOS, as it is known locally, includes groups as varied as the Sierra Club and Audubon Society, the Sacramento Junior Chamber of Commerce, the Sacramento Medical Society and the League of Women Voters.

It is because the McKeon suit can

have such a chilling effect on public discussion that a group of over 40 Sacramento area lawyers who call themselves the Sacramento Citizens Environmental Defense have responded to the defendants' call for help by agreeing to provide moral support to the conservationists named in the suit. The American Civil Liberties Union and the Sacramento City Council (by unanimous vote) have agreed to file *amicus curiae* briefs with the Sacramento Superior Court affirming the right of citizens to speak about public issues at public meetings without fear of later legal recrimination. The right to speak freely at public hearings "is an extremely important issue to our entire democratic system," said Michael Sands, Sacramento vice mayor. "I don't know how we can continue to function as a city council if that right is threatened."

The defendants have launched a fund raising drive to raise the money they need to defend themselves against McKeon's massive suit. (Contributions made to them through the Sierra Club Legal Defense Fund are tax deductible.)

They are hoping to have the case dismissed before it takes too much of their time and money; their greatest concern is not so much that they will lose the suit but that winning will cost them so much they will be losers just the same. McKeon Construction, meanwhile, can claim its legal costs as tax-exempt business expenses and can shift extra costs to the public through higher prices, or to its shareholders through smaller dividends.

McKeon's suit raises crucial legal issues, since it strikes at the heart of the public's right to influence governmental decisions by testifying at public hearings and writing letters to elected officials. Freedom to comment on pending governmental decisions is such a basic legal right that speakers at hearings have been given the virtually absolute right by the state's Civil Code 47 to make public statements they *believe* to be true. Conservationists' public statements regarding McKeon's development have been neither irresponsible nor malicious: they have been based on engineering studies and cost estimates of flood control schemes and freeway interchange construction, biological studies of wildlife habits, and intelligent observations about the social and economic costs of urban sprawl. If pri-

vate citizens who don't have a pool of company lawyers at their disposal are liable to massive lawsuits because they were responsible enough to participate in governmental decision-making, then few people are going to speak publicly against anything and the viability of the whole public hearing system is called into question.

Central also to the McKeon suit is the degree to which government can restrict land use—without compensation—for what it considers to be the "public good." McKeon's lawyers say property rights should prevail overall: according to a statement issued when the suit was filed, "There is an alarming and increasing threat of certain self-acclaimed ecologists as well as public agencies seeking to accomplish through zoning what constitutionally should be done under the process of condemnation or eminent domain. . . . It seems that some spokesmen now assume almost as fact that there is a present public ownership or interest in the ranch. We intend to meet this threat here and now. If the ecologists want the public to have the benefit of preserving Stonelake as a nature and/or recreation area, they should direct their efforts toward the public acquisition of the property through the traditional methods of eminent domain, which is designed to protect the constitutional rights of all concerned."

A whole series of court rulings across the country, however, have firmly established the right of government to enforce zoning regulations which restrict land use, provided the zoning laws are "reasonable." To be reasonable, zoning rules:

- Must not affect isolated parcels of land, but rather should apply equally to similarly-located land. Courts have been particularly sympathetic to comprehensive land use plans. The proposed Sacramento County master plan with its urban limit line provisions is innovative, however, and has not been tested in the courts.

- Must not prevent *all* profitable use of a parcel of land, though they *may* significantly lower its market value. Because it would restrict certain areas to agricultural use for a long time, the proposed Sacramento urban limit line would encourage continued agricultural use of areas like the Elliot Ranch by making them less susceptible to the high property taxes often placed on potentially developable land.

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Sierra Club COMMENTARY

News View

Club wins major lawsuit to protect air quality

In a landmark suit brought by the Sierra Club, Federal Judge John H. Pratt ordered the Environmental Protection Agency to disapprove any part of state plans which permit significant deterioration of air quality. Judge Pratt also gave EPA Administrator William Ruckelshaus six months to establish new regulations for any state plan which allows the fouling of existing clean air.

The Club filed suit because Ruckelshaus had promulgated regulations which would let states, particularly in western areas, permit industrial plant operations that would lower air quality to the level of secondary standards. Sierra Club Vice President Laurence I. Moss explained that "the data published by EPA show that at pollutant levels permitted by secondary standards, visibility will be reduced to about 12.5 miles or less in areas of the country where the visibility now frequently exceeds 100 miles."

As a result of the suit, approval of any state plan is conditional upon the results of a review, which must be completed by Ruckelshaus within four months. The review must "insure that [a state plan] does not permit significant deterioration of existing air quality in any portion of any state where the existing air quality is better than one or more of the secondary standards promulgated by the Administrator," ruled Judge Pratt. If such assurance is not provided for, Ruckelshaus must issue a determination no later than the end of the four months that specific sections of the plans fail to meet that

requirement, and that he disapproves those sections. He then has an additional two months to promulgate final regulations which will provide implementation plans to avoid degradation in each state.

"This decision is enormously significant," stated Moss, "for it means that grandiose schemes for development of areas of the country by 'dirty industries' will all have to be drastically modified or even scrapped, since they would produce significant deterioration of air quality in clean air regions." The decision applies to the North Central Power Study and the Southwest Energy Study proposals for coal-burning plants, which could not be built with present technology without producing significant deterioration of air quality.

Deterioration to the level of the secondary standards would allow an enormous increase in total emissions of sulfur oxides, as long as those emissions were fairly evenly distributed. The consequences of this would include an increase in the acidity of rain water, the leaching of nutrients from plants and soils, and the acidification of streams and lakes, all of which would adversely affect natural ecological systems. Finally, there would be a risk of damage to the health of those who live in these areas.

Club renews struggle to save Mineral King

The three-year struggle to halt Disney Productions' plan to build a mammoth resort complex in Mineral King saw a new development June



2nd when the Sierra Club filed a motion to amend its original complaint in Federal District Court in San Francisco. The amended complaint brings the Club's suit into conformance with the Supreme Court's April 19th ruling on standing by claiming that the Club and its members regularly conduct outings in the area, and have done so since the turn of the century, and that over the years, it has conducted conservation campaigns to have the area included in Sequoia National Park.

The complaint also adds nine individuals and the Mineral King District Association, an organization of local cabin owners, as plaintiffs. Finally, it alleges that the defendants have failed to comply with the National Environmental Policy Act, which was not law when the complaint was initially filed in 1969, since they have not prepared the required environmental impact statement, a cost/benefit analysis or a study of alternatives.

"We are quite confident that our amended complaint shows without a doubt that we have the right to sue in this case, and that we can prevail on the merits, which have never been tested in court," declared Michael McCloskey, executive director.

The suit asks for a preliminary and permanent injunction enjoining Agriculture Department officials from issuing any permits, rights-of-way or approvals of Disney's development plan, and enjoining Interior Department officials from approving

design standards or rights-of-way for access across Sequoia National Park.

Los Angeles City Council refuses to ratify Navajo power plant contract

The Los Angeles City Council has refused to ratify the final contracts for the Navajo power plant project being constructed near Lake Powell in northeastern Arizona. Instead, the council directed the Los Angeles Department of Water and Power to renegotiate the final contracts to include ten amendments offered by environmentalists.

"The environmental protection section of the contracts proposed by the Department of Water and Power and the other participants in the project was woefully inadequate," said Sierra Club Southern California Representative Larry E. Moss. "If the amendments which were suggested by the Los Angeles City Council are accepted by the other participants, the most objectionable aspects of the Navajo project will be ameliorated. We applaud the eight city councilmen who voted to do what they could to soften the impact of this huge power project on the beautiful plateau country of Arizona."

Club wins two urban park lawsuits

A coalition of conservationists led by the Sierra Club won another victory against the highway lobby in the U.S. Supreme Court May 15th when the court refused to review last August's Fifth Circuit Court decision halting construction of the San Antonio North Expressway which would have destroyed over 200 acres of parkland. The State of Texas had claimed that by withdrawing its federal funding application for the road, and by refunding over \$1.8 million already spent by the U.S. government, the highway was no longer a federal project.

By refusing to review the Circuit Court decision, the Supreme Court determined with finality that the expressway shall remain a federal

Editorial

A Progress Report

A CASUAL observer of Sierra Club Board meetings may well be astounded that anything gets done, but it does. The tumult and the action have been going on since 1893, and last year was no exception.

With a strong assist from the Sierra Club Council and its Internal Organization Committee, our internal housekeeping debates are leading to significant changes in budget procedures and administration and development of a computer system that offers fond hope that members will get their dues and mailing addresses promptly and accurately recorded.

In 1970 we began to execute a decentralization policy that includes a considerable shift of authority to regional conservation committees, chapters and groups. Naturally, there have been some painful episodes in the process of change and growth. Some groups have not yet realized the scope of autonomous discretion that is theirs. A few other individuals or groups have been carried away by zeal and made careless public representations inconsistent with national Sierra Club policy. By and large, however, I have observed a gratifying demonstration of vigor and responsibility on the part of our regional efforts.

Whether directly related or not, local Sierra Club members and allies have, among other things, persuaded Delaware to enact spartan coastal protection measures; Oberlin, Ohio, to ban nonreturnable containers; two Massachusetts communities, Lincoln and Amherst, to control their growth; Seattle to black-ball two freeways; and Vermont to forbid nonreturnable bottles and cans as of July, 1973.

The Sierra Club Legal Defense Fund has not been idle. The courts have halted highways through Overton Park in Memphis, Tennessee; Breckenridge Park in San Antonio, Texas; Leakin Park in Baltimore, Maryland, and two small parks in Hayward, California; have compelled the Atomic Energy Commission to consider environmental impact at every stage of nuclear plant developments; enjoined the Environmental Protection Agency from relaxing standards that would keep air quality substantially equal to ambient air throughout the United States; and made the Forest Service stop making timber sales at East Meadow Creek, Colorado, until Congress can consider the wilderness eligibility of the area adjacent to classified wilderness.

As Jim Moorman of the Legal Defense Fund has warned, whether these victories will be sustained depends on the future political climate. From this vantage point, it seems that while the environmental movement may suffer occasional setbacks, it cannot and will not be stopped. Voluntary population

project. Thus the Department of Transportation and the Texas Highway Department must now analyze alternatives to the park route as required by Section 4(f) of the 1966 Transportation Act, as well as submit an environmental impact statement in compliance with the National Environmental Policy Act.

In another decision of major

significance, a federal district court judge in Baltimore ruled that the Department of Transportation must hold new location hearings for the proposed Leakin Park Expressway. The judge also ruled that the Club has standing to sue in the case, a point which had been hotly contested by the defendants, and an important victory after the Supreme

controls and compulsory pollution controls are gaining increasing acceptance, in spite of concerted efforts at backlash. In California, at least, some political candidates espousing the cause of conservation achieved nomination or election, and the people overwhelmingly rejected another bridge across San Francisco Bay.

At a deeper level, more and more people are becoming aware of the linkage between pollution, the hasty and wasteful consumption of limited resources, and the growth of energy consumption. The reaction of industry to questions on this score has been largely negative. Millions are now being poured out on all forms of propaganda to convince the public of an energy crisis, while little or none is spent on curbing the waste, or shifting the use of energy towards nonconsumptive purposes such as recycling; and only a relative pittance is devoted to research and development.

Nevertheless, some industrial leaders have awakened to the public's demand for environmental quality. Following the Sierra Club's conference on energy in Vermont, the power companies sponsored a press conference in Minneapolis to which environmentalists were invited to speak. Our presentations were given unrestricted publicity. The building industry and the petroleum industry are conducting similar programs, and at least one of the federal regulatory agencies, commonly identified with power production, the Federal Power Commission, is inviting the participation of environmentalists in its study committees and is offering career employment to qualified environmental technicians.

Today, the gathering momentum of the Sierra Club and the environmental movement faces severe tests in Congress and the Administration. At this very moment, Congressman Wayne N. Aspinall is trying to guide legislation through Congress which raises great confusion regarding management schemes for wilderness areas, national parks and monuments, wildlife refuges, and other conservation reserves, and leaves approximately 300 million acres of public land not withdrawn and without any mechanism of protection by the Executive Branch.

In the executive branch, we face a threat from an old friend, for the Forest Service is indulging in a ploy that may choke off the inventory, classification and protection of most of the remaining *de facto* wilderness areas.

We may need all our resources to resist these regressive efforts, and to maintain the lead we have won to develop a national energy policy that reconciles power with a livable environment—all our manpower, brainpower and money. We can win, though, and the rewards will be enormous.

Raymond Sherwin, *President*

Court's ruling on standing in the Mineral King case. The Club, along with the Natural Resources Defense Council, Volunteers Opposing Leakin Park Expressway, Inc. (VOLPE) and two Baltimore residents, alleged that federal, state and city officials had failed to hold proper location hearings for the highway, which would run from one

end of the park, one of the country's largest, to the other. The Club has also contended that the proposed expressway would destroy 150 irreplaceable acres of the park, increase air and water pollution and the noise level, result in the decrease of animal and bird populations, and totally disrupt the unique scenic and esthetic character of the parks.

Sub-division planned in Adirondack State Park

A major southwest land development firm recently purchased 24,350 acres of New York State's six-million-acre Adirondack State Park, with plans for sub-dividing the area into small lots for second homes. The Horizon Corporation of Albuquerque, N.M., and Texas proposes to build an 18-hole golf course, ski center, resort motel, three artificial lakes and a shopping center, and will sell enough two-acre lots at \$5,000 apiece to house some 6,000 people.

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NEW FUNDS IN THE SIERRA CLUB FOUNDATION

The Board of Trustees of The Sierra Club Foundation is pleased to announce in its recently released Annual Report that two private foundations, the H. W. Oliver Foundation of Washington, D.C., and the Royce Foundation of California, have donated their assets to The Sierra Club Foundation. The new "Oliver Fund" focuses on conservation needs in Hawaii and Nevada, while the "Royce Fund" supports general conservation programs.

Requirements for private foundations under the 1969 Tax Reform Act necessitates costly taxes and extensive reporting. Existing private foundations may consider transferring their assets to The Sierra Club Foundation, a public "community" foundation, to form a new conservation fund. Gifts from their fund can be designated on a continuing basis by the original donor for either the various purposes of The Sierra Club Foundation or for other acceptable charitable projects. The Sierra Club Foundation provides a continuing Board, professional staff, and administration of contributions in accordance with donor wishes.

Requests for further information should be directed to the Executive Secretary, Colburn S. Wilbur, The Sierra Club Foundation, 220 Bush Street, San Francisco, California 94104.

Regional Rep's Reports

Southwest

In large measure, Congress settled the issue of the proposed Grand Canyon dams in 1968 in favor of conservationists. The accompanying reclamation project—the Central Arizona Project—was authorized but without the controversial dams. That legislation further eliminated the authority of the Federal Power Commission to license dams in the Grand Canyon. Both the Arizona Power Authority and the Los Angeles Department of Water and Power in addition to the Bureau of Reclamation, expressed interest in constructing these dams.

This settlement was concluded amidst promises by congressional leaders to promptly consider legislation to enlarge Grand Canyon National Park. Nearly four years later, virtually nothing has been done to honor this commitment. In 1969, Senator Clifford P. Case introduced a bill embodying the Sierra Club's recommendations for an enlarged Grand Canyon National Park which would encompass all of the canyon from Lees Ferry to the Grand Wash Cliffs except for Indian reservation lands. Bills for lesser enlargements were sponsored by Representative John Saylor and Senator Barry Goldwater. No hearings were held or other action taken on any of these proposals, perhaps in part because the National Park Service would not take any position on them.

In May, 1971, the National Park Service held public hearings in Phoenix, Arizona and at the Grand Canyon on a draft master plan. The proposed master plan contained recommendations for enlarging the park which fell significantly short of incorporating the entire canyon. Public sentiment was overwhelmingly in favor of a larger park with many speakers supporting essentially the Sierra Club's position. The Case and Saylor bills were reintroduced in 1971. Many observers expected Senator Goldwater to sponsor a bill generally embodying the National

Park Service recommendations, although as of the spring of 1972, he had not yet done so.

The 1971 hearings also revealed that many state and local politicians in Arizona have not yet given up on the idea of constructing at least the downstream dam known as the Hualapai or Bridge Canyon dam. Although the likelihood of this coming to pass is very small, this continuing interest in what is essentially a dead

issue unfortunately has served to obscure the real present and future needs which argue strongly for the enlargement of the park.

First and foremost of these is the need to provide a unified management for all of the Grand Canyon. Administration is now divided between five units of the National Park System, the Bureau of Land Management, the U.S. Forest Service and the State of Arizona. Also involved are three Indian reservations and scattered parcels in private ownership. Occasionally others assert that the Colorado River itself, the very heart of the Grand Canyon, is technically not under the jurisdiction of the National Park Service. Frequently, needed regulations instituted by the

Washington Report

AS CONGRESS moves toward party convention recesses, the long shadow of election year politics is eclipsing action on major environmental legislation.

Congress will be in recess much of July and August with a few weeks of legislative sessions sandwiched between the Democratic and Republican meetings in Miami. Then comes Labor Day recess, the traditional launching of intensive reelection efforts.

Thus, for all practical purposes, possibilities are dim for enactment of many environmental bills during the balance of the 92nd Congress. Considering the dreary performance thus far, that may be all to the good. If the session coasts to a dead end, it will, of course, be a fitting demise for an "environmental congress" that went sour. Also, it will reflect the altered concerns and priorities of national political leaders, including the President, senators and representatives who two years ago hailed the '70s as the time to reverse environmental degradation but who couldn't translate sentiments to statutes.

One need not be a grumpy skeptic to hold this view. The White House has been less than enthusiastic in pushing real reforms in water pollution abatement, pesticide control, powerplant siting and citizen-suit legislation. True, the lack of action cannot be blamed entirely on an administration leadership gap. Congressional committees are mainly responsible for the stalemates.

For examples, bills to curb ocean-dumping passed the house on September 9, 1971, and the senate on November 24, 1971. In early June, conferees appeared hopelessly deadlocked over a basic issue, whether enforcement jurisdiction should go to the Environmental Protection Agency or the Corps of Engineers. Likewise, the different versions of water pollution bills had conferees at loggerheads, raising doubts whether substantive improvements will emerge this year on national abatement standards.

Slow progress on environmental legislation is not without some blessings. A wholly inadequate pesticide bill passed the house last November and was

Park Service are circumvented merely by going outside the existing park boundaries.

Any legislation enlarging the park should settle beyond any doubt that there will never be any hydro-electric power developments in the canyon. It is unlikely that such developments will ever take place, but the bill should not even imply that this option remains open. An enlarged park is needed to close the entire canyon to all forms of mining activity. Currently 60 percent of the Grand Canyon is open to mining. The legislation should also provide protection for all the rim areas to insure that they retain their unspoiled, natural appearance. The rim is the setting from which the vast

majority of canyon visitors will view the canyon in addition to being an integral part of the canyon ecosystem. Logging and juniper clearing projects have already taken place on some rim areas outside the park. Unwise development could threaten others.

We should look forward to the problems of the future and not back to the historical conflicts. I believe that the most serious of these future problems is going to be controlling the impact of the hordes of persons who want to see the canyon. The increase in the use of the river from 532 persons in 1965 to over 10,000 in 1970 has received widespread publicity. There has been a similar dramatic increase in back country

use. Beginning in 1971, the National Park Service has found it necessary to restrict the numbers who may use both the river and many popular back country campsites. Similar restrictions will undoubtedly become necessary for many areas outside the existing park in the near future.

The problem of the Indian lands within the Grand Canyon is exceedingly complex and controversial. Ideally, of course, they should be a part of the enlarged Grand Canyon National Park. However, this would be both morally unjust and politically unrealistic and the Sierra Club does not advocate the taking of any Indian land. The legislation should authorize some cooperative program which will help insure that these Indian lands will be managed in a compatible manner.

The reasons for enlarging the park have changed since the 1960's, but they are just as pressing. Congress should be encouraged to enact legislation which will address itself to these needs. The Case bill is certainly the best of the existing proposals, although others could no doubt be devised.

John A. McComb

W. Lloyd Tupling

referred to the Senate Agriculture Committee. This group took until June to report out a slightly improved version and then the measure was re-referred to the Senate Commerce Committee for 30 days, a period which environmentalists hope will be sufficient for gestation of some bonafide controls over marketing and use of persistent pesticides.

The best evidence of dilution of environmental problems as political issues is revealed in the campaigns of leading presidential contenders during the past six months. Can your memory bank retrieve the gist of a single major speech on the environment—with the possible exception of Representative Paul McCloskey whose campaign evaporated one wintry night in New Hampshire, long ago.

What has occurred thus far in the 92nd Congress represents a victory for the likes of former Commerce Secretary Maurice Stans, who two years ago urged a "go slow" approach to resource problems and now heads Nixon's campaign fund-raising.

The 93rd Congress offers opportunity to reverse the slack pace of the 92nd. Because of retirements and re-districting, perhaps as many as a hundred new faces will be seen in Congress next January. This could profoundly change the course of future environmental bills, if citizens spend some time in the next few months delving into the positions of congressmen and senators on basic issues such as strip-mining, clear-cutting, population stabilization, energy policy, the Highway Trust Fund, mass transit, etc.

After observing the Washington scene for 17 years, I have concluded that ours is a representative government and the public gets about the kind of government it deserves. Sometimes it doesn't deserve better, because it doesn't pay attention to what is going on or won't do anything to change it. Anyone who is satisfied with the quality of life as it exists today, can help assure the status quo by sitting out the forthcoming election.

Northern Rockies

A plan to build gigantic electrical generating plants alongside coal strip mines in Wyoming, Montana, and the Dakotas—a power complex which would inflict devastating environmental harm to those states—is now receiving the incremental bureaucratic approval which could make the project almost impossible to stop.

The North Central Power Study, the plan being pushed by the Bureau of Reclamation and 19 investor-owned utilities, is designed "to promote the coordinated development of electrical power supply in the North Central United States." As unveiled last November it calls for construction of 25 plants in north-eastern Wyoming and southeastern Montana to serve the electric power fancies of the urban-industrial centers in the Midwest and Pacific Northwest. Thirteen of the plants would have a capacity of 10,000

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Progress Against Growth

DAN LUTEN

IN A YOUNG LAND that has experienced development at an unprecedented pace, it is not surprising that we struggle with the confusion between growth and progress. Historically, growth and progress have been to us almost interchangeable, so much so that even though we may not buy the shopworn idea that bigger is better, we still do not act as though we understand a distinction that seriously affects our lives and will determine the quality of life that our children will live.

The dictionary on our desk—a modest monument to popular opinion and usage—has no more than clues as to the distinction between growth and progress. The Sierra Club itself has informally stated that it is “not blindly against progress, but against blind

progress.” Yet one thing that “progress” definitely means is betterment, the movement from one stage towards a more advanced level. Are we to be against betterment, even if blind. Logically it would be more appropriate to say, “not blindly against growth, but against blind growth.”

Growth can be something other than progress. Our dictionary gives “augmentation” as a synonym for growth—but it also lists “excrecence.” There is the rub: growth can go quite beyond healthy increase into the realm of pathology, and here we find that growth is “an abnormal proliferation of tissue, as in a tumor.” Here cells lose their stable relationship with the organism, multiply without control, and die for lack of system. Alan Gregg has spoken of such growths passionately reproducing their cells while necrosis works outward from the center and the signs of death are seen in the process of growth. “Our rivers run silt,” he says, “although we could better think of them as running the telltale blood of cancer.”

One can demonstrate with simple arithmetic that growth must be a transient condition. While we feel the in-

tellectual need to express growth as a percentage increase for this year over last year's condition, and while many of us fondly imagine that constancy of growth rate is the index of stability, the fact is that the constant rate leads remorselessly to exponential growth and is a measure of revolution rather than stability.

We have dreamed a host of fables about exponential growth: the 600 years to “standing room only” for the world, land and sea; the 1,000 years until the world is one vast book collection, eight stacks of floors with five billion miles of card files; the 200 years until the world is too hot for habitation; the 400 years until the world is vaporized by the energy industries of its people. Though often misunderstood, these fables have a clear purpose—to argue that because the consequences of exponential growth are impossible, the continuance of such growth is itself impossible.

Growth is appropriate to the juvenile condition, not to maturity. Nearly all living organisms adapted to survival go through periods of rapid early growth. But upon attainment of maturity, control mechanisms come into play to insure that the organism remains of the right size to fulfill its purpose. Lacking such controls, continued growth would lead only to disaster. J. B. S. Haldane, in *Possible Worlds* (1930), has a chapter titled “On Being the Right Size,” in which he points up some of the problems of giantism: how big a man can a skeleton made of bone support? Why cannot a blue whale come ashore? How big a bird can fly in an atmosphere as thin as ours? How big can insects be with oxygen brought to their muscles only by diffusion? How big could a warm-blooded animal be before it died of its own metabolic heat?

While living organisms commonly have developed regulatory (usually hormonal) systems which come into play when they reach the right size, human societies have been less successful. Small groups of people living close to the land seem ordinarily to have come to terms with their environment and to have developed institutions for stabilizing their numbers and their impact on the environment. In contrast imperialistic, dynamic, innovative societies have left their mark on the earth but have not long endured. Such societies may not have

Daniel Luten is a lecturer in the Geography Department at the University of California, Berkeley. He is author of numerous articles, most recently one published in Scientific American's September, 1971, special issue on energy. He is a member of the board of directors of Zero Population Growth and Friends of the Earth.

had the time or introspection to see and accept their own maturity. Could it be that our 20th century conservation movement might become a controlling "social hormone"?

We are told that we must have growth because economists insist upon it. We have listened intently because economists have said what we wanted to hear. Yet John Stuart Mill, over a century ago, saw problems ahead. Today, many others, such as Kenneth Boulding, tell us that indeed we do not need growth—but no one has been able to tell us clearly how to achieve a steady state economy that we will accept. They have, though, illuminated important issues.

Herman Daly has contrasted Adam Smith's "unseen hand" which leads private self-interest unwittingly to serve the general welfare, with the "unseen foot," which kicks to pieces our common interest in the environment. And Mason Gaffney, focusing more narrowly on the growth of cities, has outlined three sorts of "urban containment." The first, ordinarily called "positive planning" and depending heavily on zoning, he calls "negative containment" because he thinks it cannot stand up under the pressures of developers. The second, "neutral containment," is to have the cities quit subsidizing the suburbs. The third, "positive containment," is close to Henry George's "single tax."

The reality of urban subsidy to suburban growth is clearly shown in a \$250 million bond issue passed in 1958 to provide water for the growth of metropolitan San Francisco's East Bay area. Berkeley's burden was some \$20 million. What did Berkeley get in return? Essentially nothing, because the growth was not in Berkeley, but in Walnut Creek, Upper Pinole and Lower Slurbovia. But since it was promised that taxes would not increase, Berkeley citizens voted for the bonds four-to-one, without realizing that water rates could be half as high were it not for the need to support new suburban growth. How many cities have paid for their own schools, then chipped in to pay for the schools in successive suburban rings? Gaffney would have the suburbs pay the whole cost of the new services they demand.

It is not surprising that California, the focus of the growth mystique, should generate the strongest opposition to growth. Force begets counterforce. Where the fever of growth is

hottest, the antibodies form fastest. The conservation movement grows best on the site of worst abuse. Today, many in California question burgeoning development and when they are told that growth is good, are prepared to look the developer in the eye and ask him how much of that good will end up in his pocket.

In California, as in other places, an aversion to needless growth waxes:

- Palo Alto, persuaded by a Livingston and Blayney report, has concluded that it is wiser, and more economical to boot, to buy its hills for parkland than to permit subdivision.

- Marin County has rejected a new water supply on the grounds that it will only stimulate growth. (The voters are unlikely to have considered the issue of subsidy for newcomers.)

- Bolinas and Stinson Beach have rejected an oversized sewer project because they believe it will lead to undesirable growth.

- Berkeley has steadily lost interest in developing its submerged waterfront.

- Petaluma has proposed to limit its growth to 500 new homes per year.

- Mendocino voters have rejected a proposal to subdivide much of Round Valley.

- The Association of Hawaiian Counties is reported to have memorialized the legislature to bring that state's population growth to an end.

- Boulder, Colorado, has almost decided to set an upper limit for its population based on a study which concluded that the optimum size for an American city, based on per capita cost of municipal functions, is between 50,000 and 100,000.

The Boulder study is less than convincing in detail, but clearly an optimum size must exist. While the optimum size for a metropolis obviously exceeds that for a provincial city, few people who live in the San Francisco metropolitan area could easily identify any progress of importance in the last three decades. Economically and culturally, it is still the same regional center, but the amenities that made it one of the most attractive of great cities are disappearing at an alarming rate.

New York, as almost everyone agrees, has become ungovernable, almost inoperable, neurotic, necrotic, perhaps cancerous.

But those who extol growth keep saying, "growth means jobs." Yes, jobs for today and for immigrants, but

none guaranteed to local unemployed. Growth looks good to small business—up to a point. For winners can become losers with frightening suddenness: the local grocery store in a growing neighborhood until the supermarket moves in; the frontage on an increasingly busy street until the freeway bypasses it; the easy drive to work, and then the traffic jam. The longer you ride the tiger of growth, the more dangerous it becomes. The walls of growth press in on the city, shrink room to maneuver, bleed bargains dry, bankrupt the central stores, drain support from schools and libraries. Then the loss of pride, the strife that succeeds sense of community, the rubbish in the streets all suggest a condition where "the mass of men lead lives of quiet desperation." Finally, only friction and litigation can grow.

The consequences of growth so pervade the society that even when we can agree that it should end, a quality of momentum, an inertia, carries it along. We are dismayed to find that we have geared school construction and teacher training to a baby boom now passed, while we never thought of jobs for the adults they have become. Did we not want them to grow up? Again, in California, we have a system of highway financing almost guaranteed to meet the needs of an exponentially growing population of automobiles, and sure to lead to highway construction after all reasonable need has ended.

How do we turn from pathological growth to humanistic progress?

1. We need more sophistication. When your mayor tells you that growth broadens the tax base, laugh in his face and ask him to count for you the growing cities with growing tax bases—and with declining tax rates. When your antagonists tells you that your love of beauty is emotional, reply that love of money is an emotion, and hunger, too.

2. We need to be more skeptical. When opponents of the Redwood National Park argued that it would destroy Humboldt County's tax base, they sought to play on the gullibility of a public that could not easily check for itself that the loss would be less than five percent. When the power industry warns us that energy needs for environmental protection and mass transit will require great expansion, common sense should tell us that the

incremental needs in these areas will be trifling in comparison with the other "growth needs" that the utilities have in mind to promote.

3. We can vote down bond issues, try to limit facilities, but I think this will do more to publicize our feelings than to end growth. Dasmann suggested denying water to Southern California; water control authorities have come close to denying sewers to San Francisco; the Sierra Club suggests denying electric power. facetiously, it has been said that this won't work but will, instead, trade the present population for one which drinks only alcohol, doesn't wash, and uses outhouses and kerosene lamps. Yet such measures might help if we were to increase water rates to the point where per capita consumption would level off, and if we were to require new developments to pay for all of the services provided rather than only for their incremental costs.

4. Can migration to growing areas be restricted? Probably not. Proposals to exact a California immigration fee of \$1,000 would be judged unconstitutional. But what of a carefully measured fee reflective of the facilities available to new residents but paid for by prior residents? If it is a denial of the privileges and immunities clause of the Fourteenth Amendment to restrict interstate migration, is it not a denial of the due process clause to force prior residents to contribute their property to the support of immigrants? Today Hawaii is seeking to limit the numbers of people traveling to and from

the mainland, and also to control the number of its automobiles.

5. We must modify our institutions. They were developed for a juvenile, growing society, a poor society in an empty land. We now have a rich society in a full land, a mature society past its era of growth. The Federal Constitution may require amendment and, if we can identify changes based on sound principle, not expediency, we should not shrink from undertaking them. Would it be a disaster to revise the due process clause of the Fourteenth Amendment to give a man no more than a fair return on investment in land destined for public use? Would it be a disservice to society to exact an almost confiscatory capital gains tax on unimproved land? Its value is generated by the growing society, not by the productivity of its owner. Above all, it is time that we abandon our treasure-hunt philosophy of economics and reward productivity, not opportunism.

6. If growth is to end, we must abandon the growth mystique. Planners, all of them, relish growth. The plan for the San Francisco Bay Area prepared by the Association of Bay Area Governments envisions a persistence of population growth at what is probably a conventional rate for planners. No evidence of effort to restrain growth appears; no effort to suppress and reinforce what may be a current magnificent, intelligent, and abrupt decision by the American people to end population growth. Can our generation close its eyes to growth

when we know that the next generation must face up to it? Shall we live our lives as addicts to growth and then, having addicted our children, tell them in our wills to kick the habit? Let us say instead, and say it in our plans, that we expect growth to end soon; let our plans cover the period until growth has ended. Let our planning schools begin to produce planners who do not themselves believe in growth.

In California the temper is becoming clear: given a choice between competent plans for growth and competent plans for non-growth, voters will choose the latter. Rarely do they get such a choice. Usually, if any choice is granted, it is plans for growth prepared by a competent planning staff against plans for non-growth prepared by overworked amateurs with no experience, working at midnight, with little access to needed details. When voters choose the former over the latter type, it is not because they are for growth, but because they are realistic. Witness the recent rejection by the voters of a categorical six-story limit for San Francisco.

The real power of planners is in their resources and technical competence. Why don't we give the progress-against-growth concept a chance by creating publicly supported groups of technically competent people who are committed to the idea of progress without growth? The cost would be slight, the stakes are large, and the voter would have the chance to decide between workable alternatives.

Admission fee and annual dues:

<input type="checkbox"/> Life member ^{2,3}	\$400.00
<input type="checkbox"/> Contributing ²	50.00
<input type="checkbox"/> Supporting ²	25.00
<input type="checkbox"/> Regular (age 15 and over)	15.00
<input type="checkbox"/> with Spouse (\$7.50)	22.50
<input type="checkbox"/> Junior (through age 14)	5.00
<input type="checkbox"/> Student (full-time, thru age 23)	8.00
<input type="checkbox"/> with Spouse (\$5.00)	13.00
<input type="checkbox"/> Senior (60 and over) ¹	10.00
<input type="checkbox"/> with Spouse (\$5.00)	15.00
Plus Admission fee³	5.00

Total \$ _____

¹if desired. ²per person.

³One \$5.00 admission fee covers all members of an immediate family joining at the same time. Admission fee is waived for junior members, full-time students through age 23, and life members.

Dues include subscription to the Sierra Club Bulletin and chapter newsletter.

Sierra Club, 220 Bush St., San Francisco, Calif. 94104 Date _____

I have informed myself about the purposes of the Sierra Club and wish to support them. I hereby apply for membership and enclose \$ _____ as total payment. See schedule on left for applicable fees.)

Print Name(s) _____
Mr. Mrs. Miss Mr. & Mrs.

Print Mailing Address _____
 _____ Zip Code _____

Telephone Number _____ Birthdate _____

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Signature of Applicant _____

When applying for additional members other than spouse, please supply the above information on separate forms or letter.

Please allow four to six weeks for processing.

If you can provide counsel for the Club in its efforts at protecting the total environment, please indicate your area of specialization. J

Big Money (continued)

• Must not "take" or severely "damage" private land without adequate compensation; "regulating," however, is not the same as taking or damaging and is legally permissible without compensation.

California courts have been especially willing to allow public agencies to regulate land use for the public good. *McCarthy v. City of Manhattan Beach* (1953) upheld the right of the city to restrict development of a parcel of beach property because the undeveloped beach was considered a community asset. *Smith v. County of Santa Barbara* (1966) said a property owner near an airport had to forego more profitable development of his land so that the safety and convenience of the air-traveling public wouldn't be impaired. And *Southern Pacific v. City of Los Angeles* (1966) upheld the right of the city to require property owners to donate a portion of their land for street-widening since the city couldn't afford to buy the land. And a California appeals court this March upheld the right of Del Norte County to prohibit all permanent buildings from land subject to severe flooding by the Klamath River without any payment to the property owners; the court ruled that limiting the land to recreation, seasonal camping, trailer parks and agriculture did not constitute unlawful taking of the land.

Government attempts to regulate land use are thus allowed by U.S. courts. But protected also are individual citizens' rights to influence government bodies regarding zoning and other land-use decisions, without being liable for any economic effects their suggestions might have. In a unanimous ruling by the Supreme Court regarding an alleged conspiracy by eastern railroads against several trucking firms, Justice Hugo Black wrote, "It is inevitable, whenever an attempt is made to influence legislation by a campaign of publicity, that an incidental effect of that campaign may be the infliction of some direct injury upon the interests of the party against whom the campaign is directed. And it seems equally inevitable that those conducting the campaign would be aware of, and possibly even pleased by, the prospect of such injury. To hold that the knowing infliction of such injury renders the campaign itself illegal would thus be

tantamount to outlawing all such campaigns."

Citizens' rights to band together to make their public statements more effective, without fear of being held liable for a conspiracy, are also protected. The Supreme Court in *NAACP v. Alabama ex re. Patterson* said, "Effective advocacy of both public and private points of view, particularly controversial ones, is undeniably enhanced by group association, as this court has more than once recognized by remarking upon the close nexus between the freedoms of speech and assembly. . . . It is beyond debate that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause, . . . which embraces freedom of speech. . . . Of course, it is immaterial whether the beliefs sought to be advanced by association pertain to political, economic, religious or cultural matters, and state action. . . ."

Because McKeon's suit does not list any of the statements allegedly made by the defendants in their alleged "conspiracy" to deprive the firm of its property rights, the conservationists are assuming that the statements in question were made at public hearings, where statements are "privileged," which means they don't have to be true. McKeon gets around this argument by calling its suit a *civil* conspiracy. C. Afton Moore, one of McKeon's lawyers, told the Sacramento County Superior Court at a hearing held after the suit was filed that, "In this case, your Honor, it is a matter of 'civil conspiracy.' I know of no authority which indicates that there is some sort of privilege under any circumstances for a 'civil conspiracy' . . ."

But conspiracies—even if it can be shown that they exist—which never *do* anything illegal cannot be punished in civil courts. According to a commonly used California legal text, "Unless something is done that would give rise to a cause of action without the conspiracy, there can be no successful civil action, since the conspiracy itself does not give rise to a cause of action, however atrocious its purpose." California law also specifically states that in order to properly plead conspiracy, it is necessary to show that there is concert of action, that there are some illegal acts which have been committed in furtherance of the common scheme, and that the conspirators are

aware of the conspiracy and its illegal purposes.

The defendants' lawyers, in their official reply to McKeon's suit, say they "have never before seen a Complaint striking at the heart of First Amendment protection which is more vague and uncertain. Perhaps some of our difficulty," they said, "lies in the fact that we know of no case which attacks the First Amendment rights of Americans with such a bold disregard of the principles of ordered democracy."

They argue that ". . . any punishment of mere speech (which is the only kind of 'act' McKeon's suit charges to the defendants) must . . . take account of the *circumstances* under which the speech was uttered, as giving the speech the requisite character of an effective act—such as, for example, the circumstances that it *is* a theater in which Mr. Justice Holmes' celebrated theatergoer shouts, 'Fire.'"

The suit, the defendants say, lists no examples of the supposed "false" statements made by them, gives no explanation of how those statements allegedly deprived McKeon of its lawful property rights (which the suit does not define), apparently lists no acts beyond speech as the basis of the supposed conspiracy, offers no proof that the defendants' public statements were malicious. ". . . It is clear that the Complaint fails in any way to comport with the minimum standards of certainty which must be applied to pleadings as they pertain to First Amendment protected material. An examination of the Complaint demonstrates . . . the Complaint does not reveal in any way the subject matter of this lawsuit. It neither sets forth specific statements of the defendants, placing them in a context in which we may make judgments concerning whether they are in fact First Amendment protected or not, it fails to even suggest any statements made by any individual defendant. . . . It can hardly be argued that requiring a defendant to defend a multimillion dollar lawsuit on these vague and uncertain grounds can constitute 'sensitive tools' sufficient to meet constitutional standards. . . . There is no allegation or any apparent suggestion in the Complaint of how the Defendants' false statements (whatever they are and to whomever made) have prevented Plaintiff from exercising its 'lawful' (whatever that means) right to develop its property."

From Sea to Shining Sea

OR

Through the Rockies at 31 Knots

JONATHAN ELA

CONSERVATIONISTS are expressing concern over a proposal just announced to construct a Cross-Continent Barge Canal linking Boston with San Diego. The joint project of the U.S. Army Corps of Engineers and the Atomic Energy Commission would be the largest public work ever constructed in the United States, and would utilize the technology recently perfected by the AEC in its Cannikin explosion on Amchitka Island in Alaska.

The Cro-Con Canal is officially described as "a multiple use project in the highest sense of the term," but it is generally understood in Washington that the major justification for the project is to aid movement of aircraft carriers. Pentagon sources point out that the Panama Canal is too narrow to handle the newer carriers, necessitating enormously expensive and time-consuming voyages around Cape Horn. Plans to construct a new, sea-level canal across Panama have been blocked by Panamanian nationalists and by aroused environmentalists in the United States who have pointed out the possibly disastrous effects on the mating and migrating patterns of certain endangered species.

Supposed benefits of the Cro-Con proposal are spelled out in the Corps of Engineers' "Preliminary Framework Analysis," a 640-page document released on May 18th of this year. These include: enhanced capacity to transport coal from the fields of Kentucky and southern Ohio; creation of deepwater ports for such cities as Cincinnati, Louisville, Tulsa, and

Aspen; flood control and water supply; and water-oriented recreational activity of a linear nature. The corps indicated that the Cro-Con Canal has a projected benefit-cost ratio of 1.001:1, "thus more than justifying the substantial public funds that will go into the project."

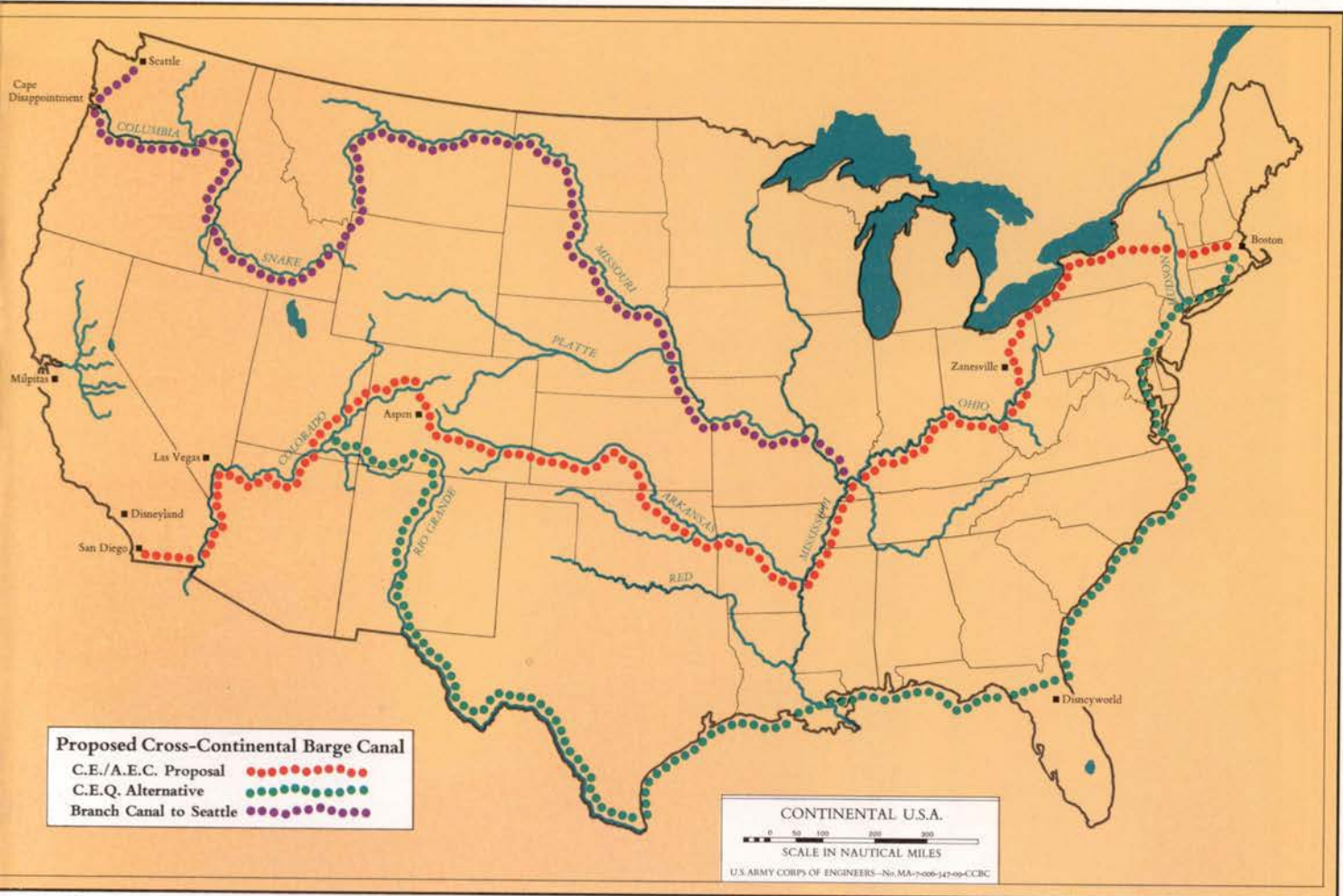
The public "Framework Analysis" fails to give a detailed route for the canal beyond the Charles River at Watertown, Mass., but a member of the Sierra Club's Washington staff has procured a Xerox of a sketch map through the good offices of a disgruntled associate of Jack Anderson. Corps of Engineers' sources warn that the leaked route map is a "rough guesstimate" and that details will be worked out after construction starts.

Early critics of Cro-Con contend that the corps has not sufficiently taken into account the scarcity of water in the arid western states. Corps Public Relations Director Lt. Gen. B. R. "Brute" Thwackem disputes this point, saying that the Corps can generate more than enough water to float even the largest aircraft carriers that the nation is likely to construct. Revival of the dormant NAWAPA water plan will bring enormous quantities of Canadian water into the arid areas, where it can be stored in specially constructed reservoirs. To avoid problems of evaporation, these reservoirs will be located in underground cavities created by detonation of five-megaton nuclear devices in the style of Cannikin.

It is now conceded in Washington that Cro-Con was the real reason for the Cannikin test, and for the earlier Project Rulison explosion in Colorado. Environmentalists in the Midwest also speculate that Project Old

Oaken Bucket in Kentucky is a related feasibility study. This project, now one-third completed, consists of filling Mammoth Cave with water diverted from the Red River in eastern Kentucky. The explained justification of Old Oaken Bucket has always been to meet the water supply needs of Cub Run, Kentucky, but local conservationists have never been completely satisfied by this explanation.

Environmental groups have been alarmed that evidently no Environmental Impact Statement, as required under Section 101 (2) (c) of the National Environmental Policy Act, is to be issued for the Cro-Con Project. General Thwackem has given three reasons for this. First, it is argued that there is no conceivable way in which significant environmental damage could occur. Second, corps personnel take the position that NEPA is non-retroactive and that Cro-Con is simply a routine departmental updating of Albert Gallatin's April, 1808, report on proposed domestic improvements, including canals. The corps' argument is that since Gallatin did not have to write an impact statement, neither should they. Finally, the corps argues that the only slight risk of environmental damage would be from the AEC's still novel means of excavation through the use of nuclear devices. The corps feels that for this reason the impact statement is out of its jurisdiction, and should be prepared, if at all, by the AEC. Attempts to reach an AEC official associated with Cro-Con were unsuccessful (although more than 2,000 are said to be employed on the project), but one contact within the AEC's sprawling Germantown, Maryland, headquarters indicated that there are "compelling reasons" for not is-



suing an impact statement, although he could not divulge them "because of national security considerations."

Conservationists appear to have an ally within the Nixon Administration in the President's Council on Environmental Quality. The CEQ takes the position that it should have been consulted, and is agitating within the Administration to have alternatives considered. The Council finds that some impact from the Cro-Con is likely, and has quickly brought forward a different route. CEQ suggests improving the Intracoastal Waterway along the East Coast, constructing the Ochlawaha (Cross-Florida) Canal, developing the Intracoastal along the Gulf Coast, dredging up the Rio Grande as far as Alamosa, Colorado, cutting due west to Lake Powell, and following the corps proposal from that point. The Council points out that its proposal involves far less construction in areas that do not currently have rivers, and that the portion of the Rocky Mountains that would have to

be leveled by nuclear explosions is "much less valuable, estheticwise."

The corps rejects the council's alternative for three reasons. First, it would expose the aircraft carriers to enemy submarines. Second, the CEQ route would have less value for movement of coal, development of inland ports, flood control, mid-continental water sports, and other benefits. Third, the corps proposal is so designed that a branch canal could be extended to Seattle, using basically the Missouri and Columbia Rivers, thus aiding the movement of supertankers from Puget Sound refineries to northeastern markets.

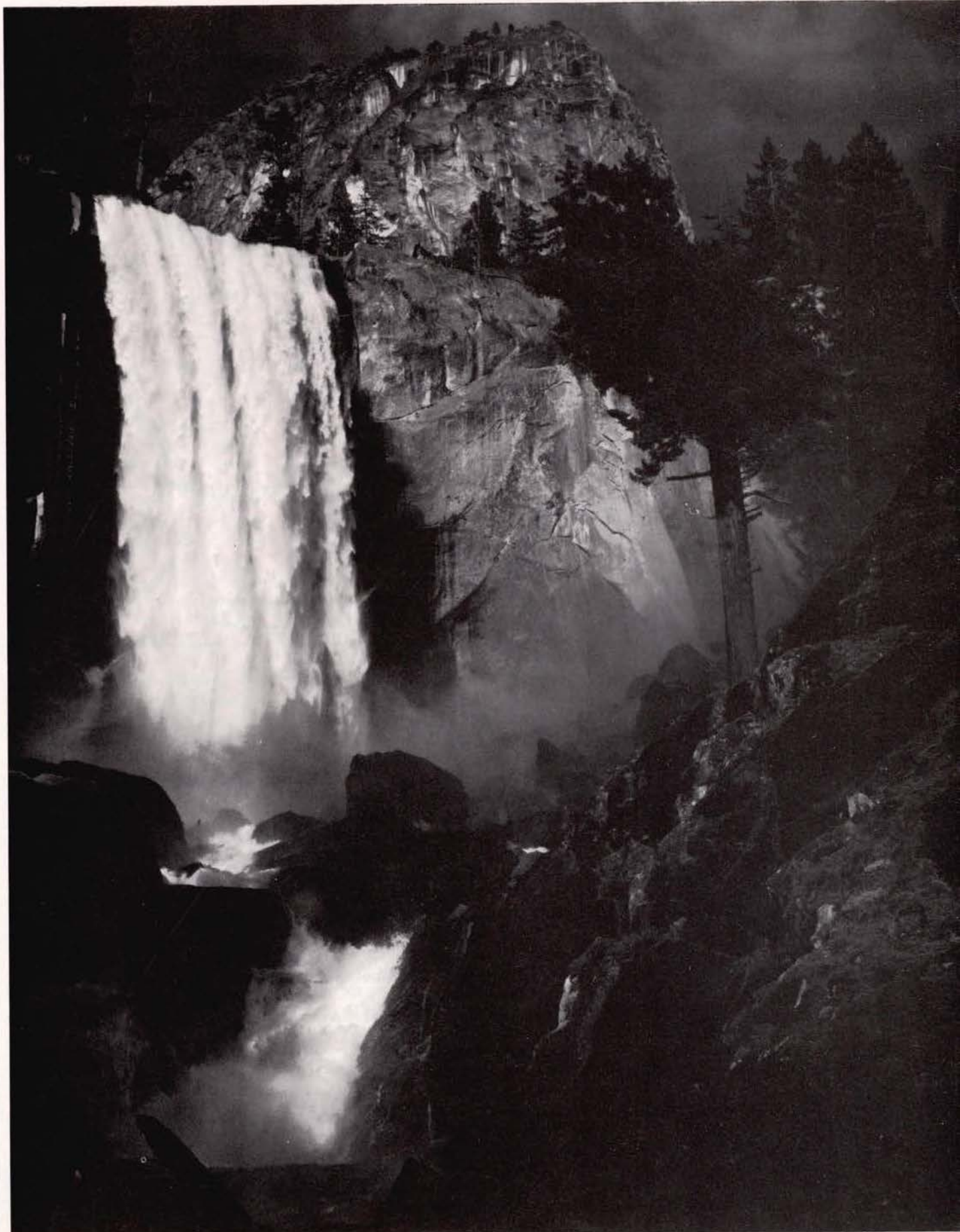
Environmentalists have greeted the Cro-Con announcement with mixed feelings. Some, such as the Sierra Club, have shown initial skepticism, based largely on potential damage to the Grand Canyon. Others, such as the East Birdseye (Indiana) Rod and Gun Club, tend to view the project with favor, as they accept corps ecologists' predictions that the fish will grow

fatter in the slack water "because they don't have to work as hard."

It is clearly too early for environmentalists to voice a unified opinion on the Cro-Con Canal, as the facts are not yet all in. Yet the corps has already accused the Sierra Club of "irresponsibility" in "raising baseless questions." "These environmentalists want us to return to the Stone Age," says General Thwackem. "National Security and economic prosperity demand a canal. They've blocked us in Panama and now they want to block us here. But here in the Corps we believe in Cro-Con, just as we believe in America, and no posy-plucker is going to tell us how to run our shop."

With due respect to the General's patriotism and to the desirability of hearing both sides of the question, it nevertheless seems to many environmentalists that the Cross-Continent Canal is a project that bears watching.

Jonathan Ela is Midwest Representative for the Sierra Club.



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Northern Rockies (continued)

megawatts each, with the others ranging down to 1,000 megawatts. The capacity of the power complex could be 10 to 12 times the potential capacity of the huge Four Corners development in the Southwest.

Hundreds of thousands of acres will be disturbed by the strip mines, plants, transmission lines, and servicing railroads which would be built. Diversion of water from the Big Horn and Yellowstone Rivers, and possibly from the Green River, to supply the generating plants would also have far-reaching environmental impact. Mining along the Tongue, Powder and Belle Fourche rivers could cause acid pollution in these headwaters of the Missouri. Air pollution, now virtually unknown in the region, could be severe.

The coal mining and power generating potential envisioned in the study may never reach the maximum projected. But already the large energy companies that would benefit from the plan and the politicians and bureaucrats who cater to them have taken several preliminary steps towards development of the resources. Since 1967, energy companies have been obtaining option contracts from the Bureau of Reclamation allowing them to receive industrial water from the public water projects in the area. Between November of 1967 and May of 1971, some 15 option contracts were made with Kerr-McGee Corporation, Shell Oil Company, Humble Oil Company, Peabody Coal Company (Kennecott Copper), Reynolds Mining Company, Coal Conversion Corporation, Gulf Mineral Resources, Colorado Interstate Gas Company, Ayrshire Coal Company (Amax), Westmoreland Resources, and others for 700,000 acre feet of water annually from the Yellowtail and Boysen Units of the Missouri River Basin Project. Many of these companies also have coal leases.

While it was making the water sales contracts, the bureau made some basic studies and cost estimates of pipelines needed for diversion and water storage facilities. These studies were followed by a meeting last April at which the bureau announced, "Now that we have some preliminary findings be-

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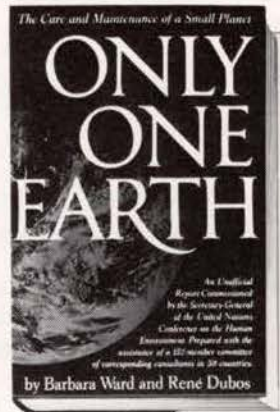
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hind us, we think it proper to get the state and federal agencies involved." The extent of participation by other agencies prior to this meeting is unclear, but it would seem that their only role, as implied by the bureau, is to suggest ways of minimizing the impact of a decision already made when the water option contracts were negotiated. When questioned about the sale of water prior to preparation of studies required by the National Environmental Policy Act and compliance with requirements of the Fish and Wildlife Coordination Act, the bureau responded, "Required environmental impact statements will be prepared as needed. State and federal agencies have been advised of the plans under study." This "answer" avoids mention of the actions which have already been taken.

Wyoming officials are interested in promoting the power complex and are adjusting the State Water Plan so that it will provide every possible drop of water for the coal fields and related developments.

The "development" of Wyoming and Montana is in the hands of the large energy companies who would extract the coal by the same strip mining methods which have damaged many Eastern states and which are now wreaking havoc in large areas of the Southwest. These companies have opposed comprehensive land planning and strict land reclamation procedures in their pursuit of a single-minded use of the states' resources. These policies, which jeopardize all other uses of the land and water resources, can lead to an environmental disaster of gargantuan proportions.

Laney Hicks

Tuolumne Meadows Campground

Because of increased costs and improved sewage facilities a charge of \$2.00 per night per campsite will be made at Tuolumne Meadows Campground this year. Donations solicited from users in the past were becoming smaller and smaller. The campground will also be made a "walk-in" campground to stop the degradation of the meadows by automobiles.

News View (continued)

The land was purchased from the Northern Lumber Company for \$100 an acre.

Located in the Forest Preserve Counties of New York, the property is adjacent to state wild forest land, but is not subject to any controls until the year-old Adirondack Park Agency formulates zoning plans at the end of the year. Several conservation organizations are investigating the situation, with an eye toward possible legal action. It is also expected that the New York Department of Environmental Conservation will hold hearings on the project.

Con Ed fined for fish kill

The state of New York recently levied a fine of \$1.6 million against Consolidated Edison for a series of fish kills at the company's Indian Point No. 2 nuclear power plant on the Hudson River. The fine was based on a civil penalty of \$500 plus \$100 for each fish "taken or possessed" in violation of a state conservation law.

In announcing the fine, Attorney General Louis Lefkowitz said, "All responsible public officials are cognizant of the need for electric power, but that does not excuse these frequent enormous killings of fish. Con Ed simply must operate its facilities in accordance with reasonable environmental standards."

FPC okays gas terminal at Chesapeake Bay

The Federal Power Commission's hearing examiner Max L. Kane has given his approval for the importation of liquid natural gas from Algeria and the construction of a re-vaporization and storage terminal at Cove Point, Maryland, on Chesapeake Bay. The Sierra Club has opposed construction of this facility because the land purchased by Columbia LNG Corporation lies within the boundaries of the proposed Calvert Cliffs State Park. Elimination of this section of the park destroys public access to the bay for swimming, boating, fishing

and other recreational purposes for which the park was primarily intended. The full commission must still rule on the proposal which then is subject to possible review in federal court.

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