## Crackdown Urged on Inciters of Violence

### HON. JOEL T. BROYHILL

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

*Tuesday, April 30, 1968*

Mr. BROYHILL of Virginia. Mr. Speaker, I received a request from Mr. Charles D. Brown, 1721 Maxwell Court, McLean, Va., a constituent of mine, to insert an article written by Crosby S. Noyes in the Evening Star of April 25, 1968. This article is an excellent description of the deplorable situation now existing in our Nation. I believe it would be of interest to every American and should be made available to them. It is for this reason I include it in the Extensions of Remarks:

CRACKDOWN URGED ON INCITERS OF VIOLENCE

The time has come to crack down on the crackpots and hard. It is time to put out of circulation for as long as possible all of the individuals and organizations in this country, black and white, who are deliberately and openly inciting to violence and race warfare.

Few democratic societies in the world would tolerate the murderous activities of such outfits as the Revolutionary Action Movement, the Black Panthers or the grotesquely misnamed Student Nonviolent Coordinating Committee. Most would have long since outlawed the hate merchants passing as Minutemen, Klansmen and American Nazis.

Tolerance of such groups is a luxury which the United States can no longer afford. The danger which they represent to the fabric of American society is clear and imminent. The prompt removal of their leaders from circulation would do more to cool the fever of our cities than all the appeals for law and order put together.

Consider, for example, the case for tolerating the likes of Stokely Carmichael. Within hours of the murder of Martin Luther King in Memphis, Stokely was telling his friends in Havana that the American revolution was now in full swing.

"More people," Carmichael assured his listeners, "are now beginning to plan seriously a major urban guerrilla warfare where we can begin to retaliate not only for the death of King but where we can move seriously with this country to bring it to its knees."

Bluff and bluster? Perhaps. But it would be a very serious mistake to underestimate the potential of even a small group of dedicated conspirators.

The most competent officials of the government believe that under present conditions a few dozen men in as many major cities could quite easily start riots which would overwhelm the police and military forces presently available for riot control.

If the outbreaks of violence were planned and carried out simultaneously, it would be physically impossible to move troops into all the trouble areas simultaneously. And if this should happen, a number of major cities could quite literally be burned to the ground.

In fact, there is some reason to believe that the shooting of Dr. King caught Carmichael and his fellow conspirators unprepared. The unexpected pretext for violence was irresistible and, in fact, rioting broke out more or less spontaneously in a number of cities.

But Carmichael & Co. were unable to exploit the outbreak for their own purposes. His appeal to the crowd to "get you a gun" had a ring of improvisation and mercifully went unheeded. As the riot ran its course in Washington, Stokely was nowhere in evidence.

Yet very surely there will be a next time.

The recent riot demonstrated once again how little relationship there is between the immediate cause of an outbreak and the motivation of those who take part in it. In the course of the coming summer, during which this city will be subjected to planned demonstrations, perhaps involving many thousands of people, ample opportunity will present itself for a more carefully prepared explosion.

If this is not reason enough for preventing the planned demonstration, then it is surely reason for lowering the boom now on Stokely and his friends. The safety of the city demands it, including most especially the safety of the black community, which will be the chief victim if Carmichael succeeds.

Last year in New York, 12 members of RAM were arrested for plotting the assassination of Roy Wilkins, the head of the National Association for the Advancement of Colored People. Today, the assassination of whole cities is being plotted, and virtually nothing is being done about it.

The laws to put Stokely and his friends out of business are on the books. The new District Crime Reduction Act includes an anti-riot section which provides penalties up to $10,000 and 10 years in jail for anyone who incites a riot resulting in serious bodily harm or property damage exceeding $5,000.

So far as most people are concerned, a man who urges a crowd at the onset of a riot to go home and get their guns qualifies conspicuously under the provisions of this law. But though the Justice Department has been investigating Carmichael's case for weeks, he is still very much at large. The final decision rests with Attorney General Ramsey Clark, who would be well advised to stop pussyfooting and crack down before it is too late.

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# SENATE—*Wednesday, May 1, 1968*

The Senate met at 12 noon and was called to order by the President pro tempore.

The Chaplain, Rev. Frederick Brown Harris, D.D., offered the following prayer:

God, our Father, from the tumult of an angry, agitated world, we seek the sanctuary of Thy presence, not that we may escape from the world, but that we may turn to the perplexing maze of its tangled problems with strong spirits and quiet minds.

From the shams and shadows of these days, we pray for strength for our burdens, wisdom for our problems, insight for our times, and vision which sets our eyes on far horizons. And, above all and in all, undergird our faith with the conquering assurance that—

"Under the shadow of Thy throne
Still may we dwell secure,
Sufficient in Thine arm alone,
And our defense is sure."

We ask it in the dear Redeemer's name. Amen.

## THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Tuesday, April 30, 1968, be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## MESSAGES FROM THE PRESIDENT—APPROVAL OF BILLS

Messages in writing from the President of the United States were communicated to the Senate by Mr. Jones, one of his secretaries, and he announced that on April 29, 1968, the President had approved and signed the following acts:

S. 159. An act to provide for the temporary transfer to a single district for coordinated or consolidated pretrial proceedings of civil actions pending in different districts which involve one or more common questions of fact, and for other purposes;

S. 1664. An act for the relief of the city of El Dorado, Kans.; and

S. 2912. An act to authorize appropriations for the saline water conversion program for fiscal year 1969, and for other purposes.

## REPORT ON MANPOWER PROGRAMS—MESSAGE FROM THE PRESIDENT (H. DOC. NO. 302)

The PRESIDENT pro tempore laid before the Senate the following message from the President of the United States, which, with the accompanying report, was referred to the Committee on Labor and Public Welfare:

*To the Congress of the United States:*

It is a traditional event for the President to submit to Congress an annual report on the progress of our manpower programs.

Although the custom is long-established, there is nothing routine about this report or its subject: jobs for our citizens: more useful, more satisfying jobs to give Americans a sense of full participation in their society.

Four months ago I told Congress that jobs are "the first essential."

In my first special legislative message this year, I proposed that Congress launch a new $2.1 billion manpower program—the most sweeping in our history.

At the same time I called on the leaders of American commerce and industry to form a National Alliance of Businessmen to provide jobs for hundreds of thousands of the hard-core unemployed.

On April 25, the Alliance reported to me on its progress so far:

—More than 500 executives, whose talents command more than $15 million in salaries alone, have volunteered to work full time in 50 of our largest cities. They are assisted by 7,000 other volunteers.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

—By mid-April, the Alliance had received pledges of 111,000 jobs—66,000 permanent jobs for the hard-core unemployed, and 45,000 summer jobs for poor young people.

—Labor unions, the Urban Coalition, Chambers of Commerce, churches, schools and many civic groups have joined this crusade to give the words "full employment" a new meaning in America.

Meanwhile, the Government's new Concentrated Employment Program has been active in more than 50 cities meshing its efforts with the National Alliance of Businessmen. And the administration of our job programs has been given new energy through reorganization and strong leadership.

These are hopeful beginnings. But certainly they are no grounds for complacency.

In every city, there are men who wake up each morning and have no place to go; men who want work—but cannot break the confining welfare chain or overcome the barriers of lifelong discrimination, or make up for the lack of schooling and training.

When we talk about unemployment, we are talking about these citizens, who want and need personal dignity and a stake in America's progress.

When we talk about manpower programs, we are talking about hope for these Americans.

And every time we tabulate new statistics of success in these programs, we are recording a small personal triumph somewhere: a man trained; a youth given a sense of his value; a family freed at last from welfare.

That hope is what makes this great task so exciting—and so vital.

To every Member of the Congress, upon whom our manpower programs depend, I commend this report.

I urge the Congress to support these programs by approving the $2.1 billion manpower budget request I recommended in January.

LYNDON B. JOHNSON.

THE WHITE HOUSE, *May 1, 1968.*

## EXECUTIVE MESSAGE REFERRED

As in executive session,

The PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of George W. Ball, of New York, to be the representative of the United States to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States in the Security Council of the United Nations, which nomination was referred to the Committee on Foreign Relations.

## LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that statements in relation to the transaction of routine morning business be limited to 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Committee on Interior and Insular Affairs be authorized to meet during the session of the Senate today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

## ORDER OF BUSINESS

Mr. MANSFIELD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. (Mr. HOLLINGS in the chair). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## ENROLLED BILL SIGNED

The PRESIDING OFFICER announced that on today, May 1, 1968, the Vice President signed the enrolled bill (H.R. 2434) for the relief of Nora Austin Hendrickson, which had previously been signed by the Speaker of the House of Representatives.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McCLELLAN, from the Committee on Government Operations, with amendments:

S. 2060. A bill to amend section 503(f) of the Federal Property and Administrative Services Act of 1949 to extend for a period of 10 years the authorization to make appropriations for allocations and grants for the collection and publication of documentary sources significant to the history of the United States (Rept. No. 1099).

By Mr. MUSKIE, from the Committee on Banking and Currency without amendment:

S. 3218. A bill to enable the Export-Import Bank of the United States to approve extension of certain loans, guarantees, and insurance in connection with exports from the United States in order to improve the balance of payments and foster the long-term commercial interests of the United States (Rept. No. 1100).

## BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. YOUNG of North Dakota:

S. 3414. A bill for the relief of Lela G. Gustafson; to the Committee on the Judiciary.

By Mr. JAVITS (for himself, Mr. BROOKE, Mr. DOMINICK, Mr. HARTKE, Mr. MAGNUSON, Mr. MILLER, Mr. MORSE, Mr. PELL, Mr. PERCY, Mr. SCOTT, and Mr. YARBOROUGH):

S. 3415. A bill to establish a Peace by Investment Corporation, and for other related purposes; to the Committee on Foreign Relations.

(See the remarks of Mr. JAVITS when he introduced the above bill, which appear under a separate heading.)

By Mr. McCLELLAN (by request):

S. 3416. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to authorize the rendering of direct assistance to the performance of special services for the Inaugural Committee; to the Committee on Government Operations.

(See the remarks of Mr. McCLELLAN when he introduced the above bill, which appear under a separate heading.)

By Mr. FANNIN:

S. 3417. A bill for the relief of Harold W. Strohl and his wife, Edna J. Strohl; to the Committee on the Judiciary.

By Mr. RANDOLPH:

S. 3418. A bill to authorize appropriations for the fiscal years 1970 and 1971 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes; to the Committee on Public Works.

(See the remarks of Mr. RANDOLPH when he introduced the above bill, which appear under a separate heading.)

By Mr. BREWSTER:

S. 3419. A bill for the relief of Georgios Fotopoulous; to the Committee on the Judiciary.

By Mr. JACKSON (by request):

S. 3420. A bill to authorize a per capita distribution of $550 from funds arising from a judgment in favor of the Confederated Tribes of the Colville Reservation; to the Committee on Interior and Insular Affairs.

By Mr. JACKSON (for himself, Mr. McGEE, Mr. HANSEN, and Mr. BURDICK):

S.J. Res. 164. A joint resolution to commemorate the 100th anniversary of the establishment of Yellowstone National Park by providing for the National Park Centennial, and for other purposes; to the Committee on the Judiciary.

(See the remarks of Mr. JACKSON when he introduced the above joint resolution, which appear under a separate heading.)

## S. 3416—INTRODUCTION OF BILL TO AMEND THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT

Mr. McCLELLAN. Mr. President, I introduce, by request, a bill to amend the Federal Property and Administrative Services Act of 1949, as amended, to authorize the rendering of direct assistance and performance of special services for the Inaugural Committee.

The Presidential Inaugural Ceremonies Act, as amended, authorizes the Commissioner of the District of Columbia to perform certain services and functions during the inaugural period and to be reimbursed therefor.

Enactment of this legislation, which is part of the legislative program of the General Services Administration, will specifically authorize the General Services Administration to make payments, which will not exceed $150,000 every 4 years, for services rendered by the District of Columbia government.

I ask unanimous consent to have inserted in the RECORD a letter of explanation and justification which has been received from the General Services Administration in support of this legislation.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the RECORD.

The bill (S. 3416) to amend the Federal Property and Administrative Serv-

ices Act of 1949, as amended, to authorize the rendering of direct assistance to the performance of special services for the Inaugural Committee, introduced by Mr. McCLELLAN, by request, was received, read twice by its title, and referred to the Committee on Government Operations.

The letter presented by Mr. McCLELLAN, is as follows:

GENERAL SERVICES ADMINISTRATION,
*Washington, D.C., March 29, 1968.*

Hon. HUBERT H. HUMPHREY,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: There is transmitted herewith a draft of legislation "To amend the Federal Property and Administrative Services Act of 1949, as amended, to authorize the rendering of direct assistance to and performance of special services for the Inaugural Committee."

This proposed legislation is part of the legislative program of the General Services Administration for 1968.

The Presidential Inaugural Ceremonies Act, 70 Stat. 1049, as amended (36 U.S.C. 721 et seq.), among other things, authorizes the Commissioner of the District of Columbia to perform certain services and functions during the inaugural period and to be reimbursed therefor. Section 3 of the Act provides as follows:

"There are authorized to be appropriated such sums as may be necessary, payable in like manner as other appropriations for the expenses of the District of Columbia, to enable the Commissioner[s] to provide additional municipal services in said District during the inaugural period, including employment of personal services, without regard to the civil-service and classification laws; travel expenses of enforcement personnel, including sanitarians, from other jurisdictions; hire of means of transportation; meals for policemen, firemen, and other municipal employees, cost of removing and relocating streetcar loading platforms, construction, rent, maintenance, and expenses incident to the operation of temporary public comfort stations, first-aid stations, and information booths; and other incidental expenses in the discretion of the Commissioner[s]; and such sums as may be necessary, payable in like manner as other appropriations for the expenses of the Department of the Interior, to enable the Secretary of the Interior to provide meals for the members of the United States Park Police during the inaugural period."

The General Services Administration has no such authorization and while this has not heretofore impeded GSA's direct assistance to the Inaugural Committee and the performance of special services in connection with inaugural operations, there is some question of legality surrounding such assistance in the absence of legislation.

The first Presidential inaugural requirement is the provision of adequate and suitable space for Committee use. Assignment would be made, of course, of any available Government-owned space, and leasing would be resorted to only in the absence of such space. Maximum use is made of surplus furniture and equipment. Partition alteration and other space adjustments are a necessary incident. By virtue of the 24-hour-a-day operations of the Committee, special security and custodial services are required, thus requiring the payment of overtime to guards and custodial personnel.

One of the special requirements of the Committee for several inaugurations has been the provision of parking space for the purpose of storing new vehicles supplied by several automobile firms for use in the parade. Heretofore, the garage in the General Accounting Office Building has been used for this purpose. The vehicles are required to be kept under roof and given special maintenance up to parade time. The garage also serves as an assembly point for drivers and dispatchers who are keyed in with the parade program.

It has been customary on the part of GSA to erect stands and platforms on public buildings under its control along the parade route to supplement those provided by the Committee First-aid stations have also been provided at focal points.

The foregoing constitute the major services and functions rendered or performed by GSA. While most of these services and functions can be accomplished through the use of force account personnel, it may be necessary to resort to service contracts in some instances.

It is estimated that appropriations authorized by the enactment of this proposed legislation would not exceed $150,000 every four years.

GSA recommends favorable and prompt consideration of this legislative proposal.

The Bureau of the Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submission of this proposed legislation to the Congress.

Sincerely yours,

LAWSON B. KNOTT, Jr.,
*Administrator.*

## S. 3418—THE FEDERAL-AID HIGHWAY ACT OF 1968 IS INTRODUCED—MEMBERS URGED BY SENATOR RANDOLPH TO STUDY PROVISIONS

Mr. RANDOLPH. Mr. President, I introduce, for appropriate reference, the Federal-Aid Highway Act of 1968. This bill, together with the accompanying letter of transmittal which explains its various provisions, provides for additional authorizations to continue our national highway program.

This legislation, which will form the base for the consideration by the Committee on Public Works, is introduced for the purpose of enabling persons who are interested to review it, reflect on it, consider it, and prepare their views for the committee when it holds hearings in early June.

A reading of the measure and accompanying explanation will indicate the areas of change which have been made necessary by our continuing experience in the construction of highways. Basically, the legislation is a continuation of the proven Federal-State partnership which for many years has been successful in producing a highway network capable of meeting our national transportation needs.

I am sure that when the bill is considered, that these will be additions and modifications which will improve its responsiveness to our national needs. I commend to all those who are concerned a very careful review of its provisions so that the Committee on Public Works will have the advantage of their counsel as we work to reach a constructive decision.

I ask unanimous consent that the letter transmitting the proposed legislation be printed in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letter will be printed in the RECORD.

The bill (S. 3418) to authorize appropriations for the fiscal years 1970 and 1971 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes, introduced by Mr. RANDOLPH, was received, read twice by its title, and referred to the Committee on Public Works.

The letter, presented by Mr. RANDOLPH, is as follows:

THE SECRETARY OF TRANSPORTATION,
*Washington, D.C., April 20, 1968.*

Hon. HUBERT H. HUMPHREY,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: The Department of Transportation has prepared and submits herewith as a part of the legislative program for the 90th Congress, 2d session, a draft of a proposed bill: "To authorize appropriations for the fiscal years 1970 and 1971 for the construction of certain highways in accordance with title 23 of the United States Code, and for other purposes."

This bill is cited as the "Federal-Aid Highway Act of 1968." Section 2 of the bill would revise the schedule of authorization of appropriations for the Interstate System by increasing the amounts provided therein for 1970, 1971, and 1972 and by adding authorizations for fiscal years 1973 and 1974. This is necessary in order to provide additional authorizations totaling $8,340 billion to cover the increased costs of completing the Interstate System as reflected in the 1968 Cost Estimate for the Interstate System, House Document Number 199, 90th Congress, 2d Session.

In addition to authorizing the use of the 1968 Cost Estimate (section 3) for the Interstate System for the purpose of making apportionments for fiscal years 1970 and 1971, section 4 of the bill would authorize the Secretary of Transportation to make apportionments for the fiscal years ending June 30, 1970, and June 30, 1971, for expenditures on the Interstate System using the apportionment factors in table 5 of that Document. The date for the submission of a final cost estimate would be changed from within 10 days subsequent to January 2, 1969, to within 10 days subsequent to January 2, 1970. This final cost estimate would be for use in making apportionments for fiscal years 1972, 1973, and 1974.

The bill also provides conforming amendments made necessary by the addition of authorizations for fiscal years 1973 and 1974.

Section 5 of the bill would further authorize the appropriation of funds for the Federal-aid primary and secondary highway systems and extensions thereof within urban areas out of the Highway Trust Fund for the fiscal years 1970 and 1971, and would authorize appropriations of funds from the general fund of the Treasury for certain other highways in Federal domain areas for those years. Section 5 of the bill would change the method of financing forest highways and public lands highways from the general fund of the Treasury to the Highway Trust Fund. This proposal is based upon the belief that the Highway Trust Fund should be used for financing the construction of all classes of Federal-aid highways.

The Highway Safety Act of 1966, 89 Stat. 731 (23 U.S.C. 401–404), authorized to be appropriated for State and community highway safety programs as provided by section 402 the sum of $67,000,000 for fiscal year 1967, and $100,000,000 for each of the fiscal years 1968 and 1969. Section 6 of the bill would continue the programs under section 402 by authorizing the appropriation of $50,000,000 for fiscal year 1970, and $75,000,000 for fiscal year 1971. A cost estimate for the Highway Safety Program has been developed in cooperation with the States and will be submitted shortly.

Also, appropriation authorization was included in the Highway Safety Act of 1966

for the highway safety research and development programs provided in sections 307(a) and 403 of title 23, United States Code. The Act authorized appropriations of $10,000,000 for fiscal year 1967, $20,000,000 for fiscal year 1968, and $25,000,000 for fiscal year 1969. Section 7 of this bill would authorize appropriations for sections 307(a) and 403 of $30,000,000 for fiscal year 1970 and $40,000,000 for fiscal year 1971.

The authorizations in section 7 for highway safety research and development programs for fiscal years 1970 and 1971 represent the amounts needed for an orderly buildup to a full scale program. The nature of these programs requires a continuing investment with stable support. To accomplish this, it is recommended that the funds authorized to be appropriated shall remain available until expended.

Section 8 of the bill would authorize appropriations from the general fund of the Treasury for the highway beautification program for fiscal years 1969, 1970, and 1971, thus putting these authorizations on the same fiscal year basis as the biennial ABC highway program authorizations. Authorization is included for a deduction for administrative expenses of not to exceed 5 per centum of the additional funds authorized for the highway beautification program. The provision for a flat percentage for administrative expenses would cause the method of handling administrative expenses under the Highway Beautification Act of 1965 to conform to the provisions for administrative expenses for the regular Federal-aid highway programs and the State and community highway safety programs.

Section 9 of the bill authorizes a new procedure under which the Secretary may advance funds to the States for advance acquisition of rights-of-way on the Federal-aid systems. This proposal would implement the objectives of the "Study of Advance Acquisition of Highway Rights-of-Way" transmitted to Congress June 30, 1967, (Committee Print No. 8, 90th Congress, House of Representatives, Committee on Public Works) by facilitating the orderly and beneficial relocation of persons, businesses, farms, and other users of property while at the same time minimizing right-of-way costs. Advances of funds for this purpose would be made pursuant to agreements between the State highway departments and the Secretary which shall provide for the actual construction of a highway within 7 years following the fiscal year in which a request by a State for such funds is made or by the terminal date of the Highway Trust Fund, whichever occurs first.

The advance acquisition proposal would make available an amount equal to 2 percent of a State's apportionment for advance acquisition of rights-of-way. The State must satisfy the Secretary within 6 months of the date of allocation that it will properly obligate such amount for advance acquisition of rights-of-way. Where a State fails so to demonstrate, the availability of such funds will revert to the Secretary who may in his discretion make them available to the other States at their request and on the basis of need. To implement this program, there would be authorized to be appropriated an amount not to exceed $100,000,000 from the Highway Trust Fund for the establishment of a fund and for its replenishment on an annual basis. Pending such appropriation, the Secretary would be authorized to advance from any cash heretofore or hereafter appropriated from the Highway Trust Fund such sums as are necessary for payments to the States for rights-of-way acquired in advance of construction. Provisions of the Highway Revenue Act of 1956 relating to additional appropriations to and expenditures from the Highway Trust Fund and to adjustments of appropriations would be applicable to the advance acquisition of rights-of-way program.

We note that section 128 of title 23 presently imposes certain requirements for public hearings in connection with Federal-aid highway projects. That requirement would not be affected by the proposed bill. In addition, in accordance with the recommendations contained in the Study of Advance Acquisition of Rights-of-Way mentioned above, if this legislation is enacted, appropriate regulations will be promulgated to insure that in the administration of the program no advance right-of-way shall be acquired prior to public hearing and firm establishment of location, and none shall be acquired for a project in an urban area unless the project is deemed to be consistent with the comprehensive transportation plan developed for the metropolitan area as a whole under the provisions of section 134 of title 23, and section 204 of the Demonstration Cities Act (42 U.S.C. 3334).

Section 10 of the bill amends the definition of "forest road or trail" and "forest development roads and trails" in section 101 (a) of title 23, United States Code, to include areas other than national forest areas under Forest Service administration. This amendment is made at the recommendation of the Department of Agriculture and is a part of their proposed legislative program. The present definition of "forest road or trail" and "forest development roads and trails" associates these two terms with the national forests only, not with the National Grass Lands and other areas administered by the Forest Service. However, 23 U.S.C. 205(a) authorizes use of funds available for forest development roads and trails to pay for construction and maintenance of roads and trails on experimental and other areas under Forest Service administration. This proposed amendment to 23 U.S.C. 101(a) makes the definition of the two terms consistent with 23 U.S.C. 205(a) and will avoid possible misinterpretation of the intent of both sections.

The Department of Agriculture also recommends amendment of section 205(c) of title 23, United States Code, first to clarify the threshold of the limitation on force account construction and, second, to provide an opportunity for more efficient handling of small construction projects. At present, section 205(c) requires the construction of forest development roads and trails costing $10,000 or more per mile to be advertised and let to contract. Section 11 of this bill amends section 205(c) to increase this cost limitation from $10,000 to $15,000 and to require advertisement for bids and letting of contracts where construction is estimated to cost $15,000 or more per project for projects with a length of less than one mile. Section 11 provides that if the estimated cost is less than $15,000 per mile or $15,000 per project for projects with a length of less than one mile, the work may be done by the Secretary of Agriculture on his own account.

Considerable uncertainty exists as to whether the present requirement that construction costing $10,000 or more per mile be advertised and let to contract applies to projects of less than one mile in length but with a "per mile" estimated cost of $10,000 or more. For example, an access road of only .1 mile in length estimated to cost $1,000 could on a per mile basis cost $10,000 per mile. Under strict interpretation of 23 U.S.C. 205(c) such a road construction project would have to be advertised and let to contract. As a result, the theoretical advantages of advertising and contracting those small projects over force account construction are offset by the procedures, time, and detailed plans and materials required for advertising and contracting any such project. The size of such projects often results in no bids or bids that are necessarily inflated to cover the costs of bidding, moving in and out, and meeting insurance, bond, and other costs to the contractor associated with such projects. On larger projects these costs can be so spread out as to make up a much smaller percentage of the total or per mile cost.

Past experience in construction of forest roads and trails has shown that $15,000 is approximately the point at which acceptable bids can be expected to be received in practically every case. Establishing $15,000 as the minimum estimated construction cost at which advertising and contracting is required will reduce the higher costs and administrative problems resulting from efforts to contract small projects that are generally unattractive to most prospective contractors and which in most cases can be more efficiently and economically constructed by force account.

Section 12 of the bill would add a new section 135 to title 23, United States Code, to authorize a program to improve traffic operations on streets and highways within the designated boundaries of urban areas.

This program, popularly referred to as TOPICS (Traffic Operations Program to Increase Capacity and Safety) would be implemented by the authorization of $250,000,000 from the Highway Trust Fund for each of the fiscal years 1970 through 1974. Projects contemplated include but are not limited to those which directly facilitate and control traffic flow in and through urban areas, e.g.: (a) channelization of intersections, (b) additional lanes at signalized intersections, (c) pedestrian overpasses and other measures to separate pedestrian from vehicular traffic, (d) traffic control systems, (e) one-way and reverse operation of streets, (f) separate lanes for buses, and for transference of passengers, (g) traffic surveillance systems, (h) special facilities for the handling of commercial traffic, and (i) elimination of safety hazards.

Funds authorized under this section would be apportioned in the same manner as Federal-aid urban funds are apportioned (i.e., in the ratio which the population in municipalities and other urban places of five thousand or more in each State bears to the total population in municipalities and other urban places of five thousand or more in all the States as shown by the latest available Federal census).

Further, the Federal share payable would be 50 per centum plus the so-called sliding scale as provided in section 120(a) of this title. Contract authority for the obligation of Federal funds is included. In urban areas of more than 50,000 population projects under this program would be subject to the provisions of section 134 of title 23, United States Code, requiring continuing comprehensive transportation planning.

Section 14 of the bill adds a new section 139 to title 23, United States Code, to authorize Federal assistance for fringe parking facilities serving urban areas of more than fifty thousand population. This section provides that the construction of publicly-owned parking facilities may be included as "projects" under title 23 and authorizes the Secretary of Transportation to approve thereunder land acquisition for and construction of such facilities. The land which would be used for such a facility must be part of or adjacent to the right-of-way of a Federal-aid highway which serves an urban area of more than fifty thousand population. If approved, the airspace above and below the highway right-of-way grade line could be used as a part of the parking facility.

The type of fringe parking facility contemplated would be located outside of the central business district. It would be required to be integrated with existing or planned mass transportation facilities. The Federal investment in such facilities would not be recoverable; therefore, fees in excess of amounts necessary to cover operation and maintenance could not be charged.

Proposed section 139(c) of title 23 would set the Federal share payable at 75 per

centum. The sums ordinarily apportioned to the States under title 23 would be used for these projects; thus, this section does not propose any additional authorizations in excess of those now contemplated from the Highway Trust Fund for Federal-aid highway construction.

The section further empowers the Secretary to obtain the assurance of the State highway department that an appropriate public body, on the State or local level, has not only the power but also the ability to construct, maintain and operate a parking facility. Before approving a project, the Secretary must concur in design standards, cooperatively developed with the highway department to insure sound and uniform facilities. For facility and standardization of administration, the applicable provisions of chapter 1, title 23, would apply as to parking facility projects. Also the section provides a definition, not intended to be exhaustive, of "parking facilities" to include such things as access roads, buildings, structures, devices, equipment, improvements, and interests in lands.

The Administration has been studying the problem created by the need to relocate significant numbers of people, businesses, and organizations dislocated by highway construction. We expect, therefore, to submit a draft bill on this subject to the Congress in the next two weeks to implement the objectives of the "Highway Relocation Assistance Study," (Committee Print Number 9, 90th Congress, House Committee on Public Works, transmitted by the Secretary to the Congress as required by the Federal-Aid Highway Act of 1966, Public Law 89-574, 89th Congress, September 13, 1966).

We recommend enactment of the enclosed draft bill to insure the orderly continuation of our highway construction, highway safety, and highway beauty programs.

The Bureau of the Budget has advised that enactment of this legislation would be in accord with the President's program.

Sincerely,

ALAN S. BOYD.

## SENATE JOINT RESOLUTION 164—INTRODUCTION OF JOINT RESOLUTION COMMEMORATING YELLOWSTONE NATIONAL PARK CENTENNIAL

Mr. JACKSON. Mr. President, I introduce for myself, Mr. MCGEE, Mr. HANSEN, and Mr. BURDICK, for appropriate reference, a joint resolution to commemorate the 100th anniversary of the establishment of Yellowstone National Park by providing for the National Park Centennial, and for other purposes.

This proposal has been submitted and recommended by the Secretary of the Interior to commemorate the 100th anniversary of the beginning of the national park system. Since the establishment of the first park at Yellowstone, the United States has developed a national park system which comprises 258 separate areas and which constitutes a vast repository of our natural and historical heritage. Following our lead, some 80 nations of the world have likewise developed their own national park systems.

We believe therefore it is appropriate to designate the 100th year following the establishment of Yellowstone National Park as "National Park Centennial Year."

I ask unanimous consent that the text of the letter accompanying the legislation be printed at this point in my remarks.

The PRESIDING OFFICER. The joint resolution will be received and appropriately referred; and, without objection, the letter will be printed in the RECORD.

The joint resolution (S.J. Res. 164) to commemorate the 100th anniversary of the establishment of Yellowstone National Park by providing for the National Park Centennial, and for other purposes, introduced by Mr. JACKSON, for himself and other Senators, was received, read twice by its title, and referred to the Committee on the Judiciary.

The letter presented by Mr. JACKSON, is as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
*Washington, D.C., April 24, 1968.*

Hon. HUBERT H. HUMPHREY,
*President of the Senate,*
*Washington, D.C.*

DEAR MR. PRESIDENT: Enclosed is a draft of a joint resolution "To commemorate the One Hundredth Anniversary of the establishment of Yellowstone National Park by providing for the National Park Centennial, and for other purposes."

We recommend that the joint resolution be referred to the appropriate committee for consideration, and we recommend that it be enacted.

By the Act of March 1, 1872 (17 Stat. 32), the Congress established the first national park in the world—Yellowstone. The national park concept originated in this Act which recognized the need to preserve public land of great natural beauty and wonderment in perpetuity for the enjoyment of future generations.

To commemorate the 100th anniversary of the beginning of the national park movement, the enclosed joint resolution requests the President to issue a proclamation designating 1972 as "National Park Centennial Year." To plan the centennial activities, the joint resolution establishes a 15-member special commission, composed of four Members from the Senate, four Members from the House of Representatives, the Secretary of the Interior, and six nongovernmental members appointed by the President from among persons having outstanding knowledge and experience in the fields of natural and historical resource preservation and public recreation.

The national park concept is a unique American contribution to world culture. Since the establishment of the first national park at Yellowstone, the United States has developed a National Park System which comprises 258 separate areas and which constitutes a vast repository of our natural and historical heritage. Following our lead, some 80 nations of the world have likewise developed their own national park systems.

We believe therefore it is appropriate to designate the 100th year following the establishment of Yellowstone National Park as "National Park Centennial Year." Since 1872 was also the beginning of a worldwide movement for national parks, we believe it is fitting that representatives of other nations be invited to participate in the National Park Centennial. The appropriate vehicle for bringing together the knowledge and experience of all nations in this field would be, in our opinion, a World Conference on National Parks, to be held at Yellowstone and Grand Teton National Parks in 1972.

The special commission to be established under the enclosed joint resolution will prepare and execute the plans for the commemoration of the 100th anniversary of the establishment of the world's first national park, and will provide host services for the World Conference on National Parks in 1972. In carrying out its functions, we expect that the commission will develop and maintain special exhibitions on the National Park System throughout the Nation, undertake important studies of the System for publication and distribution to schools and libraries, and encourage the development of nationwide and world-wide educational programs to promote the national park concept.

The estimated annual cost of the commission's activity in planning and executing the centennial celebration is expected to range from about $40,000 in the early years to $110,000 in 1972. These expenditures will include the costs of advance planning, travel, research, publications and exhibits, and assistance in hosting a World Conference on National Parks. We estimate that approximately $850,000 will be needed for all aspects of the commission's work. The enclosed joint resolution provides, however, that not more than $250,000 may be appropriated to carry out its provisions. Due to the national and international significance of the national park centennial, we expect that a substantial amount of funds will be donated for purposes of the commission and of the World Conference. The $250,000 authorized to be appropriated under this joint resolution will provide the funds for the initial establishment and operation of the commission. The remaining costs will be provided from non-Federal sources.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely yours,

CLARENCE F. PAUTZKE,
*Deputy Assistant Secretary of the Interior.*

## ADDITIONAL COSPONSORS OF BILLS

Mr. JAVITS. Mr. President, on behalf of the Senator from Pennsylvania [Mr. SCOTT] I ask unanimous consent that, at its next printing, the names of the Senator from Minnesota [Mr. MONDALE] and the Senator from Iowa [Mr. MILLER] be added as cosponsors of the bill (S. 2979) to establish a Commission on Negro History and Culture, and to conduct a study of all proposals to research, document, compile, preserve, and disseminate data on Negro history and culture.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I also ask unanimous consent on behalf of the Senator from Pennsylvania [Mr. SCOTT] that, at its next printing, my name be added as a cosponsor of the bill (S. 3354) to authorize the coinage of 50-cent pieces in recognition of the outstanding services of the Reverend Dr. Martin Luther King, Jr., to the cause of the individual rights and the equality of men.

The PRESIDING OFFICER. Without objection, it is so ordered.

## NOTICE OF HEARINGS ON S. 698 THE INTERGOVERNMENTAL COOPERATION BILL AND RELATED LEGISLATION

Mr. MUSKIE. Mr. President, on April 23 I announced that the Subcommittee on Intergovernmental Relations, Committee on Government Operations, would hold hearings on S. 698, the Intergovernmental Cooperation Act, beginning on May 9 and 10, and continuing on May 14, 15, and 16. At the same time I stated that subsequent hearings on this legislation would be announced at a later date.

I wish now to announce that hearings will be continued on May 21, 22, 23, and 28.

The subcommittee invites the views of witnesses not only on S. 698 but also on S. 458, introduced by Senator MUNDT, and on S. 735, introduced by Senator SCOTT for himself and others. Both of these bills would provide, as does S. 698, for periodic review of Federal programs of grant-in-aid assistance from the Federal Government to the States or to their political subdivisions.

Senators or other persons wishing to testify should notify the subcommittee, room 357, Old Senate Office Building, extension 4718, in order to be scheduled as witnesses.

## NOTICE OF HEARINGS ON S. 1299 AND SENATE JOINT RESOLUTION 160

Mr. SPARKMAN. Mr. President, I wish to announce that the Committee on Banking and Currency will hold a hearing on Thursday, May 16, 1968, on S. 1299 and Senate Joint Resolution 160.

The bill, S. 1299, would amend the Securities Exchange Act of 1934 to permit regulation of the amount of credit that may be extended and maintained with respect to securities that are not registered on a national securities exchange.

Senate Joint Resolution 160 would amend the Securities Exchange Act of 1934 to authorize an investigation of the effect on the securities markets of the operation of institutional investors.

The hearing will commence at 10 a.m. in room 5302, New Senate Office Building. Persons desiring to testify or to submit written statements in connection with these bills should notify Mr. Stephen J. Paradise, assistant counsel, Senate Committee on Banking and Currency, room 5300, New Senate Office Building, Washington, D.C. 20510; telephone 225-3024.

## NOTICE OF HEARINGS ON S. 1816

Mr. McGOVERN. Mr. President, I wish to announce that the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs will hold a further hearing on S. 1816, a bill to provide for the economic development and management of the resources of individual Indians and Indian tribes and for other purposes, on Wednesday, May 15. The hearing will be held in room 3110 New Senate Office Building, beginning at 10 a.m.

This proposed legislation was the subject of a hearing on July 11, 1967, at which time Secretary of the Interior Stewart L. Udall and other officials of the Department of the Interior discussed, in detail, various provisions of the bill. The hearing set for May 15 is to allow Indians an opportunity to express their views and recommendations to the committee. It is our intention to have at least one field hearing on this bill and on Senate Concurrent Resolution 11, National American Indian and Alaska natives policy resolution. The subcommittee will hold a hearing at Pine Ridge, S. Dak., and Rosebud, S. Dak., on May 31 and at the Cheyenne River Reservation on June 1.

In order that a witness list may be prepared, anyone who would like to testify at the May 15 hearing is urged to contact the committee staff at the earliest possible time.

## NOTICE OF HEARINGS ON NOMINATIONS BEFORE COMMITTEE ON THE JUDICIARY

Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that public hearings have been scheduled for Wednesday, May 8, 1968, at 10:30 a.m., in room 2228, New Senate Office Building, on the following nominations:

Myron H. Bright, of North Dakota, to be U.S. circuit judge, eighth circuit, vice Charles J. Vogel, retired February 20, 1968.

James B. McMillan, of North Carolina, to be U.S. district judge, western district of North Carolina, vice Wilson Warlick, retiring.

At the indicated time and place persons interested in the hearings may make such representations as may be pertinent.

The subcommittee consists of the Senator from Arkansas [Mr. McCLELLAN], the Senator from Nebraska [Mr. HRUSKA], and myself, as chairman.

## NOTICE OF RECEIPT OF NOMINATION BY THE COMMITTEE ON FOREIGN RELATIONS

Mr. FULBRIGHT. Mr. President, as chairman of the Committee on Foreign Relations, I desire to announce that today the Senate received the nomination of George W. Ball, of New York, to be the representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States of America in the Security Council of the United Nations.

In accordance with the committee rule, this pending nomination may not be considered prior to the expiration of 6 days of its receipt in the Senate.

## IMPORT QUOTAS

Mr. CARLSON. Mr. President, the April 18 issue of the Washington Daily News contained an excellent article by Bruce Biossat entitled, "The Export Danger." In this article Mr. Biossat very convincingly argues that the increased efforts to impose import quotas by various commodity groups are pushing this Nation toward a new mood of economic isolation.

As Mr. Biossat points out, the effect could be prompt retaliatory moves by countries which import large amounts of our products. If this were to happen, American farmers would be among the first to suffer. And, ultimately, our total economy would suffer, also.

The U.S. Department of Agriculture figures on the export of U.S. farm products indicate that the net favorable balance of agricultural trade makes up over 50 percent of our Nation's total favorable balance of trade in all products.

I commend Mr. Biossat's article to the attention of all Members of the Senate. In view of the current farm income situation, it merits serious consideration.

Mr. President, I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXPORT DANGER

(By Bruce Biossat)

While riot and war have held the nation's attention, it has been edging toward a new economic isolationism which could plunge it into bitter combat over the world trade and damage its export market for farm products.

If Congress should yield before even just a few of the many import quotas proposed in such fields as textiles, dairy items, shoes, glass, electronic goods, oil, steel and other metals, the prospect would be prompt, severe retaliatory tariff moves by countries which today import large amounts of U.S. products.

Though some agricultural commodity groups are pushing the new protectionism, the fact is that U.S. farmers generally stand to be very hard hit if Congress throws up quota barriers and they are matched abroad.

Farm exports come to nearly $7 billion a year and could rise to $10 billion or more by 1980. Tariff reductions abroad, planned under the Kennedy Round of tariff negotiations, could come to 25 per cent of farm items and provide a big U.S. export boost.

With the U.S. farmer a numerically diminishing political force, all too little appreciation is being shown for his increasing dependence upon export markets. But the figures are astonishing.

More than 60 per cent of U.S. wheat is shipped abroad, some 50 per cent of its soybeans, 50 per cent of rice output, 35 per cent of its corn, almost a third of its tobacco, a fifth of cotton and barley.

Markets overseas for these products have more than doubled in volume and value in the last dozen years.

In Kansas, North Dakota and Montana, some 30 per cent of total farm income is ascribed to exports. Illinois, Indiana and North Carolina draw a fourth of their farm income from overseas sales. Texas, Ohio, Washington, Oklahoma, Arkansas, Louisiana and South Carolina find exports accounting for a fifth of such income.

Some largely industrial states nevertheless realize big returns from farm commodities. In dollar terms, Illinois, for instance, is the country's biggest farm exporter ($666 million in 1967). California and Texas stand even with $485 million each.

Some 78 million acres, about one quarter of the nation's harvested acreage, today are, in effect, set aside for foreign outlets. Should even just some of those outlets be closed off, many U.S. farmers—and their regions—would be in serious trouble.

The National Planning Association's Agriculture Committee sees the situation in very dark perspective on a world-wide plane. In a recent report it said:

"The tightening of present quotas could lead us down a road of retreat from the important gains we have made during the reciprocal trade era of the last 33 years."

The battle, of course, is not over. On May 7 in Washington a new Co-ordinating Council of Organizations on International Trade policy holds a conference to fortify opposition to the new protectionist wave. But the staggering thing is the force the wave developed with so little public notice.

## REPRESENTATIVES WILLIAM M. TUCK AND PORTER HARDY, JR., HONORED BY VIRGINIA STATE CHAMBER OF COMMERCE

Mr. BYRD of Virginia. Mr. President, last Monday evening, the Virginia State Chamber of Commerce held its annual congressional dinner at the Marriott Hotel in Arlington County.

The theme of this year's dinner was to honor two outstanding Members of the U.S. House of Representatives. Both Members will retire at the end of the current session. They are Representative WILLIAM M. TUCK, of the Fifth Congressional District, and Representative PORTER HARDY, JR., of the Second Congressional District.

Both men have rendered their State and their Nation outstanding service over a long period of time. Former Governor TUCK was elected to Congress in 1953. Representative HARDY was elected to the House of Representatives in 1946.

Both have made splendid records for themselves.

Representative HARDY, as a member of the House Armed Services Committee, has played an important part in the development of an adequate defense system for the United States. He has been particularly active recently in pointing out some of the conditions which exist in South Vietnam, and he has made an important contribution, I believe, to the war effort in South Vietnam.

Representative TUCK, as a member of the House Un-American Activities Committee and as a member of the Judiciary Committee, also has played an important part in furthering legislation in the interests of our country.

At the dinner Monday evening the Governor of Virginia, Mills E. Godwin, Jr., made an eloquent address calling attention to the work done over a long period of years by Representative HARDY and Representative TUCK. In a moment I shall ask unanimous consent that the text of the speech be printed in the RECORD, but before asking that that be done I wish to say that I feel that each of these men, Representatives HARDY and TUCK, has rendered outstanding service to his State and to the Nation.

Mr. President, I wish to recall a personal experience in regard to former Governor TUCK, who was elected Governor in 1946. I went to the Virginia State Senate in 1948 and I served under his leadership during the last 2 years of his term as Governor of our Commonwealth.

During his tenure as Governor in that 4-year period, Virginia faced some very difficult times. Governor TUCK proved himself to be one of the ablest, one of the most courageous, and one of the most forthright Governors that Virginia has ever had.

Therefore, I am pleased to join with our able and distinguished Governor, Mills E. Godwin, Jr., in paying tribute to former Governor TUCK, now Representative TUCK, and to Representative HARDY as being two unusually able and outstanding legislators.

I deeply regret that both of these distinguished individuals have decided to voluntarily retire from the Congress of the United States at this time.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the speech made Monday evening by Gov. Mills E. Godwin, Jr.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

REMARKS BY GOV. MILLS E. GODWIN, JR., AT THE ANNUAL CONGRESSIONAL DINNER, APRIL 29, 1968, MARRIOTT TWIN-BRIDGES MOTEL, ARLINGTON, VA.

I want to commend the Chamber of Commerce for sponsoring this dinner. I know the Chamber's staff and membership understand how deeply so many Virginians feel, both personally and as constituents, about the two men we honor tonight.

One of the hallmarks of democracy is that every citizen feels it is his right to give his elected officials down-the-country as long as they are in office. In fact, I sometimes think some people feel their representatives need a lecture every once in a while, just to remind them of the people back home whom they serve.

I know that I treasure the letters of commendation that come to my office, as compared to some of the letters that are not so complimentary, even though the critical ones are usually considerably more forceful and vivid in their language.

And I am also certain that the Chamber's membership in sponsoring this affair is in no sense anticipating that Bill Tuck or Porter Hardy will fade away from the political scene, or relinquish their interest and their active participation in the welfare of this State and the future of this nation.

I have known both of them since before I was old enough to vote, and among some of the strongest of my memories are the political discussions at home when my father and some of his contemporaries talked about each of them.

Even in those years, I can recall some of the stories that used to be told about Bill Tuck, and I can remember the discussions of strategy when my father was a supporter of Porter Hardy in his first campaign for the House.

I am not going to tell any of the stories about Bill Tuck, either those that are true or those about which there may be some question. I made that decision not for any lack of material but for lack of time.

In addition to that, I suspect that Bill Tuck will have a few words to say for himself before the evening is over, and I do not want to suffer from invidious comparisons. Our affection is for Bill Tuck as a person and for a man who always took a forthright approach to a problem.

Sometimes I think that our appreciation of him has grown in recent times because we feel we need a whole lot more of that approach today.

I have also always admired his ability to express himself, especially when he wasn't particularly pleased with whatever it was he was talking about.

He could take an opponent apart with more dash and more color, and more obvious relish, than anyone I ever knew.

But while we will all remember Bill Tuck as a person in our hearts, I think that he will go down in the history books as a Governor who recognized the needs of this Commonwealth and undertook to meet them.

As a matter of fact, there is at least one striking similarity in our terms.

In 1948 he assessed the needs of Virginia and proposed an increase in the State income tax. And I remember he had a few of his vivid phrases to describe the uproar that resulted.

I do not know that he would appreciate this particular memory, but I know it is real to me because it involved my first official visit to Governor Tuck, and as a matter of fact, my first visit to the Governor's office itself.

This was back in 1948 and I had not been in my seat in the House of Delegates very long when Bill Tuck called me up to his office and told me in characteristic language that his opponents were trying to hang him from the rafters because of the increase in income taxes that he was proposing, and he wanted me to help keep them from doing it, which I was happy to do.

He went on to tell me about the requirements that were facing Virginia and about his confidence that the people of this State were willing to pay for the additional service they so much needed.

I think he would agree that Virginia was not as ready to accept an income tax increase in 1948 as it was to accept the sales tax in 1966, and he had some choice phrases to describe the personal abuse that followed that session of the General Assembly. But I have always thought that the reaction was more a credit to his foresight and his courage in proposing the increase in the first place.

It is hard to compare anybody to Bill Tuck, and I would not attempt to do that with respect to the other member of Virginia's Congressional delegation whom we honor tonight, but he has plenty of credits in his own right.

Ever since I have known him, and that has been for many, many years, Porter Hardy has been the epitome of independence, in thought and in action.

It takes tremendous ability to be as independent as he has been, and be as successful as he has been, in the field of politics.

A public officer pays a price for being always his own man. In the process, inevitably, he runs the risk of offending friends and supporters.

When he follows his convictions, rather than the hue and cry of the moment, he inspires new energies among his enemies and doubts among his friends. Under these conditions, it is a strong man, indeed, who can be satisfied with the dictates of his conscience alone.

Leadership in public life is a continuing balance between the will of the people at the moment and what may really be best for them in the long run.

It is a great leader who can make those judgments and maintain that balance for more than twenty years in the Congress, and still retain not only the support but the respect of his constituents and of his fellow Congressmen.

This dirt farmer, despite his education at Harvard, was first elected because of strong rural backing, yet he was to become in time Virginia's first urban congressman with his district consisting entirely of the cities of Norfolk and Portsmouth.

The son of a Methodist minister serving mostly rural churches, he lived at one time or the other in almost every community in his district.

His wide popularity is attested by the fact that after his nomination in the Democratic primary for Congress twenty years ago, he never thereafter had opposition within his own party.

We like to say that Virginia has been fortunate in the calibre of her leaders, and I would not quarrel with that statement, but I think it is nearer to the truth to say that the people of this State have chosen carefully, and that they set their standards extremely high for the men they elected to represent them in legislative bodies.

And it is well that they have. For nearly half a century, the members of Virginia's Congressional delegation have fought continuously and tenaciously, and against increasing odds, to preserve for this nation the principles on which it was first founded and which have so long been identified with this State.

More often than not, they have been in the minority when the votes were counted,

but no one has ever discounted them because of this. They have fought honorably and as gentlemen, but they have been no less effective for adherring to this further tradition of Virginia.

Their stand in favor of principle has not improved their batting average on the legislation they have introduced, but no one will quarrel with the way they have played the game. Always, they have followed their convictions of what was best for Virginia and for this nation. Always they have reflected, in their separate ways, the basic beliefs that we hold dear in this Commonwealth.

I am convinced that time will vindicate the stand they have taken.

Our dilemma in Virginia is the nation's dilemma, and that is how we can hold fast to integrity, to fiscal responsibility, to courage and to a public conscience in the face of unprecedented growth and change.

If Virginia loses these instinctive fundamentals, if the nation loses them completely, they can never be regained.

Without them, Virginia would not be Virginia, the South would not be the South, and I would go a step further and say that America would not be America.

Mr. CARLSON. Mr. President, will the Senator yield?

Mr. BYRD of Virginia. I am happy to yield to the distinguished Senator from Kansas.

Mr. CARLSON. Mr. President, I wish to associate myself with the remarks of the Senator from Virginia and to make favorable comment in regard to the outstanding service of Representative TUCK.

He and I were elected to the office of Governor of our respective States in 1946. I had the honor to serve as Governor of my State for 4 years, at the same time that he served as Governor of his State. We became not only well acquainted, but also friends. We had a close association at our national Governors' conferences and our views effecting problems of our respective States were generally in accord.

Representative TUCK is a man of great courage and ability. He was not only a great Governor but has rendered outstanding service in the Congress of the United States. I am proud to have had the opportunity to work with him in both of these fields.

I regret that he is leaving the service of the Congress of the United States but I feel that he has already rendered valuable and outstanding service to his State and to the Nation.

He is a great American and a truly dedicated public servant.

Mr. BYRD of Virginia. Mr. President, on behalf of the people of Virginia I express deep appreciation for the comments made by the distinguished senior Senator from Kansas in recalling his association with the former Governor of Virginia.

In that connection, I might say that the next Congress will be poorer, not only because Representative TUCK and Representative HARDY will not be present, but also because the distinguished senior Senator from Kansas has likewise voluntarily decided to retire. I know Governor TUCK will deeply appreciate the comments which the Senator has just made and I know the Senate of the United States will greatly miss next year Senator CARLSON of Kansas, one of the ablest and finest men ever to serve in the Halls of Congress.

Mr. TALMADGE. Mr. President, will the Senator yield?

Mr. BYRD of Virginia. I yield to the Senator from Georgia.

Mr. TALMADGE. Mr. President, I desire to join the distinguished Senator from Virginia and the distinguished Senator from Kansas in paying tribute and declaring my admiration to former Governor TUCK, of Virginia, who has announced his retirement from the House of Representatives.

When I was elected Governor of Georgia, "BILL" TUCK was the chairman of the Southern Governors' Conference. The first conference was held in Savannah, Ga., if memory serves me correctly, and I have known him since that time.

I hold him in high esteem, I admire him greatly, and I agree that the Congress of the United States will be poorer because he has chosen to retire. He has served his State and our Nation with distinction.

Mr. BYRD of Virginia. Mr. President, I am grateful to the distinguished Senator from Georgia for his comments in regard to Virginia's former chief executive and Congressman.

I might say to the distinguished Senator from Georgia that before I had the privilege of meeting the Senator from Georgia I had heard a great deal about him from the then Governor of Virginia who had been at the Governors' conferences with the Governor of Georgia. He had come back to Virginia and told his friends what an able, outstanding, and vigorous Governor the State of Georgia had, and how proud he was to have the friendship of a man like HERMAN TALMADGE.

I thank the Senator.

Mr. TALMADGE. I am glad, indeed, for that generosity on "BILL" TUCK's part.

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## COLLEGE ANARCHY

Mr. TALMADGE. Mr. President, I have addressed a number of youth groups in recent months on college campuses and high school campuses, especially in my State. I have been highly pleased with what I have seen. The overwhelming majority of students in high school and in college in my State are loyal, patriotic, hard working, and more intelligent, I think, than college students have been at any time in my lifetime, and perhaps in all history.

However, I have been appalled at what I have seen occurring in recent months on some college campuses throughout our Nation. We have seen rebellion, anarchy, and insurrection in some of the principal colleges in our land.

In a few instances it has been necessary to close down entire colleges. Some of this rebellion has been going on in Washington, and there have been similar college disorders in Maryland and in Virginia, as well as on other campuses throughout the land.

We have just witnessed almost a solid week of rebellion, anarchy, and insurrection in one of the outstanding universities in our land. I refer to Columbia University in New York City. It took the administration of Columbia almost a full week before it decided to regain control of that institution. It was necessary to call in the police department of the city of New York to do so. This occurrence happened after some of the students rebelled and held some members of the faculty as hostages. During this time it became necessary to close down the school. Students who go to college for an education did not have an opportunity to go to school because anarchists had taken possession of the institution.

Today's Wall Street Journal contains a very enlightening editorial entitled "Mob Rule Versus Academe." I believe the editorial is outstanding, and I wish to call it to the attention of Senators and the country. I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

### MOB RULE VERSUS ACADEME

It was touch and go for six days, but in the end Columbia University refused to capitulate to mob rule.

That conclusion stands out after university officials called in police to remove and arrest students who had seized five buildings and closed down most university operations. The fashion among student rebels currently seems to be seizing buildings and/or officials and holding them for ransom, so authorities at other colleges and universities would be well advised to heed the events at Columbia.

Perhaps 1,000 students seized the buildings to protest construction of a gymnasium they branded as "racist" (because it is being built on park land adjacent to Harlem). They also demanded the university sever its connections with a think-tank working for the Pentagon, and that it grant complete amnesty to all protestors. The University agreed to hold up construction of the gym at least temporarily, but the protestors refused to yield the buildings until all their demands had been fulfilled; finally the police intervened.

The students' resort to physical intimidation makes irrelevant their specific complaints, some of which we might support in a civilized forum. Since the appropriate forums had already rendered their decisions, the stark issue is simply whether decisions taken in established councils will be overturned in the streets.

This consideration makes no useful impression on the militant students, many of whom brazenly proclaim the purpose of destroying society's established institutions. It is worthwhile to note in passing that their actions are, in the words of the New York Times, "hooliganism" and "Fascism of the left." The observations, though, merely serve to stress that appeals to reason are lost on this quarter.

The burdens of upholding civilized standards, rather, falls on the university officials. Their dilemma is real, for the academic tradition of maintaining a certain independence from government and the police is an important one. Naturally, they will want to try resolving disputes internally to avoid breaching that independence.

Yet the tradition of self-rule is already broken when protestors resort to mobs and intimidation. Nor did the Columbia demonstrators hesitate to initiate direct violence when it suited their end; they attacked counter-demonstrators who set up their own picket line to withhold food from one of the seized buildings. Academic freedom does not mean the freedom to use disorder and force against contrary opinions. If it is to have

any meaning at all, it must be protected from the ugly force of the mob.

University officials must also balance their independence against their other responsibilities. For one, they have a responsibility to students who do wish to attend classes, which by every indication was a large majority of the 27,000 enrolled at Columbia. They also have a responsibility to their own future; in many lands the success of student mobs has created a tradition that undermines the very principles a university should uphold.

The university, finally, bears a certain responsibility to the society that maintains it. That by no means implies it should subordinate its own best judgment to that of other institutions. But certainly it means the university should not flinch at upholding the values it has long shared with society. If students are taught at universities that mob rule will prevail, society itself will have a far harder time upholding such values as devotion to orderly democracy and opposition to the use of force.

On every count, then, university officials have a responsibility to put down disorder on their campuses, a job which is likely to be easier if it is not postponed for a week of handwringing. They have a duty not to capitulate to intimidation, however expedient that course may seem.

They have, in sort, a responsibility to make it clear to young hotheads that mob rule is not the way decisions are reached, on campus or off, in a viable democracy.

## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. JAVITS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## S. 3415—INTRODUCTION OF BILL TO ESTABLISH A PEACE BY INVESTMENT CORPORATION

Mr. JAVITS. Mr. President, on behalf of myself and Senators BROOKE, of Massachusetts; DOMINICK, of Colorado; HARTKE, of Indiana; MAGNUSON, of Washington; MILLER, of Iowa; MORSE, of Oregon; PELL, of Rhode Island; PERCY, of Illinois; SCOTT, of Pennsylvania; and YARBOROUGH, of Texas, I introduce a bill to create a federally chartered corporation to engage in industrial development and technical assistance activities in developing countries, utilizing both public and private funds.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis of the bill, which is known as the Peace by Investment Corporation bill, may be made a part of my remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and section-by-section analysis will be printed in the RECORD.

The bill (S. 3415) to establish a Peace by Investment Corporation, and for other related purposes, introduced by Mr. JAVITS (for himself and other Senators), was received, read twice by its title, referred to the Committee on Foreign Relations, and ordered to be printed in the RECORD, as follows:

S. 3415

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

GENERAL PURPOSES

SECTION 1. The recent establishment of the "Peace Corps" reflects growing realization that governments and diplomatic relations alone cannot bring enduring peace, without the consolidation and expansion of people-to-people relationships. Economic relationships are fundamental to human relationships, and private economic endeavors are inseparable from systems of human freedom. This measure is designed to establish and expand people-to-people relationships in the economic field; to encourage an expanded flow of private capital investment from the United States into economically sound enterprises in underdeveloped areas of the world in the interest of world peace through mutual economic progress; to enlarge the number of private investors participating in this flow of capital so as to forge more direct links among the peoples of the world; to reduce gradually thereby the need for United States public investment and grants overseas; to help redirect the total flow of capital from the United States so that increasing portions of this total flow go to the underdeveloped areas, and thus be in better harmony with the domestic economic needs of the United States and the effective management of its international balance-of-payments problems.

PEACE BY INVESTMENT CORPORATION: BASIC FUNCTIONS

SEC. 2. There is hereby established a Peace by Investment Corporation (hereinafter referred to as the "Corporation") with the following basic functions in accord with the purposes of this Act:

(1) As an equity investment agency, the Corporation may purchase the securities and obligations of, or make loans to (A) any underdeveloped country or political subdivisions thereof, (B) any public agency or instrumentality of any such country, or (C) any private or semiprivate firm, corporation, or association doing or intending to do business wholly or mainly in any such country or countries. Any such purchase or loan shall be for the purpose of financing or assisting in financing any undertaking of a profitmaking nature to expand such industrial, mining, construction, or agricultural activity in such country or countries as will, in the judgment of the Corporation, further the purposes of this Act, and any such undertaking should place particular emphasis upon the encouragement of small and moderate sized enterprises and upon achieving widely diversified endeavors.

(2) The Corporation shall make available such technical assistance as in its judgment will facilitate the purposes of this Act, and will not be duplicative of adequate technical assistance which is available from sources other than the Corporation.

BASIC CRITERIA FOR INVESTMENT PROGRAM

SEC. 3. In carrying forward the investment program pursuant to paragraph (1) of section 2 of this Act, the Corporation shall be guided by the following basic criteria, and shall make appropriate findings accordingly:

(1) Each specific investment is in furtherance of an undertaking which is economically sound, actually or potentially profitable and consistent with the sound long-range economic development of the country in which it is located.

(2) The country in which the undertaking is located has had full information with respect to it and an opportunity to express a judgment as to its desirability.

(3) Because of the insufficient availability of venture capital from other sources, the investment is not in competition with, or duplicative of, other private investment programs or other public programs of the United States, or of international agencies, which give reasonable promise of accomplishing comparable results in accord with the purposes of this Act.

(4) Each investment, taking into account the country in which it is located, is in accord with the general international economic and political policies of the United States.

(5) The investment program in general is consistent with the short-range and long-range policy of the United States to maintain maximum employment, production, and purchasing power within the domestic economy.

(6) The investment program in general is consistent with the short-range and long-range need of the United States to maintain a satisfactory balance-of-payments position.

(7) The investment program in general, and in its specific applications, is mutually beneficial to the country to which the investment flows and the country from which it emanates, taking into account not only purely economic considerations but also consideration of human improvement under free institutions.

BASIC FINANCING OF PEACE BY INVESTMENT CORPORATION

SEC. 4. (a) The Corporation shall have a capital stock consisting in part of fifty shares of class A stock having a par value of $1,000,000 per share. Such stock shall be the only stock of the Corporation having voting power, as long as any of it is outstanding, and it shall be subscribed to by the United States Government. The Secretary of the Treasury shall use the proceeds from the sale of any securities issued under the Second Liberty Bond Act for the purpose of such subscription, and the purposes for which securities may be issued under such Act are extended to include such subscription. Payment to the Corporation for the subscription of the United States to such stock, and repayments thereof, shall be treated as public debt transactions of the United States. Certificates evidencing stockownership by the United States shall be issued by the Corporation to the President of the United States, or to such other person or persons as he may designate, from time to time. The provisions of the Securities Act of 1933, and the Securities Exchange Act of 1934, shall not apply to the Corporation, or to the original issue of its securities, while any class A stock is outstanding.

(b) The Corporation is authorized to issue for public sale "Peace by Investment Debentures" which shall be in denominations of $5, or any multiple thereof, and shall have such maturities (not in excess of twenty years) and bear interest at such rates as may be determined by the Corporation with the approval of the Secretary of the Treasury. Such debentures shall be fully and unconditionally guaranteed as to principal by the United States. For as long as the Corporation remains an agency of the United States, the aggregate amount of debentures issued under this subsection in any one year shall not exceed $375,000,000, and the total amount of such debentures which are outstanding at any time shall not exceed $1,250,000,000. The Corporation, with the approval of the Secretary of the Treasury, shall by regulation fix the maximum amounts of such debentures which may be held at any time by any individual, corporation, firm, trust, association, or other entity, respectively.

(c) The Corporation is authorized, at the option of the holder of any debenture issued under subsection (b), to exchange such debenture for class B stock which the Corporation may issue in such form, and subject to such terms and conditions, as it may prescribe, subject to the approval of the Secretary of the Treasury for as long as the Corporation remains an agency of the United States.

(d) The Corporation is authorized to issue from time to time, for purchase by the

Secretary of the Treasury, its notes or other obligations: *Provided,* That the aggregate amount of obligations so issued shall not exceed $60,000,000 in any one year, and the aggregate amount of such obligations outstanding at any one time shall not exceed $300,000,000. No such obligation shall be issued more than six years from the date of the first issue, or after the Corporation ceases to be an agency of the United States. Such obligations shall have such varied maturities (not in excess of twenty years) as may be determined by the Corporation, with the approval of the Secretary of the Treasury, with periodic retirement of each obligation commencing in the first year subsequent to its original issue: *Provided,* That any such obligation may be retired at the option of the Corporation before maturity in such manner as may be stipulated therein. Each obligation purchased by the Secretary of the Treasury hereunder shall, as long as the Corporation remains an agency of the United States, bear interest at a rate determined by the Corporation on the basis of the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the issuance of such obligations; except that when the Corporation ceases to be an agency of the United States each such obligation shall bear interest at the rate of 4 per centum per annum. The Secretary of the Treasury is authorized for the purpose of this subsection to use as a public-debt transaction the proceeds of any securities issued after July 31, 1945, under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include such purpose. Payments for such obligations by the Treasury, and repayment thereof by the Corporation, shall be treated as public-debt transactions of the United States.

(e) One-fifth of the proceeds of the sale of the debentures issued under subsection (b) of this section shall be set aside by the Corporation in a special fund to be established by the Corporation. Such fund shall be utilized (1) to retire fully, within a period of six years or less from the initial issuance of such debentures, the class A stock of the Corporation issued under subsection (a) of this section, and (2) to retire fully the obligations issued under subsection (d) of this section in accordance with the terms of retirement contained in such obligations. Moneys in such fund shall be invested or reinvested by the Corporation in interest-bearing obligations of the United States or in obligations guaranteed as to interest and principal by the United States: *Provided,* That when the Class A stock of the Corporation and the obligations issued under subsection (d) of this section have been retired in full, any balance remaining in the special fund shall be merged with other funds of the Corporation obtained through the sale of debentures pursuant to subsection (b), and their exchange for class B stock pursuant to subsection (c), and shall thereupon be available for the general purposes of this Act.

(f) Except as otherwise provided in this section, all funds available to the Corporation pursuant to this section, and receipts from its operations, shall be available to the Corporation for its general purposes under this Act.

INITIAL MANAGEMENT OF PEACE BY INVESTMENT CORPORATIONS

SEC. 5. (a) Until the conditions set forth in section 6 of this Act are fully met, the Corporation shall be an independent agency of the United States.

(b) The management of the Corporation during its existence as an agency of the United States shall consist of a Board of Directors (hereinafter referred to as the "Board"), composed of (1) five members appointed from private life by the President, with the advice and consent of the Senate, who shall collectively possess broad experience in various areas of economic endeavor; (2) the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the Secretary of Labor, to serve ex officio; (3) four members to be appointed by the President from various United States agencies concerned with international economic development; and (4) a President and Executive Vice President of the Corporation, as set forth below, who may be appointed from private life or from public service. All members, except those serving ex officio, shall serve at the pleasure of the President.

(c) The Board shall elect a Chairman from among its members. Any vacancy in the Board shall not affect its powers, but shall be filed in the same manner as the original appointment. A majority of the Directors shall constitute a quorum, and action shall be taken only by a majority vote of those present.

(d) The Board shall designate an executive committee of seven members, not more than two of whom (exclusive of the President and Executive Vice President of the Corporation) shall be members appointed from private life. The executive committee shall perform the functions and exercise the powers of the Board at such times and to such extent as shall be provided in the bylaws of the Corporation.

(e) Members of the Board appointed from private life shall receive $—— per diem when engaged in the actual performance of their duties, plus reimbursement for necessary travel, subsistence, and other expenses incurred by them in the performance of such duties.

(f) There shall be a President of the Corporation, to be appointed by the President by and with the advice and consent of the Senate, who shall receive a salary at the rate of $——— per annum, and who shall serve as chief executive officer of the Corporation, as a member of the executive committee, and as a member of the Board. The President of the Corporation shall, in accordance with the bylaws, appoint such officers and employees as may be necessary for the conduct of the business of the Corporation, define their duties, and fix their compensation.

(g) There shall be an Executive Vice President of the Corporation, to be appointed by the President by and with the advice and consent of the Senate, who shall receive a salary at the rate of $—— per annum. The Executive Vice President shall serve as President of the Corporation during the absence or disability of the President thereof or in the event of a vacancy in such office.

(h) No director, officer, attorney, agent, or employee of the Corporation shall in any manner, directly or indirectly, participate in the deliberation upon or the determination of any question affecting his personal interests, or the interests of any government, corporation, partnership, or association in which he is directly or indirectly personally interested.

(i) The President may also appoint an advisory committee to the Board, composed of individuals drawn from private and public life outside the United States, who need not be citizens or residents of the United States.

TRANSFER OF PEACE BY INVESTMENT CORPORATION TO PRIVATE OWNERSHIP AND MANAGEMENT

SEC. 6. (a) When the class A stock of the Corporation has been retired in full, within a period of six years or less, as provided in section 4(e), in accordance with the objective of vesting as soon as feasible the management of the Corporation in private ownership, the Board shall transmit to the President of the United States, for submission to the Congress, recommendations for such legislation as may be necessary to provide for the orderly transition of the Corporation from an agency of the United States to a corporation under private ownership and management, including (1) appropriate provision for transfer to the owners of the outstanding peace by Investment Debentures or class B stock of the Corporation the assets and liabilities of the Corporation, (2) appropriate provision for vesting in such owners the exclusive voting power of the Corporation, with each owner being thereupon entitled to one vote per share, and (3) such additional provisions as may be necessary to protect any outstanding investments in the Corporation by the United States: *Provided,* That the President, in connection with such submission to the Congress, shall also provide recommendations as to whether a sufficient portion of the obligations purchased by the Secretary of the Treasury pursuant to section 4(d) have been retired to justify the transfer of the Corporation from public to private ownership and management.

(b) In connection with the transfer referred to in subsection (a), a complete and final accounting shall be made by the Corporation and the Government, at which time the Government shall receive reasonable compensation for all Government services rendered to the Corporation.

GENERAL CORPORATE POWERS AND DUTIES

SEC. 7. (a) For the purpose of carrying out its functions under this Act, the Corporation shall have succession in its corporate name; may adopt and use a corporate seal, which shall be judicially noticed; may sue and be sued in its corporate name; may adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised; may make and carry out such contracts and agreements as are necessary and advisable in the conduct of its business, and may purchase, discount, rediscount, sell, and negotiate (with or without its endorsement or guarantee) and guarantee notes, drafts, checks, bills of exchange, acceptances, including bankers' acceptances, cable transfers, and other evidences of indebtedness in carrying out its functions under this Act; may appoint and fix the compensation of such officers and employees as may be necessary for the conduct of its business, without regard to the civil service laws or the Classification Act of 1949, define their authority and duties, delegate to them such powers vested in the Corporation as may be necessary, require bonds of such of them as may be desirable, and fix the penalties and pay the premiums of such bonds; may assign or sell at public or private sale, or otherwise dispose of for cash or credit, upon such terms and conditions as shall be determined reasonable, any evidence of debt, contract, claim, personal property, or security held by the Corporation in connection with the payment of loans or other obligations, and collect or compromise all obligations held by the Corporation; may set up or engage such subsidiary agencies in the United States or in underdeveloped countries as will facilitate the business of the Corporation and may enable such subsidiary agencies to sell debentures issued under section 4(b), or to sell their own stock for the purpose of buying such debentures; may acquire by purchase, lease, or donations such real property or any interest therein, and may sell, lease, or otherwise dispose of such real property, as may be necessary for the conduct of its business; shall determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this Act, and provisions of law specifically applicable to Government corporations; may pay dividends on class B stock out of profits or other earnings; shall be entitled to the use of the United States mails in the same manner and upon the same conditions as may be applicable to the executive departments of the United States Government until such time as it ceases to be an agency of the United States; and shall be subject to Federal taxation from

the time that it ceases to be an agency of the United States. The foregoing enumeration of powers shall not be deemed to exclude other lawful powers necessary to the purposes of the Corporation.

(b) Notwithstanding the provisions of section 955 of title 18, United States Code, any person, including any individual, partnership, corporation, or association, may upon proper authorization act for or participate with the Corporation in any operation or transaction engaged in by the Corporation.

(c) Section 201 of the Government Corporation Control Act, as amended (31 U.S.C. 856), is amended by striking therefrom the words "and (5) Federal Deposit Insurance Corporation" and adding at the end thereof the words "(5) Federal Deposit Insurance Corporation, and (6) Peace by Investment Corporation."

(d) When the Corporation is transferred to private ownership and management as provided in section 6, it shall, in addition to the corporate powers and duties set forth above in this section, be empowered to exercise inter alia the functions of an investment trust, to establish such insurance systems as may be deemed in furtherance of the purposes of this Act, and to engage in other activities generally in line with those of Corporations engaged in such functions when operating under private ownership and management.

PENAL PROVISIONS

SEC. 8. (a) All general penal statutes relating to the larceny, embezzlement, or conversion of public moneys or property of the United States shall apply to the moneys and property of the Corporation.

(b) Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States, makes any false entry in any book of the Corporation, or makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both.

(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall on conviction thereof, be fined not more than $10,000 or imprisoned for not more than five years, or both.

REPORTS AND STUDIES

SEC. 9. (a) The Corporation shall submit to the President, for transmission to the Congress at the beginning of each regular session, a complete and detailed annual report of its operations under this Act.

(b) The Corporation, immeditaely upon its establishment, shall commence studies of additional measures, including tax measures, which would further promote the flow of private capital from the United States to underdeveloped areas of the world consistent with the economic and financial policies of the United States. Such studies shall be amplified in the light of the experience of the Corporation. As soon as practicable, and not later than three years after the establishment of the Corporation, it shall prepare for transmission to the Congress the initial results of such studies, including legislative recommendations.

CITATION

SEC. 10. This Act may be cited as the "Peace by Investment Corporation Act of 19—".

The analysis presented by Mr. JAVITS is as follows:

SECTION-BY-SECTION ANALYSIS OF PEACE BY INVESTMENT CORPORATION BILL

Section 1 sets forth the purposes of the bill which are to establish and expand people-to-people relationships in the economic field; to encourage an expanded flow of private capital investment from the United States into economically sound enterprises in underdeveloped areas of the world in the interest of world peace through mutual economic progress; to enlarge the number of private investors participating in this flow of capital so as to forge more direct links among the people of the world, and for other purposes.

Section 2 authorizes the Corporation to purchase the securities and obligations of, or make loans to (A) any underdeveloped country or political subdivision thereof, (B) any public agency or instrumentality of any such country, or (C) any private or semiprivate firm, corporation or association doing or intending to do business wholly or mainly in any such country or countries. Investments would be confined to economically sound undertakings of a profit-making nature, with emphasis on the encouragement of small and moderate sized enterprises. This section also authorizes the Corporation to provide technical assistance but will not duplicate such assistance already available from other sources.

Section 3 establishes basic criteria for the investment program of the Corporation. As a necessary condition for making such investments the Corporation would have to find that 1) such project met sound economic criteria; 2) loan financing or equity assistance would not take the place of funds which would otherwise flow readily for the same purpose; 3) in the investment program in general was consistent with the policy of the United States to maintain maximum employment, production, and purchasing power within the domestic economy; 4) the program in general was consistent with the promotion of a satisfactory balance-of-payments position for the United States, and 5) the program in general was in accord with the general international economic and political policies of the United States. The Corporation would also be required to obtain the views of the country in which the affected enterprise would be located.

Section 4 sets forth the means to provide basic financing of the Corporation. Subsection (a) states that to provide initial and temporary capital funds for its operations, the Corporation would be authorized to issue class A stock of 50 shares of par value of $1 million per share totaling $50 million. This class A stock would be subscribed to by the U.S. Government through the Secretary of the Treasury.

Subsection (b) authorizes the Corporation to offer for public sale "Peace by Investment Debentures" in denominations of $5. So long as the Corporation remains an agency of the United States the amount of debentures issued in any one year shall not exceed $375 million and the total amount of such debentures outstanding at any time shall not exceed $1.25 billion.

Subsection (c) authorizes the Corporation to exchange at the option of the holder, any debenture issued under subsection (b) for class B stock which the Corporation may issue subject to the approval of the Secretary of the Treasury.

Subsection (d) authorizes the Corporation to issue from time to time, by purchase by the Secretary of the Treasury, its notes, debentures, bonds or other obligations provided that the issue of such obligation shall not exceed $60 million in any one year nor shall the aggregate amount of such obligations outstanding at any one time exceed $300 million, nor shall any such obligations be issued more than 6 years from the date of the first issue, nor shall any such obligations be issued except so long as the Corporation remains an agency of the United States. Such obligations would be interest bearing and would have varied maturities not in excess of 20 years, with provision for retirement before maturity.

Subsection (e) provides that one-fifth of the proceeds of the sale of Peace by Investment Debentures be earmarked in a special fund for the retirement of the class A stock which would have to be retired in full within 6 years or less from the date of original issue of class B stock.

Subsection (f) states that except as otherwise provided in section 4 of this bill, all funds available to the Corporation pursuant to this section, and as earnings from its operations, shall be available for its general purposes under the act.

Section 5 describes the form of initial management of the Corporation.

Subsection (a) provides that the Corporation shall be an independent agency of the United States, until the conditions set forth in section 6 of the act are fully met.

Subsection (b) states that the management of the Corporation during its existence as an agency of the United States would consist of a Board of Directors of 15 members consisting of a President, and Executive Vice President appointed by the President of the United States from private life or from public service; 5 members appointed from private life by the President of the United States, with the advice and consent of the Senate; 4 members appointed by the President of the United States from various U.S. agencies concerned with international economic development; and the Secretaries of State, Treasury, Commerce, and Labor, serving ex officio.

Subsections (c) through (i) provide for the election of a Chairman, designation of an Executive Committee, the compensation of the Board, the President of the Corporation, and the Executive Vice President and authorized the President of the United States to appoint an Adivsory Committee to the Board.

Section 6 establishes a method of transfer of the Corporation to private ownership and management. Subsection (a) provides that when the class A stock of the Corporation has been retired in full within the period of six years or less provided in section 4(d) of this Act, the Board shall transmit to the President of the United States, for submission to the Congress, recommendations for such legislation as may be necessary to provide for the orderly transition of the Corporation from an agency of the United States to a corporation under private ownership and management, including (1) appropriate provision for transfer to the owners of the outstanding Peace by Investment Debentures or class B stock of the Corporation, the assets and liabilities of the Corporation, (2) appropriate provision for vesting in such owners the exclusive voting power of the Corporation originally vested in the owners of class A stock, with each owner being thereupon entitled to one vote per share, and (3) such additional provisions as may be necessary to protect any outstanding investments in the Corporation by the United States: Provided, That the President, in connection with such submission to the Congress, shall also provide recommendations as to whether a sufficient portion of the obligations purchased by the Secretary of the Treasury pursuant to section 4(d) of this Act have been retired to justify the transfer of the Corporation from public to private ownership and management.

Subsection (b) states that a complete and final accounting shall be made by the Corporation and the Government, at which time the Government shall receive reasonable compensation for all Government services rendered the Corporation.

Section 7 establishes general corporate powers and duties for the Corporation.

Section 8 sets up penal provisions with respect to larceny and embezzlement of the Corporation's funds or property.

Section 9 calls for periodic reports to the Congress and authorizes the Corporation to make certain studies.

Section 10 provides that this act may be cited as the Peace by Investment Corporation Act of ——.

Mr. JAVITS. Mr. President, the corporation, named the "Peace by Investment Corp.," based on the concept of Government-private enterprise cooperation, would enable U.S. investors, particularly small investors, to participate in the growth of effective private enterprise in developing nations now heavily dependent of U.S. governmental and other official aid. It is designed to expand by $1.25 billion the flow of U.S. private investments in sound economic projects in underdeveloped areas.

Clearly the time has arrived for Congress to act on this new approach to foreign aid. Notwithstanding Vietnam and the crisis of our cities, we cannot abandon our concern for the future of the developing world. We cannot cry out: "Stop the world, we want to get off." Our future is intimately tied to the underdeveloped world. After all, that world contains two-thirds of humanity, 2 billion people.

Under the terms of this legislation I am introducing with a rather extraordinary group of bipartisan cosponsors, $50 million in initial and temporary capital funds for the corporation would be subscribed by the U.S. Government through the U.S. Treasury. During the first 6 years of its operation, the corporation would also be authorized to borrow from the Treasury in amounts not exceeding $60 million in any one year—but not to exceed $300 million at any one time.

The most important source of the corporation's funds, however, would be obtained through the sale of peace by investment debentures in small denominations to the American public. These debentures could produce up to $375 million in any one year, but not to exceed $1.25 billion at any one time. During the initial 6-year period of the corporation's existence, it will function as an agency of the United States. Upon retirement of the Government's participation, the corporation would go through an orderly transition from an agency of the government to private operation and management.

The corporation would be authorized to invest in economically sound undertakings of a profitmaking nature with emphasis on the encouragement of small and moderate-sized enterprises. Investments of the corporation would have to be generally consistent with U.S. foreign policy objectives, with the U.S. balance-of-payments program, and with the policy to maintain maximum domestic employment, production, and purchasing power.

It is evident that when the foreign aid bill comes before the Senate for a vote this year, it will come to a Senate which has deep misgivings about voting for the $2.9 billion requested by the President.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. JAVITS. I ask unanimous consent for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, the most likely result will be drastic cutbacks and changes in the program as we know it today, if not a complete overhaul of the program which could nullify it entirely. A new approach to foreign aid is needed now. Such an approach is embodied in the Peace by Investment Corporation we propose today. It is the right approach at the right time.

The growing gap between the flow of actual economic assistance from industrial nations to developing countries and their absorptive capacity is growing and cannot be overcome by aid from governments, by international lending agencies, or by private investment at the present rate. The requirement for development capital—estimated at between $5 to $20 billion a year above what is being provided now—is simply beyond what is obtainable from the industrialized nations today. Resources on such a scale are available only from major increase in private investment.

It would be the greatest folly for us to believe that we can continue to exist in peace in a world still heavily ravaged by hunger and poverty. The great bulk of mankind still lives on bare subsistence and envies the opulence in which even our poor live by their standards, let alone those of us who are well off.

The gap between rich and poor nations must be reduced. The American commitment to aid developing nations must continue, not for humanitarian reasons but for the hard, practical reason that in an atmosphere of economic and social improvement, political institutions in developing nations will be able to grow and will make possible the emergence of a stable international order.

The bill I am introducing today is designed to make a major contribution to the provision of private development capital and technical know-how to developing countries. The principal function of the federally chartered corporation created by the bill is to act as a catalyst, to tap the vast private resources available in the United States and make a portion of it, $1.25 billion, available for investment in profitmaking enterprises in the developing portions of the world. Such a corporation would be in a better position than our Government to assist developing countries in developing their industries, the skill of their manpower, their distribution facilities, and to create new employment.

The format of a federally chartered corporation is not the novelty it was when I first broached this idea as a Member of the House of Representatives 15 years ago. Today this concept is embodied in the Communications Satellite Corp.; in the Corporation for Public Broadcasting, in proposals designed to cope with the problems of domestic poverty, and in the economic assistance programs of two industrialized countries, the United Kingdom—the Commonwealth Development Corp.—and the German Federal Republic—German Development Corp.

Each of these proposals is predicated on the proposition that government can best achieve broad national objectives by utilizing its resources as "seed money" as an incentive to tap vast private resources.

The idea for a Peace by Investment Corporation originated with my brother, Benjamin A. Javits, a well-known lawyer and economist, who for many years has written extensively on the subject, including a book, "Peace by Investment." Later he was joined by Leon H. Keyserling, former Chairman of the Council of Economic Advisers, who helped in refining the thesis which the bill implements.

In the case of the Peace by Investment Corporation, the initial funds of the corporation are provided by Government to attract those sources of capital—small and medium investors—for whom investment in developing countries would otherwise be too risky.

Funds from private investors would be attracted to the corporation because first, it would provide for a diversity of private investment overseas, thus minimizing the risks inherent in single project ventures or investment in one commodity field; second, it would give small investors an opportunity to participate in pooled investment projects, far greater in scope than any thus far attempted, under the skilled management which investment of the contemplated magnitude and character would encourage; and, third, it would provide the American people with an opportunity to participate in a major constructive venture to help their fellow men. The corporation would also attract private funds because it would provide for profitable investment opportunities.

The criteria established under section 2 of the bill ensure that the corporation would be in business to develop "undertakings of a profitmaking nature, with emphasis on the encouragement of small and moderate sized enterprises." This does not mean that it would seek investments only under the most favorable circumstances or that it would compete in areas which already attract adequate private or public funds. On the contrary, it would seek to develop new enterprises which have not been able to attract investment for one reason or another. It would take risks and it should. It could utilize existing U.S. investment guaranty programs—or create new ones if its management feels they are needed. It would provide technical assistance along with the investments it makes.

This facility has proven to be instrumental in the success of the Adela Investment Corporation which operates in Latin America with private capital and with loans from private and public sources.

The Peace by Investment Corporation is needed because existing methods have not been successful in attracting a large volume of private investment in developing countries. Investment surveys, investment guaranties, and tax incentives can be credited only with keeping the flow of private U.S. investment to developing countries from declining further. It is true that, for the past 4 to 5 years these programs have been severely handicapped by the administration's balance-of-payments program which, while ostensibly restricted the outflow of private capital only to industrialized nations, has in fact acted as a major drag

on all investment outflows, including those to developing countries. But even before these restrictions were imposed, statistical evidence does not support the case that these programs have been very successful.

Mr. President, I ask unanimous consent to have 3 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, I ask unanimous consent to have printed in the RECORD as a part of my remarks two charts—one headed "International Investment Position of the United States, 1964, 1965, 1966," and the other "Direct Investment Capital Outflows to and U.S. Share in Reinvested Earnings of Foreign Corporations in All Areas and in Developing Countries, 1961, 1964–66."

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

INTERNATIONAL INVESTMENT POSITION OF THE UNITED STATES, 1964, 1965, 1966, TOTAL AND BY TYPE

[In billions of U.S. dollars]

| | 1964 | 1965 | 1966 |
|---|---|---|---|
| Private investments, total | 75.8 | 81.1 | 86.2 |
| Long term | 64.9 | 70.9 | 75.6 |
| Direct | 44.4 | 49.3 | 54.6 |
| Foreign dollar bonds | 8.2 | 9.1 | 9.5 |
| Foreign corporation stocks | 5.3 | 5.0 | 4.3 |
| Banking claims [1] | 4.1 | 4.3 | 4.0 |
| Other [2] | 2.9 | 3.2 | 3.2 |

[1] Excludes $200,000,000 netted against a related outflow of U.S. direct investment capital.

[2] Includes $245,000,000 loaned to Canada in connection with Columbia River power development.

Source: Survey of Current Business, U.S. Department of Commerce.

DIRECT INVESTMENT CAPITAL OUTFLOWS TO AND U.S. SHARE IN REINVESTED EARNINGS OF FOREIGN CORPORATIONS IN ALL AREAS OF THE WORLD AND IN DEVELOPING COUNTRIES, 1961, 1964, 1965, 1966

| | Net capital outflows | | | | Reinvested earnings | | | | Total | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1961 | 1964 | 1965 | 1966 | 1961 | 1964 | 1965 | 1966 | 1961 | 1964 | 1965 | 1966 |
| All areas, total | 1.47 | 2.42 | 3.42 | 3.54 | 1.05 | 1.43 | 1.54 | 1.72 | 2.52 | 3.85 | 4.96 | 5.26 |
| Latin American Republics, total | .14 | .14 | .18 | .16 | .22 | .22 | .31 | .30 | .36 | .36 | .49 | .46 |
| Other Western Hemisphere (excluding Canada) | .03 | .12 | .09 | .11 | .30 | .03 | .04 | .04 | .33 | .15 | .13 | .15 |
| Africa, total | .12 | .14 | .17 | .09 | .51 | .04 | .05 | .07 | .63 | .18 | .22 | .16 |
| Middle East | .11 | [1] .04 | [1] .25 | [1] .12 | ------ | .01 | ------ | .01 | .11 | .05 | .25 | .13 |
| Far East | .02 | .18 | .18 | .09 | .72 | .06 | .06 | .10 | .74 | .24 | .24 | .19 |

[1] Mostly investment in petroleum.

Source: Survey of Current Business, U.S. Department of Commerce.

Mr. JAVITS. The Peace by Investment Corporation would be an effective instrument of increasing private investment to the underdeveloped regions of the world. The concept embodied in the corporation has attracted the support of the Subcommittee on Foreign Economic Policy of the House Foreign Affairs Committee. In its report of March 31, 1968, the committee called for the creation of such a corporation. Earlier, the Advisory Committee on Private Enterprise in Foreign Aid, chaired by Arthur K. Watson, chairman of IBM World Trade Corp., said that this approach "deserves the most careful consideration as a way of helping to fill the capital gap with private resources." Also David Bell, while Administrator of AID, in a letter to Chairman FULBRIGHT supported hearings by the Senate Foreign Relations Committee on this measure.

I therefore urge that the Senate—particularly the Foreign Relations Committee—give this concept its most serious consideration.

Mr. President, this legislation now has far more cosponsors than it ever had before. In addition, it has been espoused by a subcommittee of the House of Representatives, seeking ways and means to increase private enterprise participation in developing countries and to deal with our foreign aid problem without overtaxing our budget. The chairman of the subcommittee, LEONARD FARBSTEIN, of New York, is to be congratulated for the excellent report of the subcommittee. It has received the approval of a very high-level committee, the Advisory Committee on Private Enterprise in Foreign Aid, which was organized pursuant to an amendment to the foreign aid bill which I sponsored. They reported favorably on it, and previously AID Administrator David Bell supported hearings on it. Moreover, it has received much favorable comment throughout the Nation, Mr. President. I think it is now an idea which has definitely come into its time; and I wish to do everything I can to get an early hearing and early action by the Senate.

I yield to the Senator from Iowa.

Mr. MILLER. Mr. President, I ask unanimous consent that the Senator from New York may have an additional 3 minutes, so that I may respond to his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. Mr. President, I very much appreciate the opportunity given me by the Senator from New York to join with him and others in cosponsoring what I think is a very enlightened and forward-looking measure.

I make the point that in considering legislation such as this, it would seem to me that it possibly should be drafted with an amendment to insure, if necessary, that in the case of investment in other countries, and especially in the developing countries, the corporation will have the power to join in a consortium or a joint venture with local nationals, so that whatever investment undertaking becomes involved will not be exclusively a U.S.-underwritten activity.

I note that in Venezuela, for example, there is a trend on the part of some U.S. corporations now to work out arrangements, either with the Venezuelan Development Corporation or with local nationals, whereby there is a large share of interest on the part of the local nationals or the local government in the success of the undertaking, as much as 50 percent in some cases.

I merely make this observation to my friend from New York for what it is worth, because I believe that it is something that the proposed new Corporation should have the power to implement, where the local situation indicates its desirability.

Mr. JAVITS. The Senator from Iowa is eminently correct, and puts his finger, indeed, upon the modern trend in respect to this type of activity.

The terms of reference of the corporation, as contained in the bill I have introduced, entirely accommodate that concept. The Adela Investment Co., to which I have referred, operates only that way. Indeed, the amount of capital it generally invests is relatively small compared to the total. I should like to give an example of that, which will interest the Senator from Iowa and, I am sure, the Senate.

They recently financed a kraft paper mill in Brazil. That involves the production of paper which is used for bags and similar fairly heavy duties. Adela put up a little under $3 million, but the fact that they put up that much, with their reputation for astuteness and technical aid to developing projects, produced $30 million more, which was put up by the promoters of the mill, who happened to be a very prominent financial and industrial group in Brazil, by the World Bank, by the International Financial Corp., by the Inter-American Development Bank, and by the Development Bank of Brazil.

This is an example of why $1.25 billion put up this way can result in $10 billion or more of actual new productive activity. You cannot do that with Government. When we appropriate whatever we do, say on the order of magnitude of $2.5 billion, that is it. But when you do something like this, you really have an enormous multiplier effect. I am grateful to my colleague for bringing that out.

Mr. MILLER. Will the Senator yield further?

Mr. JAVITS. I yield.

Mr. MILLER. I ask unanimous consent that the Senator from New York may have an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. The Senator indicates that the bill is constructed to permit this to be done. My only concern is that, while we not tie the hands of the corporation by forcing it to do so, we make it clear, as a matter of policy—and I think the Senator from New York has already done so, and perhaps nailed it down by a committee report, in which I concur—that the policy of the Senate in connection with this legislation is to encourage that local activity or investment by local nationals be given the highest priority where it is desirable to do so.

Mr. JAVITS. I thank my colleague. That is precisely what will be done, assuming we get somewhere with this matter.

## REVISION OF THE COPYRIGHT LAW

Mr. JAVITS. Mr. President, the New York Times recently published a letter

from Dr. Howard Hanson, distinguished director of the Institute of American Music at the University of Rochester, stressing the importance of the revision of the copyright law.

Dr. Hanson, a writer, composer, and conductor, has had his works performed by major orchestras and bands both here and abroad. He also has served as guest conductor in leading cities in the United States and in foreign countries.

He won a Pulitzer Prize in 1944, received the George Peabody Award in 1946, and the Huntington Hartford Foundation Award in 1949. He is a member of the New York State Council of Arts and has served as a consultant to our State Department.

In view of his outstanding record in the musical field, I feel that my colleagues in the Senate will be interested in reading his views on the copyright revision bill which has passed the House of Representatives and is now under study by the Senate Judiciary Subcommittee on Patents, Trademarks, and Copyrights. I ask unanimous consent that Dr. Hanson's letter, as published in the New York Times of April 14, 1968, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 14, 1968]

FOR REVISION OF COPYRIGHT LAW

To the EDITOR:

An extremely important bill affecting the creative and cultural development of the United States has recently been passed by the House of Representatives of the Congress and is now before the United States Senate.

It has to do with the revision of the copyright law which protects the rights of authors, composers and creative artists in general in their creations. It is important not only to the creators themselves but to every citizen who is interested in the creative developments of the arts in the United States.

The present copyright law is, without question, obsolete. It was enacted in 1909. Since that time there have been technical developments and changes which could hardly have been dreamed of almost sixty years ago. In music, for example, the technical progress in recording, radio, television, motion pictures and the like has completely altered the status of both music and the composer of music.

FEW SAFEGUARDS

Even without the consideration of the problems of technological development the original copyright law was not generous in safeguarding the rights of the author, composer or artist.

In the first place, the copyright protection on an individual work is for a period of 28 years. It is true that such a copyright may be renewed for a second term of 28 years. The law on such renewals, however, is strict and rigid. The renewal must be claimed within the year preceding the expiration date of the original copyright date. One day later is too late!

Unless a valid renewal claim and fee are received in the Copyright Office before the first copyright term expires copyright protection is lost permanently and the book, music, art object or whatever enters the "public domain." This means, in other words, that the author of the work loses all rights to the product of his labor.

The new law proposes that copyright protection shall be extended to the life of the composer plus fifty years. This is the common practice in Europe and there seems to be no valid reason why an American should receive less protection than his European colleagues.

JUKE-BOX EXEMPTIONS

There is one item in the old Copyright Law that would be funny if it did not affect so seriously the composers of music, particularly in the field of popular music. This is the so-called "juke-box" exemptions.

The old law specifically exempts "coin-operated machines" from the payment of ary fee for the use of copyrighted music. The reason, I suppose, was that the only coin-operated machines of 1909 were the old "player-pianos" and they were hardly considered important in the musical life of the nation.

As a result the modern juke-boxes, which pour out countless hours of music for the pleasure of their patrons, play the popular hits of the day—or of the past—with no compensation to the men and women who wrote them.

The new law strikes out this clearly inequitable exemption.

One of the best statements on the merits of the new copyright bill was made by Emanuel Celler, Representative in Congress from the State of New York and chairman of the House Judiciary Committee:

"Since 1946 our Committee on the Judiciary has had primary legislative jurisdiction, under the rules of the House, of all measures affecting copyrights. Our committee thus shoulders the solemn responsibility of guarding the intellectual property of authors and composers and making sure, in an increasingly complex society, that American creative talent will continue to receive encouragement in the form of just return from the commercial exploitation of its works."

HOWARD HANSON.

ROCHESTER, *April 10, 1968.*

(NOTE.—The writer, composer and conductor, is director of the Institute of American Music, University of Rochester.)

## THE COMMERCE DEPARTMENT APPROVES EXPORT OF GEARMAKING MACHINERY TO SOVIET FIAT AUTO PLANT

Mr. JAVITS. Mr. President, in view of the controversy in Congress regarding U.S. participation in the Soviet-Fiat automobile plant deal, I call the attention of the Senate to a decision made on April 19 by the U.S. Department of Commerce to issue a license to export gearmaking machinery, valued at $8.9 million, purchased by Fiat, an Italian firm, for use in that plant.

The Secretary of Commerce in a letter dated April 19 informed me that his decision to approve this license was based on a finding as required by the Export Control Act that the equipment could be sold abroad without detriment to our national security and welfare.

I believe that the Commerce Department's decision was a prudent one and within U.S. policy to develop further East-West trade in nonstrategic goods.

Specifically, the Department of Commerce concluded that—

First. This system of gearmaking machinery is not likely to be used for other than the civilian purpose of producing components of Fiat passenger automobiles.

Second. Comparable equipment is available abroad in Switzerland and West Germany. Denial of this application will not prevent the Fiat-U.S.S.R. plant from being built and tooled. It would mean loss of the business to U.S. firms.

Third. The equipment to be licensed does not contain extractable technology of strategic significance that is otherwise not available to the Soviets.

Fourth. Production of these machines will not disrupt current or planned future defense priority orders for machine tools of similar types.

Earlier this year Congress, in extending the life of the Export-Import Bank, prohibited the Bank from financing U.S. exports to Eastern European countries. Congress did not, however, prohibit U.S. commercial participation in the Fiat project. As I stated during Senate debate on this measure in August 1967, it is clear that the Senate's prohibition did not constitute a generalized and universalized finding against East-West trade.

I ask unanimous consent that the letter of the Secretary of Commerce dated April 19, 1968, be printed in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE ASSISTANT SECRETARY
OF COMMERCE,
*Washington, D.C., April 19, 1968.*

Hon. JACOB K. JAVITS,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR JAVITS: On April 19, 1968, the Department of Commerce intends to announce in its Daily Licensing List the issuance of a license to export gear making machinery, valued at $8.9 million, purchased by Fiat, an Italian firm, for use in the Fiat-Soviet Automobile Plant (Volga Automobile Factory (VAZ)) in the USSR. The Soviet-Fiat automobile plant evoked debate in the Congress earlier, as you know. The issuance of this license may prompt adverse reaction again. In view of that and since the U.S. exporter is a New York State firm, this letter will bring to your attention certain facts concerning the transaction and our reasons for intending to approve this export license.

In August 1966 the Italian firm Fiat and the Soviet Government signed a contract for the construction by Fiat of an automobile plant in the USSR at an estimated total cost of $800 million. Plans call for production to commence in mid-1969, with full capacity to be attained in 1974, of two small passenger cars of the Fiat line, at a rate of 600,000 cars annually.

Purchases for the plant from outside the USSR were estimated at between $300 and $400 million. FIAT's extensive experience with U.S. machinery for automotive production in its own plants led it to anticipate purchasing up to $50 million worth of machine tool equipment from American firms.

The U.S. Departments and Agencies concerned with the possible U.S. participation in this project, including the Department of Commerce, gave such participation careful study and concluded that it was in keeping with the President's policy of expanding and intensifying peaceful engagement with the countries of Eastern Europe. It was with this policy in mind that the Administration supported an Export-Import Bank loan to Institute Mobiliare Italiano (IMI) of Italy to finance purchases of U.S. equipment for the FIAT-Soviet plant. The Departments of State, Commerce and Defense, and the Export-Import Bank specifically endorsed the loan.

As you know, at the beginning of the second session of the 90th Congress, the Export-Import Bank Act was passed with an amendment that in effect forbids the financing of

any U.S. export to Eastern European countries. The Congress did not, however, bar any U.S. commercial participation in the FIAT project; nor do we believe that it was its intent to do so. I note in this connection that on August 11, 1967, during the debate to restrict Export-Import Bank financing, you said: "I cannot let the debate end on the note which is sought to be struck here that there is some generalized and universalized finding by the Senate against East-West trade."

I believe that the equipment that may be purchased from the United States for the FIAT-Soviet plant can be licensed under the Export Control Act without detriment to our national security and welfare. The bases for my judgment were set forth by former Secretary Trowbridge, in a letter to Congressman Wright Patman, Chairman, House Committee on Banking and Currency, dated April 12, 1967:

"The product of this plant—light automobiles—is a peaceful item which will in the years to come provide better transportation and increase the standard of living for the people of the USSR even though the first customers may be their government officials. The proposed plant is hardly the type to be adapted for production of military vehicles or equipment. Furthermore, we find no evidence that the USSR is unable to meet the automotive needs of its military programs. It is also quite clear that with or without U.S. equipment financing the USSR can obtain this and other modern light automotive manufacturing plants from Italy and other Western European countries.

"Thus, I conclude that non-participation by U.S. firms in the FIAT-Soviet transaction will neither prevent increased production of substantial quantities of light automobiles in the USSR nor contribute to U.S. national security and welfare. On the contrary, such self-denial will deprive U.S. business and labor of the benefits of such exports, deprive us of the balance of payments benefit from such exports and exacerbate our relations with Italy and the USSR to no avail."

All export applications for this plant are evaluated in the light of the following factors:

1. The appropriateness of quantities and types of equipment requested for the job and for this proposed plant.

2. The alternative uses of the equipment, and their military significance. The likelihood of the equipment being diverted to strategic use. The extent to which the equipment ordered by FIAT from the United States is an integral part of a large package and, therefore, unlikely to be used for any other purpose.

3. The availability of comparable equipment abroad and the effectiveness of the denial of a license.

4. The significance of any incorporated technology that is extractable..

5. The extent to which export approval of the equipment adversely affects production for the U.S. defense effort.

In line with the foregoing, we have carefully examined all facets of the case now being licensed, and we have concluded:

1. On the basis of informed judgment, this system of gear making machinery is not likely to be used for other than the civilian purpose of producing components for the FIAT passenger automobiles. Commerce and Defense technicians have confirmed the applicant's judgment that the quantities and types of machines are normal and appropriate for the plant in terms of planned output of FIAT cars in the proposed plant. The machines will be tooled and jigged to the specifications of the FIAT size gears and such machines are current in use by FIAT of Italy for the same end use. Although a few of the machines could produce gears for heavy trucks or helicopters, they are an integral part of the complete package and cannot be feasibly diverted without disrupting the system's production capability.

2. Comparable equipment is available abroad in Switzerland and West Germany. Denial of this application will not prevent the FIAT/USSR plant from being built and tooled. It would mean loss of the business to U.S. firms.

3. The equipment to be licensed does not contain extractable technology of strategic significance that is not otherwise available to the Soviets.

4. We have assured ourselves that production of these machines will not disrupt current or planned future defense priority orders for machine tools of similar types.

I believe you will agree with me, therefore, that approval of this proposed export is consistent with the Export Control Act.

Yours sincerely,

LAWRENCE C. MCQUADE,
*Assistant Secretary for Domestic and International Business.*

## IN PRAISE OF THE UNITED STATES

Mr. MILLER. Mr. President, the St. Louis Globe-Democrat, in its editions of April 15, published an editorial entitled "In Praise of the United States."

It says a lot about the condition in which this Nation finds itself today, where, as the editorial writer puts it, "there appears to be an undeclared national contest to see who can kick the United States the hardest."

The writer reminds all of us that "we happen to be citizens of the Nation that has done more than any other in the world for the cause of freedom and democracy."

There is much wisdom in this editorial. I believe it merits the attention of others, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

IN PRAISE OF THE UNITED STATES

Who will say a good word for the United States of America?

We will—and we are sure that nearly all Americans will if they can get the microphone away from the professional hate mongers, the political opportunists and the "Let's All Kick America" crowd.

If one arrived in America from a foreign country and had to judge the worth of our nation by the outpourings of most of our national magazines, a good share of the television programs and the sensation-seeking segment of the press, he might conclude that we are headed straight for —— in a bucket.

As we see it, it is a matter of perspective. Too many newscasters and writers have lost theirs. They seem to get their "kicks" by puffing up the nation's faults to the exclusion of nearly everything else.

They give unlimited time and space in their columns and on the air waves to the hairy creeps and the hate peddlers until they are nauseatingly out of balance. They are sick, and they seem to want to get sicker.

What is all this about? There appears to be an undeclared national contest to see who can kick the United States the hardest.

If this is not so, why have certain television networks and publications given the Stokely Carmichaels, the Dr. Spocks and other far-out radicals such an inordinate amount of coverage?

It seems that every time Carmichael feels an urge for sedition or mayhem, someone shoves a microphone in his face or starts taking notes.

Have those gentlemen with a nose for garbage not been largely responsible for making these rap-America radicals national figures?

The venom against the United States fairly oozes from certain tv and newspaper personalities. These armchair generals nightly asked loaded questions of selected "experts" on the Vietnam war to support their demand that we get out even though they haven't the faintest idea how we could do so with honor or what might follow a precipitous pullout.

Most of such self-appointed experts on military and foreign affairs would be horrified if anyone in Washington had the bad judgment to follow their advice.

Small wonder the American people are confused about the war.

We also have political candidates who would sell out not only their own grandmother but the United States as well for a few votes.

They are so "hooked" on using our government as a punching bag, that they grin like idiots every time they are getting their "enjoys."

We realize the country is undergoing a national orgy of violence and crime, that its popularity abroad has reached an all-time low, and that it faces an awesome challenge in meeting the problems that seem to confront it on all sides.

But what good does it do to make the worst of it?

This is a time for cool heads to take over from the hotheads. It is an occasion for loyal Americans to stand against this sickening outpouring of venom, to make a special effort to point out some of the good things about America.

This is a time to take off our coats and go to work to solve our problems, rather than moan incessantly about them.

Instead of complaining helplessly about riots in the ghettos, find out what you can do to help the great majority of non-rioting, responsible Negroes, who must live in these rotten conditions, achieve a better life.

Try giving the President your support in his all-out search for peace in Vietnam—a peace with honor, not a cover for retreat.

We happen to be citizens of the nation that has done more than any other in the world for the cause of freedom and democracy.

Americans have an unmatched record for sacrifice on the battlefield, for generosity in giving their money and other resources to help other nations withstand aggression, to remain free.

Why worry when Boris Bolshevik from Outer Monrovia or Vulgarslavia screams anti-Americanism?

He knows and you know that were it not for the United States, President Charles de Gaulle of France might today be making his anti-American speeches in a Nazi prison and the Communist flag might well be flying over Greece and who knows where else in Europe?

Filipinos today might be speaking Japanese and Australians might be eating with chopsticks had not American men fought for freedom in World War II, as they fought in World War I, in Korea, and as they fight today in South Vietnam.

No wonder we feel patriotic and couldn't care less if some rum-dum should mumble something inane about "super patriotism."

To the United States of America we say, "long may you live." To the sour-mouthed calamity howlers, we say, "Nuts to you!"

## COMMITTEE MEETING DURING SENATE SESSION

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Subcommittee on Executive Reorganiza-

tion of the Committee on Government Operations be permitted to meet during the session of the Senate today.

The PRESIDING OFFICER. Without objection, it is so ordered.

## THE GROWING EXPENDITURES FOR FEDERAL ASSISTANCE TO THE POOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD a table prepared by the Bureau of the Budget showing estimated Federal funds for programs assisting the poor. This tabulation does not encompass all programs which affect the poor, but only those which have special impact on the poor. I also ask unanimous consent to have printed with the table a list of the criteria which were used in selecting the programs for inclusion in the tabulation.

There being no objection, the table and list of criteria were ordered to be printed in the RECORD, as follows:

ESTIMATED FEDERAL FUNDS FOR PROGRAMS ASSISTING THE POOR, FISCAL YEARS 1960–69

[In billions of dollars]

| Category and program | 1960 actual | 1961 actual | 1963 actual | 1964 actual | 1966 actual | 1967 actual | 1968 estimate | 1969 estimate |
|---|---|---|---|---|---|---|---|---|
| **Education:** | | | | | | | | |
| HEW—Elementary and Secondary Education Act of 1965, title I | | | | | 1.0 | 1.1 | 1.2 | 1.2 |
| Other | (1) | (1) | (1) | (1) | .3 | .4 | .6 | .7 |
| OEO—Headstart, Follow-through, etc | | | | | .4 | .4 | .4 | .5 |
| Interior—Indian education | 0.1 | 0.1 | 0.1 | 0.1 | .1 | .1 | .1 | .1 |
| Subtotal | .1 | .1 | .1 | .1 | 1.7 | 2.0 | 2.3 | 2.5 |
| **Work and training:** | | | | | | | | |
| HEW—Work incentive activities | | | | | | | (1) | .1 |
| OEO | | | | | .6 | .8 | .8 | 1.1 |
| Labor—MDTA, etc.[2] | (1) | (1) | (1) | (1) | .2 | .2 | .3 | .4 |
| Subtotal | (1) | (1) | (1) | (1) | .8 | 1.0 | 1.1 | 1.6 |
| **Health:** | | | | | | | | |
| HEW—Health insurance for the aged[3] | | | | | (1) | 1.3 | 1.7 | 2.0 |
| Public assistance medical care | .2 | .2 | .4 | .5 | 7 | .9 | 1.4 | 1.7 |
| Other | .1 | .1 | .1 | .2 | .3 | .3 | .3 | .3 |
| VA—Hospital and domiciliary care | .3 | .3 | .4 | .3 | .4 | .5 | .6 | .6 |
| OEO | | | | | .1 | .1 | .1 | .2 |
| Subtotal | .6 | .7 | .9 | 1.0 | .15 | 3.2 | 4.1 | 4.7 |
| **Cash benefit payments:** | | | | | | | | |
| HEW—Old-age and survivors and disability insurance[3] | 4.0 | 4.4 | 5.3 | 5.8 | 6.6 | 6.7 | 7.9 | 8.9 |
| Public assistance | 1.8 | 1.9 | 2.3 | 2.5 | 2.8 | 3.0 | 3.5 | 3.6 |
| Railroad retirement[3] | .4 | .3 | .3 | .3 | .4 | .3 | .4 | .4 |
| VA—Compensation and pensions | 1.6 | 1.8 | 2.0 | 2.0 | 2.3 | 2.3 | 2.4 | 2.5 |
| Labor—Unemployment insurance[3] | .5 | 1.0 | .6 | .7 | .4 | .4 | .5 | .5 |
| Subtotal | 8.3 | 9.5 | 10.4 | 11.4 | 12.5 | 12.8 | 14.6 | 15.9 |
| **Other social, welfare, and economic services:** | | | | | | | | |
| Agriculture—Food programs | .2 | .2 | .3 | .2 | .4 | .3 | .4 | .5 |
| Other | (1) | .1 | .1 | .1 | .1 | .1 | .2 | .2 |
| Commerce—Economic Development Administration | | | .1 | .1 | .2 | .2 | .2 | .2 |
| OEO | | | | | .5 | .3 | .4 | .5 |
| HEW | .1 | .1 | .1 | .2 | .2 | .4 | .4 | .5 |
| HUD—Public housing and rent supplements | .1 | .1 | .1 | .1 | .1 | .2 | .2 | .3 |
| Other | | | | | | (1) | .1 | .3 |
| Interior—Services to Indians, etc.[2] | .1 | .2 | .2 | .2 | .2 | .4 | .3 | .3 |
| Labor | (1) | (1) | (1) | .1 | (1) | (1) | (1) | (1) |
| SBA—Economic opportunity loans | | | | | (1) | (1) | (1) | (1) |
| Appalachian program (funds appropriated to the President) | | | | | (1) | .1 | .1 | .1 |
| Subtotal | .5 | .6 | 1.0 | .9 | 1.8 | 2.0 | 2.4 | 2.9 |
| Total | 9.5 | 10.9 | 12.5 | 13.4 | 18.3 | 21.1 | 24.6 | 27.7 |

NOTES

(1) Totals may not add due to rounding.
(2) The amounts shown in this table are (a) NOA's for regular budget accounts except where program level is the more meaningful concept, (b) expenditures for trust funds.

[1] Less than $50,000,000.
[2] Includes some trust funds.
[3] All trust funds.

NOTE.—The tabulation prepared by the Bureau of the Budget does not encompass all programs which affect the poor, but only those that have special impact on them qua poor. The following are the criteria used in selecting the programs for inclusion in the tabulation.

1. Programs which are aimed at the *poor* in general or at a specific group of the population who are poor (example, Indians) or at a particular region which is considered poor (example, Appalachia). Major programs in this category include:

Title I of ESEA.
Economic Opportunity grants.
Work study.
Adult basic education.
Head Start.
Indian health, education, and welfare.
Job Corps.
Work incentive activities.
Neighborhood Youth Corps.
Concentrated Employment Program.
Public assistance.
Food stamp program.
Appalachian program.
Aid to depressed areas and regions.
Comprehensive health centers.
Day care centers.
All other OEO programs.

2. Programs which are aimed principally at *low income* groups of which the poor constitute a significant proportion. Major programs in this category include:

NDEA student loans.
Health insurance for the aged.
Medicaid.
Veterans disability pensions.
Veterans survivor pensions.
Direct distribution and removal of surplus agricultural commodities.
Minimum wage enforcement.
Grants for maternal and child health and welfare.
Low rent public housing.
Comprehensive city demonstration program.
10-year housing program.

3. Programs which are open to *all* regardless of income but which are taken advantage of most by low income groups. Major programs in this category include:

Vocational education.
MDTA.
Selective Service System rejectee program.
VA hospital, nursing, domiciliary and outpatient care.
Grants for vocational rehabilitation service.
Grants for neighborhood facilities.

4. Programs which are open to *all* regardless of income but which contain specific benefits to the poor or to the very low income groups. Major programs in this category include:

OASDI.
Railroad retirement program.
Unemployment insurance.
Veterans survivor compensation.
School lunch and special milk programs.
Rural housing loan program.

Programs in the first category are included in the tabulation at 100%. For the remaining categories only that portion of a program which is estimated to relate to poor beneficiaries is included. It should be emphasized that this tabulation relates to *outlays* of the Federal Government assisting the poor and should not be taken to measure the *benefits* that the poor derive from these programs.

Mr. BYRD of West Virginia. Mr. President, the tabulation indicates the programs which are aimed at the poor in general or at a specific group of the population who are poor or at a particular region which is considered to be poor. It also aims at the low-income groups of which the poor constitute a significant part.

The tabulation also includes those programs which are open to all persons regardless of income, but which are taken advantage of mostly by the low-income groups. It also includes programs which are open to all persons regardless of income, but which contain specific benefits to the poor or to the very low income groups.

## THE JOHNSON LEGISLATIVE PROGRAM AND THE FUTURE

Mr. MUSKIE. Mr. President, under the leadership of President Johnson, the Nation has enjoyed some of the most productive legislative years in history. More than 300 bills have been passed by Congress that directly affect the lives of our people.

How effective is such legislation? Where do we go from here?

What should be the next steps toward improving the new programs now being tested?

These are some of the key questions that will be confronting Congress and the American people in the months and years to come.

On April 23, President Johnson's principal aid on domestic programs, Special Assistant Joseph A. Califano, Jr., confronted these issues during an address before the Nieman Fellows at Harvard University.

Mr. Califano finds that—

The great social programs of the past several years affect people, but they also affect institutions. And in so doing, they have raised questions which go to the very roots of our society.

Among some of the questions he raised:

Should the Nation's public school system be revamped to begin, for everyone, at the age of three?

Railroads and businesses merge for efficiency—will States someday?

Should the powers of mayors be strengthened and their jurisdiction extended? How—and by whom?

If Presidents are to be held responsible for planning our economy, shouldn't we give the authority to go with that responsibility?

These questions grow out of the problems raised by effective implementation of new legislation programs. And while there are no easy and quick answers, there seems to be little doubt that Mr. Califano has focused on many of the most difficult issues confronting American life. For at the heart of his message lies a fundamental truth: It may not be enough to instill progress through programs; progress may well demand a reshaping of our basic political institutions and, most important, a reshaping of our thinking about them.

I ask unanimous consent that this thoughtful and penetrating address by Presidential Assistant Joseph Califano be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

THE DIALOGS OF IMPATIENCE, INVOLVEMENT AND INQUIRY

(Remarks of Joseph A. Califano, Jr., before the Nieman Fellows, Harvard University, April 23, 1968)

As Nieman Fellows you have put aside the reporter's pen to take up the scholar's mantle. This sabbatical gives you the opportunity to reflect on events in a broader perspective—free from the pressure of the daily deadline.

Through this perspective, I hope you will write about the remarkable changes in our society and in our attitudes over the past few years. That story has largely been obscured by the conflict in Vietnam and clouded by the disorders in our cities.

But change—deep and dramatic—has occurred. I believe that history will show the Johnson years cleared the old liberal agenda and in the process have opened up a new range of questions and issues. For the liberal programs shaped by the ideals of our parents are on the books. But they are not wonder drugs to cure all of society's ills. And they have had some unforeseen side effects.

The issue of government insurance to pay medical bills of the elderly once sharply divided our parents. "Socialized medicine" now pays their hospital bill and in its present form helps aggravate a typically capitalistic problem, inflation.

Just, a few years ago many of our liberals said our objective for Negroes should be equal treatment, but stopped there. Now some of our more conservative leaders insist that preferential treatment, in education, in training and in jobs, is essential to make up for years of disadvantage.

Long range economic, fiscal and budgetary planning designed to adjust our economy, is now an integral part of Presidential responsibility. Today, an Administration which failed to engage in the most comprehensive economic planning would be charged with negligence.

Cries of anguish about federal aid to education now center on the charge that we are not providing enough. The traditional primacy of property rights in homes, in hotels and in restaurants has been balanced by the assertion of human rights of equality and justice, through civil rights legislation that was filibustered out of our national legislature just a few years ago.

Few liberals would have believed these changes could have occurred in just a few years. Even fewer could have foreseen the enormous impact and unpredictable effects they would have on our society. Lines are blurred as never before; old labels no longer suffice. Our people are more impatient for quick solutions than ever. Enormous programs designed to do things that many thought only the Federal Government could do have served to emphasize the importance of involving the private sector. Perhaps most significant, searching questions have been brought to the surface about our society itself.

Today, some conservatives would move as quickly as possible to a guaranteed family income, while some liberals contend that this could be as debilitating as the present welfare system.

Some conservatives have urged that we place young children in day care centers and take mothers away to train for jobs, while liberals express concern about this intrusion of the State—this "sovietization"—in American family life.

Some conservatives who for years have preached the doctrine of local control are now saying we should have less community action, while some liberals are now apprehensive about big government and press for more local control and community involvement.

When a group of America's leading industrialists petitioned the Congress to enact the Model Cities Program, James Reston observed that their words sounded as if they had been written by George Meany or Walter Reuther.

All of this reflects ferment in our society and change in our attitudes. The result is a series of new dialogues—of impatience, of involvement and of inquiry.

The *dialogue of impatience* centers on the clamor for the quick solution and the quick answer. It is too often a quest for some new remedy, even before we know how the social programs of the past few years will fare.

The dialogue of impatience is understandable enough. A hundreds years ago, Alexis De Tocqueville recognized this aspect of the American character. De Tocqueville's words are worth repeating this afternoon:

"The sufferings that are endured patiently as being inevitable become intolerable the moment that it appears there might be an escape. Reform then only serves to reveal more clearly what still remains oppressive and becomes now all the more unbearable. The sufferings, it's true, have been reduced, but one's sensitivity has become more acute."

But much of the dialogue of impatience is possessed of an air of unreality. Too often the quest for the new is in reality the quest for the easy. It fails to recognize that hard work will be required. It reflects frustration as we discover how difficult the job is.

Many new programs have been started. And many others will evolve from them. But passing a Poverty or a Manpower Training Bill is not enough. The task is to make them work, and to experiment and to change until the right combination appears.

There is usually a substantial lag between the time a Federal program is passed and the time it becomes fully operational. Comparable action by State legislatures is often required. Washington and field staffs have to be assembled. Counterparts at State and local levels have to be hired. The programs passed in 1965 and 1966 were started from scratch.

For the most part, there has not been sufficient time to test fully their effectiveness. Moreover, it is becoming increasingly difficult for the Executive Branch to obtain the funds needed to evaluate these programs.

Today's dialogue of impatience tells that we should have a bigger housing or job, or poverty program supported by much more massive funding. The money answer is easy and beguiling—but alone it is illusory. Unquestionably additional funds can be fruitfully spent in many areas.

But money is simply command over resources. If the particular resources we need—in the form of good teachers, or medical workers or builders—are not there, or if our political institutions block their use, then money alone will simply raise the price of scarce talent, not put it to work in the urban ghetto.

Men must be motivated to work, before you can spend more money to provide the basic skills they lack. There is no point in building schools faster than we train good teachers. Technology, the structure of our capital markets and the availability of professional talent prescribed the outer limits of the President's ten-year housing program—not some politically inspired fear about asking for too much money.

Moreover, substantial funds have already goine into the Johnson programs. The curve rises sharply from 1963 to 1969:

From $258 million to $2.1 billion for job training.

From $5 billion to $16 billion for health.

From $4 billion to $12 billion for education.

The money syndrome of the dialogue of impatience tends to focus on a pot of gold at the end of the rainbow when the Vietnam war ends. But, despite America's enormous productivity and wealth, we will never have unlimited resources for social programs. If history is any guide, most of the money freed by ending the Vietnam war is not likely to be turned over to domestic programs. A Congress that is so reluctant to raise taxes to help pay for the war or demands cuts in social programs as the price of a tax increase is at least as likely to repeal taxes when the war is over as it is to invest more money in domestic programs.

The dialogue of impatience has its problems. But along with the Johnson programs, it is leading us to a more constructive dialogue—the dialogue of involvement.

The core of that dialogue is about people and their role in society. It draws on Woodrow Wilson's notion that democracy is the force that can "release the energy" of every human being. During the Johnson years it has begun to translate President Kennedy's charge, "ask what you can do for your country," into a national happening.

The dialogue of involvement recognizes that it will take more than programs and money to conquer poverty or rebuild the wasteland of the slums. It reflects the critical fact that unless all sectors of society deeply involve themselves in helping to solve these problems, the effort will take far longer, the burdens will be far heavier, and indeed the problems will never be solved.

We now have over 400 programs—more than half of them passed in the last three years. $78 billion in Federal funds are devoted to our domestic problems. With this surge of government activity, has come an increasing realization that the Federal government, and indeed the Federal, State and local governments combined, cannot solve the problems alone.

The private sector of our society must get to work. This is the first level of the dialogue of involvement. There is another, more important level. A few years ago, Gunner Myrdal, in his "Challenge to Affluence" asked why America "with the world's most generous and best organized private charity" was "so reluctant to more concretely recognize all the poverty at home."

The answer to Myrdal's question may be that most Americans would not "recognize all the poverty at home" because they had never seen it.

When the Nation's concern in the late 1950's was to overcome a recession, our purpose was to find a job for the skilled worker,

not to salvage the high school dropout. But now the unparalleled prosperity of the past few years has given us that opportunity. Today many of our programs are designed with the thought that men of good will who see poverty will become involved in trying to eliminate it—if they have the opportunity.

Traditional concepts about the role of citizens and companies, universities and unions, indeed the poor themselves, in helping to solve the Nation's social problems, are changing. Out of this dialogue of involvement has come concrete action—the antipoverty worker in a community action program, the union that sponsors a rent supplement project, the National Alliance of Businessmen trying to put thousands of hard-core unemployed to work, the creation of the Urban Coalition.

But on a more profound level, the dialogue of involvement helps open the hearts and change the attitudes of individual Americans.

When a corporation trains and hires Negroes who never held a steady job or when a VISTA volunteer helps to hold a slum family together, the impact on the corporate executive or the Ivy League volunteer may be as significant for himself and our society, as the change in the life of the person he is trying to help.

The dialogue of involvement recognizes that people must not only provide energy and insights, but human contact. It seeks to replace indifference with compassion.

This is the point of so much that the President is trying to convey. Indeed, I believe this is precisely the much misunderstood central point of the Kerner Commission Report. The battle is in the hearts of individuals and there it must be won by each of us for ourselves. For America is one nation, and we must recognize that we are all neighbors.

Large scale rebuilding of the ghetto may simply push up land prices unless suburban America is willing at the same time to remove its formal and informal restrictions against Negro home buyers and renters. Training Negroes as skilled workers will lead to bitterness instead of jobs if racial restrictions on job opportunities stay in effect.

Clearing the liberal agenda has not only whetted our appetite for faster action and quicker solutions. It has not only focused our attention on the inability of the Federal government to do the job alone and the need to involve local government and the individual citizen. Clearing the liberal agenda has brought a host of new problems and issues. It has set off a dialogue of inquiry.

The great social programs of the past several years affect people, but they also affect institutions. And in so doing, they have raised questions which go to the very roots of our society.

Head Start pioneered a new concept in preschool education for the disadvantaged. But the basic principles that inspired the Head Start program apply to all children. Should the Nation's public school system be revamped to begin, for everyone, at the age of three?

Government-sponsored medical research has provided major breakthroughs, including an enormously expensive artificial kidney machine. The lives of thousands of Americans could be saved and extended, if a judgment were made to expand the production of this machine, extending its presently limited availability beyond the very wealthy and relatively few who qualify under certain Federal laws. Is it a wise allocation of resources to increase vastly the production of these machines? If not who should receive its benefits? And who should make that determination?

The work of building a Nation and serving a people continues through a maze of channels at the Federal, State and local level. Over 400 Federal grant programs are administered by 150 separate departments, agencies, bureaus and offices in Washington, through over 400 regional and field offices, all assisting 50 States and thousands of cities.

The new water and air pollution programs must cope with the problems of our environment on a river basin and air shed basis because those problems transcend political boundaries. Economic development is now handled on a regional basis. The problems of the Negro ghetto in Harlem surely had some roots in the rural poverty of Alabama.

What is the value in 1968 of the state line that Pilgrims drew in the 17th Century? Railroads and businesses merge for efficiency—will States someday? Or will there be different mergers for different purposes—one set of boundaries for water pollution, another for regiional development, still others for urban transportation and the administration of local school districts.

Today most Mayors have too little authority over the cities they are responsible for. They have no authority over the suburban areas which are their city's economic and social satellites. Several cities have populations larger than most states. Should the powers of Mayors be strengthened and their jurisdiction extended? How—and by whom?

The Office of the Presidency deserves the most penetrating examination of the dialogue of inquiry. The conventional wisdom expresses concern about the increasing power of the Presidency. But perhaps the greatest irony of the programs of the past three years is that they should how limited Presidential power really is. Even a President with the legislative acumen of Lyndon Johnson has been unable to eliminate obsolete programs as new legislation provides better and faster solutions. Virtually all the social programs depend upon State and city governments, and when they are weak, Presidential initiatives will inevitably be blunted.

Yet, increasingly, the American people hold the President responsible for the economy, for the condition of our cities, for the health and education of their children and for security in their old age.

If Presidents are to be held responsible for planning our economy, shouldn't we give them the authority to go with that responsibility? At least the power to raise or lower taxes within a specified range—say five percent—so that we can quickly react to fiscal emergencies?

Should the President, for example, be given special powers and funds to deal with domestic problems? If there is a breakthrough in one program, should the President have a multi-billion contingency fund to exploit that breakthrough promptly and efficiently? Or at least authority to move funds from one program to another?

A wise man once said that "convention is like the shell to a chick, a protection till he is strong enough to break it through." The dialogue of inquiry can break through that shell of convention and can lead us to greater wisdom.

These, then, are the dialogues of 1968—of impatience, involvement and inquiry.

In this election year our responsibility is particularly heavy—to get behind the promises and proposals into the reality; not to accept at face value but to question and probe.

For if we are satisfied merely with the dialogue of impatience, we may find that we have been tilting at windmills.

If we see only the events of the dialogue of involvement without testing their effect on the minds and hearts of individuals, then we will become lost in superficialities.

If we accept the dialogue of election year rhetoric when we should demand a penetrating dialogue of inquiry, then we fail in our responsibility to help make a free society work.

The success and the viability of our society depend upon the constructive involvement of all of its people in all of its problems. Professors and priests, union officials and corporate leaders and indeed every individual citizen bear that responsibility. This is the lesson of our time. It is the heart of the dialogue of involvement. It is the central truth of the dialogue of inquiry.

Democracy's progress rests on an open mind and a free discussion. I hope I contribute to a little bit of each this afternoon.

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## PEOPLE-TO-PEOPLE CULTURAL EXCHANGE BY SAMMAMISH HIGH SCHOOL, BELLEVUE, WASH.

Mr. MAGNUSON. Mr. President, the people of the State of Washington are now opening their hearts and pocketbooks to assist an international venture which I heartily support.

The 106-student choir and musical group of Sammamish High School in Bellevue, Wash., are now working toward a $60,000 goal that they may participate in a people-to-people cultural exchange with Norway, Denmark, and the Netherlands. This kind of visit by a talented group of our young people cannot help but add good enhancement to international relations.

The group is scheduled to depart by chartered plane June 6, and that is "D-day" for their fund-raising campaign. Thus far they have about half of the money needed, and I would hope that all citizens of our State will recognize the inherent worth of this project and give full assistance that the additional $30,000 may be raised well in advance of the deadline.

Mr. President, Fred Short, an able public relations man at the Port of Seattle, has given freely of his time to assist these young people to meet their goal. I ask unanimous consent that a recent press release be printed in the RECORD.

We do many things to ease international tensions, and there is a regular effort to encourage understanding, but the exchange of our youth as provided in this good cultural program can give the necessary assurance of a better world in the future.

There being no objection, the release was ordered to be printed in the RECORD, as follows:

It was "go" at the April 15 meeting at Sammamish High in Bellevue. Parents voted 99% to send the 106-student choir and musical group on a concert tour to Bergen, Oslo, Copenhagen and Amsterdam.

The group leaves June 6 by chartered plane for performance in the four cities. The students return June 28.

June 6 is D-Day for this people-to-people cultural exchange and musical invasion—a far cry from another D-Day 24 years ago when very few people were singing.

Chairman Tom Bean announced that students and parents had raised half of their $60,000 goal in the four month old project. He urged each parent and friend to push even harder in the remaining 51 days to reach their goal.

One of the fund raising ideas is a paper and 'phone book drive. Last month, vandals destroyed tons of paper stored in a trailer at the school but that only spurred the kids on. They're still seeking papers and 'phone books—and money!

Five year old Mark Schultz, a Bellevue kindergarten student, sold some rocks he had polished and mailed in the 75-cents he made to the student fund. Mark has no brothers or sisters at Sammamish—the gesture was strictly because he had enjoyed himself so much at the students' fund-raising carnival last week and he wanted to help in his own

way. His 75-cents got him 106 friends for life. With encouragement from people like Mark, raising $30,000 is nothing now (almost).

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## GUN SALES INCREASE OMINOUS

Mr. DODD. Mr. President, the hour is late. Riots have already begun in our streets. The killing has never really abated since the riots of last summer, and in the meantime several million more guns have been sold to extremists and activists on both sides. Conservative estimates say that firearms and ammunition sales have increased a minimum of 20 percent in the last 8 months.

And why is this? There is a fear of violence and it is getting out of hand. Both sides have been arming themselves, actually stockpiling weapons. The country is in fact now an armed camp.

It dismayed me watching these long months while government at all levels struggled with the increasing problems presented by an armed populace, and in large measure failed for want of workable firearms laws.

It is an outrage that during these long fall, winter, and spring months gun magzines, firearms dealers, manufacturers, and alleged sporting groups fanned the flames of fear, took advantage of discontent, and advertised guns for everyone, guns for "self-defense," guns for "home defense," and bargains on "long hot summer specials."

Their magazines, articles, public statements, press releases, advertising and all the paraphernalia of the gunrunner emphasized the division in our society and suggested that private arms are a solution.

They will be responsible for the results.

In some cases the gun shops stayed open Sundays and holidays to accommodate the "sportsmen" buying semiautomatic rifles and handguns.

This domestic arms race has kept the cash registers of the gunrunners clanging at a record sales pitch.

Most of America has been trying to find some way to cool the hotheads on both sides, and making the biggest effort in our history to get at the root cause of civil discontent. Meanwhile, the gun industry fights sane legislation and takes advantage of the civil disorder to encourage the sale of firearms to both sides in the grand manner of the munitionsmakers of old.

I am told that the gun industry this year will have its biggest year in history.

That is reflected in the articles and editorials I have read in newspapers from all parts of the country. The newspapers and the town fathers are gravely concerned in such diverse places as Seattle, Cincinnati, Evansville, Ind., Jacksonville, Fla., Louisville, Detroit, and even in Hartford, Conn.

The story is always the same. Gun traffic is increasing. There are too many guns in the hands of too many people. A study made by the Hartford police also shows that the number of guns being stolen is increasing and indications are that there is probably a large number of sales going unrecorded.

As recently as this week, the situation in Detroit has deteriorated to the point where a voluntary group of businessmen are putting together at their own cost a newspaper and television advertising campaign to curb an arms race by white surburban residents who are fearful of another riot.

Title IV of the Omnibus Crime Control and Safe Streets Act (S. 917) will be debated this week in the Senate. Title IV is my amendment to bring effective regulation over the sale of firearms to criminals.

I ask unanimous consent to have printed in the RECORD a brief selection of articles and editorials published in cities around the country where there is immediate, on-the-scene concern about a citizenry armed to the teeth.

It is clear from these articles that strong controls are needed, indeed demanded, by the public. Anything less than my amendment to the Omnibus Crime Control and Safe Streets Act will offer little or no help to the police.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Hartford Courant, Mar. 31, 1968]

SALES AND THEFTS: TRAFFIC IN GUNS INCREASES

(By Thomas D. Williams)

Gun traffic in Hartford and the state is increasing, both in terms of legal sales and thefts.

Walter Perkins, director of the Hartford police crime laboratory, says 2,000 guns have been stolen in Connecticut since Jan. 1, 1963 when he started keeping files. That averages more than 30 a month.

Perkins reports 81 were reported stolen in the state this month alone.

A survey in Hartford shows there are 13 licensed gun dealers. Seven have shops and six sell out of their homes.

No one knows how many unlicensed sales occur; however, one army surplus dealer, who does not sell guns, said he is selling an average of eight holsters a month.

"Some come in here," he said, "look over a holster and ask if I have something to go inside it. Negroes have asked for grenades and a couple even asked for a machine gun."

"I think sometimes they don't mean it when they ask for such weapons, but are only intimidating me as whitey," he said. "For example, one of them asked me for a machine gun and when I jokingly asked him what type, he changed the subject."

A year ago there were 14 gun dealers in Hartford, but in January 1967, the Tonico Gun Shop, 1005 Albany Ave., had its license lifted by city police because its owner was allegedly involved in a gun incident in New Britain.

A policeman who checked the books of the store, before it went out of business, claimed it sold more than 500 guns in four months.

Three of the seven shops licensed trade actively on the market and two of the three report strong sales.

"Business has gone up 20 to 25 per cent over last year," said John Baronowskus, owner of the Thunderbird Sport Shop, 866 Park St. "I wouldn't sell during last year's disturbances in the North End. We used to have a shop on Albany Avenue and we know how bad things can get."

"I have had innumerable requests from the younger Negro element, but discourage the ones I think are trouble makers," he added. "In recent months, I've sold a number of guns to elderly Negroes for home protection. One was a chef and another was a common laborer of Jamaican origin. Both were in their late fifties and were good risks.

"They didn't seem riot minded."

STOREKEEPERS

"Also," he continued, "I've sold eight or nine guns to white store keepers in the Albany Avenue area. One thing though, no North End groups are buying shot guns or rifles."

Baronowskus estimated that 5 per cent of his increase in sales went for home protection.

In the last four years, his shop has been robbed four times. Twice guns were among the things stolen.

Another active dealer, Mortimer B. Kessner, who sells out of his gasoline station at 2027 Park St., said his business was on the increase, but largely because he is becoming better known.

He claimed business was generally on the rise and that newspaper reports in Waterbury of high gun sales because of expected summer riots were hogwash. He finds that a lot of people are buying guns as collectors' items rather than weapons.

"Right now," he said, "a lot of people want Jap and Nazi weapons. As a matter of fact, one army lieutenant was so happy about a rare Nazi weapon I had, that he was shaking with excitement."

A third active city dealer said he has sold about the same number of guns and ammunition as last year. The owner did not want to be quoted or identified because, "I'm a good citizen and I just hate newspapers. You print it for the sheep and ever since I learned to think, I just won't subscribe to it."

The other four shop dealers are relatively inactive, not because the gun market is bad, but simply because business in other areas has taken over for them.

One is selling his stock of guns and not replacing them on the shelves. He did not wish to be identified because he said gun publicity was adverse.

"We don't want to be involved with them. We felt this way even before there was any trouble in Hartford. We are now a gun dealer in license only. If a friend comes in and wants to buy one, we will get one for him," he said.

NO ONE SELLING

Another inactive store is Sobel's Sport Shop, 100 Allyn St., Sidney Sobel, the owner, said, "the demand for guns has been big in the last year or so from customers of all type. But, I never sell new guns, just old ones and no one is selling them any more. They're holding on to them."

"You figure it out why they're holding on to them," he added. "But with the new laws, regulations and paper work, the business is unprofitable for me. I'd rather sell Army surplus goods, skis and antiques."

Two other inactive local dealerships are Tracy, Robinson and Williams Co., 110 Airport Rd. and Colt Inc., 150 Huyshope Ave. Both keep renewing city licenses to accommodate friends. Colt also sells to the Hartford Police Department.

Colt is very "riot conscious," according to C. T. Turner, the advertising, promotions and public relations manager. After last summer's troubles in ghettos all over the nation, Colt encouraged its dealerships to form the National Shooting Sports Foundation Committee for Law Enforcement.

"This program," said Turner, "suggests that distributors secure their guns in case of civil disorder. It instructs them not to display them, to keep them in vaults and in extreme emergencies to remove them from the perimeter of activity entirely."

Five out of six "home" sellers agreed that sales are on the rise.

Lawrence H. Beauvais, 68, of 10 Grand St. said sales are going strong, but he said he has given up the business because "it's too much of a chance to take. You don't know nowadays who you're selling to. It's partly the government's fault for all those riots. The Army sells their surplus to all the dealers, when they should dump it in the ocean."

COLLECTORS ITEMS

Four others stressed the increasing value of guns as antiques and collectors' items. John William Bliss of 36 Westbrook St., a

government chemist, said that because of the war in Vietnam, there is a limited production of weapons for private use and thus a greater demand in the market. He claims some antique and modern guns have gone up as much as 400 per cent in value.

Most dealers say they have sold to responsible persons and not to mental cases, potential trouble-makers or criminals.

State law requires a seven day waiting period for gun purchase applications to clear both state and local police headquarters.

Police check to see if applicants have been convicted of a felony.

But, who checks to see that the identification given the dealer is correct? "This," said Lt. Edwin Rowin, superintendent of records and identification for Hartford police, "is up to the ethics of the individual dealer."

Rowin said the number of applications for gun permits is rising, but only because people have more money available for all their hobbies. He said many apply and, when they discover the red tape involved, decide not to follow up.

Lt. George Fagan, assistant in charge of the state police bureau of identification, investigates to determine the "suitability" of persons asking for permits to carry guns.

Fagan said gun sales are increasing at a normal rate along with the economy and people's interest in hunting and target shooting.

State statistics on gun carrying permits show an increase.

Over the past seven years, the average rise has been 1,000; however, from 1966 to 1967 the number of permits rose 1,680, from 12,850 to 14,530. In Hartford, there was only a slight increase from 400 to 425.

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[From the New York Times, Apr. 30, 1968]

AIDS IN DETROIT ASSAIL "HYSTERIA" IN GUN PURCHASES—WHITES WARNED BY A PRIVATE GROUP ABOUT THE DANGERS OF LOADED WEAPONS

(By Jerry M. Flint)

DETROIT, April 29.—A series of newspaper and television advertisements aimed at curbing what has been called an arms race by white suburban residents here fearful of a riot has been prepared by a voluntary group of young businessmen.

The first of the ads has been run in The Royal Oak Tribune, a suburban daily. Ads will be run in 30 other Detroit community or suburban newspapers, the group said.

The arms buying has been spurred by unsubstantiated rumors that Negro extremists would invade white suburbs in the "next" riot or that white nightriders would attack Negro neighborhoods in the cities.

Handgun registration has increased sharply in the city and suburbs since the Detroit riot last summer and one leading deparement store chain said its rifle and shotgun sales had tripled since the riot.

Mayor Jerome P. Cavanagh said in a recent television appeal, "This arms race must be stopped. We must return to sanity."

The group running the ads is called Men United for Sane Thought or MUST. The ads were prepared by men from two leading advertising agencies, Young & Rubicam Inc. and J. Walter Thompson Company.

One newspaper ad shows a family of four, a husband armed with a shotgun, his wife with a rifle and two small children. The copy reads:

"Keeping up with the Joneses this summer could cause you your life" and warns that loaded weapons around the house could lead to unintentional shooting. It continues:

"We all know what might happen in a suburban home filled with lethal weapons. All it takes is a sleepy wife. A nervous neighbor. A curious child. And a loaded gun."

Another ad reads: "Charlie's the fastest draw on the block. Just last night he got the drop on Miller's trash can. What do you think will happen tonight if, by some small oversight, Charlie gets the drop on Mr. Miller."

Another, contending that most Negroes do not want riots says: "Willie made it through Normandy, Seoul and Danang. He doesn't need the Purple Heart for Detroit."

WHITE "HYSTERIA" SEEN

Kenneth M. Davies, a spokesman for MUST, said the campaign was aimed at the "hysteria and fear" within the white community as represented by the gun buying. He said the group hoped to convince white persons who already had guns to keep them unloaded.

Mr. Davies, a lawyer, said the group of about 50 included lawyers, doctors, accountants, bankers, stock brokers, engineers, advertising men and other professionals.

Some of the members are "fearful of economic repercussions," Mr. Davies said and do not want their names used. The group is loosely formed and has no chief officer, he said.

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[From the Evansville (Ind.) Press, Mar. 14, 1968]

LOCAL GUN SALES SHOW MARKED RISE—DEALERS DIFFER ON REASON

(By Ann Carey)

Gun sales in Evansville are not booming but they are showing a marked increase over last year. Some dealers report sales up as much as 20 per cent over the same period last year.

There is sharply divided opinion on why.

Several dealers, particularly those who stock handguns, say openly that many of their customers are home owners and small businessmen who want guns for protection and express fears of racial violence and increased crime.

Other dealers just as emphatically say that reports of higher sales for protection purposes are exaggerated and that the clientele is about the same as it always was—mostly hunters and target shooters.

State police officials, while stating definitely that there is an increase in sales and handgun registrations, refuse to be quoted on whether the increase is caused, in part at least, by mounting fear of violence.

The general tenor around gun stores seems to be that gun sales are gradually rising and that there are rumors of fear about racial disturbances this summer. However, for the most part, the rumors are not actually translating into scarce-buying, even though "it's only March," as one dealer said.

Local civic and police officials couch any concern they might have in nonscarce terms. "Just don't stir up anything," urged Police Chief Darwin Covert.

Both Mayor Frank McDonald and Chief Covert indicate they see no cause for alarm.

"I don't believe gun sales are too high," Chief Covert said. "There was an indication last year that they were on the increase but I believe they have tapered off."

He said his police force is "keeping sharpened up—every police department is now and it behooves all of us to have men trained to handle any situation that might come up. But I don't anticipate any problems."

Mayor McDonald did not get specific but remarked, "I feel we have the full cooperation of all the citizens in Evansville." He emphasized that there is "no crash program here" to prepare for any trouble this summer.

Gun dealers report that most sales are to white persons, with few to Negroes. Clark Johnson, president of the local National Association for the Advancement of Colored People, said, "There is no talk among Negroes about guns and I'm around enough to know. I don't know what whites are doing."

Don Shuck, owner of B and S Sporting Guns, said his average sale is to a home owner or businessman. "Sales are up in heavy, big caliber revolvers and in some short-barrel shotguns. I'd say sales are up over a year ago 10 to 15 per cent. I think sales will be up more as summer gets nearer."

This is a traditionally slow season for guns, primarily because hunting is off.

However, gun salesman Jerry Anderson at Beard's Sporting Goods Store said, "It seems like gun sales are holding up particularly steady this year.

"We have heard rumors among customers about fear of the racial situation and that definitely is one of the points of interest in purchasing guns now."

He said that crime, the trend to move outdoors for the summer and the question of whether impending legislation may restrict eventually the sale of handguns are all factors.

Gun dealers are wary of creating any impression that steady streams of fear-ridden residents are passing through their doors.

Rajo Corporation reported gun sales up about 20 per cent but said the type of customer is the "varmint (fox, groundhog, etc.) hunter." Gus Doerner Sports and Trophies Inc. said 75 per cent of its gun sales are for sports.

Leo Sorenson, division manager for sporting goods at Sears, Roebuck and Company, which stopped selling pistols three years ago, emphasized that he believes gun sales are normal although acknowledging that last year was a "very good gun year." He said most sales are to target shooters and hunters, adding that the store gets many requests for pistols but no more than previously.

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[From the Louisville (Ky.) Courier-Journal, Mar. 13, 1968]

AN OMINOUS RISE IN SALES OF HANDGUNS

James M. Caldwell, chairman of the local Crime Commission, is concerned about the upsurge in sales of pistols and revolvers in Louisville so far this year. We all should be. The legislature, in particular, should be, but legislation to help regulate the sale of handguns is apparently dead in Frankfort.

Mr. Caldwell reports that sales of pistols and revolvers in Louisville are up 40 per cent so far this year over sales during the same period a year ago. Furthermore, he says that there is evidence that more convicted felons than before are attempting to obtain these weapons. So far in 1968, 30 warrants have been issued against felons who falsified an affidavit in order to purchase a handgun in Louisville, which at least requires an affidavit for such purchases. What is needed, however, is statewide regulations, and that was one of the purposes of the proposed legislation. Any regulations Louisville adopts can be circumvented as long as there are no meaningful restrictions on sales outside the city limits.

Under the proposed legislation, persons with records of drug addiction, mental incompetency, drunkenness and felonies would not be permitted to buy handguns in Kentucky. The bill also would give police a one-week period in which to examine the record of persons applying to buy a handgun—which is a grace period they don't have now even in Louisville.

What the legislation proposes are elementary precautions that any civilized society should have. Probably a lot of people assume that we have them now. But we don't, and the legislature couldn't seem to care less.

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[From the Washington (D.C.) News, Mar. 21, 1968]

"LONG HOT SUMMER" SCARE BOOSTS GUN SALES: 15- TO 20-PERCENT INCREASE ACROSS THE NATION

(By Robert Dietsch)

Fears of racial trouble this summer, memories of past racial disorders and increased crime in big cities have resulted in a 15 to 20 percent increase in gun sales across the country.

This is the finding of a Scripps-Howard

Newspapers survey which embraced talks with police, civil rights leaders and gun dealers in a score of cities and Washington officials.

Pistols, rifles and shotguns are being purchased by whites and Negroes, men and women, rich and poor.

KNOXVILLE ARMING

At Knoxville, Tenn., for example, Police Chief Harry Huskisson noted that permits to carry handguns had more than doubled in January and commented:

"There have been so many threats of another long, hot summer that many people apparently are seeking protection. Newspapers and TV are carrying reports (of) another troubled summer."

President Johnson and other Government officials have voiced similar fears. A gun shop owner in suburban Cleveland attributes his sales increase to stories of a "hot summer scare." He adds:

"Government leaders have frightened home owners with these talks."

Cleveland Police Chief Michael Blackwell said requests for gun permits are "very low," but some of his officers privately report handgun purchases in the Cleveland area rose 100 per cent in the year following the city's 1966 racial riot.

DISTRICT OF COLUMBIA SALES BURGEONING

The owner of a gun store in predominantly Negro Northeast Washington, reported "I'm laughing with tears in my eyes and a pain in my heart." He said handguns are selling as fast as he can stock them—regardless of price.

The pattern of at least a 15 to 20 per cent increase in gun sales was reported in Northern Kentucky. Evansville, Ind.; Pittsburgh; Denver; Columbus, Ohio; Albuquerque, N.M.; Knoxville and the D.C. area. In Detroit, the increase has been so great that Mayor Jerome P. Cavanagh publicly warned: "This arms race must be stopped. We must return to sanity."

A national ammunition trade association uses sales tax figures to keep account of gun sales. These statistics also mirror a 20 per cent sales increase last year for handguns, rifles and shotguns—significantly above the average year-to-year gain.

Gun sales rise sharply immediately after a racial or civil rights disorder. At Birmingham, Ala., Jefferson County Sheriff Mel Bailey recalled that requests for pistol permits "skyrocketed" during and after the demonstrations five years ago, but have stayed level since. A Covington, Ky., dealer said his sales reached a peak last summer when racial trouble broke out across the Ohio River in Cincinnati.

"We sold 20 per cent more pistols after the 'Tijerina Rumble' last fall," said a gun dealer in Albuquerque. He referred to the land dispute uprising in Northern New Mexico when Spanish-Americans led by Reis Tijerina took over a county courthouse.

Gun sales also rise sharply with rumors of pending racial trouble. In Memphis gun sales zoomed last July when several minor incidents touched off such rumors. A similar pattern has emerged during the city's garbage strike. Minor violence has occurred as national civil rights leaders have rallied to the cause of the predominantly Negro garbage men. "Our gun permit regulations jumped about 30 per cent the week the garbage strike started," said Police Inspector L. M. Cole.

At Fort Worth, Tex., last summer, widespread (but false) rumors spread about pending racial trouble. Police noted "a large increase in gun purchases."

Thefts of guns from stores are rising. Such reports come from Memphis, Birmingham and Denver.

Persons who never owned a weapon before are buying guns. A dealer in suburban Washington says he is selling guns to "reputable citizens who never had them before. They just feel they should own guns now. Some customers are afraid to handle weapons in the store after buying."

Evansville dealers reported a "marked increase in the number of home owners and small businessmen buying handguns for protection." When rumors of racial trouble swept Fort Worth, gun purchases soared and Police Chief Cato Hightower said most buyers were "good substantial citizens who previously had no guns in the house."

Denver police say guns are being "purchased by businessmen, waitresses, cab and bus drivers (and) bartenders." Negro and Spanish-American women in Denver "are buying small, inexpensive revolvers."

Policemen in Detroit, Washington, Hollywood, Fla., and other areas are buying guns for personal use. In most big cities, officers have to register their personal weapons with police departments. Police Chief George Emmerich in Hallandale, Fla., said "handguns are in short supply. Even our police officers have to wait for delivery."

Restrictions on gun ownership vary by state, county and city. But persons determined to own a gun aren't deterred by local restrictions.

Ohio, for example, has no law requiring gun registration but Columbus, the state capital, has a municipal ordinance requiring a permit to buy a handgun. Yet police freely concede a Columbus resident can buy a gun outside the city limits without restriction.

MAIL ORDER FIRMS FLOURISH

Cleveland police say "There is an unchecked flow of guns into the city thru mail orders filled in California and Chicago."

Denver police required rifles and shotguns to be registered beginning last autumn (pistol sales records have long been kept) but still suspect rifle and shotgun sales are rapidly increasing. Denver Police Chief George L. Seaton noted, with apparent regret, that neither Denver nor Colorado has a gun-control law.

At Memphis, police supervise pistol purchase requests but concede residents can drive across the Mississippi River to West Memphis, Ark., and buy "all the pistols they please across the counter."

There are no Federal restrictions on gun purchases, altho a bill aimed at curbing and supervising interstate sales has been debated for several years—without much progress. FBI Chief J. Edgar Hoover, among others, favors "better control of firearms" and Federal legislation. Mr. Hoover contends:

"The easy accessibility of firearms is a significant factor in murders committed in the U.S. . . . controlling the sale of handguns, of course, will not eliminate all killing . . . however, those who claim that the availability of firearms is not a factor in murders in this country are not facing reality."

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[From the Cincinnati (Ohio) Post and Times-Star, Mar. 27, 1967]

GUN CONTROL LAW SOUGHT BY COUNCILMAN—HELD SAYS CITY BECOMING "ARMED CAMP"; ASKS STUDY OF TOLEDO ORDINANCE

Councilman John Held is asking Cincinnati Council to investigate the feasibility of a gun control ordinance.

Held says the city is rapidly becoming an "armed camp" and he says he knows of one gun sales place which is selling between 15 and 20 semi-automatic rifles, imported from South America, a day.

He's asking Council to have the city manager determine the feasibility and legality of a city gun control ordinance and to check on the effectiveness of the proposed gun control law in Toledo.

Held says the proposed Toledo ordinance would require police-issued identification cards for all gun owners. The cards would contain the gun owner's photograph and fingerprints.

Held says the Toledo ordinance prohibits non-Toledoans from buying guns or ammunition in Toledo unless they have a permit from their home city. It provides for a waiting period between purchase and delivery to give police a chance to invesigate.

Held says several gun stores in Cincinnati are selling large numbers of guns and they report the sales are to collectors and hunters.

"That's an awful lot of collectors and hunters," Held says.

He says the semi-automatic rifles have flash suppressors on them so it can not be determined where they are fired from. Held says he doubts that rabbit hunters require such a gun.

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[From the Seattle (Wash.) Times, Jan. 11, 1968]

NEW HANDGUN-CONTROL MOVE

Because of the continuing surge in crimes involving the use of handguns—pistols and revolvers—the need for new control legislation has become of even greater urgency.

Pointing toward the next session of the Legislature, State Senator Ted Peterson of Seattle has put in motion a larger measure of control over the indiscriminate purchase of short firearms.

Until the 1963 Legislature watered down a 1935 law, police had the authority to delay the delivery of newly purchased weapons for 48 hours to permit a check on the backgrounds of prospective owners.

*In the ensuing years, police control over who shall own handguns has all but evaporated. Although buyers are required to sign routine forms attesting they are free of criminal backgrounds or behavior—these are to be sent to police within 24 hours—the decision on whether to deliver a weapon rests solely with the dealer at the point and time of sale.*

There is ample evidence that on numerous occasions crimes have been committed with newly purchased firearms before the required certificates even reached law-enforcement officials.

*Peterson is suggesting the Legislature reestablish the 48-hour waiting period and provide for an appeal procedure in cases where possession of handguns is denied.*

Recommendations and protests are to be received soon at a public hearing to which representatives of the legal profession, local government, the Washington State Sportsmen's Council and the National Rifle Association will be invited.

The time for reaching areas of agreement on handgun controls is long overdue. During 1966, more than 7,000 short firearms were purchased in Seattle, a 500 per cent increase over previous years. In 1967 there were 9,896 pistols and revolvers delivered into the hands of Seattle citizens.

*Most of these buyers, of course, purchased the weapons for legitimate purposes—home-protection, target practice and the like. Yet, no one knows how many of the purchasers of these handguns intended their use for acts of criminal violence.*

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[From the Seattle (Wash.) Post-Intelligencer, Feb. 22, 1968]

BLACK MARKET HERE IN HANDGUNS FOR LOS ANGELES

(By Walter A. Evans)

Seattle has become a supply center for Los Angeles—in black market handguns.

Tighter California gun control laws and a scarcity of good quality pistols have created the market in Los Angeles.

A series of robberies in which 105 guns and 4,700 rounds of ammunition were taken here in Seattle was one attempt to supply the market.

It was not a complete success.

Seattle police and King County deputy sheriffs recovered 4,100 rounds of ammuni-

tion and some of the guns. Five young Negroes are in custody.

"It was a loose group which planned to ship the guns down to Los Angeles," Police Chief Frank Ramon said.

He added:

"We're concerned about it, but guns are a primary target in any robbery. This happens in all large cities."

A detective in the Los Angeles Police Department Robbery Division, charged with gun control, said the tighter gun control laws were not the primary reason for the black market.

"The main reason is the scarcity of good guns," Det. S. R. McCaleb said.

"The legitimate dealers are doing a big business in small caliber, foreign-made guns, what we call 'Mickey Mouse' pistols.

"But they can't get good guns. As a police officer I have priority and to get, say, a Smith & Wesson with a 4-inch barrel, I would go on a waiting list for at least six months."

Detective McCaleb explained that the California gun control laws are aimed primarily at controlling the dealers.

"The law states that the vendor must vouch for the purchaser. We use this as a controlling factor," he said.

"Obviously, a dealer in a large city can't vouch for every buyer, so we take some of the responsibility off his hands. We check out the buyer, and, if he passes our check, give him a permit to buy.

"Then he must wait five days for delivery."

The gun-control section of the LAPD is busy, too, in recovering guns stolen in the Watts riot two summers ago.

"We've recovered an estimated two-thirds of the guns," McCaleb said. "But there are thousands still out. No one knows just how many were taken."

The tighter gun-control laws he feels, have helped in Los Angeles and should be general throughout the United States.

"But," McCaleb warned, "there will always be a market for 'hot' guns."

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[From the Kansas City Star, Jan. 28, 1968]

FEAR OF VIOLENCE IS OUT OF HAND

WASHINGTON.—America is scared.

Government-sponsored surveys show that:

Eighty-two per cent of Americans sleep behind locked doors.

Thirty-seven per cent have guns in the home for protection.

Sixteen per cent have stayed home at night when they'd rather have gone out because they were afraid of what might happen in the streets.

Thus, Congress was reflecting the mood of the country when it saved its loudest applause for the war-on-crime section of President Johnson's state-of-the-Union message.

There is a public "sense of crisis in regard to the safety of both person and property," a task force report of the President's commission on law enforcement said earlier this year.

But the same report also went on to suggest that Americans who are afraid of crime in the streets may be worrying about the wrong things. Some fears have become so exaggerated that they are a greater danger than crime itself.

"The public fears most the crimes that occur the least—crimes of violence," the task force report said. "People are much more tolerant of crimes against property, which constitute most of the crimes that are committed against persons or households or businesses."

The chances of any one person being the victim of a violent crime are quite remote—especially when compared to all the other hazards which we face every day.

In any given year, you have less than one chance in 600 of being the victim of a crime involving violence or the threat of violence. Your chances of being hurt in an accident are one in 10.

On an economic basis, most of us worry about the wrong things. For example, the task force pointed out, 20,000 accident victims die needlessly every year because they don't get proper emergency care.

"The means necessary for correcting this situation are very clear" and would save more lives per dollar than just about any anticrime measure, you can think of, the task force said.

But people worry less about accidents, because accidents are impersonal. The willful act of someone mugging you in the street—the very thought of it—makes you indignant.

However, if you are the victim of a violent crime, it isn't likely to be a street mugging. Most murders and assaults are committed by persons whom the victim knows. The closer the relationship, the greater the hazard—all the way down to self-inflicted violence. More wives than strangers are killed by murderers and suicide is twice as common as murder.

So fear of crime, the task force report suggests, is fear of strangers. This fear is costly.

"Fear of strangers has greatly impoverished the lives of many Americans," the report said, "especially those who live in high-crime neighborhoods in large cities.

"People stay behind the locked doors of their homes rather than risk walking in the streets at night. Poor people spend money on taxis because they are afraid to walk or use public transportation. Sociable people are afraid to talk to those they do not know."

This fear can spread and become self-feeding and be itself a cause of unsafe streets. Not only will fewer people go out at night, but those who do will be afraid of and lack concern for each other, the report warned.

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[From the Detroit (Mich.) Daily, Mar. 14, 1968]

DETROIT HOMICIDES RISE SHARPLY: GUN SALES BLAMED

(By Dan Share)

Detroit has experienced a dramatic rise in homicides over the past three years according to Dr. John Burton, Wayne County medical examiner. Since 1964 the county's homicide rate has jumped 2½ times.

Police officials seem less than optimistic about the chances of reversing the trend. On March 3, the 63rd day of the year, police reported the city's 62nd homicide: an increase of nearly 10 per cent over last year.

The police blame increased civilian armament for the rise. "Everyone is armed today," explains Inspector Albert Schwall of the homicide division.

The rise in homicides does not seem to be drastically affected by racial tensions. Though the gun registration rate in the city rose 40 per cent during and immediately after the riot, it had been growing at 20 per cent a year for several years. Detroit was busy arming well before the violence.

However authorities do credit fears of racial violence with the moderate surge in civilian gun registration, which in turn has resulted in increased homicides.

Few of the city's homicides are related to robberies, police report. Most are the result of arguments that would have ended in fist fights three years ago, they explained. Even a fight over a parking space has recently resulted in a homicide. People keep their guns close at hand, and in an argument aren't afraid to use them.

Dr. Burton said that "75–80 per cent of the homicides in Detroit are results of violence between Negro and Negro. A man gets mad at his wife, brother or friend, and the fight ends up in shooting."

The few instances of inter-racial homicides are often the result of whites dealing with Negro prostitutes, Inspector Schwall explained. He said that many men prey on the prostitutes' customers—waylaying them in a dark corner and robbing them. Many of the postitutes don't condone this. As Schwall put it: "Many of the girls are legitimate prostitutes."

Lieutenant Baines of the Detroit Police Record department said that unregistered guns, brought in from Ohio, pose a major threat. He said almost all of the assaults involving guns are committed with unregistered pistols.

Police say that the best solution is to get more officers and halt the surge of gun purchasing. They contend that public fears must also be calmed.

"Our primary purpose is to prevent crime. Getting the criminal later is no use. To do that we need more officers on the street," Inspector Schwall said.

Captain Raymond McConnell, top-ranking detective of the State Police, said "What we have is a public hysteria. A lot of people are going out and buying guns and that's the worst thing they could do."

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[From the Jacksonville (Fla.) Times-Union, Feb. 11, 1968]

CURB NEEDED ON QUICKIE SALES, CARSON SAYS: FIREARMS TOO EASY TO OBTAIN?

(By Paul Mitchell)

Your chances of getting shot in Duval County are getting better all the time.

Running off to another county or state won't help much. Never has it been easier to buy a pistol, revolver, rifle or shotgun across the counter in most of the United States.

And, more Americans have money to buy firearms than ever before.

Unless Congress heeds President Johnson's plea—he repeated it in Washington, D.C., last Wednesday—and passes an effective gun control law, your chances of getting shot will increase.

POLICE AGREE

Underscoring this warning are Duval people who should know. They include Jacksonville Police Chief R. C. Blanton Jr., Duval County Sheriff Dale Carson, U.S. Rep. Charles Bennett and some retail gun merchants.

Few people questioned have much hope Congress will come up with effective curbs on mail order gun sales across state lines or quickie gun sales by loan shops and sporting good stores.

The fly in the soup, they say is opposition by the National Rifle Association. Membership in the NRA skyrocketed recently from 300,000 to 900,000—many of them policemen signing up to buy surplus Army guns.

Since the NRA is designated the sole sales agent for surplus government weapons, 400 Detroit police signed up since last summer's riots to qualify for purchases, according to the Associated Press.

Carson exclaimed, "I got so mad when I read about NRA membership soaring, I almost dropped my membership. My prime worry is the great ease whereby people buy handguns that often wind up in holdups, murders and suicides.

"I'm not worried so much about getting these weapons registered as I am in increasing the time it takes to walk out of a store with a gun.

He and Blanton agreed that a federal gun control law barring interstate mail order sales and over-the-counter handgun sales to out-of-state purchasers would not stop criminals from obtaining guns on the black market.

It might, however, sharply reduce crimes of passion committed in sudden anger or fear, they said.

Many Duval gun merchants would welcome stringent laws—federal, state or city—to slow sales of pistols and revolvers, according to Joe Becker of of Harry Finkelstein Co. here.

TOO LENIENT

"Things are too lenient," Becker said. Presently, we send registrations to the police. It would be a good idea if a person wanting to buy a handgun had to go to civil authorities first and fill out a form stating his reason. I don't say he should be fingerprinted. I think the mere fact he gives his name and address and a reason for buying a gun would throw cold water on any sudden notions of going out and shooting somebody."

Becker—and some other gun salesmen—strongly oppose restricting sports rifles and shotguns.

"We're bitterly opposed to federal laws against use of firearms for hunting, target-shooting, or other sports," Becker emphasized. "A man who wants to buy a gun for a weekend of hunting shouldn't be bogged down in red tape."

Why the distinction?

Becker replied, "Pistols and revolvers are involved in too many crimes. When a man buys a handgun, chances are it's intended for use against people, either in defense, or for attack. That's not true with rifles and shotguns."

Merchants favor strong handgun laws because there's "not that much profit" in gun sales, Becker said. "Markup on most guns is only 20 to 45 percent over manufacturers' prices."

"The sad part is the mail order business," he continued. "Children 10 to 12 can buy weapons by falsifying ages. The guns can't go through the mails, but go by express or freight."

His concern about handguns is reflected by Duval crime statistics. Of 14 murders investigated by Sheriff Carson's deputies in 1967, 10 involved handguns. One victim died by choking, and four by "other means." Figures released by Carson showed 11 murder victims were men, one a woman, and two were juveniles.

GUN SUICIDE

Of 27 suicides investigated by his deputies, 17 involved shootings. Twenty were men and seven were women.

Handguns, however, lost out in attempted suicides, probably because most women preferred pills to messy shootings as a way out. Of 397 suicide attempts investigated by deputies, 333 or 83 percent were women or girls. They accounted for most of the 274 suicide attempts using pills. Only 18 of the 397 attempts involved firearms.

Firearms were used over the nation to commit more than 6,500 murders and 43,500 aggravated assaults in 1966, the Federal Bureau of Investigation said. Of this total, handguns were used in 44 percent of the cases followed by 23 percent involving edged weapons.

NO MURDER CONTROL

"Police can't control murder; it's a social crime," Carson added. "A husband or wife gets mad and kills the other. I remember my first FBI case. A man went out and bought a gun and one shell, and went home and shot his wife. Maybe if the gun hadn't been so handy, he'd have thought twice and left home instead."

Rep. Bennett doubts the value of federal gun curbs.

"Some right-wingers are afraid it would be a step to disarm the public and push a central government take-over but I don't agree with them," he said on a recent home visit.

"Crooks could still get guns. About the biggest possible benefit—if Congress agrees on how far to go—may come in curtailing gun sales to average citizens. This might cut down on killings resulting from arguments among families and neighbors."

BLANTON'S VIEW

Chief Blanton put it another way:

"A good gun law is needed, but even Congress can't make up its mind what to do about guns. I'm sure the Constitution's writers didn't mean everybody should have a cheap pistol to blast his fellowman."

Duval Sheriff's Deputies W. F. Howard and William Durrance said most "killer" weapons used in this area are imported German or Italian .22-caliber pistols and revolvers.

"They're cheap, but small enough to hide in pockets and purses, and do deadly jobs at close range," said Howard, a deputy for 25 years, now serving as property clerk at the Courthouse.

"We hold about 150 handguns as court evidence in cases pending," he said Thursday. He picked up a tiny revolver that resembled a toy. "This 'starter' gun fires blanks to start sports contests," he said. "The barrels are solid, but people buy them cheap, bore them out, and are in business."

Police said some people drive around Jacksonville with loaded handguns on the front seat. Even a trifling incident—a fender-bending or auto mixup—can erupt into tragedy, they warn.

"Shakedowns in more and more arrests reveal hidden handguns," Carson warned. "Of 57 law enforcement officers murdered in 1966 over our nation, firearms were the weapons in 96 percent of the cases.

"We could use some help."

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## ADDRESS BY DR. DONALD F. HORNIG AT UNIVERSITY OF PUGET SOUND, TACOMA, WASH.

Mr. MAGNUSON. Mr. President, we in the State of Washington were delighted to have with us last week Dr. Donald F. Hornig, President Johnson's special assistant and adviser on science.

Dr. Hornig appeared with me at the dedication of the Thompson Hall of Science at the University of Puget Sound, in Tacoma, and at the University of Washington, in Seattle.

His remarks at the University of Puget Sound were particularly well chosen and cogent as he discussed the remarkable impact of science on our Nation and what we might expect in the future.

I ask unanimous consent that Dr. Hornig's remarks be printed in the RECORD.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY DR. DONALD F. HORNIG, SPECIAL ASSISTANT TO THE PRESIDENT, AT THE DEDICATION OF THE THOMPSON HALL OF SCIENCE, UNIVERSITY OF PUGET SOUND, TACOMA, WASH., APRIL 21, 1968

It is a great privilege for me to be with you at the dedication of the R. Franklin Thompson Hall of Science. I am pleased to be able to share with you the pride and the satisfaction which goes with the successful achievement of an important goal. And I am even more pleased to share with you the anticipation of educational and scientific rewards which are yet to come as this magnificent new center affords new opportunities to generations of UPS students.

Beginning with the earliest settlers the American people have recognized the importance of higher education to the spiritual, intellectual and material advance of the nation. The first college was founded only 16 years after the landing at Plymouth. The struggle to improve the quality of our universities and colleges and to make an education appropriate to his needs and talents available to every American has gone on ever since. Education is at the very top of President Johnson's priority list.

This is why we welcome such important steps as this new Hall of Science, the Science Complex, and, indeed, all the innovations and improvements of which they are a part at this dynamic school.

Science—a word coming from the Greek word meaning knowledge—and education have always advanced together. Science has always been an important part of a humanistic civilization; it is one of the central ingredients of man's effort to know and understand the Universe of which he is a part—to know and understand himself and his place in nature—and to learn to use the bounties with which nature has provided him.

Some people like to think that science was discovered after World War II. Perhaps that is because they are young. But in 1743 a great American scientist, Benjamin Franklin, noted that "The first drudgery of settling new colonies . . . is now pretty well over." He went on to say that it was time to "improve the common stock of knowledge." To that end he founded the American Philosophical Society so that "men of speculation" and "ingenious men residing in the several colonies" might meet and correspond for that end.

His suggested subjects of correspondence would afford good advice to the world today: "All new-discovered plants, herbs, trees, roots, etc. and their virtues, uses, etc., methods of propagating them, and making such as are useful, but particular to some plantations, more general. Improvement of vegetable juices, as cyders, wines, etc. New methods of curing or preventing diseases. All new-discovered fossils in different countries, as mines, minerals quarries etc.; New and useful improvements in any branch of mathematics; New discoveries in chemistry, such as improvements in distillation, brewing, assaying of ores, etc. New Mechanical inventions for saving labor; as mills, carriages etc. and for raising and conveying water, draining of meadows, etc.; all new arts, trades, manufactures etc. that may be proposed or thought of. Surveys, maps, and charts of particular parts of the sea coasts, or inland countries, courses and junction of rivers and great roads, situations of lakes and mountains, nature of the soil and production, etc. New methods of improving the breed of useful animals, introducing other sorts from foreign countries. New improvements in planting, gardening, clearing land, etc."

That is a pretty good curriculum, but he appreciated research, too, because in addition they were to carry on "all philosophical experiments that let light into the nature of things, tend to increase the power of man over matter, and multiply the conveniences or pleasures of life." To that end he urged the setting up of a fund "for defraying the expense of such experiments as the Society shall judge proper to cause to be made." There we see the origins of the National Science Foundation, which was established 200 years later.

The foresight of men like Franklin and Thomas Jefferson did have an effect and in the early 19th century a liberal arts student spent about a third of his time studyin science and mathematics. Still, by the early 1900's we were a scientifically underdeveloped nation, living off the great new ideas coming from Europe about chemistry, physics and mathematics which were pointing the way to the future.

That didn't really change until after World War II. It took men of thought like Dr. Vannevar Bush, whose report to President Truman, "Science, The Endless Frontier," brought the meaning of science before the people, and men of vision and action, like Senator Magnuson, who made the National Science Foundation a reality, to start us on the modern course which has made America a world leader. Long before I came to Washington, and long before this new science building was even a gleam in President Thompson's eye, Senator Magnuson was calling for and working for a new government enterprise to support basic research and sci-

ence education. This idea, a National Science Foundation, was a far-sighted one in the later 1940's and Senator Magnuson took a few licks for being among the first to espouse it. It was Senator Magnuson who, after five years of speaking, cajoling and drafting legislation, introduced the National Science Foundation bill into the Senate and got it passed. It is at the heart of our national scientific effort now and most of the new ideas in science education, many of the improvements in high school and college curricula, have been the results of NSF's efforts in the last eighteen years.

Nowadays there are some who are faint hearted. They wonder whether, having gone to the forefront in science and its application in agriculture and industry, it isn't time to turn to something else. They think perhaps we have discovered all there is to discover for the moment, and that progress will wait while we pause for breath.

Well, they are wrong. Frontiers aren't conquered by those who stop to rest, neither in 1968 nor in the days when your grandfathers came to this great state.

Science is indeed an endless frontier. And beyond that frontier lie riches we cannot yet imagine. The promise of science is great, for it is a body of knowledge, and power derived from knowledge, which grows endlessly—if we have the wit and the courage to keep opening up the virgin territory.

Where is that virgin territory? It is everywhere. It is only in our life times that we come to understand the source of the sun's energy which gives this earth life,—in the fusion of the nuclei of the lightest element, hydrogen, to form helium. And in our life time we have learned that we can account for the abundance of the chemical elements by considering a "cosmic cooker" of protons, neutrons and electrons at a temperature of 100 million degrees which cooled rapidly to form our sun and planets, but thousands of millions of others at the same time. What a glorious vision of creation, for it makes our earth in some sense the sister of the whole Universe.

In the last decade, using giant radio telescopes, we have pushed back the frontiers of the known Universe 10 times. We have found great new energy sources, the Quasars, a billion light years away. They pour out energy at a rate far greater than we can account for by any known process. Think of what this means. And Dr. Friedman, at the Naval Research Laboratory, using instruments sent above the atmosphere on rockets, has found stars which are intense X-ray emitters. We don't know their meaning yet. In the last year or two, also from rockets, it has been shown that most of the mass of the Universe is *not* in stars or galaxies, but in interstellar gas. There is so much of it that, according to Einstein, our Universe must be closed on itself, like the globe. So far, though, we have no Magellan; we have not yet seen ourselves several billion years ago as their findings suggest we may. In the last few months the radio telescopes have made a brand new discovery—distant sources, the Pulsars which send out pulses or radio waves once a second or so. For that, no one has even dreamed up a theory yet.

The discoveries are coming by the week. Who knows what lies ahead?

On the frontier of the very small, atomic nuclei have been picked to pieces and what was impracticable exploration thirty years ago is giving us a new electric power industry, based on the nuclear reactor. Now our physicists chip away at the sub-structure of the "elementary particles." Who knows what lies ahead?

One of the great frontiers is that of life. In the last twenty years the great voyages of exploration have begun. The key to heredity has been found in the molecular architecture of the DNA molecule. The chemistry of living processes is being unsorted. Once it was revolutionary for Darwin to relate the body structure of all living species. Now we *know* the basic chemistry is the same in a single cell as in man. Just last week I heard Prof. Max Peruty, of Cambridge University, England, tell how X-rays had been used in the last ten years to find the structures of protein molecules containing tens of thousands of atoms, and to show how enzymes work.

The secrets of life lie before us—and with them the secrets of health and the cure of disease—sought by Franklin and sought by modern man. Yes, the promise is everywhere, of understanding the Universe and understanding life. The promise is infinite.

Not the least of the frontiers is on this earth, in its oceans, its atmospheres, and its interior. We haven't really touched them yet, although new ships and deep submergence vehicles are making a start on the oceans—as are weather satellites on the atmosphere. We used to think of this earth as pretty solid—but now we begin to see that its interior is in motion like a pan of boiling water. The continents of Europe and Africa are drifting away from the Americas several inches every year. At the Pacific edge the continents push against the deep oceanic trenches, and their meeting place is the birthplace of great earthquakes.

How do we know these things? The idea was first put forward a few years ago. Anyone can see on a map that you can fit Europe and Africa to the Americas like pieces on a jig-saw puzzle. But now the proof begins to come forward in many ways—from the geology of the ocean bottom, from the magnetic records of the ocean bottom, from the fossils of the ocean, and from the location of earthquake centers. But the picture of our changing earth is still hidden in a fog—perhaps some of the students who will study in the Thompson Hall of Science will lead the new expeditions into the unknown.

Yes, the *promise* of science is great. As the curtain is opened, the stage on which the human drama is played grows ever larger; the power of man to understand nature and to make it serve him increases. Not everyone understands this and in these times of stress some members of our Congress want to draw back. It is a dangerous trend for our country.

Senator Magnuson has seen these things clearly. His support of science did not stop with the passage of the National Science Foundation Act of 1950. He has been a vigorous supporter of education and research throughout his public career. In the past few years he has been instrumental in establishing high level policy positions for science and technology in the Commerce Department and other agencies. Through his efforts a unified Environmental Science Services Administration was forged from several separate agencies—and this agency leads the way in studying the atmosphere and predicting the weather, operating weather satellites, dealing with environmental hazards such as earthquakes and hurricanes, and exploring the oceans. I don't need to tell you of Senator Magnuson's leadership in oceanography which resulted in the foundation of the Maine Sciences and Engineering Council under Vice President Humphrey and the passage of the Sea Grant College Act which will advance marine sciences at universities throughout the country. We all owe him a debt of gratitude.

I have talked of the great promise of science, promise born of new knowledge and understanding which makes it possible for man to exercise new powers.

But there is, of course, another side to the coin. My title for these remarks is "Science—Promise *and* Peril," a theme which has been explored by many thoughtful people in recent years. Our knowledge of the atom brings nuclear power and radio isotopes to cure disease. It also makes it possible for nations to destroy each other with nuclear explosives and radioactive fallout. In my view there is no task more critical than eliminating the threat of nuclear war. Our industrial technology has created the jumbo jet, but it has also brought about jet aircraft noise near airports, smog, and rush-hour jams. In fact, my friends at the Department of Transportation tell me that right now three million Americans are stopped waiting for traffic lights.

These problems are not entirely new. I am told that the number of chariots in ancient Rome at circus time created traffic jams that would bring pride to any native of Los Angeles. But it is only since the end of World War II, with the development of the atomic bomb, that all mankind has realized the awesome power science and technology puts in man's hands, for good and for ill, for promise and for peril. Science, itself, is good, but if we use it unthinkingly, it may offer us grave hazards. President Johnson said two months ago, when he presented the awards for the National Medal of Science:

". . . an aggrieved public does not draw the fine line between "good" science and "bad" technology. . . . You and I know that Frankenstein was the doctor, not the monster. But it would be well to remember that the people of the village, angered by the monster, marched against the doctor. In a democratic society, the public attitude toward science must always be a real concern of the scientific community. If that attitude is to be favorable, science must be prepared to play its part in correcting the flaws in our environment."

Correcting these flaws is now a major part of our concern. But foreseeing the difficulties, identifying the perils as well as the promise of new technological developments, is the first problem. It is not an easy task. I think, for example, of the development of the automobile and the benefits and problems it has brought to our society. Could we have foreseen, when the first Fords began rolling off the assembly lines, the air pollution in our cities that would result from the great public demand for automobiles? I doubt it. There was little action or even public concern until pollution and congestion problems threatened to overwhelm some of our great cities.

I can see other technological developments that will change the fabric of society in the next generation and whose implications are still not fully known. The computer revolution is one of these. It will do for mental drudgery what power machinery did for the human hand. It is surely the basis for a second industrial revolution. But the possibility of big computerized knowledge banks may also threaten our freedom and liberty if they fall into the wrong hands.

Our recent advances in medicine are another example. The success of organic transplants, and the manufacture of artificial organs has brought great public awareness of the potential benefits to society—and also of the fact that we are presented with new areas of moral choice for which we have no precedents. If there are more people with kidney disease than people with normal kidneys to donate, who is to receive the healthy organs and who is not? Who is to draw the dividing line between life and death, and on what basis? These are not scientific questions so much as moral questions—moral questions put to us because of our success in medical science.

Or consider another long-range problem whose implications can only be guessed at today. We are now burning coal, oil, and natural gas at the rate of 6 billion tons a year. Not long ago the President's Science Advisory Committee, after careful examination, estimated that by the year 2000 this burning of fossil fuels will have increased the carbon-dioxide content of the atmosphere by about 25%. Since carbon-dioxide is the chief heat absorbing agent in the atmosphere, this opens the prospect of changing the heat balance of the atmosphere to such an extent

that marked climatic changes could occur. We don't really know what these changes would be, but they could be comparable to those which history tells us have occurred before.

I give these examples not to frighten you, but to suggest how incomplete our knowledge is of the long-term effects of what we do with the technology science makes possible. Scientists must pay increasing attention to these kinds of problems, but so must every thinking citizen. And knowledge is not enough. Even when we can see the implications of technology, our political and social institutions respond very slowly to them. Perhaps it is a law of political science that the rapidity of technological change will always exceed the capacity of government to respond. We continually fall short in grasping opportunities or solving problems because our institutions of government are not flexible enough.

We have found ways, though, to bring science and scientists to Washington to work on national problems. The President's Science Advisory Committee is a remarkable social invention which has brought the leading technical talent of the nation to work part-time on national problems. There is a continuing flow of people and ideas back and forth between the Federal Government, industry, and the universities.

These talents have been brought to bear successfully on national programs such as defense, the space effort, and atomic energy development, and now they are turning to pollution, urban problems and even crime. But many of our nation's most pressing problems today are regional and local in nature. There is no single national solution for an improved urban environment, for slum rehabilitation, for better methods of waste disposal, or for improvement of a city's educational system. While the Federal Government can be of significant help, each metropolitan area and region has individual problems of its own.

What is required now, it seems to me, is to educate all of our people—to make them aware of the promise of science, the perils of its misuse, and the possibilities it offers for totally new approaches to many of the problems which beset us. We need to use the talents of our able people at all levels of government—but in a democratic society the experts can achieve nothing except in collaboration with the people, who make the final choices and pay the taxes.

Just as Benjamin Franklin did in 1743, we need to set down a new agenda for action, action to "improve the common stock of knowledge," and to put it to work on the problems of achieving a prosperous and peaceful world, of maintaining our environment, and of making our cities a good place to live.

Fortunately, our colleges and universities increasingly understand these things. New science facilities and new science programs promote the understanding our next generation needs. A new awareness of the social needs of our nation is, at the same time, turning them to the solution of the problems on which my generation has failed. We will, I hope, train a new generation of scientists who focus their talents on the social use of science as well as on science itself.

This, I am sure, will be true of the students trained in Thompson Hall of Science. It is not the Hall alone, but those students, who will be the real monument to President Thompson.

Thank you.

## URBAN INSTITUTE

Mr. MONDALE. Mr. President, the establishment of an urban institute is an impressive contribution in our present efforts to revitalize American cities. Incorporated as a private nonprofit corporation, the institute will be in a unique position. It will not be constrained by Government policies but at the same time it can enjoy a close working relationship with Government agencies. From that posture the institute can undertake studies to determine which programs are more durable and which programs will perform the greatest good for the greatest number.

Further, the institute can act in a number of capacities. It can study the problems common to all cities and suggest alternative solutions to them. It can study the particular problems of individual cities and supply technical assistance in developing strategies for action. And it can make this body of knowledge available to cities all across the country. These cities will have the benefit of evaluations of Federal, State, and local programs—whether or not they are applicable in meeting a given urban problem.

In contrast to commissions and special task forces the institute will not fade into the background. It will be a continuing organization. As such the institute will be able to attract first-rate talent to study the overlapping problems confronting the cities—unemployment and underemployment, lack of education, substandard housing, congestion, and the apathy and despair that are bred in the isolation of the ghetto.

Of particular importance, the institute can bring these talents to bear on the problems of individual cities. By establishing cooperative centers in a dozen or more cities the institute's staff will be available to help city officials attack local problems.

This arrangement is especially relevant at a time when local manpower is scarce. Also, it will develop experienced teams of analysts with knowledge that can be transferred to other communities.

The institute will be supported by contracts and grants with a number of Federal departments and agencies, among them the Department of Housing and Urban Development; Health, Education, and Welfare; Labor; Transportation; Commerce, and the Office of Economic Opportunity.

The level of support will be about $5 million for the first year, growing to $10 to $15 million annually as the institute gets underway. The degree of support expected from private foundations will, of course, strengthen the institute's status as an independent body.

I cannot let this occasion pass without commenting on the high quality of the members elected as the first board of trustees. Truly they represent a cross-section of industry and academe, government and civic groups. I am confident they will carry out President Johnson's charge "to encourage establishment of an institute—that would look beyond immediate problems and concerns to future urban requirements, and engage in basic inquiries as to how they may be satisfied."

For the above reasons, I add my voice to those commending the institute and its newly elected board of trustees. And I wish them well as they approach this difficult mission.

## PASSENGER RAILROADS

Mr. RIBICOFF. Mr. President, those of us in this body who represent States with substantial numbers of commuters are unusually alert to the problems of the Nation's passenger railroads. But the report of an Interstate Commerce Commission examiner recommending that the ICC set standards regarding the quality of service that railroads provide passenger train travelers should be of interest to all of us.

There is more to this report than recommendations or a judgment about operating procedures of the Southern Pacific Railroad. There is a candid explanation of the sorry conditions most train passengers travel in—and a constructive outline for improving those conditions and getting passenger service back on the right track.

Mr. John S. Messer, the ICC examiner, has written a perceptive and imaginative report and deserves commendation for his work. It is my hope that the full Commission will give serious consideration to his recommendations regarding minimum service standards—and that the broad scope of his report will serve as a guideline for the future development of passenger train travel in this Nation.

The recommendations themselves are not at all extraordinary. All they require is that passengers on trains receive certain minimum standards of service.

Too many railroads, for example, have allowed their passenger cars to become dirty beyond belief. They should be cleaned up.

Restrooms are often filthy and violate the most fundamental rules of sanitation. They should be put in order.

Food on many trains is a disappointment. Sandwiches composed of stale bread and one thin slice of cheese highlight an otherwise uninspiring menu.

One rarely has the feeling that a railroad is eager to serve its passengers. Most railroads are concerned about maintaining passenger service only because the Government demands it.

This begrudging mood permeates every aspect of railroad passenger service. And a businessman who does not make his product attractive does not attract much business.

The ICC examiner sums up many of the reasons why passenger service has declined when he cites "the stream of discontinuances, infrequent service, broken connections, lack of service facilities, inconsiderateness, too slow transit time and the options of air, bus, and automobile travel."

In short, there must be a better way to run a railroad.

I do not think it is too much to ask the railroads to have air conditioning and heating facilities in good operating order. And I think we should insist that the air conditioning be used in the summer months and that the heat be turned on in the cooler months.

Nor is it unrealistic to expect passenger trains that travel more than 250 miles to include a meal service of greater diversity and quality than a sandwich bar.

Passenger trains, if spruced up, if streamlined, if promoted, offer great promise of resuming their vital—and rightful—role in America's transportation system.

But, when it comes to attracting passengers, most railroads are not only on the wrong track—they seem to be headed in the wrong direction.

As ICC Examiner Messer comments:

If the defeatist attitude of the rail carriers could be overcome and reasonable efforts be made to improve the passenger service, a considerable portion of the lost patronage could be recovered.

In the last few years, railroads have all but ignored the plight of their passengers. Little if any capital has been invested in improvements. Not enough effort or imagination has been extended to solve the problems besetting one of the world's most adaptable means of transportation.

It is time we take steps to demand a greater responsibility by the railroads toward their passengers.

There are those who will say the railroads cannot hope to break even in passenger service—that there is no motivation to improve service because there is no prospect of making a profit.

Those making the charge should read the report issued last week by the Penn Central Co., the firm formed by the merger of the Pennsylvania and New York Central Railroads.

The Penn Central announced that earnings for the first quarter were $13,388,000. This is up from the combined net income of $11,481,000 for the two railroads in the corresponding 3 months of 1967. This represents a 16.6-percent increase in earnings. It occurred despite heavy wage hikes and the harmful effects of two strikes. And the savings may increase in the future as the two former railroads rid themselves of duplicate track and equipment and generate further economies.

The Penn Central experience illustrates that there is money to be made in the railroad business. And there is no reason why the railroads cannot return a bigger percentage of their earnings to the passenger aspects of their operations.

As the ICC examiner's report points out:

The evidence reflected in this record, as well as in numerous other reports of the Commission, justifies the conclusion that the S. P. and other railroads, has downgraded its passenger train service and that this has contributed materially to the decline in patronage.

As we work toward achieving an efficient transportation system in America, we must always aim for balance. A balanced transportation system is one that offers quick, comfortable, and inexpensive highway, air, and rail transit.

The United States can point with pride to the growth and success of our commercial air travel industry. Overall, it is healthy, aggressive, and enterprising. There is no doubt it is eager to serve its customers.

Our highway system needs to be improved. But that is the nature of a highway system in a growing, mobile society. But today the system is, in most parts of the Nation, at least keeping pace with the needs of the American people.

Unfortunately, the same cannot be said of passenger rail service. It is old-fashioned, tired, dilapidated. The fact that travelers still opt to take the train—when more comfortable carriers are available to them—may be a minor miracle. But it is more than that. Passenger trains, even in their currently decrepit condition, are an alternative to traffic jams, grounded airplanes, and trips into the city from distant airports. With encouragement, many more travelers would be taking the train.

The very congestion on our highways may be, in part, a result of the fact that the railroads are not pulling their share of the passenger load.

There is one statement in the report that I would like to comment upon. It reads:

It is quite obvious that . . . most . . . railroads will not voluntarily make the effort necessary to retain and regain the patronage on its trains by all the improvements necessary. The salvation of the nation's rail passenger service rests with the governmental agencies, national, state, municipal, including this commission.

I would like to believe that the salvation of the rail passenger service will begin with the railroads themselves, that they, working cooperatively with local, State, and Federal government, will realize the importance of their passenger service mission and will take steps to carry out that mission.

Private enterprise has always produced, in the last analysis, the most revolutionary progress and developments—whether in jet propulsion, automobiles or, indeed, the train itself.

Governmental assistance will be necessary. There is a formula already in existence in the Mass Transportation Act of 1963 and several bills, including my bill, S. 2329, pending before the Senate to provide passenger train assistance.

For there is a tremendous job ahead. Our highways will have three times as much traffic in the next few years. Our airways and airports are crowded now. Our Nation's transportation has an imbalance. One of the most important carriers, the train, is not carrying its share of the weight.

The concept of a National Rail Passenger Service is one that deserves attention now. The idea, put forward by many transportation officials, including ICC Examiner Messer, envisions a basic network of passenger rail service connecting the major urban centers of America. Both the Department of Transportation and the Department of Commerce have such systems under study.

Finally, we all know how important the railroads have been in our history. Passenger trains helped settle this Nation. They were vitally important in both the world wars.

Now a new challenge faces them. It is a challenge to provide the kind of transportation system that our times demand. An important step forward in meeting that challenge has been made in the ICC examiner's report. I hope the railroads, in cooperation with local, State, and Federal governments, will use this report as a framework for new thinking, new planning and new building for passenger train service.

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## VISIT TO NORTH DAKOTA BY KING OLAV, OF NORWAY

Mr. BURDICK. Mr. President, the visit of King Olav, of Norway, so close to the 154th anniversary of Norwegian independence reminds us of the common bonds our State has with the Norwegian people. The spirit shown by the people of Norway in their long fight for independence represents the same pioneering spirit that built this Nation. The vast prairies of the upper Midwest provided thousands upon thousands of immigrants to build a new new life for themselves on their own land. North Dakotans have long recognized these contributions and have returned a part of themselves to their homeland.

King Olav's whirlwind trip has lasted long enough for us to know this modern monarch of a democratic nation as a man of his people. To see him, to hear him talk, one can easily picture him as a citizen of our State.

His coming so close to the anniversary of Norwegian independence recalls the heroism of the Norwegian people in seeking freedom from outside interference in their affairs. It was on May 17, 1814, that Norway became an independent nation.

This anniversary date has been one of great importance to North Dakotans. On the hundredth anniversary, in 1914, Governor Hanna of North Dakota led a delegation to Norway to present a monument of Abraham Lincoln. Many North Dakotans who have visited Norway as I did have seen it in Oslo's Vigeland Park where it stands as a gift from the people of North Dakota to the people of Norway.

In the half century preceding World War II, the immigration of these people to the United States was at its peak, and those who were arriving were concentrated in the Dakotas, Minnesota, and Wisconsin. In 1910, the U.S. census returns showed that Norwegians were the most closely concentrated nationality in the Union, and the Norwegian language was spoken by many.

One of the great attractions of the prairies was the promise of fertile land available for those who would homestead. It meant the backbreaking work of tilling the prairie sod, but the reward was independence and ownership of land.

The homes on these prairie lands were made of logs or sod or whatever may have been handy. This era is so much a part of Norwegian-American heritage that descendants of the kindred area donated a log and sod home which is on display in a museum near Oslo. It was built by Peder Borderud, who came to this country from Solor, Norway, in 1871. It was dismantled by Norwegian-American settlers and reassembled in the Norwegian Folk Museum.

King Olav's visit to North Dakota is an indication of the strong ties that continue between our two parts of the world.

We share a common heritage in ancestry, in religion, and customs. But further, we share a common interest in a better world for all. Through the North Atlantic Treaty Organization we have been partners in progress.

A great Norwegian statesman and citizen of the world, Trygve Lie, suggested in 1940 that "the Atlantic does not divide us, on the contrary it unites us." From his leadership grew the Atlantic community of nations, which was the basis of U.S. foreign policy during World War II, and in the period since. This concern for affairs beyond her shores, however, is not something new to the 20th century, it goes back as far as we know the history of these great people—to the Viking explorers. It extends to the fishermen and seamen who carry on the commerce of the world. The result has been additional ties between our two great nations.

## LAW DAY

Mr. BAKER. Mr. President, today is Law Day, and its theme is: "Only a lawful society can build a better society." The theme's claim is bold because it admonishes a disturbed Nation that law is the best system yet devised for securing the civilized individual's right to participate in an orderly society which deals with him justly. The theme's claim is timely because today some, in the name of order, would ignore the law's requirement for justice, while others, in the name of justice, would ignore the law's requirement for order. Both groups are wrong and their efforts must be firmly resisted.

I intend to do all that I can to maintain the law's utility in our society. I will try, as a legislator, to respond as realistically, swiftly, and compassionately as possible to the rapidly changing social, economic, and political factors in our society. But having done that as best I can, I intend strongly to oppose those who refuse to acknowledge and respect the requirement for an orderly society.

I was impressed with a statement recently published by the faculty of the Vanderbilt University School of Law on the subject of the theme of this Law Day. It is an unusually competent and careful statement of the relationship of the law's core ideas—order and justice. It explains with compassion—yet with firmness—the meaning of a lawful society. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY THE FACULTY OF THE VANDERBILT UNIVERSITY SCHOOL OF LAW

The tragedy of the death of Dr. Martin Luther King and the multiplied tragedies which have followed in its wake highlight persistent problems of our society and some of its deficiencies, including a continuing failure to achieve fully, as we should, the promise of America for every person within our borders. Our institutions, which have been established both to protect liberty and, when required, to restrain unfettered action, have been placed in substantial jeopardy. This is obviously a time of severe testing for many academic disciplines as well as for ourselves as individuals.

Law is an ordering process which fulfills its basic purpose by administering justice to all those subject to its restraints. *Order* and *Justice* (rendering to each individual person his due) are thus the core ideas of Law—the reasons for its existence. Those persons who are devoted to serving Law must constantly strive to see that its substance, procedures and supporting institutions conform with equal effectiveness to both of these fundamental purposes, in the midst of swiftly changing social, political, economic, scientific and technological patterns. Change, we must effect. Stability, we must maintain. "Only a lawful society can build a better society." (Theme, Law Day—1968).

Although much more could be said (and needs to be said), we do not wish to obscure our central conviction as to the constructive road ahead and, therefore, have joined in the following resolution:

"We pledge to work for justice and opportunity for the Negro and every other person, regardless of race, creed, color or national lineage, in a society in which the rule of law protecting the life, liberty, property and other rights of every person is respected and upheld."

## ROLE OF ACTORS' EQUITY ASSOCIATION IN REOPENING OF FORD'S THEATER

Mr. MONDALE. Mr. President, many Members of the Senate and the House attended the special preview program that reopened historic Ford's Theater as the repertory theater it was during President Lincoln's lifetime. Largely because of the foresight and persistence of the professional people of the American theater, Ford's will be a living memorial to President Lincoln, rather than merely a museum to house mementos of his times. I ask unanimous consent to have printed in the RECORD an article published in the AFL–CIO News about the role of Actors' Equity Association, AFL–CIO, in the reopening of Ford's Theater.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

UNION ACTORS RETURN DRAMA TO FORD STAGE

(By Duane Emme)

The stage of Ford's Theater in Washington, darkened by an assassin's bullet for 103 years, again resounds with live drama—thanks to the persistence of Actors' Equity and its president, Frederick O'Neal.

As every schoolboy learns, Pres. Abraham Lincoln was shot at Ford's at 10:15 p.m. on April 14, 1865, by John Wilkes Booth. Taken to a rooming house across the street, Lincoln died at 7:22 a.m., April 15, without regaining consciousness.

The shot that dropped the curtain on a comedy, "Our American Cousin," also closed the theater. The government bought it and used it as an office building. In 1932, Ford's was transferred to the National Park Service, which reopened it as a museum.

In 1964, Congress authorized $2.7 million to restore Ford's based on a Park Service plan to return the theater to its exact appearance on the fateful night, complete with stage setting and a sound-and-light representation of the shooting.

A BETTER IDEA

It was then that Equity, the theater performers' union, and O'Neal, thought they had a better idea.

Couldn't the theater be restored to also allow for live performances? The more O'Neal and union members asked themselves that question, the more certain they were that the answer was "yes."

Further, O'Neal felt that the plan developed by the Park Service was "morbidly preoccupied with Lincoln's tragic death" and would appeal only to "the macabre interests of people."

Searching into Lincoln's history, the union found that the President was "an ardent theater goer," having attended more than 40 performances at Ford's and other Washington theaters during his years in the White House.

Lincoln liked all sorts of plays, but particularly enjoyed Shakespeare's comedies. Asked why, he once replied, "A hearty laugh relieves me, and I seem better able to bear my cross."

O'Neal believed that it would be especially appropriate for the theater to present the classics Lincoln enjoyed so much, as well as dramatic works about the great President.

In a letter to Sec. of the Interior Stewart L. Udall in November 1964, O'Neal asked that "the professional people of the American theater" be given a chance to meet with him and explain their plan in detail.

PLANS REVIEWED

Udall expressed interest in the idea and a few weeks later, met with representatives of the Park Service, Equity, theater associations and several other persons interested in the Ford project.

Attending the meeting for Equity were O'Neal; Vice Pres. Theodore Bikel; Milton Lyon, a union theatrical expert; Jack Golodner, the union's legislative representative, and Hugh Hardy, an architect retained by the union.

After the meeting, Udall ordered a restudy of restoration plans to include a theater. But Equity still had some convincing to do. The Park Service balked at changing its plan on grounds the cost would be excessive.

The union, at its own expense, assembled theatrical experts, stage designers, and cost analysts. Four more months of meetings were needed before the Park Service was won over.

A new firewall had to be built between the stage and the audience; lighting had to be installed so as not to conflict with the theater's period atmosphere; several other changes were needed. But total extra costs amounted to only about $75,000.

In January of this year the theater held a special "preview" program before an audience that included Pres. Johnson's cabinet. On Lincoln's Birthday, the theater opened to the public, presenting Stephen Vincent Benet's "John Brown's Body."

The opening repertory is the product of the National Repertory Theater, sponsored by the Ford's Theater Society, a private, nonprofit group engaged in a $1.1 million fundraising campaign for the theater.

As Ford's progresses into future repertories, it seems entirely possible that O'Neal, a veteran actor, will get the opportunity to perform in the theater he helped to save.

Meanwhile, he has a prized memento of Equity's long battle to restore live drama to Ford's. It came in the form of a note sent to him in 1965 by the late Carl Sandburg, Pulitzer Prize biographer of Lincoln.

Attached to an explanation of Equity's proposal, the note simply said, "Amen, with all my heart, to Frederick O'Neal's statement."

## MONTREAL STATEMENT OUTLINES PROPOSALS FOR MANKIND

Mr. PROXMIRE. Mr. President, the Montreal Assembly for Human Rights, March 22 to 27, convened for the purpose of expressing concern for the condition of human rights in this year of international crisis. The gathering also explored the ways in which mankind's shared aspirations to human dignity could become a reality.

The Montreal statement contained some outstanding proposals for action, specifically, 22 recommendations with respect to international legislation on human rights, apartheid, methods of inducing compliance at the national level and international implementation measures.

The International Year for Human Rights offers a unique opportunity to reexamine and review the progress in the field of human rights and for the Senate to act as it should on the Human Rights treaties.

Accordingly, I ask unanimous consent to have printed in the RECORD the complete proposals outlined by the delegates who convened for 6 important days at Montreal.

There being no objection, the proposals were ordered to be printed in the RECORD, as follows:

PROPOSALS FOR ACTION

The Assembly for Human Rights makes the following recommendations:

With respect to International Legislation on Human Rights:

1. During this International Year for Human Rights, the Members of the United Nations should reaffirm, by a solemn declaration, their intention to comply in good faith with the human rights provisions of the United Nations Charter.

2. The Members of the United Nations should rededicate themselves to the most complete implementation of the Universal Declaration of Human Rights on both the national and international plane by legislation and other measures. In particular, as recommended by the United Nations Seminar on Civil and Political Rights held at Kingston, Jamaica, all the governments and legislatures should "systematically undertake a review of their legislation, laws and procedures to ensure that they conform to the provisions of the Universal Declaration."

3. All States should make a special effort to ratify the two United Nations Covenants on Human Rights, the Optional Protocol, the nine basic conventions on human rights adopted by the United Nations and the specialized agencies since 1945, the ratification of which was recommended by the General Assembly in 1965, as well as the Convention on Consent to Marriage, Minimum Age to Marriage and Registration of Marriage, the 1951 Convention Relating to the Status of Refugees and the related 1967 Protocol. In particular, the International Convention on the Elimination of all Forms of Racial Discrimination must receive universal ratification.

4. The United Nations should make every effort to adopt an International Convention on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief.

5. The United Nations should bring all the instruments adopted by it together and prepare a United Nations Human Rights Code similar to the International Labor Code developed by the International Labor Organization. Such a code should contain in its first part a systematic and annotated arrangement of all the basic provisions of universal scope, deriving from the Charter of the United Nations, the Universal Declaration of Human Rights, the other declarations adopted by the United Nations and the general clauses contained in various unanimously or nearly unanimously approved resolutions of the General Assembly. The second part should include the texts of the Covenants and of various conventions on human rights in a systematic and annotated arrangement, specifying in particular, what measures of implementation are available to ensure the enforcement of the relevant provisions.

WITH RESPECT TO APARTHEID

6. The international community should confirm the legitimacy of the struggle of the peoples of southern Africa toward the achievement of their inalienable right to equality, freedom and independence in accordance with the Purposes and Principles of the United Nations Charter.

7. All States and organizations should provide appropriate moral, political and material assistance to the people of southern Africa in their just struggle for the rights recognized in the Charter of the United Nations and the Universal Declaration of Human Rights.

8. All States should facilitate effective action, under the auspices of the United Nations, to secure self-determination and enjoyment of human rights and fundamental freedoms for all the inhabitants of southern Africa.

With Respect to Inducing Compliance at the National Level:

9. In every country some special institution should be established, if it does not already exist, which is legally competent to receive complaints from individuals when their rights are infringed or denied, and provide them with effective redress.

All authorities and organizations concerned with the protection of human rights, particularly the bar associations, should work towards the establishment in every country of institutions of this character.

10. The government of every country should be encouraged to provide and to develop comprehensive legal aid systems for the protection of the rights of individuals.

11. All governments should be encouraged to establish permanent advisory bodies for the constant adaptation of their laws to the standards of human rights being developed by the United Nations.

12. National and international, governmental and non-governmental organizations concerned with the protection of human rights should work toward the development of informed and effective public opinion for the protection of human rights in all countries. Governments should be invited to undertake to promote the development of indigenous institutions dedicated to the creation of such enlightened and effective public opinion. In particular, governments should consider giving encouragement to the creation of independent and permanent non-governmental committees for the promotion of human rights in their countries.

13. All States should develop human rights courses for all levels of education. Special courses should be introduced in various university departments, including law, business and technical schools.

14. Proper efforts should be made to broaden the category of organizations concerned with human rights by persuading various professional, civic, scientific, scholarly, business and labor organizations to establish special committees to channel human rights problems into their working programs.

15. Intergovernmental organizations such as the United Nations, UNESCO, ILO and UNITAR should provide assistance to States and non-governmental organizations in their human rights programs to the extent that it has not already been done.

16. All modern means of mass communication, such as radio, television, films, newspapers and other printed publications should make more vigorous efforts to promote human rights.

17. Radio and television programs should not be subject to governmental controls.

With respect to International Implementation Measures:

18. The strongest support should be given to the existing proposal for the establishment within the United Nations of an Office of the High Commissioner for Human Rights or an institution with a similar function.

19. The status of the United Nations Commission on Human Rights and the Secretariat Division on Human Rights should be improved sufficiently to enable them to discharge the important responsibilities entrusted to them.

20. The United Nations Commission on Human Rights is urged to recommend the establishment of a permanent body of experts on slavery.

21. The United Nations is urged to establish an effective machinery for the implementation of United Nations decisions on human rights questions.

22. The possibility of establishing regional commissioners or courts of human rights should be explored.

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## TESTIMONY OF OSCAR PETERSON, OF OREGON, BEFORE THE SUBCOMMITTEES ON PUBLIC WORKS OF THE COMMITTEES ON APPROPRIATIONS

Mr. MORSE. Mr. President, one of the able former county judges of my State testified on April 29 and April 30 before the Subcommittees on Public Works of the Committees on Appropriations of the House and Senate. For many years, Judge Oscar Peterson has been an active leader in support of vital public works projects in Oregon. I am indebted to him for the fine cooperation he has always given to me and the other members of the Oregon delegation as we have presented to the Committees on Appropriations of Congress Oregon's needs for Federal public works.

I ask unanimous consent to have printed in the RECORD Judge Oscar Peterson's brief but helpful testimony on April 29 and April 30, 1968.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY MADE BY OSCAR PETERSON, FORMER MORROW COUNTY JUDGE (OREGON), BEFORE THE SUBCOMMITTEE ON PUBLIC WORKS, COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, APRIL 29, 1968, 10 A.M., AND BEFORE SUBCOMMITTEE ON PUBLIC WORKS, COMMITTEE ON APPROPRIATIONS, U.S. SENATE, APRIL 30, 1968, 10 A.M.

I am Oscar Peterson a member of the Executive Committee of the Board of Directors of the Inland Empire Waterways Association, a director of the Port Commission (Port of Moscow) and also ex-Morrow County Judge.

Ever since the disastrous flood of 1903, which took the lives of 247 people and did inestimable damage to property down the Willow Creek valley, I had thought something could surely be done to avoid such catastrophes. After becoming a member of the Morrow County Court in 1958, I made it a point to work desperately for a flood control dam immediately above Heppner and at the confluence of Willow Creek and Balm Fork, two small streams that can become raging torrents at the time of spring runoff or the season of flash storms. The area is subject to flash storms, and there has been at least two major run offs since the flood of 1903. Our people of Heppner and Morrow County are very much desirous of having some protection against the flash storms.

About two years ago, a multipurpose flood control dam at the point mentioned was authorized. For this, we are most happy. While the Bureau of the Budget has made no recommendation for fiscal year 1969, we are reliably informed that $225,000.00 could

be used for the initiation of Planning, and I would so heartily recommend. Thank you most kindly for the opportunity to bring this before you.

Also, would like to mention the Columbia South Side District, an irrigation district comprising some 200,000 to 300,000 acres of land in our North Morrow County and East Gilliam County. There is a tremendous potential here, and local support for a Bureau of Reclamation district here is most cooperative. It would bolster our somewhat depleted and discouraged local economy very much and would certainly create new opportunities and jobs. We are most happy that $30,000 has been set up for a reconnaissance study this year and would urge that an additional amount, or greater, be included for 1968.

Thank you again.

## BILL OF RIGHTS DAY

Mr. TOWER. Mr. President, we shall observe the anniversary of the adoption of the first 10 amendments to the Constitution, known to history and to the world as the Bill of Rights Day, on December 15. Since it is quite doubtful the Congress will be in session on that date in 1968, I wish to take this opportunity to call attention to what I consider a most important matter.

A majority of the members of that extraordinary gathering, the Constitutional Convention, had decided that a detailed list of limitations on the powers of the Federal Government was unnecessary, because it was thought that the newly devised system could exercise only the powers enumerated in the Constitution, all other powers having been reserved to the States. This was the principle eventually made explicit by the 10th amendment.

However, the opponents of the new Constitution argued that the omission of a Bill of Rights, the lack of an enumeration of limitations on the powers of the Federal Government, was an intentional subversion of the liberties of the American people. During the contest over ratification of the Constitution, it was therefore agreed by the Constitution's supporters that a Bill of Rights would be proposed to the States as constitutional amendments by the first session of the Congress organized under the new Government. This agreement by the proponents of the Constitution became a condition of ratification in some of the States.

The Supreme Court, during almost two centuries of constitutional interpretation, has defined and applied the guarantees of freedom found in the Bill of Rights. Although considered originally to be limitations only on the powers of the Federal Government, many of the rights protected against Federal interference by the Bill of Rights are now asserted against the powers of a State under the Supreme Court's interpretation of the due process clause of the 14th amendment.

Among the advocates of a bill of rights was Thomas Jefferson. He wrote to James Madison:

> A Bill of Rights is what the people are entitled to against every government.

The constitutional amendments that were drafted by Madison are the most effective guarantees of individual liberty possessed by any people in the world.

Freedom of religion, freedom of speech, freedom of the press, the rights of assembly and petition, the rights to public trial and to jury trial, the protection of one's home and property against abuses of public power—these are precious things indeed.

Thus it is that the Bill of Rights has meaning in the lives of all of us. We take many of our precious freedoms for granted. Far from being the least of those we take for granted are the liberties protected for us by the Bill of Rights.

Bill of Rights Day is therefore a useful opportunity for us to remind our selves of our magnificent heritage of freedom. We would miss the rights protected by the Bill of Rights soon enough if they were taken away from us. Let us be grateful for them without that terrible experience. After all, it has been to protect and defend this system of government and the rights it affords that so many American lives have been lost in the wars our country has fought against the enemies of individual liberty.

The Bill of Rights is one of the most magnificent achievements of the United States and its people. It is a bulwark of our free society. On Bill of Rights Day we publicly attest to our realization of its importance.

Bill of Rights Day is ordered celebrated each year by Presidential proclamation. But the anniversary of the ratification of the Bill of Rights on December 15, 1791, is one that all patriotic Americans would note even in the absence of a proclamation, because what is being honored is one of the great events in the history of mankind on this planet.

## GEORGE BALL—A WISE APPOINTMENT

Mr. BREWSTER. Mr. President, President Johnson's choice of former Under Secretary of State George W. Ball to succeed Arthur J. Goldberg as America's Ambassador to the United Nations has won widespread editorial praise.

The Denver Post said:

> In Ambassador-designate Ball, the United States will have a tough, articulate, experienced spokesman who hopefully can see the Vietnam conflict through to a just settlement.

The Christian Science Monitor stated:

> . . . This appears to be an excellent and strong appointment.

From the Cleveland Plain Dealer:

> A seasoned diplomat and a man possessed of broad international knowledge, Ball will slip into the office of the competent Goldberg with scarcely a ripple signaling the change.

The Minneapolis Tribune summed up the feelings of many people with these words:

> While sorry to see Goldberg go, we think there could not have been a better choice for UN ambassador than George Ball.

Mr. President, I ask unanimous consent that the complete texts of these editorials be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Denver Post, Apr. 28, 1968]

BALL FINE REPLACEMENT FOR GOLDBERG

President Johnson has made an excellent choice in naming former Under-secretary of State George W. Ball to succeed retiring U.S. Ambassador Arthur J. Goldberg at the United Nations.

Goldberg has served his nation faithfully and capably in the 33 months he has headed our U.N. delegation. And he still has important matters to take care of—notably on a treaty banning the spread of nuclear weapons—before he leaves office in June.

Goldberg had the difficult task of living up to the illustrious image of his predecessor, Adlai E. Stevenson. If Goldberg did not achieve Stevenson's heights as an orator and statesman, he nonetheless made a valuable contribution as an effective mediator and advocate of U.S. policies in the world organization.

Failure to resolve the Vietnam war through the United Nations was one of his major disappointments. And his decision to retire and devote his full energy in private life to the cause of peace in Vietnam is certainly a sincere one that deserves commendation.

In Ambassador-designate Ball, the United States will have a tough, articulate, experienced spokesman who hopefully can see the Vietnam conflict through to a just settlement.

The fact the President chose Ball indicates strongly that Johnson wants to move the Vietnam war from the battlefield to the conference table before his term of office expires next year. For Ball, when he was a member of the State Department, often served as the "devil's advocate" in administration discussions on Vietnam.

And the fact that Ball accepted the President's appointment makes it clear that Ball himself is convinced that Johnson is prepared to make a maximum effort to achieve peace in Vietnam during the next nine months.

We regret that Goldberg felt compelled to leave his U.N. post while the issue of Vietnam appeared to be turning in the direction of talks between Washington and Hanoi.

But we are confident that Ball will carry on Goldberg's work at the United Nations with all the skill and dedication that we have come to expect of him.

[From the Christian Science Monitor, Apr. 29, 1968]

FIRST-RATE APPOINTMENT

American diplomatic effectiveness should be increased by former Undersecretary of State George W. Ball's appointment as his country's chief representative at the United Nations. To say this is not to underplay the dedication and ability which Arthur J. Goldberg has brought to that post. But it is to recognize that, for a number of reasons, Mr. Ball is likely to be a particularly good spokesman for American policies.

Wholly aside from the "new broom" argument, Mr. Ball goes to the world body with an unusual amount of influence. This is particularly so at a moment when American-North Vietnamese movement toward peace talks is the most important event on the international stage. By his long-standing and tough-minded independence toward the Vietnamese war, Mr. Ball has rightly won for himself a reputation for realism, for forthrightness and for firmness under pressure.

Even when his views did not prevail within White House and State Department circles, he was invariably listened to with respect. As a result his reputation has steadily grown.

The same cannot, in candor and kindness, be said of Mr. Goldberg. No one questions his skill as a negotiator. But last summer's Security Council sessions on the Arab-Israeli war did not reveal him at his best as a public

debater. His speeches and answers, while to the point, were often too long and too dull for maximum effectiveness. Mr. Ball's terseness and quick comprehensiveness should prove more effective.

Beyond this, however, lies the fact that Mr. Ball's record on the Vietnam war should help persuade the world further that the United States is sincere in seeking an honorable and livable peace in Southeast Asia. The newly named spokesman has, from the beginning doubted the wisdom of America's deep involvement in South Vietnam, primarily on the grounds that he felt other areas (Western Europe, Latin America, Japan, for example) were more important in the long run. At no time, however, has he ever called for a headlong or unconditional withdrawal. He has invariably stressed that the war must be liquidated only through a fair and mutually tolerable compromise.

It is such a compromise which the administration appears to be seeking. Mr. Ball's reappearance on the official scene should hopefully help persuade the rest of the world to lend the greatest possible support to the achievement of such an accord. The new appointee's known strong support for close American ties with Western Europe could help heal the rift opened between the opposite sides of the Atlantic in recent years. In short, this appears to be an excellent and strong appointment.

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[From the Plain Dealer, Apr. 26, 1968]

BALL FOR GOLDBERG IN U.N.

A smooth transition is anticipated, President Lyndon B. Johnson said yesterday when he announced the resignation of Arthur J. Goldberg as U.S. representative to the United Nations and his replacement by George W. Ball, former under-secretary of state.

The President meant it as an understatement. It was that. A seasoned diplomat and a man possessed of broad international knowledge, Ball will step into the office of the competent Goldberg with scarcely a ripple signaling the change.

Whereas Goldberg brought a variety of experience to the U.N. post, Ball's major concern has been with the type of world developments that will confront him in his new post.

As Secretary of State Dean Rusk's top aide, Ball swiftly won the respect of the diplomatic world with his comprehensive knowledge of international affairs.

His departure from the State Department to enter private business was genuinely regretted.

Goldberg made a considerable personal sacrifice when he left the Supreme Court for what he knew could be a temporary assignment to the U.N.

He is known to have been unhappy there and has spoken out frequently against the leisurely pace of an organization that is confronted with so many urgent issues.

He has served his country superbly as secretary of labor, as a Supreme Court Justice and in his U.N. post. In June, it is reported, he will return to the practice of law and with him will go the gratitude of a nation to which he has given unsparingly of his considerable talents.

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[From the Minneapolis Tribune, Apr. 27, 1968]

A LEADING PUBLIC SERVANT RETURNS

The only drawback we see in George Ball's appointment as U.S. ambassador to the United Nations is the fact that it was brought about by Arthur Goldberg's resignation. Goldberg has served this country at the highest levels—in the Cabinet, Supreme Court and United Nations. He was a key negotiator in settling the India-Pakistan war over Kashmir and last year's Arab-Israeli war. But because he has not agreed with the President on U.S. policy in Vietnam and is said to be anxious to return to private life, his resignation this week had been anticipated for months.

Offsetting that loss, Ball's appointment seems to us both wise and opportune, partly through planning, partly through circumstance. The opportunity for new policy approaches is inherent in any top-level change. When Clark Clifford replaced Robert McNamara as defense secretary, some feared an increasingly hard line toward the Vietnam war, yet the reverse took place. The change was not, we think, because Clifford suddenly donned dove feathers. The more likely cause was Clifford's concurrence in a conciliatory approach to Hanoi from his new position as cabinet officer rather than unofficial adviser when he perceived such an approach to be worth the risk.

There is no reason to expect a similarly dramatic change with Ball's return to public service, but his presence should benefit the country. He will bring to the United Nations a reputation as a skilled, forthright diplomat who persuasively argues the U.S. position but is equally forthright in arguing within his own government against any position he thinks should be altered.

His appointment comes at a time when the United States is seeking to enter into the most vital peace negotiations of the decade. The President has thus given notice that he is seeking out the most able men in the country and that complete conformity with Mr. Johnson's viewpoint is not a prerequisite for office. While sorry to see Goldberg go, we think there could not have been a better choice for U.N. ambassador than George Ball.

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## WE REJOICE IN SENATOR PASTORE'S RETURN

Mr. BARTLETT. Mr. President, it was a grand day for all of us, the day that Senator PASTORE returned to his duties in the Senate after a rather extended absence because of illness. Ever so often since the day of his return, I have discussed with other Senators how wonderfully well the distinguished senior Senator from Rhode Island looks. I am sure that he found it most difficult to rest all this time because by his nature he is a man who wants to be on the move and wants to be doing something. We have missed his presence, the compelling advocacies of the causes he embraces, and his wise counsel. Together with my colleagues, I want to say to JOHN PASTORE: "Welcome back."

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## NATIONAL LIBRARY WEEK IN RHODE ISLAND

Mr. PELL. Mr. President, the past week of April 21–27 was National Library Week. As chairman of this observance in Rhode Island, I was most impressed with the comprehensive program that was arranged in my State under the able direction of Mr. James S. Healey, chief of library extension services and executive director of National Library Week in Rhode Island.

To dramatize the "Hands Across the Sea" theme of this year's program, we were hosts to four distinguished visitors from other parts of the world. With us observing the totality of library services that Rhode Island offers were Miss Julia Christine te Groen, deputy director of the Cape Provincial Library Service of Cape Town Africa; Mr. Andrew N. Deheer, librarian of the Ghana Research Library of African Affairs in Accra Ghana; Miss Daphne Douglas, senior administrative officer of the Jamaica Library Service of Kingston, Jamaica; and Mr. Anis Khurshid, of the University of Karachi Library School.

A reception at the statehouse, given by Gov. John Chafee, opened our celebration of National Library Week. Later, a dinner was held at the Pawtucket Public Library, at which I was priviliged to address our distinguished visitors and our Rhode Island friends. Mr. Richard W. Robbins, president of the Rhode Island Library Association, was host at this affair.

On Monday the group visited the department of state library services at the statehouse, where the hostess, Miss Elizabeth G. Myer, the able director of the department, explained the statewide program she oversees. Next followed a tour of the Providence Public Library and several of its branches. Director Stuart C. Sherman was the affable host. The remainder of the afternoon was spent at the Foster Public Library where Mrs. Sarah W. D. Henderson, coordinator led a tour and a discussion of the library's role in the community.

The following morning saw a visit to the Cumberland High School where Miss Mary Maguire, school library coordinator, explained the high school's library services. At the Oakland Beach Elementary School, Mrs. Agnes Bulkley told of the demonstration library currently underway at that school. From there to the Quonset Elementary School in North Kingstown where the benefits which have come to the school library under title I of the Education Act of 1965 were shown by Library Coordinator Mrs. Lois Smith. To view the operation of a small library, the group next visited the Champlin Memorial Library in West Warwick. Serving as host was Mr. Paul Drane, the library's director. A tour of the Warwick Library, led by Director Vincent Bleecker, and a discussion of its program in its community and as a regional library center rounded out a full day's activities.

Mr. David Jonah and Mr. Joseph Doherty were hosts of tours through the libraries at Brown University and Providence College on Wednesday, April 24. Following luncheon the visitors traveled to Newport to view the Newport Public Library with its director, Mr. Richard E. Combs, and the Redwood Library with its director, Mr. Donald Gibbs.

The concluding day of the formal tour saw a visit to the University of Rhode Island where Mr. Francis P. Allen, director of the university library showed the facilities and explained the university's library program. At the Graduate School of Oceanography, Miss Nancy Coleman, librarian, acted as hostess and explained the program.

Friday gave the visitors an opportunity to see those institutions not on the official tour or to return to libraries already visited to discuss service or programs in greater depth.

At the conclusion of the week's activities it was agreed that the program had been mutually beneficial. Rhode Island's

library facilities, standards and services were highly applauded by the visitors, while the hosts were given the benefit of outside, objective observations of their work.

I would offer the highest commendation and congratulations to Mr. James Healey, the driving force behind National Library Week in Rhode Island, and to those who so ably assisted him.

The aforementioned library directors and coordinators were gracious hosts and hostesses and proud narrators as well. Working with the committee were Mr. Donald Wyatt, executive secretary to Governor Chafee; Mr. Leonard Panaggio, of the Rhode Island Development Council; Mrs. Jane Dillenbeck, head of audit services; Miss Rosemary Ball, head librarian of Cumberland High School; Miss Dolores McKeough, regional coordinator of the Warwick Public Library; Father Hogan, of Providence College; Mr. Charles Waddington, assistant librarian of Brown University Library; Mr. Charles Crosby, chief of public services of the Providence Public Library; and Mr. Abner J. Gaines, associate librarian of the University of Rhode Island Library. Their cooperation was invaluable.

And a tremendous vote of thanks must go to the unstinting efforts of the Rhode Island Department of State Library Services Committee for National Library Week. Serving with the director of the department, Miss Myer, were Miss Jewel Drickamer, Miss Sandra Prime, Mr. James Lawrence, Mrs. Julia Conley, Miss Kathleen Zeller, Miss Mary Whalen, Miss Dorothy Budlong, Miss Deirdre Donohue, Mrs. Marilyn Georgantis, Miss Judith Stonehill, Miss Elizabeth Berry, Mrs. Shirley Sullivan, and Mrs. Miriam G. Hess.

All Rhode Island owes these dedicated workers a tremendous vote of thanks.

## AN OPEN LETTER TO THE SENATE

Mr. HARTKE. Mr. President, a Senator's daily mail presents a formidable array of public outcry against rising crime, rising taxes, and the war in Southeast Asia. Today my incoming mail brought me a letter addressed to the entire Senate. Postmarked Royal Oak, Mich., it appears to be from a citizen who retains high hopes for our national future. I present his plea in its entirety:

*To the Senate of the United States,*
*Washington, D.C.:*

I am writing in regard to good days.
I want 365 of them.
Sincerely,

DAVID SCOTT RICHARDS.

## LAW DAY

Mr. TOWER. Mr. President, nearly 300 years ago, William Penn envisioned a nation "where the laws rule and the people are a party to those laws." We have, for nearly two centuries now, prided ourselves on being that nation of laws, not of men.

We have, in that time, never ceased in our efforts to perfect that system of laws upon which our whole society rests. We are still a long way from our goal of perfection, just as man's reach should exceed his grasp if he is to continue to strive and grow. But however far short of perfection our grasp may leave us, we are still far ahead of any other nation or society in the world and in its history in the freedoms and rights of men in a lawful and just society.

We are not content until our own freedoms are safe, nor until others now oppressed share in our bounty of free institutions. We are the hope of the world, and, in our example, the hope and fire of freedom has spread to other lands and peoples.

Our rights and freedoms will not, however, continue to be the hope and envy of the world if we allow our institutions to be trampled into the streets by mobs, and to be burned, with block after block of riot-torn cities.

Law Day is, I think, an appropriate time for us to pause and take a closer look at this system of laws and what it has done for us. It is also a time for us to consider what we as a nation and as individuals are doing to strengthen and reinforce it, or whether we are, by our action or inaction, assisting those who would tear it down.

Our very existence as a nation came about over legal principles. John Adams, our second President, once said that American independence was born in a courtroom in Boston. There, in 1761, a colonial lawyer named James Otis had the courage and personal integrity to resign from the high post of Advocate General of the Colony of Massachusetts. He stool tall and proud in the courtroom and made a brilliant case for the right of people to be secure from arbitrary acts of the King. He said he found it necessary to resign rather than be party to procedures and acts "destructive of liberty and fundamental principles of law."

A great nation has grown since Otis' speech in court, and it has grown in the belief in liberty, equality, and justice under law.

The system we know as distinctly American was not the product of this or any other single man, nor was it the product of any one generation, or even of purely American concepts and ideas. It has come to us down the long line of Western civilization, and we have shaped it and continue to shape it in order to perfect and adapt it to our needs. The whole history of the United States has been the story of the enlargement of human rights and human freedom through the processes of our constitutional form of government.

The concept of "due process of law" in Anglo-Saxon jurisprudence predates the Magna Carta itself, for in that document King John was required to promise to observe "the law of the land." The term "due process" itself can be found in the statutes of Edward III in 1355, which use almost the exact language found in our fifth and 14th amendments.

The role of the law in shaping our own heritage was primarily to take such concepts as these, and the ideas of men like John Locke and Philippo Mazzei—upon whose writing Thomas Jefferson based his line in the Declaration of Independence "all men are created equal."

There was a preponderance of lawyers in the group of men whom we regard as our founders, and their influence is evident in the system they planned for us. Over half the delegates to the First Continental Congress were lawyers. Three of the Committee of Five that drafted the Declaration of Independence were lawyers. Thirty-two of the 55 men who signed it were lawyers. Thirty-five of the 55 members of the Constitutional Convention in 1787 were lawyers.

After the matter of our independence was settled, and it came time to interpret the new Constitution and give it meaning, and shape the real character of the new government, it was great lawyers like Webster, Clay, and Calhoun who debated here in Congress.

Twenty-four of our 36 Presidents have been lawyers, and that profession has consistently made up a majority of the membership of Congress.

It is no wonder then that the Nation has always held the law and the rule of law in such high esteem. In its protection we have grown strong and great. Its principles have guided us through storms and turmoil from within and from without.

It was Abraham Lincoln, the country lawyer who saved the Union, who pointed out the dangers of any other course.

Let every American—

He said—

every lover of liberty, every well-wisher to his prosperity, swear by the blood of the Revolution, never to violate in the least particular, the laws of the country . . . Let every man remember that to violate the law is to trample on the blood of his father and to tear the character of his own and his children's liberty . . .

No one benefits from the breaking of the laws, except perhaps our enemies who wish to bring destruction upon us. Even the wrongdoer who flouts our laws and the Communist who holds them in contempt value the protection the laws afford them and hide behind them when confronted.

It is no service to anyone, nor to any cause, to advocate violation of the law. We hear men in positions of power and leadership telling their followers publicly that they need obey only those laws with which they agree. Statements of that sort are the grossest form of irresponsibility, for they inspire and give excuse to the flouting of our whole system of law and order among men.

No society based on law and order can give its citizens the right to disobey the law, for once that happens there is no more law, and no more order.

Those who contend that violence or even "peaceful" disobedience is the path to equal rights and that disorder is the way to justice are tearing at the very fabric of our society. True freedom and real justice are founded, not on contempt, but on respect for the law.

Whatever the injustice of society, real or imagined, no group or person has the right, under any circumstance, to exact self-determined retribution. Our imperfections do not justify tearing down the institutions which have given us our advances and our strength.

The concept of nonviolent disobedience is every bit as incompatible with the American legal system as riots in the streets. I am not talking here about civil rights only. There are many other instances to draw from, such as the person who interferes with the launching of a polaris submarine, or the person who demands the right to sail in an area reserved for military testing, or the one who interferes with business in a Government office, or tries to close down the Pentagon, or burns his draft card, or tries to stop a troop train.

The limit to every right is reason. The right to protest ends at the point where it interferes with another man's right to conduct his affairs. The right of a demonstrator ends when it obstructs the traffic of people trying to drive on public streets.

Civil disobedience of any sort ranges from deplorable at best to destructive at its worst. It is not justifiable. It is no small matter to act in defiance of the law of the land. It is an act of disloyalty to urge others to do so.

But such is being advised today by irresponsible people in exalted positions and of presumed maturity, persons who exert tremendous influence.

They cite as justification every source from the Boston Tea Party to God Almighty.

Both, I would note here, teach us nothing of the sort. King George III, against whom the Boston colonists rebelled, provided quite a different sort of government for Colonial America. Citizens now enjoy all the facilities of the ballot box and the speaker's platform, the press and the pulpit, to express their opinions and to effect changes in their government.

Those who advise disobedience of the law, for any reason, are as guilty as those who follow the advice.

There are proper ways, and effective ones, to voice dissent. The principles of free speech, the right of assembly, free press, and the right to petition for redress of grievances are not empty phrases. They are real, very real, freedoms, and effective means of changing forms and institutions. The ballot box and the courts are even stronger means to which everyone has access.

Only by rejecting the arguments of those who advocate anarchy and by striving as a Nation and as individuals to uphold not only the law, but the system of laws, can we protect peace, order, justice, and freedom.

The constitutional guarantee of liberty is firmly rooted in an organized society maintaining public order. Without this, liberty is worthless, for it would be smothered in the excesses of anarchy and mob rule. There is no justice in a mob.

The problems we face are difficult ones, but so have been those faced by our ancestors. They faced them squarely with the system given them—the system of laws and of constitutional government. We can do nothing better than to follow their example.

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## AUTOMOBILE INSURANCE

Mr. BREWSTER. Mr. President, the National Educational Television Network has produced a 1-hour documentary program, entitled "Auto Insurance: The Crashing Cost." This program deals with the problems of automobile insurance that have occupied much attention in Congress.

It was my privilege to participate in the taping of this program, along with the Senator from Michigan [Mr. HART], the Secretary of Transportation, and other public officials and private citizens.

The program was shown on television in Washington on station WETA, channel 26, on April 25. It explored in depth and with perception all of the ramifications of the automobile insurance issue that is so important to millions of Americans.

I ask unanimous consent that the transcript of the program be printed in the RECORD.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

YOUR DOLLAR'S WORTH—"AUTO INSURANCE: THE CRASHING COST"

From: National Educational Television, 10 Columbus Circle, New York, N.Y.

NOTE.—This transcript is to be used for review and news purposes only.

This hour-long report weighs the charges that are spurring a Congressional investigation against the auto insurance industry: rising premiums, delays in payment, arbitrary cancellations and rejections, and insurance insolvencies. The program focuses on individuals involved in auto accidents and probes an alternate program for auto insurance currently operating in Saskatchewan, Canada. Auto insurance is discussed by Secretary of Transportation Alan S. Boyd, Senator Daniel Brewster (D., Maryland), Senator Philip Hart (D., Mich.), Congressman William Cahill (R., N.J.), law professor Jeffrey O'Connell of the University of Illinois, Saskatchewan Premier Ross Thatcher, leading trial lawyers, insurance company officials, and victims of auto accidents.

Produced and written by: Gordon Thomas.

Executive Producer: Harry McCarthy.

Narrator: Richard McCutchen.

Length: Sixty minutes.

Your Dollar's Worth—"Auto Insurance: The Crashing Cost" is a production of National Educational Television.

ANNOUNCER. The following program is from N.E.T., the National Educational Television Network.

DICK MCCUTCHEN. Mrs. Judy Keyes of Chicago, a road accident victim threatened by paralysis.

Mrs. JUDY KEYES (Chicago). I don't know what's going to happen to me. I don't know if some day I'll wake up and that'll be it—I won't be able to move. I don't know if this is going to happen; if so, how long or when. All I can do is just, you know, pray that I'll get up every day and go to work and take care of my children the best I can. The first thing that I heard as far as this company being liquidated was that I received a notice in the mail from the State of Illinois. And I called my attorney and asked him about it, and he said that he would look into it further; I should send him this notice, which I did. And he called me back in a few days and said yes, it was being liquidated by the State, and there was little, if any hope at all, that I would receive anything in any way for compensation.

DICK MCCUTCHEN. National Educational Television presents: Your Dollar's Worth—a continuing series devoted to the American consumer and his needs.

This month: Automobile Insurance: The Crashing Cost.

Good evening, I'm Dick McCutchen. Judy Keyes, a Chicago suburban housewife is but one of those who have suffered under the auto insurance system that exists in modern America. Mrs. Keyes, badly injured in a road accident, can collect no compensation because the company which insured the car that ran into hers went bankrupt. And in Illinois the system provides no redress. But bankrupt companies are just one of the problems besetting the auto insurance industry. A situation that gives rise to the question, is the system failing to meet the needs of the nation's 100,000,000 drivers today?

Complaints have been made by consumer and other groups that the increased cost of auto insurance, the frequent cancellation of policies and the difficulties experienced by the young and the old, and minority racial groups in obtaining liability coverage.

Another complaint concerns the slow and inequitable settlement of accident claims.

But in answering a basic question, Is auto insurance a good buy, this fact may be noted. On a national average, it takes $2.20 in premiums to pay out $1.00 in auto insurance claims; whereas Blue Cross, for instance, pays out $1.00 for each $1.07 paid in.

The auto insurance industry in the United States is a headless giant.

Twelve hundred companies, large and small, each year take in premiums totalling nearly ten billion dollars, premiums processed in vast sterile offices. Auto insurance affects the welfare of every American, yet it is controlled by no federal authority. The fifty states impose fifty different sets of regulations, and the cost of auto insurance has risen nearly sixty per cent in ten years—three times as much as the cost of living. The rise is explained by Thomas Morrill, Vice President of the nation's largest auto insurance writer, State Farm.

THOMAS MORRILL, vice president, State Farm (Bloomington, Ill.). The cost of automobile insurance has gone up partly because there are many more accidents than there used to be; and then because each accident that you have tends to cost more than it did before. Medical bills are much higher, the garage repairs are higher, and all of these combine in a larger bill for our policy holders who pay the premium. Primarily it's a basis of how many accidents there are and what the costs are for each accident.

DICK MCCUTCHEN. Bradford Smith, chairman of the Insurance Company of North America in Philadelphia, makes this claim.

BRADFORD SMITH, chairman, Insurance Company of North America (Philadelphia). The automobile insurance industry over the last ten years has lost about a billion five hundred dollars in underwriting automobile insurance. Now it's been my experience that wherever you have a service to the public that is losing money you have a dimunition in the quality of the service. And the fact of the matter is that in recent years claim costs have been rising very very rapidly whereas rates have not kept pace with them at all. And the companies are simply caught in a two way squeeze between the rising claim costs and the inability to get adequate rates for the product that they're offering.

DICK MCCUTCHEN. The figure of three and a half billion cited by Bradford Smith as the loss sustained by the auto insurance industry over the past ten years is not the whole story. It does represent the difference between what the companies take in premiums and what they pay out in claims. But it does not take into account investment income—the money insurance companies make by investing funds paid in by policyholders. This turns a so-called deficit to a profit of between four and six per cent, but the companies claim that it is still a poor return for an industry which is really a major public utility charged with providing protection for the drivers of the 100 million motor vehicles on the nation's highways. And the toll is tremendous. Fifteen million traffic accidents each year; nearly four mil-

lion injuries, half of them disabling. And the total economic loss ranging from ten to twelve billion dollars.

State regulation of what is clearly a national problem is meeting with mounting criticism, and the leading critic is U.S. Senator DANIEL BREWSTER, of Maryland.

Senator DANIEL BREWSTER, Democrat, Maryland (Drving through the Negro area of Baltimore, Maryland). The whole area of the regulation of insurance companies is a very confusing one in that there is no central federal regulation. And each one of the fifty states has some different type of regulation: some stringent, and some very lax. There are some hundred million automobiles in America; Americans drive across the nation. And so if one particular state has very lax laws or no regulations of insurance companies at all, this one state will then in fact endanger the property and persons or people all across America.

DICK MCCUTCHEN. Auto insurance has become a major concern in Washington, where President Johnson has ordered Secretary of Transportation, Alan Boyd to launch full-scale investigation into the industry.

ALAN BOYD, Secretary of Transportation (Department of Transportation, Washington, D.C.). It has certainly been alleged that various classes of American citizens have been discriminated against in either higher premiums or inability to obtain insurance. One of the things we hope to do is to ascertain whether or not this is fact. The President has requested an investigation of the automobile insurance industry, primarily in an effort to ascertain for the first time on a national scale what are the facts about automobile insurance today.

DICK MCCUTCHEN. The Boyd investigation is decried by Congressman William Cahill of New Jersey, who thinks Congress should do the job.

Congressman WILLIAM CAHILL, Republican, New Jersey (Washington, D.C.). The Department of Transportation can't change anything. All they can do is to compile facts and figures that are already in existence and provide us with additional volumes of statistics which we do not need. But they won't be able to accomplish anything. Now what will really happen, I think that may do some good is this: it will give the insurance industry maybe two to three years to put their house in order before they are called upon to testify in open court before a congressional committee. So in my judgment it's a delaying tactic; it's dilatory in nature; and it will not really serve the needs as we see them to be here in this country today. It just will not get the job done.

DICK MCCUTCHEN. Senator Philip Hart of Michigan is holding renewed hearings on auto insurance.

Senator PHILIP HART, Democrat, Michigan; chairman of the Senate Anti-Trust Committee (Washington, D.C.). The Anti-Trust and Monopoly Committee had some hearings and it convinces me that there are many instances where there is arbitrary classification. That's a nicer way of saying discrimination—practiced by the automobile insurance industry. Additionally, the automobile insurance industry very many times requires a higher rate if you are, for example, a waitress or a soldier or a minister of the gospel. They say that those fellows drive as though God was taking care of them. And doctors—fine citizens in the community, but some insurance groups regard them as preoccupied. It's nice to know they're worried about our problem but it would be fairer if everybody was judged on his ability as a driver.

DICK MCCUTCHEN. Mrs. Helen Glutsch, widow, age 74, abruptly canceled out after driving forty years without an accident. An assigned risk, she now pays double for the same insurance.

Mrs. HELEN GLUTSCH. (At home in New Jersey). Well, it just so happened that I was waiting for my new policy, and I got a phone call from my broker saying "awfully sorry. I can't renew your insurance. The company won't . . . will not, reinsure you." So I was astounded at that, and I said "well, what's the matter?" So he said, "well, I've been trying to place you in another company and no company will accept you because you're over seventy. Suppose you try down where you are." Now I had insured with this broker, who happens to be my brother, for over forty years—as long as I've been driving, and I just couldn't believe it. According to these insurance companies, I'm a bad risk. When I was given an assigned risk, the State Farm Company wrote me, welcoming me as an assigned risk, and said, "if you're a good girl and don't have any accidents, why maybe you'll be taken back into the regular insurance." How on earth they could say a thing like that when I had never had a violation . . . never. Nor never did I have an accident. And here I'm put in a very peculiar situation. It's a very unkind thing to do to a person.

DICK MCCUTCHEN. Thomas Morrill, of State Farm, thinks arbitrary cancellations are a disappearing evil.

THOMAS MORRILL, vice pres., State Farm. My own opinion is that this is well behind us; that it was something that happened two or three years ago and it doesn't exist today. All the major companies and all of the trade associations of our business strongly support anti-cancellation laws, and have voluntarily put provisions in our policies which strictly limit the right to cancel. State Farm has had an anti-cancellation provision in its policies since 1960, and we regard this as the right way to do business. We think that people should feel secure in their automobile insurance.

BRADFORD SMITH, chairman, Insurance Company of North America. Well, frankly, I've read about these arbitrary cancellations. We as a company certainly don't think that we arbitrarily cancel a policy. Every once in a while I receive a complaint from a policy holder, and whenever we receive a complaint we look into it very carefully. There are times when I think that we perhaps have improperly dropped a policy or refused insurance to a person. But this is very seldom. The basic reason inevitably comes up of a risk which we feel is too high for the premium that is available to us for the policy.

DICK MCCUTCHEN. Consumer groups strongly contest the claim that arbitrary cancellations are virtually a thing of the past, and our investigation showed that the reluctance of the reputable insurance companies to provide auto insurance for all comers created a vacuum which was filled by disreputable, fly-by-night companies who wrote the required insurance at high risk rates.

Boston, the largest city in Massachusetts, one of the three states in the Union that have compulsory auto insurance. The others being New York and North Carolina. Ironically, compulsory insurance provided no remedy for John Joseph Murphy, when he and his wife, now deceased, were struck by an intoxicated woman driver five years ago. Murphy suffered severe leg injuries, but so far has collected not a penny. The woman was insured by an Illinois company and that company went bankrupt.

JOHN JOSEPH MURPHY, accident victim, Boston (At home in Boston). Well we went to Saint Augustine, my wife . . . my wife, Alice and I went to seven o'clock Mass and came out and . . . it was very cold, around six above zero. We walked up Dorchester Street. On the way up we bought a paper, the Sunday paper. And we walked up Dorchester Street to East Broadway . . . and . . . crossed over.

DICK MCCUTCHEN. The Church of Saint Augustine is a ramshackle edifice in South Boston which, on Sundays, celebrates eight masses between six a.m. and five p.m. John Joseph Murphy and his wife, Alice, made their devotions in Saint Augustne's austere lower church before heading home.

JOHN JOSEPH MURPHY (Voice over commentary). Well when I got hit by the auto and taken to the hospital, I wound up with two broken legs. And they put a rod in the right leg, and a plate in the left leg in the ankle. And I was eighteen months all tolled in bed. I used to walk with crutches, and then from the crutches, after a year on crutches, I was about a year with a cane. Now I give up the cane four months ago, and I walk pretty fair. The only time they really bother me is on a real cold day. We usually crossed at Fourth Street but we, for some reason or other we didn't; we kept going to Broadway.

DICK MCCUTCHEN. The walk continued past Thornton's Flower Shop to the crossing at Dorchester Street and East Broadway where, witnesses say, John Joseph Murphy and his wife were thrown fifteen feet into the air.

JOHN JOSEPH MURPHY. Well, we went to my lawyer, Benny Goldman, and I went to the Superior Court. And the case against Barretts, the Barretts, the woman and her husband who hit me . . . And Judge Monahan ordered us a sum of a hundred and fourteen thousand dollars. If they had fourteen cents, we can't get no money out of them.

DICK MCCUTCHEN. Murphy's lawyer, Benjamin Goldman, lays the blame squarely on one of the former insurance directors in Illinois.

BENJAMIN GOLDMAN, Murphy's lawyer, Boston. The fault in the case of John J. Murphy against the Barretts lies directly in the lap of the insurance commissioner of the State of Illinois. He knew that these companies were really fly-by-nights. He knew that they had no assets. He should never have given a license to a firm like the Multi-State Inter-Insurance Exchange.

DICK MCCUTCHEN. The city of Chicago is the center of the insurance industry in Illinois, and it also houses the State Insurance Department's Bureau of Liquidation, which handles the affairs of bankrupt insurance companies.

The Bureau's head, William Dorf, quickly found John J. Murphy's folder in the files of the bankrupt Multi-State Inter-Insurance Exchange.

WILLIAM DORF, State Insurance Bureau of Liquidation, Chicago (At State Insurance Bureau of Liquidation offices, Chicago). Yes, this is the case on John J. Murphy. He lived at 489A Broadway in South Boston, Mass. He had a claim against Multi-States Insurance Company. It's a company that went into liquidation in '63 or '64 I believe.

The amount of claim that he had filed was for over two hundred thousand dollars. In evaluating this claim, we found that the policy limits were only ten thousand dollars. There were sufficient medical documentation and the type of accident that we allowed the full limits of the policy of ten thousand dollars. The release forms for the ten thousand dollars was mailed to Mr. Murphy who signed the release forms and we hope that within the early part of '69 that there will be a dividend paid out on this estate. As an example we hope that there will be at least fifty per cent pay out on his claim which at this time would entitle him to five thousand dollars. If there are additional funds gathered later on, he will receive again a proportionate share of his claim.

DICK MCCUTCHEN. The Bureau of Liquidation Office is the graveyard of numerous auto insurance companies which have gone bankrupt in the State of Illinois. The Bureau is

currently winding up the affairs of twenty-one Illinois companies, and on a national basis, eighty-odd companies went into receivership in six years, causing an estimated loss of $100 million to 300,000 policy holders.

Ronald Baker is in an exact opposite position to John J. Murphy. Baker was at fault in an accident, and his insurance company went bankrupt. He explains the problem to a Bureau examiner.

RONALD BAKER (At Insurance Liquidation Bureau in Chicago). Well, you know, twenty thousand dollars, there's no way I can afford to pay this. Do you have any idea how long this is gonna take before something will happen?

CLAIMS EXAMINER. Well, Mr. Baker, you find yourself in the unfortunate position as so many others involved in these insolvencies.

DICK MCCUTCHEN. Baker, who works in a Pizza Parlor hears that it may be many a long day before he receives a penny from the bankrupt estate of the Bell Mutual Casualty Company.

RONALD BAKER. To me, I can't understand how they can do that.

CLAIMS EXAMINER. What is going to have to happen is this—all of the claims that are filed by all claimants against the Bell Mutual Casualty Estate will have to be evaluated by the claim examiners in the office of the Bureau of Liquidations.

RONALD BAKER. Well see now, this fella that wants to make the settlement, he will not take a settlement on time payments. And I can't pay this fellow the money that he is asking, he wants cash. Now what can be done?

DICK MCCUTCHEN. John Bolton, Insurance Director for Illinois, is a man who intends to get things done.

JOHN F. BOLTON, JR., insurance director, State of Illinois (Chicago). I think that one of the basic problems has been that Illinois probably had suffered from a series of poor or weak regulators; that the laws that were on the books were not being efficiently regulated by the persons who were in charge of the Department of Insurance. I think that that has been corrected since. We have found that here in Illinois the combination of poor management, sometimes outright thievery, and sometimes a refusal or a lack of knowledge to properly reserve their claims, that these companies are, and were becoming insolvent because of a lack of knowledge. We have now passed and will continue to proceed to make companies properly reserve their claims. We have had hearings since the last legislature, and we are about to put into force new rules and regulations on claim reservations which we feel will in the end run make the companies as solvent, and able to do business in our state, and to maintain their business.

DICK MCCUTCHEN. From Illinois, which has a bad record for regulating insurance companies, to New York, which has a good one.

The man responsible for regulation is State Insurance Superintendent Richard Stewart.

RICHARD STEWART, superintendent of insurance, New York State. The main ways we regulate insolvency are by the regular examination of insurance companies. We have 385 accountants and mathematicians on our staff who do nothing but perform these very detailed examinations of the companies. In addition, we audit the annual statements of the companies to assure that they're maintaining adequate reserves in other funds. No federal, no state agency regulating a complicated financial institution has ever figured out a way to bat a thousand. Our batting average has been very good; we've had three insurance company failures in the last thirty years. No one has lost a nickel in these insolvencies. And one of the reasons for it is that many years ago the New York State Legislature set up a security fund which now has $115 million in it to stand behind every single claim for accidents occurring in New York State where a New York licensed insurance company is involved.

DICK MCCUTCHEN. In Greenbelt, Maryland, which is not far from Washington, a sad little girl named Pamela Vaughn is the victim of another menace created by the present system—the uninsured motorist. Pam, who is ten years old, was knocked down last year near her former home in Washington by an uninsured motorist, who was subsequently arrested after leaving the scene of the accident. Though her body was badly mutilated, she'll receive no damages because the motorist is indigent. He was but one of the ten million uninsured motorists in the United States. Motorists allowed to drive with no financial responsibility in some states.

The Vaughn family hails from Kentucky. The father, William Vaughn, is a carpenter. He left Kentucky for the Washington area in the hope of better wages to give his family a better life.

(Vaughn family at their home in Greenbelt, Maryland.)

Mrs. WILLIAM VAUGHN, Greenbelt, Maryland. I heard this scream that Pamela had been hit by a car. Her Dad was asleep. I went in to wake him up, and by the time I got to the back door, she was standing there completely covered in blood, her clothes torn off of her, both knees were gaping holes; one hand—the tips of her fingers were ground completely off; one thumb was torn almost off. And she began screaming, "Mommy, am I going to die?" Now you pick it up from there.

Mr. WILLIAM VAUGHN. More or less by chance I found the man that ran my little girl down. He just happened to cross in front of me at the time I was taking her to the hospital. And she recognized as the car being something like the one that ran her down. And that's when I stopped him and questioned him about it. He was in a shock position physically I'd say, and he appeared to me as to be drinking, but I wouldn't say that he was a drunk man. He was scared, and he didn't give me any reason for leaving the scene or for why that he had ran my little girl down. And I still just can't understand it.

Mrs. VAUGHN. She is a spunky little girl. She does have nightmares, waking up screaming that she has blood on her hands. And I try to reassure her that she's home, and she's all right. She walks in her sleep now which she never did before. Some mornings it's two o'clock in the morning; I'm back there talking to her trying to get her to go sleep and reassure her that she is all right.

Mr. VAUGHN. We have checked every means we can, and as far as we can find out, the lawyer has informed us and everybody that we have talked to that even if we got judgment against him, it wouldn't be worth the paper that it was wrote on, and it would just be shelved and forgot about. And there's not any chance of us getting anything out of the fellow at all.

Mrs. VAUGHN. I feel very bitter to those that it is their duty to see that every person that gets behind the wheel of a car has to be insured. And I think it's a pleasure to drive a car, and I think a law should be passed all over the United States that anybody that drives a car should be insured to the fullest.

DICK MCCUTCHEN. The appeal by Mrs. Vaughn raises the question of federal regulation, a concept which has gained increased acceptance in Washington. Another factor influencing members of Congress is the charge that some companies are blacking out whole areas of major American cities. In effect, refusing to write auto insurance for Negro and other minority groups. A leading proponent of this charge is Congressman William Cahill, Republican of New Jersey.

Congressman WILLIAM CAHILL. One of the things we've been finding here in Washington has been a great deal of discrimination on the part of the automobile liability insurance companies. And we found for example that they discriminate against persons who are over a certain age or under a certain age; discriminate against persons of certain color; discriminate against persons who have certain occupations. And one of the most glaring, I think, examples that we've received has been a map that was forwarded to us as an illustration of how some of the companies are discriminating against entire cities. This happens to be a map of Milwaukee, Wisconsin, and in certain areas here that have been blocked out, the insurance companies refuse to insure anyone in that area. In other sections that are blocked out, they will insure but only after an intensive personal investigation, and usually at higher rates. And so this is a case where a very safe driver who lives in one section of the city may not be able to get liability insurance, and another driver who is an un—careless driver, may be able to get it just because he lives in another part of town. So there's been a tremendous amount of discriminatory practices by the insurance companies of this country in the automobile liability field.

DICK MCCUTCHEN. The charge of discrimination against whole segments of the population is echoed by U.S. Senator Daniel Brewster of Baltimore, on a tour of the Negro slum area of Baltimore, a city in which 41 per cent of the population is black.

Senator DANIEL BREWSTER. We're now in the heart of old Baltimore. Many of these homes here are a hundred years old and more. They're mostly inhabited by non-white groups; they're crowded with many families in the same building. Much of this part of our town should be rebuilt and hopefully will be some day. But in the meantime, the living conditions in this part of Baltimore are far from the best. This creates a very serious social problem. These people are unable to get insurance; when they have an accident their home is jeopardized by judgments that people obtain against them; and in many ways it tends to break down a stable economic society. These people feel that our economic structure does not protect them. And in my judgment clearly something can and should be done. These people have a perfectly terrible time getting insurance. And many of the areas, the areas themselves are blacked out by all major companies. In other words, automobile insurance just simply isn't available to them. In other areas there are abrupt cancellations where the people are forced to go to a limited number of companies that will write automobile insurance policies, but at extremely high cost and then for only a limited period of time. This causes many problems. The people least able to pay are forced to pay the highest rates for automobile insurance, if they are able to get it at all.

DICK MCCUTCHEN. Senator Brewster later discussed the problem with residents of the area.

Senator DANIEL BREWSTER. Mr. Harell, I understand you've had some problems with automobile insurance. Tell me about it.

Mr. HARELL, Negro area dweller. I think my biggest problem is that my insurance will cost more than my automobile will, and surely I paid $450 for my automobile, while driving a hundred and fifty, two hundred dollar car. My most biggest problem, I think, he's charging me by the neighborhood I live in and the crime that's going on instead of charging me as . . . because I have no traffic violations or no moving or, you know, just nothing to do with cars in a wreck or anything. So I don't understand that.

DICK MCCUTCHEN. Insurance companies do not admit the existence of black-out areas, nor do they deny it.

BRADFORD SMITH, chairman, INA. Frankly, I don't think that you properly could call it discrimination. There's no discrimination in the sense that you pick out any one individual and discriminate against him. It's simply a case of whether or not the insurance company can afford to provide the insurance protection that is required by the individual. Frankly, insurance companies don't walk away from a profit. And after all, the profit motive is the thing that makes our business go around. And why the people feel that insurance companies deliberately wish to do harm to an individual, it just isn't so. We're eager to provide insurance protection, but we also have to recognize the ordinary business facts and be able to obtain a reasonable chance of profit in the underwriting of the business.

THOMAS MORRILL, State Farm. Now everybody should be able to obtain automobile liability insurance in order to protect themselves against the claims that they may receive from others because of the use of their automobiles. But if you will look at the other side of the coin, which is damage to the automobile itself, I think you can see that insurance companies are reluctant to write vandalism insurance or theft insurance in high vandalism and crime areas. This is simply a matter of economics. And if they were to write insurance freely in those areas the cost would have to be passed on to the general population.

DICK MCCUTCHEN. The tort liability system under which auto insurance operates in the United States is firmly rooted in the centuries-old common law. An injured person judged to be at fault receives nothing, even though his injuries may incapacitate him for the rest of his life, and law suits for damages clog the nation's courts. A radical change has been called for. A change to a system of basic protection, whereby an accident victim would automatically be compensated by his own instead of the other man's insurance company, regardless of fault. It would work in much the same way as fire insurance, and the most recent basic protection plan has been put forward by two law professors—Robert Keeton of Harvard, and Jeffrey O'Connell of the University of Illinois.

The plan calls for a driver's own insurance company to pay out-of-pocket losses up to ten thousand dollars for each person involved in an accident. A small additional premium would purchase non-fault collision insurance, and it would largely do away with the traditional common law award for pain and suffering, that intangible factor which now accounts for 60 cents in every dollar paid out on auto accident claims. The plan would also eliminate most jury trials and unclog the courts, according to Professor O'Connell.

Professor JEFFREY O'CONNELL, University of Illinois. I think the insurance industry is beginning to see the handwriting on the wall; they're beginning to see that the present system is not making them as much money as they should be making; they're beginning to see that the present system is causing tremendous antagonism toward them on the part of the public, on the part of legislators, on the part of regulators; the industry is seeing that their commitment to this system is leading them to disaster. We want to make automobile insurance really like accident and health insurance, or like fire insurance, whereby after an accident your own insurance company which does have a loyalty to you pays you for your out-of-pocket loss, which, as I've said, is readily-easily-determinable, and pays you without reference to who was at fault in the accident.

DICK MCCUTCHEN. Bradford Smith is one of the few insurance leaders who favor the Keeton-O'Connell plan in principle.

BRADFORD SMITH, INA, chairman. Well, I think that the present tort system has been pretty clearly outmoded by the current situation on the highways and the accidents that are occurring on the road. You know last year we killed about 53,000 people on the highways in the United States, and this is a situation that just cannot be allowed to continue. But, moreover, there's the great difficulty of the reparations for those that are injured or killed on the highway. And this basic protection plan that's being discussed today is probably one of the best answers that we can devise to the current problem.

JAMES KEMPER, Jr., president, Kemper Insurance Group, Chicago. We had a special study group that spent six months studying a plan and considering the points that had been raised in the workshop sessions. And at the conclusion, we decided from our studies that there were at least twelve very fundamental and basic defects in the Keeton-O'Connell Plan. Since then we have taken a public position opposed to the Keeton-O'Connell plan based on our studies. For one thing, it is probably unconstitutional. And you would have a very difficult legislative and judicial problems if the plan were enacted even in one state. More importantly, it's claimed for the plan that it would reduce the cost of automobile insurance. One claim that's commonly been made is that it would reduce the cost about twenty-five per cent. The studies by our actuaries, and incidentally by state insurance department actuaries, indicate that this is not so, that there is considerable doubt whether there would be any decrease in insurance rates or insurance costs as a result of the Keeton-O'Connell Plan, and as—a matter of fact, they might well be increased.

Professor JEFFREY O'CONNELL. Now of course actuaries may argue about the precise nature of . . . extent of the savings. But the conservative actuarial study that we've done confirm that there will be savings. And when you eliminate duplicating payments from other sources: when you make the insured event much simpler and more easily determinable, costs are going to be cut.

DICK MCCUTCHEN. Accident trial lawyers such as Jacob Fuchsberg of New York who achieved a record million dollar award in an auto liability-case, are the arch opponents of the Keeton-O'Connell plan. They see it not only as a threat to a highly lucrative form of income, but also as a threat to the hallowed principles of jury trial and individual rights under the common law.

JACOB FUCHSBERG, New York plaintiff trial lawyer. The trouble with the Keeton-O'Connell plan is that once it is shorn of its public relations phrases you find that it talks in terms of giving benefits to everybody, but what it really does is take away benefits that most members of the public presently receive. For instance, under Keeton-O'Connell, a man, a woman, a child would receive nothing for pain and suffering in most cases. They would receive nothing for a crippling injury. They would receive nothing for scarring. Now that's not justice. Justice requires that each person receive according to the merits of his claim and according to the extent of his injuries a full and fair recompense. That's what justice means. The other thing is merely a welfare hand-out. And if we want to go to a welfare hand-out state, then we go to Keeton-O'Connell.

Professor JEFFREY O'CONNELL. The basic problem with automobile insurance is that the insured event is too complicated. It's too difficult deciding whether money should be paid to a traffic victim. Keep in mind that the lawyers are themselves precluded from arguing that the present system pays people promptly or expeditiously or in a widespread and fair manner. The lawyers today charge a third of what is paid to traffic victims as their fee. Now that is a savage cut.

JACOB FUCHSBERG. The figures actually are that less than ten per cent of the premium dollar goes to the payment of lawyers, because most cases are settled without lawyers, and the most that most lawyers get in the cases that are litigated are one third—and of course lawyers do not get paid a dime under the contingent fee system in cases that are lost.

THOMAS MORRILL, State Farm. There's certainly no reason why we should be against the elimination of contingent fees. But this is the law in America. And as long as it is the law our premiums will have to have a padding in them to take care of the lawyers' fees that are paid out. We didn't make the law; we cannot change the law. As long as it's the way it is, our ten million policy holders are going to need to be protected against the contingent fees that may be run up against them as a result of an automobile accident.

Professor JEFFREY O'CONNELL. The problem of court congestion—perhaps two thirds of the civil jury docket in most of our major metropolitan areas are taken up with automobile accident cases, and it takes three or four or five, or in Chicago even six years to get a personal injury jury trial. And this whole system has led to a lot of corruption. A lot of people are prompted to recreate a traffic accident to arrange so that they were not at fault and the other side was at fault, regardless of what happened, because they know unless they do that they won't get paid. And this creates cruel temptation to mislead, to misrepresent, and indeed to indulge in outright perjury.

PHILIP CORBOY, Chicago plaintiff trial lawyer. Courts are made for society. The accusation that accident cases clog the courts is made by people who are not part of the system. The divorce calendar of our court system is clogged by divorces; the criminal calendar of our system is clogged by crimes; the tort side of our calendar is clogged by automobile accident cases.

Professor JEFFREY O'CONNELL. Lawyers I think also are convinced emotionally that this system makes sense. I think that they delude themselves. They think it's fair to make people pay on the basis of fault. They overlook the fact that the person who's at fault doesn't pay at all; his insurance company does. They think it's fair for everybody to have a right to have these things settled by litigation and by jury trial. They overlook the fact, I think, or certainly seem to overlook it, that you have to wait three or four or five years in most metropolitan areas to get that hearing—undercutting the value of the right. I think the lawyers frankly have blinded themselves to the evils of this system as it affects the public. Because, to put it very bluntly, they are doing pretty well under it.

DICK MCCUTCHEN. The Keeton-O'Connell Plan is at the center of controversy—in the United States. But in the Canadian province of Saskatchewan, a basic protection plan run by a government agency has been working economically for the past 22 years. In Saskatchewan, every motorist must purchase auto liability insurance with his license plates. And the rates are standard regardless of whether a driver lives in the country or the city. The average motorist past $65 a year for coverage up to $35,000 including collision insurance.

Regina, the capital of Saskatchewan, is a bustling little city about 100 miles from the U.S. border where North Dakota meets Montana. There are 500,000 cars in the province, and some of them end up in salvage yards like this one at the state Claims Service Center in Regina. The government insurance agency operates a profitable sideline, by stripping total wrecks of serviceable parts

and selling them to a tune of one million dollars a year. The Claims Service Center is busiest early on Monday mornings, when tow trucks start hauling in the weekend casualties. They make a grizzly procession as they line up in the light of dawn.

Prompt settlement on collision as well as liability claims is the policy of the agency, and the damaged cars come in promptly. Claims Service Centers are strategically placed throughout the entire province in such cities as Moose Jaw, Swift Current, Prince Albert and Saskatoon. Saskatchewan authorities say that the Service Claims Center has virtually eliminated fraud and bill-padding in repairing automobiles. To be compensated, the owner of a damaged car must take it to the center before his claim can be met, and if the car is not too badly damaged, the motorist drives it into the center himself.

Mr. and Mrs. F. Coyle of Regina were involved in an accident only thirty minutes before this film was made.

(Scenes at Government Service Claims Center, Regina).

On arrival at the Claims Service Center, the car was immediately examined by an estimator, a master mechanic who makes a preliminary assessment of the damage. Relatively minor in this case.

The Coyles now head for the Center's office section, where an adjustor will process their claim.

The estimator now begins a detailed examination of the car before making out his report on the total damage.

ESTIMATOR. We give him an estimate. This would require a repair panel on the front door, door molding, door glass, locker molding and left front fender molding. Repairs . . . there would be repairs to the left front fender, repairs to the . . . panel and painting would be required for the left front fender and the left front door. This gentleman could take his car to the garage of his own choice.

ADJUSTOR. Now you were in the intersection when you saw this car on your left.

DICK MCCUTCHEN. For Mr. and Mrs. Coyle, the interview with the adjustor who will make a decision in their case, will not last more than ten minutes.

ADJUSTOR. Did you apply your brakes to stop or did you try to clear the intersection?

DICK MCCUTCHEN. The adjustor first establishes the details of the accident and he must determine which party was at fault, since in collision insurance, the driver who caused the accident must pay a $200 deductible. This was not the case in the accident involving the Coyles.

Mrs. COYLE. Well he was, at the beginning about . . . I would say about the lane. Like at the house coming this way. I just got in here and he seemed to be coming, when I saw him, he would be about at the back of the corner house.

ADJUSTOR. This is lengthwise? . . . a hundred and seventy-five feet? The other man has reported and his registration and operators are in order, and he's been charged by the city police for failing to yield the right of way. So you can just proceed, then, to have your car fixed, and submit the bill to us and this'll be paid as property damage claim on the other man's license plate . . .

Mr. COYLE. There's no deductible on our plates.

ADJUSTOR. No deductible will apply on your car in this case. . . . Everything looks to be in order.

DICK MCCUTCHEN. The case is now virtually settled. The Coyles may now take their damaged car to the garage of their choice in Regina where repairs will be made at rates considered reasonable by the Government Insurance Agency. The garage bill is normally paid in not more than three weeks. The whole matter settled in contrast to a frequent lag of months or even years in the United States.

The Government Insurance Agency is housed in a former private insurance building in Regina, and here claims for personal injuries are processed and settled.

John Green, a blind Saskatchewan lawyer, is the much respected father of the Saskatchewan Plan.

JOHN GREEN, lawyer, Saskatchewan. When the inter-departmental committee was formed by the government of Saskatchewan in 1945, I was asked to become a member of that committee. I was subsequently charged with the responsibility of drafting the legislation. As a result of my work with the committee I became firmly convinced that the existing laws relating to the adjustment of the interests of the people involved in automobile accidents was inadequate, and there had to be a new approach.

JAMES DUTTON, general manager, Government Insurance Plan, Regina, Saskatchewan. We return about 85 cents on every dollar premium paid in pure claims. That is in claims benefits itself. The remaining part which is the cost of administering the business also includes adjusting cost. Now we also have another feature in that the interest on money invested—that is the monies that we take in for premiums of course is invested until such time as it is needed to pay claims. Now the interest earned on this money is plowed back into the fund to enable us to keep the rates low.

DICK MCCUTCHEN. In Saskatchewan's Parliament, opposition socialist charges that the liberal government plans to sell out the plan to private enterprise are answered by Premier Ross Thatcher.

ROSS THATCHER, Premier of Saskatchewan. We have had propositions from the private sector asking to be able to compete. They have promised us that they will accept insurance from anyone in the province at rates no higher than the government plan. They have also told us that in the rural areas they can cut prices by ten per cent. Now we believe there must be compulsory insurance; we believe everyone must carry it. But if we find that the private sector can compete, we likely will permit them to do so, though no decision has yet been made.

You say that the socialists have charged us with selling out the people of Saskatchewan. I would say that's pretentious poppycock. Our government is just as interested as any socialist in doing what is right for the people of Saskatchewan. And we're going to see what system will give the best insurance to our automobile owners; that's all we're trying to do.

DICK MCCUTCHEN. Socialist opposition leader Allen Blakeney, opposes any role for private insurance companies in the plan.

ALLEN BLAKENEY. Socialist opposition leader, Saskatchewan. Well, I think it would be very unfortunate if any portion of the plan were turned over to private industry. Certainly I'm not suggesting that the plan is so efficiently run by the government that private industry couldn't run it possibly as well. This is not the point. The point is that in order for the plan to be effective, it must be a unit. It can't be split up in pieces and achieve the same result.

DICK MCCUTCHEN. The government plan is now the center of controversy. Premier Thatcher, and opposition leader Allen Blakeney agree, however on one thing.

Premier ROSS THATCHER. I think that the Saskatchewan plan, which, in essence, is compulsory insurance, could be applied anywhere. And I repeat I think it would give people in New York State or anywhere else cheaper insurance. It could be done through a government plan or it could be done through a consortium of private companies. As long as the insurance is sold with the license, as long as there is no selling expense, you're going to have cheaper insurance.

ALLEN BLAKENEY. The savings in adjusting costs would be available in New York; the savings in much less litigation would be available there; the savings in administration costs by reason of the large volume of business in one locality would be there; in fact all the basic reasons why this plan is successful in saving the motorist's dollar would be equally as applicable in Boston and New York as they are in Saskatchewan.

DICK MCCUTCHEN. A system of basic protection that, according to Premier Ross Thatcher could work well in the United States.

Your Dollar's Worth obtained average auto insurance rates from all over the country. We took a typical family—man, wife and 18 year old son with driver training. Their car, a 1966 Pontiac Bonneville. Their policy—25–50 and 5. Twenty-five thousand dollars for one person injured in any one accident, fifty thousand dollars for all persons injured, five thousand dollars for property damage. The rates charged reflect an average of the old line agency companies, such as Hartford and Royal Globe, who sell through independent agents, and we found remarkable differences charged for the same insurance.

In Atlanta, it was $122; in Dallas $152; in Los Angeles, a jump to $222; in Chicago $274; in New York City $302; in Boston, a huge $406. With rates in Massachusetts the highest in the nation.

Then we took the same family with the same 18 year old son and the same car in Atlanta, Georgia, where rates are among the lowest in the nation. This time, we obtained slightly higher property damage coverage—25–50 and 10. Twenty-five thousand dollars for one person injured in any accident, fifty thousand dollars for all persons injured; ten thousand dollars for property damage. We contrasted rates charged by a mail order company with those charged by old line agency companies and direct writing companies—companies which sell auto insurance directly through their own employees, and there was a fairly wide variation. The cheapest, Geico, mail-order, $110; Cotton States, a local insurance company, $117; State Farm, direct writing company, $128; All-State, direct writing, $131; Fireman's Fund, an agency company, $145; Aetna Life and Casualty, agency company, $159.50.

. . . what they seem. The fact that price is not the only consideration in buying auto insurance is explained by Robert Klein, of the Consumer's Union.

ROBERT KLEIN. Consumers Union.

A high priced auto insurance policy with the same coverage as one that costs less doesn't necessarily give you better quality. The quality of automobile insurance depends on whether the company has a propensity to cancel you out, on how promptly and fully it pays its claims that you make against it, and thirdly how careful it is about settling claims against you as the wrongdoer.

How you shop for automobile insurance—indeed, whether to shop for it all—depends on who you are. A high risk driver, one whose insurance premiums have been increased because he's had an accident, or who has had repeated traffic violations, better not shop around; he better hang on to what he's got. However, a large part of the motoring population represents the cream of the market to automobile insurance sellers—they should shop around because there can be considerable variations in price, and if you know how to compare prices you can save a great deal of money over the years.

Comparing the price of automobile insurance policies isn't the easiest thing in the world to do. First you have to know what you want to buy and you have to make sure that the policies being compared offer approximately the same coverages. Once you've

ascertained that, it isn't difficult to get quotes from companies. You can save yourself time by getting quotes from only one company and then what are called the Bureau Company groups. They all charge the same prices. Then price insurance from some of the large mail order companies such as Geico and from some of the large direct selling companies such as Liberty Mutual and State Farm. You may find that you can save a good deal of money.

Choosing the insurance company is a very difficult and probably impossible job. Should you buy from one of the old line companies such as the Aetna, the Hartford or one of the several hundred others, or from one of the bigger independent companies? There's no way of knowing. Their quality may be better or worse regardless of type. One thing though that some motorists ought to take into consideration is whether to buy from an agent. When you're getting on in years or if you may have trouble renewing your policy, a good agent can be of some considerable help to you, especially if you also have placed other types of insurance with him—life insurance, home owner's insurance, health insurance, all your business insurance. If you have and you're a good customer, that agent may go all out for you and with his bargaining power get you coverage you might not otherwise be able to get.

DICK MCCUTCHEN. We have seen that there are still a few things the dissatisfied auto insurance customer may do to get a better deal, but industry leaders and critics alike now seem agreed that a radical change is needed in the system itself. The question is, what change, and on this there is no general agreement.

We have seen how a compulsory system of basic protection works well in Saskatchewan, Canada, and it may well be that the concept of basic protection could serve as a guide for planning in this country.

A move for federal regulation is gaining ground in Congress. The problem has now reached a point where industry leaders themselves agree that the present system is failing to provide what Americans need most, auto insurance that will compensate accident victims quickly, fairly and at reasonable cost.

I'm Dick McCutchen. Good evening.

This program was produced for National Educational Television in April 1968.

ANNOUNCER. This is N.E.T., the National Educational Television Network.

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## EDWARD BENNETT WILLIAMS ENDORSES GUN CONTROL LEGISLATION

Mr. DODD. Mr. President, yesterday, at Georgetown University Law School, Edward Bennett Williams, who is widely recognized as one of the ablest trial lawyers in our country, delivered a speech that sets forth, better than any other statement that I have come across, a philosophy of law appropriate to our times.

He pointed out that he was speaking on the eve of Law Day, the theme of which is "Only a Lawful Society Can Build a Better Society." This might very well have been the subject of his own speech.

Dealing with the question of our spiraling crime rate, Mr. Williams said:

Seventy-five percent of all the crimes of violence committed in this country last year were committed by youths not yet born when I walked across this stage as a law graduate in 1945. And 75% of those crimes of violence are being committed in the inner cities of the nation.

It is "superficial hokum," Mr. Williams said, to blame the rising crime rate on recent Supreme Court decisions. He said that no youthful delinquent who holds up a store or mugs a citizen on the street or steals a car does so because of "Miranda, or Escobedo, or Mallory, or Gideon, or Mapp." And he pointed out that "we are still convicting in 1968 the same percentage of those we arrest as we did a decade ago"; and that "we are still getting substantially the same percentage of confessions as we did before Miranda and Escobedo."

Mr. Williams had some specific recommendations for the fight against crime. He said the fight against poverty and discrimination and for better schools and medical care was an essential part of the war against crime. He called for a dramatic increase in the size and quality of our metropolitan law enforcement agencies. And he urged that measures be taken to speed up the archaic American criminal process.

Mr. Williams final recommendation for the fight against crime was that Congress move to enact the long-pending gun legislation. Let me quote his exceptionally eloquent statement on this point:

We must at long last get Congress to stop cowering before the gun lobbies. As long as there is no effective gun control legislation in this country, violence will be so much the harder to contain.

We must have legislation requiring registration of all handguns, rifles, and shotguns. We must require every person who would possess a handgun, a rifle, or a shotgun to obtain a permit, and we must legislate stringently to inhibit the possession of firearms by minors, by drunkards, by addicts, by mental incompetents, and by persons with felony records.

When the Congress gets the courage to stand up to the National Rifle Association, it will have taken its first significant step toward the suppression of violence in the cities.

Mr. President, I ask the unanimous consent that the complete text of Mr. Williams' speech be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

GEORGETOWN UNIVERSITY, APRIL 30, 1968

This morning marked for many of us the confluence of an old dream with fresh reality. We cut into the earth to begin the creation of our magnificent new Law Center.

We chose for the place a site between our courts of law and the area of our most pressing urban problems.

We chose for the time the eve of a Law Day, the theme of which is "Only a lawful society can build a better society."

This is symbolically congruous for a law school that has been the nation's pioneer in its concern for legal aid to the poor and for problems of urban turbulence.

As we begin this new era in Georgetown Law School history, our times are like the times Dickens described at the beginning of his book, "the best of times and the worst of times." It's the worst of times because never before has our society been so challenged in preserving order while retaining its liberty. It's the best of times because to our generation of Americans more than to any other has been given the opportunity of showing the world that liberty and order are compatible concepts.

From every quarter we hear and everywhere we read that crime in America is on the rise, that we are in the vortex of a violent era. Law and order have been on holiday and they've overstayed their leave.

The President's Crime Commission began a report which, with its supporting documents, runs over 2,000 pages with these ominous words:

"There is much crime in America, more than ever is reported, far more than ever is solved, far too much for the health of the nation."

But crime is a broad generic term that standing alone means very little.

A gangland murder by a mafia don is a crime. So is the wily manipulation of a stock by a Wall Street broker.

Doing in an unfaithful husband by an irate harassed housewife is a crime. So is disorderly public drunkenness by a Bowery bum.

A dark park mugging by a 15-year-old delinquent is a crime. So is the misapplication of funds by a Chase Manhattan vice president.

These crimes can no more be lumped together for analysis than chicken pox and manic depressiveness or throat cancer and a fractured tibia.

The alarm of the nation is bestirred by the kind of crime that takes the form of violence in the streets—yokings, robberies, assaults, burglaries, thefts, and lootings.

My children think that I'm a rather decrepit old codger. I don't think they're right. I can still run as fast as they. I can play all their sports. And I don't puff much harder than they at the end. It's only 23 years since I received my Bachelor of Laws degree on this very stage.

But the galvanizing fact is that 75% of all the crimes of violence committed in this country last year were committed by youths not yet born when I walked across this stage as a law graduate in 1945. And 75% of those crimes of violence are being committed in the inner cities of the nation.

In short, violence and disorder in America are ineluctably related to two very specific sociological concepts, the increasing urbanization of our population and the increasing number, restlessness, and restiveness of our youth.

Why is there so much street crime? Why is there so much disorder? It's currently popular canard to blame it all on the Supreme Court.

"The Court has gone too far. It has overemphasized liberty and created disorder," cry the critics.

This is superficial hokum—demonstrable humbug. It is initiated by the forces of reaction, poll parrotted by the uninformed, and can be exploded by a cursory resort to the facts.

It is true that in the past decade and a half, the Court has moved the cause of freedom forward. In a series of great, broad gauged, humanitarian decisions, it has held that American citizens who pay the same taxes, give obedience to the same laws, pledge allegiance to the same flags, fight in the same wars, and die in the same battles might also go to the same schools, vote in the same elections, live in the same neighborhoods, sit on the same juries, and swim at the same beaches.

It has held that those rights carved out by the people for themselves when they formed this government—those rights spelled out in the first ten Amendments to the Constitution—belong not only to the affluent but also to the indigent, not only to the sophisticated but also to the guileless. It has secured all the citizens against lawless law enforcement.

To say that these decisions caused crime is demonstrably vacuous. Together we can go to the precinct stations of America tonight—downtown in Washington, in New York, in Chicago, in Los Angeles. We can stay for a

month or two or three. And we won't find one young delinquent who has held up a liquor store or a filling station, or who has mugged or yoked a citizen on the street, or who has stolen a car, who did it because of *Miranda*, or *Escobedo*, or *Mallory*, or *Gideon*, or *Mapp*.

What is more, we won't find one who has ever heard of any of these decisions. We won't find one who gave a fleeting thought to his Constitutional rights or to criminal procedures before he went into the street for his mischief. They all work on one premice—*they won't get caught*.

Furthermore, the record remains the same.

We are still convicting in 1968 the same percentage of those we arrest as we did a decade ago.

We are still convicting in 1968 the same percentage of those we indict as we did a decade ago—about 90%.

We are still getting substantially the same percentage of confessions as we did before *Miranda* and *Escobedo*.

A former United States Attorney for the District of Columbia summed it up neatly when he said that advocating the overturning of these decisions to stem the rising crime rate is like prescribing an aspirin for a tumor of the brain.

Our system of criminal justice can deal with individual instances of crime after an accusation has been made, but is wholly irrelevant to the conditions in which crime is breeding at an ever accelerating pace. I'm talking of poverty, ignorance and illiteracy, discrimination, the breakdown of the family unit, the breakdown of our moral structure and religious tradition, and the collapse of self-discipline with the consequent collapse of child discipline.

These are the conditions of America's ghettos where a generation has grown up unstimulated, uneducated, unmotivated, untaught, and unwanted.

Warring against poverty is warring against crime.

Money spent for schools, for medical, family counselling, and psychiatric services is money spent against crime.

Fighting against discrimination is fighting against crime. There is an Old Testament prophesy of the "sins of our fathers being visited upon the third and fourth" generations. We are inheriting the legacy of hate and shame resulting from generations of political disenfranchisement, educational denial, and economic exploitation of our black population. The heritage is the lava of bitterness and frustration that is erupting in our cities and pouring down our streets. Equal justice under law is not enough. We shall have no rest until we recognize that equal respect, equal opportunity, and equal acceptance are the patrimony of every American.

Every effort to improve our inner cities is money against crime. We must right the wrongs, cure the illnesses, and stem the moral decline that tempt men to harm their neighbors. It is a task for church and state.

We must be prepared to deploy billions of dollars annually to our inner cities as quickly as we disengage in Vietnam and we must be reconciled to the fact that we have a decade of work ahead to turn the tide.

But there are some specific steps that we can take now to contervail the show of violence, even while we begin the long-range task of ferreting out its root causes.

I propose three immediate actions.

First, I submit to you the time has come to eliminate the archaic and unexplainable slowdown of the American criminal process.

Nothing in our jurisprudence is more difficult to explain or justify to the inquiring intelligent layman than the fact that after a defendant has been convicted of a felony by a jury of his peers there is often a delay of two years while he pursues his appeal before he faces the day of reckoning. This outrageous slowdown more than any other single factor puts our system into disrepute.

If punishment is a valid objective of the criminal process, it is effective only if it is swift.

The time has come for us to examine carefully into the English system—to look long and hard at the British Court of Criminal Appeal—and borrow from the English what is fitting and proper for our own use. We know that a defendant convicted this afternoon in Old Bailey will be in the Court of Criminal Appeal in four weeks and his case will be decided and the opinion rendered the same day.

Surely we can learn from this and speed up our lagging appeals procedures.

Second, we must give doleful recognition to facets of the problem about which the courts can do nothing, because, although they relate to crime in the streets, they concern cases which never get to court.

Eighty-seven per cent of the crimes in America last year involved thefts of property.

There were, for example, 1,370,000 burglaries of either homes or business establishments. Only 25% of these were solved by the police.

There were over a half million car thefts. Only 20% of these were solved by the police.

There are 40,000 separate law enforcement agencies in the United States. But fifty of these, the big metropolitan police forces, employ a third of all police personnel.

The time has come to increase these in size dramatically. The time has come to upgrade them in quality markedly. Police salaries must be raised and the urban departments expanded. A massive program of federal subsidies in the form of matching grants must be initiated immediately to excite the cities to act in this direction.

Third, we must at long last get Congress to stop cowering before the gun lobbies. As long as there is no effective gun control legislation in this country, violence will be so much the harder to contain.

We must have legislation requiring registration of all handguns, rifles, and shotguns. We must require every person who would possess a handgun, a rifle, or a shotgun to obtain a permit, and we must legislate stringently to inhibit the possession of firearms by minors, by drunkards, by addicts, by mental incompetents, and by persons with felony records.

When the Congress gets the courage to stand up to the National Rifle Association, it will have taken its first significant step toward the suppression of violence in the cities.

Dr. Albert Schweitzer just before he died articulated the real challenge of our generation. In his primitive jungle hospital in Africa, he declared we were living in the most dangerous period in history—not just modern history—but all human history. Why? Because heretofore the forces of nature have exercised a control over man, but now man has learned to control the elemental forces of nature before he has learned to control himself.

In a free society, control and order must be obtained with the tools of freedom. Our freedom is the end product of a myriad of episodes—a gradual growth of habits and attitudes. Tho' it was born on a revolutionary battlefield, it has had its growth and evolution in our courtrooms. No one event has marked its victory . . . no one event its decline. Its vigor or its weakness is often marked by a pattern of events so small as to be nearly invisible in the total mosaic of democracy. But this is certain—on the eve of Law Day, 1968—the state of liberty in America is robust and vigorous, and we must keep it that way.

We must meet the problems of disorder, the crises of our cities, not by surrendering any of our civil rights or our civil liberties. It would be a cruel paradox if to restore order we abridged freedom, for then like the heroes of Shakespeare's tragedies we should have been our own undoing. Rather we must meet the problems of urban turbulence by righting the wrongs, curing the ills, and eliminating the causes that move men to violence. We shall not reach our goal today or tomorrow. We may not reach it in our own lifetime. But the quest to restore order while preserving liberty intact is the greatest adventure for the lawyer in this century.

It's the great domestic adventure for the democratic society in our generation—an adventure in which the new Georgetown Law Center, its great Dean, its fine faculty, and its dynamic student body will again manifest their primacy.

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## C. RICHARD ECKEL

Mr. RIBICOFF. Mr. President, it is with sadness that I comment upon the death of a young newspaperman from my State of Connecticut.

C. Richard Eckel, assistant city editor of the Hartford Times, died Sunday at his home in Norfolk. He was 32.

The newspaper profession has suffered a great loss. Mr. Eckel was a responsible, intelligent, and enterprising newsman.

I knew Dick Eckel. All of us respected him for his news reporting and judgment. More than that, he gained the affection of all who knew him.

He was a good man to have around and to be around. He will be deeply missed. As his Hartford Times said in an editorial:

For all his boyish, light-heartedness and charm, Dick Eckel was the kind of mature, balanced, independent man that most men wish to be.

I join with the Times in expressing my personal feeling of loss and my heartfelt sympathy to Dick's family.

An editorial published in the Hartford Times of April 29, 1968, says very well what his family and friends felt about him. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

C. RICHARD ECKEL

For all his boyish light-heartedness and charm, Dick Eckel was the kind of mature, balanced, independent man that most men wish to be.

One of the key men in The Times' news-handling operation, he performed well under pressure, and he had a welcome ability to lighten the dark moment with a quick aside that restored perspective and humor.

At parties and picnics, which he deeply enjoyed, laughter bubbled around him. His home in Norfolk was a gathering place for friends who knew they could be relaxed and comfortable there, singing folk songs to Dick's accompaniment, making serious or merry conversation as the mood changed.

As a father, he was a source of security, of fairness, of love and enlightenment. His parish and his community were enriched by his willingness to do the hard, sweaty jobs as well as to lead committees and make plans.

He had that combination of concern and ability that makes good newspapermen. On this newspaper he rose rapidly from neophyte to prize-winning investigative reporter, and then to responsibility as an editor and administrator.

This leaves much unsaid. One cannot express in ink and paper the shock and grief we all feel at the sudden, unexpected death of a young man we all loved. We can only trust that in his death, as in his life, there was a purpose, though it is hidden from us.

## LAW DAY

Mr. MURPHY. Mr. President, today, May 1, is recognized as Law Day. Certainly never before have the principles which are inherent in what we observe today been more timely. Today it behooves every American to examine once again our concept of law and the basic place which that concept occupies in the future of our society.

Nowhere have I seen the meaning of this day better expressed than by Vincent Cullinan, 1967 president of the Bar Association of San Francisco, in a message entitled "Brief Case," published in that association's magazine a year ago.

Because of the very special significance of that message 1 year later, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

PRESIDENT'S MESSAGE: LAW DAY—TO MAINTAIN THE RAMPARTS

(By Vincent Cullinan)

Law Day is the day which this great nation has set aside for all its citizens, wherever they may be, to pause and consider, with respect and gratitude, the Rule of Law.

This nation was founded upon the principle that ours is a government of laws, not of men. It is this Rule of Law, adopted, interpreted and enforced by elected representatives of the people, which has made our country great. The strength of our democracy is our adherence to the basic premise that there can be no individual freedom unless there is restraint on that freedom, i.e. a respect for and obedience to constituted authority, coupled with a willingness to live amicably and tolerantly with those holding different ideas of government and life.

The lesson of history is that those who will not abide by rules will have rulers. Toleration of disobedience to laws, as administered and interpreted by duly constituted authority, is the harbinger of a society's decay because indifference to flaunting of law begets anarchy.

In our nation today, two things are occurring with disquieting frequency: One is the deliberate, willful violent breach of law by organized mobs; the other is the extent of the apathy of the citizenry, the press, the bench, and the bar to this disturbing reality.

We have seen a succession of planned militant disorders: sit-ins or other mass trespass on private and public premises; picketing of the courts, of agencies of government, and of high-ranking officers—all of them attempts to *coerce* judicial or official action. Such efforts are hostile to the principle of order. They are repulsive to the idea of democratic government. No person or group can, with any justification whatsoever, arrogate the power to decide by force which laws are "good" laws and which are "bad."

Frequently, the violations are committed under the euphemism of "civil disobedience." Nothing can be further from the truth. Such violence is not civil, it is criminal; it is not mere disobedience, it is flagrant contempt for law. Unfortunately, many in the academic life encourage and even participate in these criminal disorders, discarding the philosophy that only through due process of law can worthy causes be rightfully and fairly resolved. Following this leadership, ugly crowds of students at great universities have even threatened the bodily safety of high government officials—a deplorable performance by intelligent people surely, but of added concern because it shows not only a lack of respect for duly constituted authority but their shocking fear of the free expression of a different point of view. These students and teachers are obviously not physically afraid of the one man, but they fear his right to be heard, his power to reason and persuade.

The organizers of these breaches of the peace attempt to project a public image of martyrdom for a righteous cause. Actually, they are most reluctant martyrs. Having publicized the plan to violate the law, they then plead not guilty, demand a jury (at the expense of the taxpayers), and clog the higher courts with appeals, thereby denying access to the courts for other citizens who have both the need and the right to be heard promptly.

The tragic fact is that too many seem apathetic to these events. Some in positions of leadership and responsibility have sought to appease these attacks and to mitigate, even excuse, the punishment. Such an attitude, or, rather, lack of attitude, points up the need to reemphasize the principle of the Rule of Law lest men, clothed in the livery of noble purpose, succeed in destroying its very foundations.

The kind of demonstrators that violently preempt a hotel lobby or a campus building or business premises, progress to the burning of a neighborhood, to wanton attacks on police, to the stoning of firemen and other acts of terror by mob. Conceivably, as one writer has noted, these group invasions could progress to silencing the news media, ousting the courts, and ultimately taking over the government.

In our complex social and economic life, as Dean Pound said, the American people *must* rely upon the law and therefore, in great part, upon the legal profession, the Bench and the Bar, who are the stewards of the legal rights and obligations of all our citizens.

A judge has the paramount duty to enforce the law, no matter what the pressures. He must encourage respect for law by proper demeanor on and off the bench; by rendering impartial decisions, and by assuring that justice is not delayed or otherwise subverted because of any inadequacy of court procedures or personnel.

A lawyer has a special charge to show at all times the highest respect for the court and this includes the obligation to refrain from unjust criticism, even when patience is sorely tried. Such criticism as may be just should be expressed only by means which the law itself affords, not in the furtherance of personal publicity. In the field of service to the public, the lawyer's talents must be made available to all who need them, regardless of individual preferences. Above all is the duty to deal fairly with clients and to cooperate in disciplining those lawyers who do not.

The citizen has the obligation to obey all laws, including those he deplores. He must be concerned not only with his rights but also with his own obligations to respect and protect the rights of others. Included in these obligations are the duties: to vote; to cooperate with lawful authority and assist whenever called upon; to contribute a proper share to the support of government; to accept and appreciate the need of jury service; to support fully the defense of the government from attack, internal or external.

Let May 1st—Law Day U.S.A.—remind us, with renewed significance, of our obligations as well as our privileges as citizens of this nation, made great under the Rule of Law.

## THE 20TH ANNIVERSARY OF INDEPENDENCE OF ISRAEL

Mr. MURPHY. Mr. President, on the eve of the 20th anniversary of the independence of the State of Israel, I would like to join with other freedom-loving Americans in commemorating this grand and joyous occasion.

There is much that other nations can learn from Israel's example. She is resolute in the face of adversity, creative in her approach to problems, and spirited in the defense of her freedom. Surrounded by countries who have announced that they intend to destroy her, Israel's self-reliant spirit has been a shinning example to people everywhere. In time of war, she fights decisively to win. In time of tenuous peace, she seeks to negotiate from a position of strength.

Mr. President, just a month ago, on the Senate floor, I expressed concern over the United Nations resolution on the Middle East. I referred to the Security Council's resolution of March 24 which condemned Israel for a reprisal raid against a guerrilla camp in Jordan, but merely deplored other acts of violence in the Middle East. No mention was made of terrorist attacks which precipitated Israel's action. No mention was made of the growing guerrilla forces, and no Arab country was specified by name. Only Israel was singled out by name and only her actions were condemned.

I believe this United Nations action was very one sided, and I deeply regret the fact that the U.S. Government associated itself with that resolution.

Now, 1 month later, the United Nations is again attempting to tell Israel how to act. Regrettably, the United States again appears to be associating itself with the United Nations complaint about Israel's planned parade in the city of Jerusalem. Once again Israel is being criticized for its "provocative action" while no reference is made to continuing terrorist attacks or to President Nasser's belligerent statement urging Egyptian troops to prepare for the "next round" in his war with Israel.

I must express my strong disapproval of this United Nations action. I find myself in agreement with Foreign Minister Abba Eban's statements when he notes that the parade is simply intended to commemorate 20 years of Israeli independence, would be distant from the cease-fire line with Jordan, would endanger no lives, would create no new situation, and would injure nobody.

Mr. Eban said:

The tensions in the Middle East today spring not from peaceful ceremonies within cease-fire lines but from terrorist acts across them by Arab commandos.

## AN ECONOMY IN CRISIS

Mr. HRUSKA. Mr. President, the people of the United States are deeply disturbed by the sorry economic condition in which the Nation finds itself. They are concerned about an economy in which the national debt is soaring; in which we will have close to $20 billion deficits

in 2 successive years. This is an economy in which prices are going up and confidence in the fiscal abilities of the Government is going down.

As a member of the task force on Federal fiscal and monetary policies of the Republican coordinating committee, I have participated with a distinguished panel in an examination of the state of our economy and an examination of alternative economic policies. That study, entitled "An Economy in Crisis," was released today, and it is an excellent document. I recommend its reading to my colleagues on both sides of the aisle.

This report pulls no punches. It lays the blame for the economic blunders that have brought to our present condition right where they belong. It lays the blame, not on a single person, but on the policies the Federal Government has followed. It lays the blame on planned deficits and soaring spending. The report opens with the following statement:

When President Eisenhower left office early in 1961, prices were relatively stable, the dollar was strong, the budget was in balance, and a solid foundation for future growth had been laid. All this was the result of eight years of sound economic policies, carefully administered.

Eight subsequent years of Democratic Administrations have produced an economy in crisis.

By coincidence, the same day the final draft of the task force report arrived in my office, I received a letter from Mr. E. J. Faulkner, a distinguished Nebraska businessman, enclosing two very timely news articles. The first is a column entitled "None of It Was, or Is, Inevitable," written by Henry J. Taylor. Mr. Taylor points out:

Good management cannot save everything, but bad management can ruin anything.

He goes on to warn:

Bad government relies on the public's forgetfulness. It survives by tucking its bad performance under the bed.

The second article is by Vera Glaser, of the North American Newspaper Alliance, in which she reports on the views of Under Secretary of the Treasury Barr and the candor with which he states his views. Candor is an understatement for his explanation of the lack of confidence in the U.S. Government currently shared by the international financial community. He is quoted as saying:

Perhaps you'd be reluctant to put your money in a bank if it was obviously being imprudent, if its president was running around throwing his money away on some babe.

Mr. President, the report of the Republican coordinating committee agrees with Under Secretary Barr that the administration has been economically imprudent. It agrees with Mr. Taylor that none of it was, or is, inevitable.

For the past 8 years, we have suffered a crisis of leadership. The policies and the personalities just did not work. When we are promised guns and butter, but inflation forces us to buy margarine, it is time to get a new policy.

There are alternatives to our present inflationary economy, and there are alternatives to the trend of recent years to interject the Federal Government into every segment of our society. In the statement of economic goals, the coordinating committee points out:

Precisely because of our commitment to political freedom, we deplore any trend toward supplanting private by public economic activity. Only in a free competitive economy with its wide dispersion of economic power is it possible to achieve the decentralization of political power which is essential to a republic. The Republican Party has therefore consistently defended the idea that government should be the supporter and not the destroyer of the free economy.

* * * * *

We condemn the wanton spending of Democratic Administrations, which has left the nation's finances in almost total disarray and shaken the confidence of Americans, and of the world, in the health of the United States economy and the strength of our monetary system.

Our nation must return to fiscal sanity. The crisis of confidence which has enveloped us can be dispelled only by reaffirming the principle—belittled by the Democratic Administrations—that a nation, like a family, must live close to its means. We must abandon the fiscal hocus-pocus which tries to make it appear that this is unnecessary.

Mr. President, I ask unanimous consent that Mr. Taylor's column, Miss Glaser's article, and the summary of the report of the Republican coordinating committee be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

NONE OF IT WAS, OR IS, INEVITABLE

(By Henry J. Taylor)

NEW YORK.—On March 1 the gross Federal debt reached precisely $352,546,363,116.57.

This U.S. Treasury figure hits each one of us where it hurts. And if our country is to be saved it will only be saved by holding our bungling leaders accountable for what they do.

Given good and sensible management we would not be in our perilous state at home and abroad. None of it was, or is, inevitable.

Good management cannot save everything, but bad management can ruin anything. The greatest need in public information today is to break through the double-talk and come up with the actual score.

The New Frontier-Great Society inherited a Federal debt of $283 billion. Breaking every promise they previously made, Presidents Kennedy and Johnson alike plunged directly into more debt. They lifted the legal ceiling seven times.

In presenting his fiscal 1968 budget President Johnson stated in the same meaningless words he has previously used with monotonous regularity: "I have trimmed this budget down to our most absolute needs." Last year Mr. Johnson ran up a $20 billion deficit, again financed by money we haven't got. This year looks even worse.

The New Frontier-Great Society inherited a gold reserve of $21 billion. Said candidate Kennedy in an October, 1960, campaign speech: "We will overcome the balance-of-payments problem and the gold outflow will stop." On March 1, 1968, our gold stock was $12 billion. It hit another new 40-year low. And the government was self-driven into proposing to remove the gold backing from our currency entirely.

In 1940 Washington's tax table totalled a mere $40.28 per year per capita. By 1966, under the Great Society, the Federal tax per man, woman and child in this country—and an immensely more populous country at that—had leaped to $654.48. In 1967 it was $745.16 per capita.

The respected Tax Foundation, Inc., an independent research organization, finds that the average American will spend two hours and 25 minutes of his eight-hour working day—every day—this year to earn the money to pay his taxes.

Under the New Frontier-Great Society the average family's cost of living has increased about 20 points in the index—nearly three points a year, year after year. On March 1 it reached another new all-time high.

Law and order? Urban disorders have grown nearly incomprehensively large, dangerous and brutal since 1961. For much of this intolerable situation we can thank the vote-greedy politicians themselves who have pandered to pressure groups and ethnic minorities. Since the New Frontier-Great Society took over, the crime rate has increased five times as fast as our population.

Instead of the heralded labor peace, strikes last year set a six-year record in man-hours lost.

President Kennedy's first decision in foreign affairs was the Bay of Pigs. In that incredible debacle our ancient Monroe Doctrine was shattered forever. There was no Berlin Wall, France was a functioning member of NATO and there were only 750 American military men in South Vietnam, all of them serving only as Kennedy's decision to commit advisers.

In the seven years since Mr. Kennedy's decision to commit the first U.S. combat troops (12,000) there, the war—still undeclared—has become the third largest we have ever fought. And in these seven years, accompanied by manipulated news, endless victory statements and the sending of 500,000 men, we have still not built an effective front and are still not secure on our flanks or in our rear.

For five solid years this column has called Vietnam a mismanaged war. What more evidence is needed than the situation today? The conclusion is inescapable that the American people are the victims of the greatest military scandal in the history of the United States.

Good government isn't a partisan matter, a question of Democrats or Republicans. It's a matter of performance. Bad government relies on the public's forgetfulness. It survives by tucking its bad performance under the bed. The bunglers resort to their usual practice of thimble-rigging, juggling the pea in their regular way. But what happens to the country in the meanwhile?

Our bamboozled public should thoroughly understand that our leadership is to blame and should be held accountable for the shame and fears that horrify us all.

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[From the Omaha (Nebr.) World-Herald, Apr. 21, 1968]

U.S. TREASURY'S JOSEPH W. BARR CALLS THE SHOTS AS HE SEES THEM

(By Vera Glaser)

WASHINGTON.—"I'm going to serve out with this President, but I have no plans beyond that. We've got terrible problems in this country and it's time to be very blunt. If somebody asks me a question, I'm going to give him the most honest answer I can and I don't care if it sounds Democratic, Republican or Socialist."

Under Secretary of the Treasury Joseph W. Barr's middle name ought to be "Candor." He is a man of medium height with dark curly hair and blue eyes who swings his loafers up on his desk and shoots out his arms as he talks. He is one of the few Administration officials who appears not the least bit concerned whether LBJ will relish his straight-shooting comments.

In the absence of Henry Fowler, Mr. Barr was acting Secretary of the Treasury the day he was interviewed, and coincidentally rounding out a decade in Government. Al-

most every word revealed his profound uneasiness over the adequacy of United States foreign and financial policies for the future.

Among other things, Mr. Barr fears the United States may be over-extended.

FLAP

"I'm glad it's an election year. We're coming to the end of an era. The Presidential candidates ought to be debating whether we as a nation can continue bearing this huge burden. I'm not sure the policies we've had for 23 years, which have been excellent, are financially viable any more. Can we earn the foreign exchange to keep our troops deployed in Asia, Japan, the Sixth Fleet in the Med and the Seventh Fleet in the Pacific?"

In Mr. Barr's view, too many demands are being crammed into the American economy.

"You just can't get any more out of it. We don't have any more labor, no more plant, no more savings. If you load more demands into it, you don't get more production, you just get higher prices. We just can't assume we can do everything. The welfare system is coming under attack and it should be. Maybe we should throw it out and have a negative income tax."

Mr. Barr caused a flap recently by telling a Congressional committee Americans would have to reduce their standard of living if they expected to fight another war like Vietnam while caring for the poor at home and abroad. Later he added facetiously that his bluntness might get him fired or impeached.

Instead it drew a commendation from Republican House Leader Gerald Ford: "At last we have a Johnson Administration official telling us what everybody but Lyndon Johnson seems to know, you cannot have both guns and butter when you are fighting a 30-billion-dollar-a-year war."

President Johnson did not fire Mr. Barr, nor was he impeached, nor has he changed his mind.

When asked how the nation could pay for proposed urban programs, he replied, "We'll have to take it out of our hides, out of things you and I are buying."

Like other Administration officials, Mr. Barr is pressing hard to win Congressional approval for the tax increase requested almost a year ago. He described the international financial community as "hysterical" about the lack of financial discipline in the nation regarded as the world's banker.

"Perhaps you'd be reluctant to put your money in a bank if it was obviously being imprudent, if its president was running around throwing his money away on some babe.

MOTIVATION?

"Frankly, the idea of the United States running two huge deficits back to back frightens them to death. They get psychopathic about the tax bill."

Mr. Barr does not foresee wage and price controls "unless there is an enormous escalation of the war." He believes prices have now taken the maximum inflationary pressure and does not expect them to rise much more.

America has reached a point where she must seriously consider her ability to maintain a shield of security for the world, he believes.

"How would you like to be the next President?" Mr. Barr demanded. "And determine you can no longer keep those 50 thousand troops in Europe, that you can't earn three billion dollars a year in foreign exchange to pay for those deployments? If we can't maintain it, what happens? Do we try to rally our Allies to take their share of it? What if they don't?"

Could all this have motivated the President not to run for reelection?

"Could be."

Aren't you walking out now that the problems are toughest?

"Listen, honey, I've had it for 10 years. I've taken my share. I'm not walking out. I came in to serve this President. We've got a new election coming up. This is my fourth tour of duty, and I've learned the way to enjoy Washington is to always have your suitcase packed."

A 12-HOUR DAY

Now 50, Mr. Barr was born in Vincennes, Ind., was a Phi Beta Kappa economics major at Harvard, took his law degree, and served in the World War II Navy.

He left an executive position with a grain company to serve one term in the House of Representatives in 1958 and three years later was brought into the Treasury Department by the late President Kennedy.

President Johnson named him chairman of the Federal Deposit Insurance Corporation, then brought him back to the Treasury as Under Secretary in 1965.

Mr. Barr works 12 hours a day as No. 2 man in a department employing 85 thousand. The foreign aspects of his work fascinate him, especially his activity with the World Bank, the International Development Association, and the Asian and Inter-American Banks.

The Barrs and their five children love farm life and riding to hounds. He has a slight limp related to a muscle spasm which acts up when the tensions of his job become heavy. He tries to make no decisions after four o'clock on Friday afternoons, confessing: "After that, I'm tired and irritable."

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AN ECONOMY IN CRISIS: A REPUBLICAN CALL FOR RENEWAL OF AMERICAN PRINCIPLES TO REVERSE THE DEMOCRATIC MISMANAGEMENT OF OUR NATIONAL ECONOMY

(A statement of the economic policies of the Republican Party, by the Republican coordinating committee)

A MESSAGE FOR EVERY AMERICAN

When President Eisenhower left office early in 1961, prices were relatively stable, the dollar was strong, the budget was in balance, and a solid foundation for future growth had been laid. All this was the result of eight years of sound economic policies, carefully administered.

Eight subsequent years of Democratic Administration in Washington have produced an economy in crisis:

The cost of living is advancing at a rate that is taxing heavily the earnings and savings of the American worker.

The Government's finances are out of control, the result of excessive spending and deliberate budget deficits for eight consecutive years.

The dollar is under repeated attacks in the international financial markets, our gold supply that backs it is at the lowest point in over 30 years, and our balance of payments deficits continue at high levels.

Interest rates in the past year have reached their highest point in a century.

The basic problems of the nation—hardcore unemployment, the deterioration of the cities, rampant and growing crime and violence, unequal opportunity for its people—remain unsolved because of inept and wasteful attempts to cope with them.

The people have been subjected to a host of restrictions and controls over their personal and business lives, brought about by a growing centralization of economic power in Washington. Their influence in the marketplace is being displaced by the overpowering influence of government.

These destructive developments, which are documented in this report, are the sad consequence of eight years of economic mismanagement, experimentation with untried theories, disrespect for traditional values of freedom and enterprise, unrealistic promises to the people, and a "credibility gap" earned by cover-up and concealment of unpleasant facts.

These are the reasons why the Administration finds it necessary to ask for higher taxes on the American people and more limitations on their freedom of action.

The Republican Party repudiates the economic adventurism of the recent Democratic Administrations:

*First,* because it has jeopardized the basic health and stability of the American economy and imperilled the international monetary system.

*Second,* and more gravely, because it has prejudiced our basic freedoms and undermined our free-choice economic system.

*Third,* because we simply cannot afford it any longer.

The imperative need of the United States today is to reverse the direction the economy has taken under Democratic mismanagement. To accomplish this we must:

(1) Reemphasize the primacy of human dignity, self-reliance and opportunity for all citizens, and draw upon the proven effectiveness of the free competitive system to maintain them.

(2) Reduce the government's controls and restrictions over personal freedoms, and return to the States and communities a larger measure of public revenues and increased responsibility for their own affairs.

(3) Insure productive employment for all Americans, principally by enlisting and supporting the potentials of private competitive enterprise.

(4) Reestablish government fiscal policies of responsibility and integrity and live more nearly within our national means.

(5) Reduce the tax load on the worker and investor over the long run.

(6) Eliminate the hidden tax of inflation and thereby stop the rise in living costs.

(7) Regain our international financial strength and world respect.

(8) Halt the erosion of our free choice economy and renew its demonstrated capability to produce solid economic growth in which all Americans can find personal fulfillment.

This 1968 statement of the economic goals of the Republican Party describes the persistent weakening, under recent Democratic Administrations, of the foundations of our economic and social well-being. It proposes the alternative courses of action which the American people must follow if the nation's economic health is to be restored and their fundamental freedom is to be preserved.

The subject is particularly pertinent now because late this year the American people, as voters, will have the opportunity to choose which route the nation will follow in the years ahead.

In simple terms, we state the issues which they must decide:

Shall the American people be destined to perpetual high taxes, to the slow ruin of their savings by inflation, to irresponsible Federal spending and overwhelming debt, to a life of rule and regulation and repression under a powerful central bureaucracy, and to a continuing loss of personal freedom and opportunity?

Taking the last eight years as evidence, this is the road of the Democratic Party.

Or shall the American people be guided and helped to goals of individual opportunity and free choice, of incentives and rewards based on merit, of sound and inflation-free money, of limited taxation and spending and debt, of a return to local rule with less submission to central bureaucracy, and of personal fulfillment and personal security?

These are the objectives of the Republican Party.

The decision of the voters this year can resolve whether this country settles into the oblivion that history shows inevitably comes to nations ruled to excess by their governments, or whether it moves ahead to enhanced greatness and to fulfillment of

"life, liberty and the pursuit of happiness" for all its people.

REPUBLICAN COORDINATING COMMITTEE.
MARCH 18, 1968, *Washington, D.C.*

SUMMARY: ECONOMIC GOALS FOR THE UNITED STATES

Our nation has progressed in personal well-being—at a pace unmatched in history—because our free economic system has unleashed and effectively utilized the most powerful productive force in human affairs: the spirit of individual endeavor.

Democratic Administrations have persistently disparaged and interfered with that force and attempted to install in its place an economy dominated by over-centralized government in Washington. In the process, they have subjected the American citizen, the business community, the financial markets, the wage and price structure, and our international finances to wrenching distortions which have brought the nation to the verge of economic and fiscal collapse.

The urgent task facing the Republican Party and the nation is to restore to health an economy whose vitality and dynamism have been crippled by Democratic mismanagement. In this undertaking, we seek to realize the following specific goals:

*1. To strengthen the economic foundations of our personal freedom*

Our expectation of continued economic progress and rising levels of personal welfare rests on our belief in the efficacy of a system in which men and women are free to use their talents and their property to better their lot in life, to make and carry out their individual plans and fulfill their individual ambitions, prepared to run risks in order to earn proportionate rewards.

The Republican Party seeks to keep open the possibilities for every American to achieve his fullest potential, to be somebody and to have something. This is in the mainstream not only of our great economic traditions, but of our most deeply held political beliefs as well.

Because we are persuaded of the mutual interdependence of economic freedom and political freedom, we believe that discrimination, in housing and education, employment and medical care, or wherever it appears, is intolerable.

Precisely because of our commitment to political freedom, we deplore any trend toward supplanting private by public economic activity. Only in a free competitive economy with its wide dispersion of economic power is it possible to achieve the decentralization of political power which is essential in a republic. The Republican Party has therefore consistently defended the idea that government should be the supporter and not the destroyer of the free economy. Concretely, we believe that:

The Federal government should create an atmosphere favorable to the efficient functioning of the market economy by encouraging private initiative, by curbing monopolistic tendencies (whether of business or labor), by avoiding governmental encroachment on the private economy, and by carrying out as much of its own work as is practical through private enterprise.

The Federal government should strengthen the foundations of the free economy by building a climate of widening opportunities for all Americans, and by helping, through private enterprise and the States and communities, those unable to cope with the hazards of unemployment, illness, old age, and blighted neighborhoods.

Too many Americans in this wealthy nation live in impoverished circumstances through no fault of their own. The search for appropriate remedies for these and other searing human concerns of our country is high on the agenda of the Republican Party.

Measures to lift the incomes and to reduce the dependence of our impoverished and disadvantaged citizens are essential if our competitive enterprise system is to continue to function equitably and efficiently in an increasingly complex, interdependent, industrialized society. They are vital to our Republican economic program which, in brief, is to lift the ceiling over personal opportunity and to establish a floor over the pit of personal disaster.

*2. To reduce the centralization of economic power in Washington*

Under the aegis of recent Democratic Administrations, the Federal government has vastly increased its controls over the lives and property of American citizens. As the government has expanded, the growth of the private economy has slowed.

Federal program has been piled upon Federal program, agency upon agency, regulation upon regulation, in a dizzying spiral that has confused and frightened the people. More and more, the Federal government has undertaken to do things for people that relieve them of the responsibility to do things for themselves. And more and more, the other levels of government—the villages, counties, cities and States—have yielded to the fatal temptation to become permanent suppliants of the Federal paymaster.

A political philosophy which reduces to "spend and spend, elect and elect" may appear to be temproarily successful. But eventually, the people themselves must bear its twofold costs: fiscal ruin and political servitude.

The number of claimants upon the largesse of the government cannot continuously increase and the sums paid to them cannot be continuously enlarged without reaching the point at which the financial resources of those who are only the contributors will be exhausted. At this point, the whole system is transformed into one in which those who are, in one form or another, taking from the government, must also give to it. But the practice of taxing Peter to pay Paul—applied to the whole population—becomes not only increasingly futile, but increasingly dangerous to freedom.

The price that will be paid for this kind of alleged "Great Society" is the destruction of the private incentives upon which the creation of real wealth depends and the unabating aggrandizement of the power of the government called upon to make good the economic deficiencies it has itself brought about.

We believe that an ever-growing dependence on government is a sign of national decay, not strength. Our Republican task, therefore, is to reaffirm the principle of local rule according to which central government undertakes action only when the States and local communities cannot accomplish indispensable functions; to return to the States a larger measure of public revenues and responsibility for their own affairs; to halt the relentless centralization of the economy fostered by Democratic Administrations; to restore the consumers to their essential basic control of the competitive enterprise system; and to reestablish thereby the fundamental connection between economic freedom and our most basic political freedoms.

*3. To promote maximum employment*

We advocate all measures necessary to ensure that opportunities for productive employment will be available to all those able and willing to work. This means the mobilization of all available public and private resources for training and retraining of the unemployed and for upgrading the skills of those presently employed. And we should achieve this objective without recourse to inflationary measures.

We support the extension and the strengthening of free collective bargaining. Neither labor nor business can prosper without each other. At the same time, the Republican Party reaffirms the position it has traditionally held: government does have an obligation to make certain that neither management nor unions wield power to a degree which is inconsistent with the public interest. Monopoly power by business or unions not only permits exploitation of the people as consumers, but also encourages the substitution of government control of the economy for consumer control through free competitive markets.

The experience of Democratic Administrations with "guideposts" for wages and prices has made it abundantly clear that, in the absence of proper economic policies, they are unenforceable and inequitable. As exhortations, they are ineffective. To the extent that they become coercive, they are far-reaching interventions inconsistent with the free economy, and represent merely an attempt to repress the symptoms of the inflation that has been created. They invite the next step, overt wage and price controls, which would be destructive of the very foundations of the free competitive economy.

The Republican Party favors a broad, non-inflationary program of action to create more job opportunities, to reduce the existence and impact of unemployment, and to fit more people for better jobs in our growing and changing economy.

*4. To restore fiscal integrity*

We condemn the wanton spending of Democratic Administrations, which has left the nation's finances in almost total disarray and shaken the confidence of Americans, and of the world, in the health of the United States economy and the strength of our monetary system.

Our nation must return to fiscal sanity. The crisis of confidence which has enveloped us can be dispelled only by reaffirming the principle—belittled by the Democratic Administrations—that a nation, like a family, must live close to its means. We must abandon the fiscal hocus-pocus which tries to make it appear that this is unnecessary.

The "new economics" espoused by Democratic Administrations has apparently accepted permanent budget deficits as the appropriate means of overcoming what it calls "fiscal drag." With balanced budgets thus consigned to oblivion, both the means and the criteria are lacking for applying the fiscal brakes in time to prevent the economy from speeding to a smash-up.

We advocate a return to a "balanced budget" as a long run goal of our economy, recognizing the need to relax the rule in times of emergency. The balanced budget is a rough fiscal guide and it must be applied with discretion. But it is the only constraint available to prevent the runaway spending and fiscal disorder of the kind inflicted upon the country by Democratic Administrations.

We deplore the Administration's past budgetary legerdemain, in particular its simultaneous use of three different types of budget with the emphasis being placed on whichever one shows the smallest deficit.[1] Such tactics can only confuse and deceive—they are the opposite of the fiscal integrity which the American people require and expect of their government.

Furthermore, the burdens of stabilization must be divided between fiscal policy and monetary policy. By placing too much of this burden on monetary policy, in the absence of fiscal restraint, the Administration has caused the economy to oscillate between inflation and near-recession.

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[1] The President's own Commission on Budget Concepts, in its 1967 report, condemned this and other improper budget practices, with the result that long overdue reforms demanded by the Republican Party have at last been introduced into the 1969 Budget.

The present fiscal disorder allows of no substitute for a speedy return to a sensible relationship between government receipts and government expenditures.

*5. To lower tax rates in the future*

Providing that long run budget balance becomes the objective of policy, the Republican Party advocates the elimination of "fiscal drag," when it exists, by regular tax cuts rather than by regular increases in Federal spending.

Federal taxes should not be turned on and off arbitrarily in efforts to "fine-tune" the economy. The evidence shows that such push-button manipulation of taxes is itself a serious source of economic instability. The Administration has had to reverse its direction several times in the past four years because its fine-tuning was always too late to have the intended effect.

Increasing public expenditures to achieve long run growth promotes an unnecessary enlargement of the government and a corresponding diminishment of the labor and capital resources which can be made available to the private economy. Tax reduction, on the other hand, induces a high level of economic activity by channelling a larger share of resources into the private economy, allowing individuals to expand and vary their personal consumption and permitting business organizations to increase and diversify their productive capacity.

As a means of accomplishing these objectives, the Republican Party recommends small annual reductions in taxes, beginning with the termination of the Vietnam War. Tax rates, both corporate and personal, are at levels which in the long run must impair the functioning of a free competitive economy. Obviously, the feasibility of tax reduction will depend upon the willingness and the determination of the Administration in power to keep its expenditures in rough balance with its revenues.

It is a source of deep concern that recent trends in government spending not only preclude tax reduction but seem to necessitate tax increases, a situation which must jeopardize the prospects for growth of our economy. It is of the utmost importance that the Congress and the President make a resolute effort to restrain spending and curb new appropriations, thus making possible—once the Vietnam conflict has ended—annual relief to the taxpayer.

*6. To insure price stability*

A dollar of stable purchasing power is indispensable to the strong and orderly progress of our economy and to the personal security of our people.

We deplore the attitude of Federal officials who are soft on inflation. We reject the idea that some inflation must be accepted because the alternatives allegedly are unemployment and diminished economic growth. On the contrary, our Republican policies to defend the value of the dollar will promote growth of output at level prices, raise real incomes of workers, and broaden international markets for American goods. And these developments, in turn, will help to bring our balance of payments into equilibrium.

Inflation is evil for many reasons. It increases the impoverishment of the poor. It constitutes a forcible and deceitful redistribution of the nation's real income from the weak (pensioners and others on fixed incomes) to those groups (labor and business) which, having greater market power, are able to keep their wages and prices one jump ahead of the cost-of-living index. Carried very far, inflation becomes a kind of government-sanctioned theft and ultimately destroys the social and political cohesion of any society.

Rationalizing inflation as the necessary "trade-off" for greater employment and faster economic growth can never cloak the drastic decline in the value of the dollar which even "modest" price rises of 1 to 2 percent a year bring about when compounded over long periods. Over the past 30 years, the purchasing power of the dollar has been cut in half. In the last two years alone, the general price level has risen over 6 percent. The "low-grade" annual inflation which the Democratic Administrations consider an acceptable price for growth is thus transformed into a major cancer within the span of a generation.

There can be no question of the damage caused by the chronic inflation of recent years and of the exceedingly serious consequences at home and abroad which a continuation of the present rapid rate of price increase will entail. For these reasons, the Republican Party believes that price stability should be an explicit objective of government policy, together with maximum employment, production and purchasing power.

*7. To regain a strong position in the international economy*

Chronic deficits in the balance of payments, and a continuously depreciating currency, are the result of a country's attempt to live beyond its means at home while seeking to induce other countries to pay for the difference.

The day is past when the prestige and power of the dollar can influence the surplus nations to give up their own vital interests—in particular, their concern for the avoidance of inflation—in order to accommodate our self-indulgence. In international monetary affairs, the power of decision has passed humiliatingly from our hands. We can regain it only by a return to monetary discipline and fiscal sanity at home.

We cannot emphasize to forcefully the need to bring the deficit in our international payments—chronic now for 17 years—to a speedy end. Further deterioration of our position must lead to a dangerous erosion of the financial base on which rests our ability to discharge our heavy international responsibilities.

For eight years, Democratic Administrations have temporized with the balance of payments problem in an attitude of complacency. Rather than face up to the difficult domestic decisions required to bring it under control, they postponed vitally necessary actions until the situation came to a crisis in the final quparter of 1967. At that point, they imposed and proposed restrictions on foreign investment and overseas travel, but again these failed to attack the heart of the problem, which is their own economic mismanagement. Had they exercised responsible policies in these matters in the preceding years, these recurring drains on our gold supply, and the consequent disruptions of the international monetary system, would not have occurred. Moreover, the severe and unprecedented limitations that have been imposed on freedom of movement for money and American citizens would not have been necessary.

The imbalance in our foreign financial affairs has also seriously compromised the functioning of the international monetary system. So-called "international monetary reform," so vigorously advocated by the present Administration, can never cure our balance of payments deficits. Moreover, if such reform is to command the support of other nations, it is imperative that it be undertaken in a way which will not diminish the responsibility of the deficit countries to undertake necessary reforms of their internal policies. The first order of business for deficit countries—such as the United States—is to return to internal monetary and fiscal discipline. This is essential to the achievement of external equilibrium and international confidence.

In respect to international trade, we favor the mutual reduction of tariffs between this nation and others, subject to the proviso that such reductions are truly reciprocal and that all nations also undertake to eliminate nontariff obstacles to trade. The United States is particularly handicapped by the widespread existence of such obstacles in other countries. We do not believe in dismantling an American industry in response to a principle that other nations preach but do not practice.

We note also, with concern, that unless tariff reform is accompanied by internal reform of this nation's fiscal and monetary affairs, the hoped-for increases in exports will never come. Instead, declines in American duties will result in continued upsurges in imports with a critical impact on the balance of payments deficit and on domestic employment.

In addition to these measures, we call for greater efforts by government to stimulate merchandise exports, and to promote foreign tourism in this country. Greater attention must also be directed toward reducing government expenditures abroad, while maintaining our essential foreign policy objectives.

*8. To foster human betterment*

The sole purpose of economic growth is the improvement of life for the individual. The policies of national government should encourage and foster growth in a way that ensures the most progress for the most people at the least risk to the free institutions of our society.

Without economic growth, few of the nation's objectives can be realized. But growth in a free economy cannot be imposed forcibly by government without risking inflation on the one hand and diminishing economic freedom on the other.

Democratic Administrations of the last eight years have erroneously placed their emphasis on rate of growth rather than quality of growth. In doing so, they have elevated statistical performance above the satisfaction of human needs and human desires.

In the face of such misdirection, our cities have become seething caldrons of hate and despair, their inhabitants immersed in poverty, crime, dirt, and congestion and moved to violence by disillusionment over the Administration's unfulfilled promises.

Labor-management relations have deteriorated to a new low of tensions and disorder with strikes and threats of strikes in critical industries adding to the general uncertainty and in some cases imperiling public health and safety.

In welfare programs, confusion and maladministration add up to a mess which has produced crushing disappointments for recipients, while failing to give them the motivation and the skills needed to play a respectable role in society.

The Democratic programs, despite their exorbitant cost in all the elements described in this report, have failed to elevate a large proportion of our people above the level of meagre subsistence.

The Republican Party promises to draw upon the technological resources of the entire nation, including those in American industry, to find solutions to today's human problems. These solutions must involve heavy emphasis on education of children and adults, training and retraining of those in the labor force, and assistance in relocation of the unemployed. They also must include rebuilding of welfare programs to eliminate their stifling hopelessness and to construct approaches that build personal pride and self-respect. They must provide a sounder base for the farmer and remove his dependence on federal subsidies that are subject to legislative whim. They must provide for fiscal and monetary policies that assure stable prices and avoid the severe tax of inflation. They must stimulate an atmos-

phere of cooperative action and understanding between American labor and management. They must, in short, aim the fantastic American productivity more effectively toward elevating all aspects of life to achieve greater comfort, leisure and satisfaction.

The essence of the Republican goal of economic growth is human betterment.

## CONCLUSION OF MORNING BUSINESS

Mr. BYRD of West Virginia. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

## OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 1080, S. 917.

The PRESIDING OFFICER. The bill will be stated by title.

The BILL CLERK. A bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to the consideration of the bill which had been reported from the Committee on the Judiciary, with an amendment, strike out all after the enacting clause and insert:

That this Act may be cited as the "Omnibus Crime Control and Safe Streets Act of 1967".

### TITLE I—LAW ENFORCEMENT ASSISTANCE

#### DECLARATIONS AND PURPOSE

Congress finds that the high incidence of crime in the United States threatens the peace, security, and general welfare of the Nation and its citizens. To prevent crime and to insure the greater safety of the people, law enforcement efforts must be better coordinated, intensified, and made more effective at all levels of government.

Congress finds further that crime is essentially a local problem that must be dealt with by State and local governments if it is to be controlled effectively.

It is therefore the declared policy of the Congress to assist State and local governments in strengthening and improving law enforcement at every level by national assistance. It is the purpose of this title to (1) encourage States and units of general local government to prepare and adopt comprehensive plans based upon their evaluation of State and local problems of law enforcement; (2) authorize grants to States and units of local government in order to improve and strengthen law enforcement; and (3) encourage research and development directed toward the improvement of law enforcement and the development of new methods for the prevention and reduction of crime and the detection and apprehension of criminals.

#### PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

SEC. 101. (a) There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereafter referred to in this title as "Administration").

(b) The Administration shall be composed of an Administrator of Law Enforcement Assistance and two Associate Administrators of Law Enforcement Assstance, who shall be appointed by the President, by and with the advice and consent of the Senate. No more than two members of the Administration shall be the same political party, and members shall be appointed with due regard to their fitness, knowledge, and experience to perform the functions, powers, and duties vested in the Administration by this title.

(c) It shall be the duty of the Administration to exercise all of the functions, powers, and duties created and established by this title, except as otherwise provided.

#### PART B—PLANNING GRANTS

SEC. 201. It is the purpose of this part to encourage States and units of general local government to prepare and adopt comprehensive law enforcement plans based on their evaluation of State and local problems of law enforcement.

SEC. 202. The Administration is authorized to make grants to States, units of general local government, or combinations of such States or units of local government for preparing, developing, or revising law enforcement plans to carry out the purpose set forth in section 302: *Provided, however,* That no unit of general local government or combination of such units shall be eligible for a grant under this part unless such unit or combination has a population of not less than fifty thousand persons.

SEC. 203. A grant authorized under section 202 shall not exceed 80 per centum of the total cost of the preparation, development, or revision of a plan.

SEC. 204. The Administration may advance such grants authorized under section 202 upon application for the purposes described. Such application shall:

(1) Set forth programs and activities designed to carry out the purposes of section 302.

(2) Contain such information as the Administration may prescribe in accordance with section 501.

#### PART C—GRANTS FOR LAW ENFORCEMENT PURPOSES

SEC. 301. It is the purpose of this part to encourage States and units of general local government to carry out programs and projects to improve and strengthen law enforcement.

SEC. 302. (a) The Administration is authorized to make grants to States, units of general local government, and combinations of such States or units of general local government to improve and strengthen law enforcement: *Provided, however,* That no unit of general local government or combination of such units shall be eligible for a grant under this part unless such unit or combination has a popultaion of not less than fifty thousand persons.

(b) Under this part grants may be made pursuant to an application which is approved under section 303 for—

(1) Public protection, including the development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities, and equipment designed to improve and strengthen law enforcement and reduce crime in public and private places.

(2) The recruiting of law enforcement personnel and the training of personnel in law enforcement.

(3) Public education relating to crime prevention and encouraging respect for law and order, including education programs in schools and programs to improve public understanding of and cooperation with law enforcement agencies.

(4) Construction of buildings or other physical facilities which would fulfill or implement the purposes of this section.

(5) The organization, education, and training of special law enforcement units to combat organized crime, including the establishment and development of State organized crime prevention councils, the recruiting and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime.

(6) The organization, education, and training of regular law enforcement officers, special law enforcement units, and law enforcement reserve units for the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment.

(c) The amount of any grant made under paragraph (5) or (6) of subsection (b) of this section may be up to 75 per centum of the cost of the program or project specified in the application for such grant. The amount of any grant made under paragraph (4) of subsection (b) of this section may be up to 50 per centum of the cost of the program or project specified in the application for such grant. The amount of any other grant made under this part may be up to 60 per centum of the cost of the program or project specified in the application for such grant: *Provided,* That no part of any grant for the purpose of construction of buildings or other physical facilities shall be used for land acquisition.

(d) Not more than one-third of any grant made under this part may be expended for the compensation of personnel. The amount of any such grant expended for the compensation of personnel shall not exceed the amount of State or local funds made available to increase such compensation. The limitations contained in this subsection shall not apply to the compensation of personnel for time engaged in conducting or undergoing training programs.

SEC. 303. (a) A grant under this part may be made only upon application to the Administration, at such time or times, in such manner, and containing or accompanied by such information as the Administration may prescribe in accordance with section 501. Each such application shall set forth a program for carrying out the purposes set forth in section 302 which is consistent with a law enforcement plan developed by the applicant and approved for the purposes of this part.

(b) The Administration is authorized to make grants to an applicant under this part only if such applicant has on file with the Administration an approved law enforcement plan which conforms with the purposes and requirements of this title. Each such plan shall—

(1) unless it is not practicable to do so, encompass a State, unit of general local government, or combination of such States or units; and

(2) contain adequate assurances that Federal funds made available under the application, will be so used as to supplement and, to the extent practical, increase the amount of funds that the applicant would, in the absence of such Federal funds, make available for law enforcement.

(c) The Administration may approve applications for grants under this part or any modifications thereof, only if each such application meets the requirements set forth in subsections (a) and (b) of this section. In implementing this section, the Administration shall—

(1) encourage plans which encompass entire metropolitan areas;

(2) encourage plans which are related to and coordinate with other relevant State or local law enforcement plans and systems; and

(3) encourage plans which deal with the problems and provide for the improvement

of all law enforcement agencies in the area encompassed by the plans.

SEC. 304. (a) In making grants under this part, the Administration shall give special emphasis, where appropriate or feasible, to programs and projects dealing with the prevention, detection, and control of organized crime and of riots and other violent civil disorders.

(b) Notwithstanding the provisions of section 303 of this part, until August 31, 1968, the Administration is authorized to make grants for programs and projects dealing with the prevention, detection, and control of riots and other violent civil disorders on the basis of applications describing in detail the programs, projects, and costs of the items for which the grants will be used, and the relationship of the programs and projects to the applicant's general program for the improvement of law enforcement.

PART D—TRAINING, EDUCATION, RESEARCH, DEMONSTRATION, AND SPECIAL GRANTS

SEC. 401. It is the purpose of this part to provide for and encourage training, education, research, and development for the purpose of improving law enforcement and developing new methods for the prevention and reduction of crime, and the detection and apprehension of criminals.

SEC. 402. (a) There is established within the Department of Justice a National Institute of Law Enforcement and Criminal Justice (hereafter referred to in this part as "Institute"). The Institute shall be under the general authority of the Administration. It shall be under the general authority of the Administration. It shall be the purpose of the Institute to encourage research and development to improve and strengthen law enforcement.

(b) The Institute is authorized—

(1) to make grants to, or enter into contracts with, public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in this title, including the development of new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement;

(2) to make continuing studies and undertake programs of research to develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement, including, but not limited to, the effectiveness of projects or programs carried out under this title;

(3) to carry out programs of behavioral research designed to provide more accurate information on the causes of crime and the effectiveness of various means of preventing crime, and to evaluate the success of correctional procedures;

(4) to make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen law enforcement;

(5) to carry out programs of instructional assistance consisting of research fellowships for the programs provided under this section, and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects authorized by this title.

(6) to carry out a program of collection and dissemination of information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, or private organizations engaged in projects under this title, including information relating to new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and

(7) to establish a research center to carry out the programs described in this section.

SEC. 403. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Administration shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purpose for which the grant is sought.

SEC. 404. (a) The Director of the Federal Bureau of Investigation is authorized to—

(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local law enforcement personnel;

(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen law enforcement; and

(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local law enforcement personnel. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs and their deputies, and such other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit.

(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

SEC. 405. (a) Subject to the provisions of this section, the Law Enforcement Assistance Act of 1965 (79 Stat. 828) is repealed: *Provided*, That—

(1) The Administration, or the Attorney General until such time as the members of the Administration are appointed, is authorized to obligate funds for the continuation of projects approved under the Law Enforcement Assistance Act of 1965 prior to the date of enactment of this Act to the extent that such approval provided for continuation.

(2) Any funds obligated under subsection (1) of this section and all activities necessary or appropriate for the review under subsection (3) of this section may be carried out with funds previously appropriated and funds appropriated pursuant to this title.

(3) Immediately upon establishment of the Administration, it shall be its duty to study, review, and evaluate projects and programs funded under the Law Enforcement Assistance Act of 1965. Continuation of projects and programs under subsections (1) and (2) of this section shall be in the discretion of the Administration.

SEC. 406. (a) Pursuant to the provisions of subsections (b) and (c) of this section, the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen law enforcement.

(b) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for loans, not exceeding $1,800 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to law enforcement or preparing for employment in law enforcement, with special consideration to police or correctional personnel of States or units of general local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a law enforcement agency at the rate of 25 per centum of the total amount of such loans plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

(c) The Administration is authorized to enter into contracts to make, and make, payments to institutions of higher education for tuition and fees, not exceeding $200 per academic quarter or $300 per semester for any person, for officers of any publicly funded law enforcement agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to law enforcement or an area suitable for persons employed in law enforcement. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of the law enforcement agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

PART E—ADMINISTRATIVE PROVISIONS

SEC. 501. The Administration is authorized, after appropriate consultation with representatives of States and units of general local government, to establish such rules, regulations, and procedures as are necessary to the exercise of its functions, and are consistent with the stated purpose of this title.

SEC. 502. The Administration may delegate to any officer or official of the Administration, or, with the approval of the Attorney General, to any officer of the Department of Justice such functions as it deems appropriate.

SEC. 503. The functions, powers, and duties specified in this title to be carried out by the Administration shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress.

SEC. 504. In carrying out its functions, the Administration, or upon authorization of the Administration, any member thereof or any hearing examiner assigned to or employed by the Administration, shall have the power to hold hearings, sign and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States it may designate.

SEC. 505. Section 5315 of title 5, United States Code, is amended by adding at the end thereof—

"(90) Administrator of Law Enforcement Assistance."

SEC. 506. Section 5316 of title 5, United States Code, is amended by adding at the end thereof—

"(126) Associate Administrator of Law Enforcement Assistance."

SEC. 507. Subject to the civil service and classification laws, the Administration is authorized to select, appoint, employ, and fix compensation of such officers and employees, including hearing examiners, as shall be necessary to carry out its powers and duties under this title.

SEC. 508. The Administration is authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of the Department of Justice and of other civilian or military agencies and instrumentalities of the Federal Government, and to cooperate with the Department of Justice and such other agencies and instrumentalities in the establishment and use of services, equipment, personnel, and facilities of the Administration. The Administration is further authorized to confer with and avail itself of the corporation, services, records, and facilities of State, municipal, or other local agencies.

SEC. 509. Whenever the Administration, after reasonable notice and opportunity for hearing to an applicant or a grantee under this title, finds that, with respect to any payments made or to be made under this title, there is a substantial failure to comply with—

(a) the provisions of this title;

(b) regulations promulgated by the Administration under this title; or

(c) a plan or application submitted in acordance with the provisions of this title;

the Administration shall notify such applicant or grantee that further payments shall not be made (or in its discretion that further payments shall not be made for activities in which there is such failure), until there is no longer such failure.

SEC. 510. (a) In carrying out the functions vested by this title in the Administration, the determination, findings, and conclusions of the Administration shall be final and conclusive upon all applicants, except as hereafter provided.

(b) If the application has been rejected or an applicant has been denied a grant or has had a grant, or any portion of a grant, discontinued, or has been given a grant in a lesser amount than such applicant believes appropriate under the provisions of this title, the Administration shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever an applicant or grantee requests a hearing on action taken by the Administration on an application or a grant the Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations at such times and places as the Administration deems necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made by the Administration with respect thereto shall be final and conclusive, except as otherwise provided herein.

(c) If such applicant is still dissatisfied with the findings and determinations of the Administration, following the notice and hearing provided for in subsection (b) of this section, a request may be made for rehearing, under such regulations and procedures as the Administration may establish, and such applicant shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved. The findings and determinations of the Administration, following such rehearing, shall be final and conclusive upon all parties concerned, except as hereafter provided.

SEC. 511. (a) If any applicant or grantee is dissatisfied with the Administration's final action with respect to the approval of its application or plan submitted under this title, or any applicant or grantee is dissatisfied with the Administration's final action under section 509 or section 510, such applicant or grantee may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or grantee is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Administration. The Administration shall thereupon file in the court the record of the proceedings on which the action of the Administration was based, as provided in section 2112 of title 28, United States Code.

(b) The determinations and the findings of fact by the Administration, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Administration to take further evidence. The Administration may thereupon make new or modified findings of fact and may modify its previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact or determinations shall likewise be conclusive if supported by substantial evidence.

(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Administration or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

SEC. 512. Unless otherwise specified in this title, the Administration shall carry out the programs provided for in this title during the fiscal year ending June 30, 1968, and the five succeeding fiscal years.

SEC. 513. To insure that all Federal assistance to State and local programs under this title is carried out in a coordinated manner, the Administration is authorized to request any Federal department or agency to supply such statistics, data, program reports, and other material as the Administration deems necessary to carry out its functions under this title. Each such department or agency is authorized to cooperate with the Administration and, to the extent permitted by law, to furnish such materials to the Administration. Any Federal department or agency engaged in administering programs related to this title shall, to the maximum extent practicable, consult with and seek advice from the Administration to insure fully coordinated efforts, and the Administration shall undertake to coordinate such efforts.

SEC. 514. The Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of its functions under this title.

SEC. 515. The Administration is authorized—

(a) to conduct evaluation studies of the programs and activities assisted under this title;

(b) to collect, evaluate, publish, and disseminate statistics and other information on the condition and progress of law enforcement in the several States; and

(c) to cooperate with and render technical assistance to States, units of general local government, combinations of such States or units, or other public or private agencies, organizations, or institutions in matters relating to law enforcement.

SEC. 516. (a) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration.

(b) Not more than 12 per centum of the sums appropriated for any fiscal year to carry out the provisions of this title may be used within any one State except that this limitation shall not apply to grants made pursuant to part D.

SEC. 517. The Administration is authorized to appoint such technical or other advisory committees to advise the Administration with respect to the administration of this title as it deems necessary. Members of such committees not otherwise in the employ of the United States, while attending meetings of the committees, shall be entitled to receive compensation at a rate to be fixed by the Administration but not exceeding $75 per diem, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC. 518. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other law enforcement agency of any State or any political subdivision thereof.

(b) Notwithstanding any other provision of law nothing contained in this title shall be construed to authorize the Administration (1) to require, or condition the availability or amount of a grant upon, the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance or to eliminate racial imbalance in any law enforcement agency, or (2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.

SEC. 519. On or before August 31, 1968, and each year thereafter, the Administration shall report to the President and to the Congress on activities pursuant to the provisions of this title during the preceding fiscal year.

SEC. 520. For the purpose of carrying out this title, there is authorized to be appropriated the sums of $100,111,000 for the fiscal years ending June 30, 1968, and June 30, 1969, $300,000,000 for the fiscal year ending June 30, 1970, and for succeeding fiscal years such sums as the Congress might authorize: *Provided, however*, That of the amount appropriated for the fiscal years ending June 30, 1968, and June 30, 1969—

(a) the sum of $25,000,000 shall be for the purposes of part B;

(b) the sum of $50,000,000 shall be for the purposes of part C, of which amount—

(1) not more than $2,500,000 shall be for the purposes of section 302(b)(3);

(2) not more than $15,000,000 shall be for the purposes of section 302(b)(5), of which not more than $1,000,000 may be used within any one State;

(3) not more than $15,000,000 shall be for the purposes of section 302(b)(6); and

(4) not more than $10,000,000 shall be for the purposes of correction, probation, and parole; and

(c) the sum of $25,111,000 shall be for the purposes of part D, of which $5,111,000 shall be for the purposes of section 404, and not more than $10,000,000 shall be for the purposes of section 406.

SEC. 521. The Administration is authorized to make grants under this title to a unit of general local government or combination of such units only if—

(a) the applicant certifies that it has submitted a copy of its application to the chief executive of the State, and, where appropriate, the State law enforcement agency in which such unit or combination of such units is located; and

(b) such chief executive and, where appropriate, the State law enforcement agency have been afforded a reasonable opportunity not exceeding sixty days from the date of receipt of the application to submit to the Administration in writing an evaluation of the project set forth in the application. Such evaluation shall include comments on the relationship of the application to other applications then pending, and to existing or proposed plans in the State for the development of new approaches to and improvements in law enforcement. If an application is submitted by a combination of units of general local government which is located in more than one State, such application must be submitted to the chief executive, and where appropriate, the State law enforcement agency, of each State in which the combination of such units is located.

SEC. 522. (a) Each recipient of assistance under this Act shall keep such records as the Administration shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Administration and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for purpose of audit and examinations to any books, documents, papers, and records of the recipients that are

pertinent to the grants received under this title.

SEC. 523. Section 3334 of title 42, United States Code, is amended by inserting "law enforcement facilities," immediately after "transportation facilities."

PART F—DEFINITIONS

SEC. 601. As used in this title—

(a) "Law enforcement" means all activities pertaining to crime prevention or reduction and enforcement of the criminal law.

(b) "Organized crime" means the unlawful activities of the members of a highly organized, disciplined association engaged in supplying illegal goods and services, including but not limited to gambling, prostitution, loan sharking, narcotics, labor racketeering, and other unlawful activities of members of such organizations.

(c) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(d) "Unit of general local government" means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State.

(e) "Combination" as applied to States or units of general local government means any grouping or joining together of such States or units for the purpose of preparing, developing, or implementing a law enforcement plan.

(f) "Construction" means the erection, acquisition, expansion, or repair (but not including minor remodeling or minor repairs) of new or existing buildings or other physical facilities, and the acquisition or installation of inital equipment therefor.

(g) "State law enforcement agency" means an agency established pursuant to State law or established by the chief executive for the purpose of this title, or an existing agency so designated, which agency shall be broadly representative of law enforcement officials within such State.

(h) "State organized crime prevention council" means a council composed of not more than seven persons established pursuant to State law or established by the chief executive of the State for the purpose of this title, or an existing agency so designated, which council shall be broadly representative of law enforcement officials within such State and whose members by virtue of their training or experience shall be knowledgeable in the prevention and control of organized crime.

(i) "Metropolitan area" means a standard metropolitan statistical area as established by the Bureau of the Budget, subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

(j) "Public agency" means any State, unit of local government, combination of such States or units, or any department, agency, or instrumentality of any of the foregoing.

(k) "Institution of higher education" means any such institution as defined by section 801(a) of the Higher Education Act of 1965 (79 Stat. 1269; 20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate.

TITLE II—ADMISSIBILITY OF CONFESSIONS, REVIEWABILITY OF ADMISSION IN EVIDENCE OF CONFESSIONS IN STATE CASES, ADMISSIBILITY IN EVIDENCE OF EYE WITNESS TESTIMONY, AND PROCEDURES IN OBTAINING WRITS OF HABEAS CORPUS

SEC. 701. (a) Chapter 223, title 18, United States Code (relating to witnesses and evidence), is amended by adding at the end thereof the following new sections:

"§ 3501. Admissibility of confessions

"(a) In any criminal prosecution brought by the United States or by the District of Columbia, a confession, as defined in subsection (e) hereof, shall be admissible in evidence if it is voluntarily given. Before such confession is received in evidence, the trial judge shall, out of the presence of the jury, determine any issue as to voluntariness. If the trial judge determines that the confession was voluntarily made it shall be admitted in evidence and the trial judge shall permit the jury to hear relevant evidence on the issue of voluntariness and shall instruct the jury to give such weight to the confession as the jury feels it deserves under all the circumstances.

"(b) The trial judge in determining the issue of voluntariness shall take into consideration all the circumstances surrounding the giving of the confession, including (1) the time elapsing between arrest and arraignment of the defendant making the confession, if it was made after arrest and before arraignment, (2) whether such defendant knew the nature of the offense with which he was charged or of which he was suspected at the time of making the confession, (3) whether or not such defendant was advised or knew that he was not required to make any statement and that any such statement could be used against him, (4) whether or not such defendant had been advised prior to questioning of his right to the assistance of counsel; and (5) whether or not such defendant was without the assistance of counsel when questioned and when giving such confession.

"The presence or absence of any of the above-mentioned factors to be taken into consideration by the judge need not be conclusive on the issue of voluntariness of the confession.

"(c) In any criminal prosecution by the United States or by the District of Columbia, a confession made or given by a person who is a defendant therein, while such person was under arrest or other detention in the custody of any law-enforcement officer or law-enforcement agency, shall not be inadmissible solely because of delay in bringing such person before a commissioner or other officer empowered to commit persons charged with offenses against the laws of the United States or of the District of Columbia if such confession is found by the trial judge to have been made voluntarily and if the weight to be given the confession is left to the jury.

"(d) Nothing contained in this section shall bar the admission in evidence of any confession made or given voluntarily by any person to any other person without interrogation by anyone, or at any time at which the person who made or gave such confession was not under arrest or other detention.

"(e) As used in this section, the term 'confession' means any confession of guilt of any criminal offense or any selfincriminating statement made or given orally or in writing.

"§ 3502. Reviewability of admission in evidence of confessions in State cases

"Neither the Supreme Court nor any inferior court ordained and established by Congress under article III of the Constitution of the United States shall have jurisdiction to review or to reverse, vacate, modify, or disturb in any way, a ruling of any trial court of any State in any criminal prosecution admitting in evidence as voluntarily made an admission or confession of an accused if such ruling has been affirmed or otherwise upheld by the highest court of the State having appellate jurisdiction of the cause.

"§ 3503. Admissibility in evidence of eye witness testimony

"The testimony of a witness that he saw the accused commit or participate in the commission of the crime for which the accused is being tried shall be admissible into evidence in a criminal prosecution in any trial court ordained and established under article III of the Constitution of the United States; and neither the Supreme Court nor any inferior appellate court ordained and established by the Congress under article III of the Constitution of the United States shall have jurisdiction to review, reverse, vacate, modify, or disturb in any way a ruling of such a trial court or any trial court in any State, territory, district, commonwealth, or other possession of the United States admitting in evidence in any criminal prosecution the testimony of a witness that he saw the accused commit or participate in the commission of the crime for which the accused is tried."

(b) The section analysis of that chapter is amended by adding at the end thereof the following new items:

"3501. Admissibility of confessions.
"3502. Reviewability of admission in evidence of confessions in State cases.
"3503. Admissibility in evidence of eye witness testimony."

SEC. 702. (a) Chapter 153, title 28, United States Code (relating to habeas corpus), is amended by adding at the end thereof the following new section:

"§ 2256. Procedures in obtaining writs of habeas corpus

"The judgment of a court of a State upon a plea or verdict of guilty in a criminal action shall be conclusive with respect to all questions of law or fact which were determined, or which could have been determined, in that action until such judgment is reversed, vacated, or modified by a court having jurisdiction to review by appeal or certiorari such judgment; and neither the Supreme Court nor any inferior court ordained and established by Congress under article III of the Constitution of the United States shall have jurisdiction to reverse, vacate, or modify any such judgment of a State court except upon appeal from, or writ of certiorari granted to review, a determination made with respect to such judgment upon review thereof by the highest court of that State having jurisdiction to review such judgment."

(b) The section analysis of that chapter is amended by adding at the end thereof the following new item:

"§ 2256. Procedures in obtaining writs of habeas corpus."

TITLE III—WIRETAPPING AND ELECTRONIC SURVEILLANCE

FINDINGS

SEC. 801. On the basis of its own investigations and of published studies, the Congress makes the following findings:

(a) Wire communications are normally conducted through the use of facilities which form part of an interstate network. The same facilities are used for interstate and intrastate communications. There has been extensive wiretapping carried on without legal sanctions, and without the consent of any of the parties to the conversation. Electronic, mechanical, and other intercepting devices are being used to overhear oral conversations made in private, without the consent of any of the parties to such communications. The contents of these communications and evidence derived therefrom are being used by public and private parties as evidence in court and administrative proceedings, and by persons whose activities affect interstate commerce. The possession, manufacture, distribution, advertising, and use of these devices are facilitated by interstate commerce.

(b) In order to protect effectively the privacy of wire and oral communications, to protect the integrity of court and administrative proceedings, and to prevent the obstruction of interstate commerce, it is necessary for Congress to define on a uniform basis the circumstances and conditions under which the interception of wire and oral communications may be authorized, to prohibit

any unauthorized interception of such communications, and the use of the contents thereof in evidence in courts and administrative proceedings.

(c) Organized criminals make extensive use of wire and oral communications in their criminal activities. The interception of such communications to obtain evidence of the commission of crimes or to prevent their commission is an indispensable aid to law enforcement and the administration of justice.

(d) To safeguard the privacy of innocent persons, the interception of wire or oral communications where none of the parties to the communication has consented to the interception should be allowed only when authorized by a court of competent jurisdiction and should remain under the control and supervision of the authorizing court. Interception of wire and oral communications should further be limited to certain major types of offenses and specific categories of crime with assurances that the interception is justified and that the information obtained thereby will not be misused.

SEC. 802. Part I of title 18, United States Code, is amended by adding at the end of the following new chapter:

"CHAPTER 119. WIRE INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

"Sec.
"2510. Definitions.
"2511. Interception and disclosure of wire or oral communications prohibited.
"2512. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited.
"2513. Confiscation of wire or oral communication intercepting devices.
"2514. Immunity of witnesses.
"2515. Prohibition of use as evidence of intercepted wire or oral communications.
"2516. Authorization for interception of wire or oral communications.
"2517. Authorization for disclosure and use of intercepted wire or oral communications.
"2518. Procedure for interception of wire or oral communications.
"2519. Reports concerning intercepted wire or oral communications.
"2520. Recovery of civil damages authorized.

"§ 2510. Definitions

"As used in this chapter—

"(1) 'wire communication' means any communication made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable, or other like connection between the point of origin and the point of reception furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications;

"(2) 'oral communication' means any oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation;

"(3) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States;

"(4) 'intercept' means the aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device.

"(5) 'electronic, mechanical, or other device' means any device or apparatus which can be used to intercept a wire or oral communication other than—

"(a) any telephone or telegraph instrument, equipment or facility, or any component thereof, (i) furnished to the subscriber or user by a communications common carrier in the ordinary course of its business and being used by the subscriber or user in the ordinary course of its business; or (ii) being used by a communications common carrier in the ordinary course of its business, or by an investigative or law enforcement officer in the ordinary course of his duties;

"(b) a hearing aid or similar device being used to correct subnormal hearing to not better than normal;

"(6) 'person' means any employee, or agent of the United States or any State or political subdivision thereof, and any individual, partnership, association, joint stock company, trust, or corporation;

"(7) 'Investigative or law enforcement officer' means any officer of the United States or of a State or political subdivision thereof, who is empowered by law to conduct investigations of or to make arrests for offenses enumerated in this chapter, and any attorney authorized by law to prosecute or participate in the prosecution of such offenses;

"(8) 'contents', when used with respect to any wire or oral communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication;

"(9) 'Judge of competent jurisdiction' means—

"(a) a judge of a United States district court or a United States court of appeals; and

"(b) a judge of any court of general criminal jurisdiction of a State who is authorized by a statute of that State to enter orders authorizing interceptions of wire or oral communications;

"(10) 'communication common carrier' shall have the same meaning which is given the term 'common carrier' by section 153(h) of title 47 of the United States Code; and

"(11) 'aggrieved person' means a person who was a party to any intercepted wire or oral communication or a person against whom the interception was directed.

"§ 2511. Interception and disclosure of wire or oral communications prohibited

"(1) Except as otherwise specifically provided in this chapter any person who—

"(a) willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept, any wire or oral communication;

"(b) willfully uses, endeavors to use, or procures any other person to use or endeavor to use any electronic, mechanical, or other device to intercept any oral comunication when—

"(i) such device is affixed to, or otherwise transmits a signal through, a wire, cable, or other like connection used in wire communication; or

"(ii) such device transmits communications by radio, or interferes with the transmission of such communication; or

"(iii) such person knows, or has reason to know, that such device or any component thereof has been sent through the mail or transported in interstate or foreign commerce; or

"(iv) such use or endeavor to use (A) takes place on the premises of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or (B) obtains or is for the purpose of obtaining information relating to the operations of any business or other commercial establishment the operations of which affect interstate or foreign commerce; or

"(v) such person acts in the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;"

"(c) willfully discloses, or endeavors to disclose, to any other person the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection; or

"(d) willfully uses, or endeavors to use, the contents of any wire or oral communication, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication in violation of this subsection;

shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(2)(a) It shall not be unlawful under this chapter for an operator of a switchboard, or an officer, employee, or agent of any communication common carrier, whose facilities are used in the transmission of a wire communication, to intercept, disclose, or use that communication in the normal course of his employment while engaged in any activity which is a necessary incident to the rendition of his service or to the protection of the rights or property of the carrier of such communication: *Provided,* That said communication common carriers shall not utilize service observing or random monitoring except for mechanical or service quality control checks.

"(b) It shall not be unlawful under this chapter for an officer, employee, or agent of the Federal Communications Commission, in the normal course of his employment and in discharge of the monitoring responsibilities exercised by the Commission in the enforcement of chapter 5 of title 47 of the United States Code, to intercept a wire communication, or oral communication transmitted by radio, or to disclose or use the information thereby obtained.

"(c) It shall not be unlawful under this chapter for a party to any wire or oral communication, or a person given prior authority by a party to the communication to intercept such communication.

"(3) Nothing contained in this chapter or in section 605 of the Communications Act of 1934 (48 Stat. 1143; 47 U.S.C. 605) shall limit the constitutional power of the President to take such measures as he deems necessary to protect the Nation against actual or potential attack or other hostile acts of a foreign power, to obtain foreign intelligence information deemed essential to the security of the United States, or to protect national security information against foreign intelligence activities. Nor shall anything contained in this chapter be deemed to limit the constitutional power of the President to take such measures as he deems necessary to protect the United States against the overthrow of the Government by force or other unlawful means, or against any other clear and present danger to the structure or existence of the Government. The contents of any wire or oral communication intercepted by authority of the President in the exercise of the foregoing powers may be received in evidence in any trial hearing, or other proceeding only where such interception was reasonable, and shall not be otherwise used or disclosed except as is necessary to implement that power.

"§ 2512. Manufacture, distribution, possession, and advertising of wire or oral communication intercepting devices prohibited

"(1) Except as otherwise specifically provided in this chapter, any person who willfully—

"(a) sends through the mail, or sends or carries in interstate or foreign commerce, any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications;

"(b) manufacturers, assembles, possesses, or sells any electronic, mechanical, or other device, knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications, and that such device or any

component thereof has been or will be sent through the mail or transported in interstate or foreign commerce; or

"(c) places in any newspaper, magazine, handbill, or other publication any advertisement of—

"(i) any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications; or

"(ii) any other electronic, mechanical, or other device, where such advertisement promotes the use of such device for the purpose of the surreptitious interception of wire or oral communications, knowing or having reason to know that such advertisement will be sent through the mail or transported in interstate or foreign commerce,

shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"(2) It shall not be unlawful under this section for—

"(a) a communications common carrier or an officer, agent, or employee of, or a person under contract with, a communications common carrier, in the normal course of the communications common carrier's business, or

"(b) an officer, agent, or employee of, or a person under contract with, the United States, a State, or a political subdivision thereof, in the normal course of the activities of the United States, a State, or a political subdivision thereof, to send through the mail, send or carry in interstate or foreign commerce, or manufacture, assemble, possess, or sell any electronic, mechanical, or other device knowing or having reason to know that the design of such device renders it primarily useful for the purpose of the surreptitious interception of wire or oral communications.

"§ 2513. Confiscation of wire or oral communication intercepting devices

"Any electronic, mechanical, or other device used, sent, carried, manufactured, assembled, possessed, sold, or advertised in violation of section 2511 or section 2512 of this chapter may be seized and forfeited to the United States. All provisions of law relating to (1) the seizure, summary and judicial forfeiture, and condemnation of vessels, vehicles, merchandise, and baggage for violations of the customs laws contained in title 19 of the United States Code, (2) the disposition of such vessels, vehicles, merchandise, and baggage or the proceeds from the sale thereof, (3) the remission or mitigation of such forfeiture, (4) the compromise of claims, and (5) the award of compensation to informers in respect of such forfeitures, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this section, insofar as applicable and not inconsistent with the provisions of this section; except that such duties as are imposed upon the collector of customs or any other person with respect to the seizure and forfeiture of vessels, vehicles, merchandise, and baggage under the provisions of the customs laws contained in title 19 of the United States Code shall be performed with respect to seizure and forfeiture of electronic, mechanical, or other intercepting devices under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General.

"§ 2514. Immunity of witnesses

"Whenever in the judgment of a United States attorney the testimony of any witness, or the production of books, papers, or other evidence by any witness, in any case or proceeding before any grand jury or court of the United States involving any violation of this chapter or any of the offenses enumerated in section 2516, or any conspiracy to violate this chapter or any of the offenses enumerated in section 2516 is necessary to the public interest, such United States attorney, upon the approval of the Attorney General, shall make application to the court that the witness shall be instructed to testify or produce evidence subject to the provisions of this section, and upon order of the court such witness shall not be excused from testifying or from producing books, papers, or other evidence on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. No such witness shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, nor shall testimony so compelled be used as evidence in any criminal proceeding (except in a proceeding described in the next sentence) against him in any court. No witness shall be exempt under this section from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion as provided in this section.

"§ 2515. Prohibition of use as evidence of intercepted wire or oral communications

"Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the United States, a State, or a political subdivision thereof if the disclosure of that information would be in violation of this chapter.

"§ 2516. Authorization for interception of wire or oral communications

"(1) The Attorney General, or any Assistant Attorney General specially designated by the Attorney General, may authorize an application to a Federal judge of competent jurisdiction for, and such judge may grant in conformity with section 2518 of this chapter an order authorizing or approving the interception of wire or oral communications by the Federal Bureau of Investigation, or a Federal agency having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of—

"(a) any offense punishable by death or by imprisonment for more than one year under sections 2274 through 2277 of title 42 of the United States Code (relating to the enforcement of the Atomic Energy Act of 1954), or under the following chapters of this title: chapter 37 (relating to espionage), chapter 105 (relating to sabotage), or chapter 115 (relating to treason);

"(b) a violation of section 186 or section 501(c) of title 29, United States Code (dealing with restrictions on payments and loans to labor organizations), or any offense which involves murder, kidnapping, robbery, or extortion, and which is punishable under this title;

"(c) any offense which is punishable under the following sections of this title: section 201 (bribery of public officials and witnesses), section 224 (bribery in sporting contests), section 1084 (transmission of wagering information), section 1503 (influencing or injuring an officer, juror, or witness generally), section 1510 (obstruction of criminal investigations), section 1751 (Presidential assassinations, kidnapping, and assault), section 1951 (interference with commerce by threats or violence), section 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), section 1954 (offer, acceptance, or solicitation to influence operations of employee benefit plan), or sections 2313 and 2314 (interstate transportation of stolen property);

"(d) any offense involving counterfeiting punishable under section 471, 472, or 473 of this title;

"(e) any offense involving bankruptcy fraud or the manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in narcotic drugs, marihuana, or other dangerous drugs, punishable under any law of the United States; or

"(f) any conspiracy to commit any of the foregoing offenses.

"(2) The principal prosecuting attorney of any State, or the principal prosecuting attorney of any political subdivision thereof, if such attorney is authorized by a statute of that State to make application to a State court judge of competent jurisdiction for an order authorizing or approving the interception of wire or oral communications, may apply to such judge for, and such judge may grant in conformity with section 2518 of this chapter and with the applicable State statute an order authorizing, or approving the interception of wire or oral communications by investigative or law enforcement officers having responsibility for the investigation of the offense as to which the application is made, when such interception may provide or has provided evidence of the commission of the offense of murder, kidnapping, gambling, robbery, bribery, extortion, or dealing in narcotic drugs, marihuana or other dangerous drugs, or other crime dangerous to life, limb, or property, and punishable by imprisonment for more than one year, designated in any applicable State statute authorizing such interception, or any conspiracy to commit any of the foregoing offenses.

"§ 2517. Authorization for disclosure and use of intercepted wire or oral communications

"(1) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire or oral communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

"(2) Any investigative or law enforcement officer who, by any means authorized by this chapter, has obtained knowledge of the contents of any wire or oral communication or evidence derived therefrom may use such contents to the extent such use is appropriate to the proper performance of his official duties.

"(3) Any person who has received, by any means authorized by this chapter, any information concerning a wire or oral communication, or evidence derived therefrom intercepted in accordance with the provisions of this chapter may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any criminal proceeding in any court of the United States or of any State or in any Federal or State grand jury proceeding.

"(4) No otherwise privileged wire or oral communication intercepted in accordance with, or in violation of, the provisions of this chapter shall lose its privileged character.

"(5) When an investigative or law enforcement officer, while engaged in intercepting wire or oral communications in the manner authorized herein, intercepts wire or oral communications relating to offenses other than those specified in the order of authorization or approval, the contents thereof, and evidence derived therefrom, may be disclosed or used as provided in subsections (1) and (2) of this section. Such contents and any evidence derived there-

from may be used under subsection (3) of this section when authorized or approved by a judge of competent jurisdiction where such judge finds on subsequent application that the contents were otherwise intercepted in accordance with the provisions of this chapter. Such application shall be made as soon as practicable.

"§ 2518. Procedure for interception of wire or oral communications

"(1) Each application for an order authorizing or approving the interception of a wire or oral communication shall be made in writing upon oath or affirmation to a judge of competent jurisdiction and shall state the applicant's authority to make such application. Each application shall include the following information:

"(a) the identity of the investigative or law enforcement officer making the application, and the officer authorizing the application;

"(b) a full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an order should be issued, including (i) details as to the particular offense that has been, is being, or is about to be committed, (ii) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted, (iii) a particular description of the type of communications sought to be intercepted, (iv) the identity of the person, if known, committing the offense and whose communications are to be intercepted;

"(c) a full and complete statement as to whether or not other investigative procedures have been tried and failed or why they reasonably appear to be unlikely to succeed if tried or to be too dangerous;

"(d) a statement of the period of time for which the interception is required to be maintained. If the nature of the investigation is such that the authorization for interception should not automatically terminate when the described type of communication has been first obtained, a particular description of facts establishing probable cause to believe that additional communications of the same type will occur thereafter; and

"(e) a full and complete statement of the facts concerning all previous applications known to the individual authorizing and making the application, made to any judge for authorization to intercept, or for approval of interceptions of, wire or oral communications involving any of the same persons, facilities or places specified in the application, and the action taken by the judge on each such application.

"(2) The judge may require the applicant to furnish additional testimony or documentary evidence in support of the application.

"(3) Upon such application the judge may enter an ex parte order, as requested or as modified, authorizing or approving interception of wire or oral communications within the territorial jurisdiction of the court in which the judge is sitting, if the judge determines on the basis of the facts submitted by the applicant that—

"(a) there is probable cause for belief that an individual is committing, has committed, or is about to commit a particular offense enumerated in section 2516 of this chapter;

"(b) there is probable cause for belief that particular communications concerning that offense will be obtained through such interception;

"(c) normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous;

"(d) there is probable cause for belief that the facilities from which, or the place where, the wire or oral communications are to be intercepted are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

"(4) Each order authorizing or approving the interception of any wire or oral communication shall specify—

"(a) the identity of the person, if known, whose communications are to be intercepted;

"(b) the nature and location of the communications facilities as to which, or the place where, authority to intercept is granted;

"(c) a particular description of the type of communication sought to be intercepted, and a statement of the particular offense to which it relates;

"(d) the identity of the agency authorized to intercept the communications, and of the person authorizing the application; and

"(e) the period of time during which such interception is authorized, including a statement as to whether or not the interception shall automatically terminate when the described communication has been first obtained.

"(5) No order entered under this section may authorize or approve the interception of any wire or oral communication for any period longer than is necessary to achieve the objective of the authorization, nor in any event longer than thirty days. Extensions of an order may be granted, but only upon application for an extension made in accordance with subsection (1) of this section and the court making the findings required by subsection (3) of this section. The period of extension shall be no longer than the authorizing judge deems necessary to achieve the purposes for which it was granted and in no event for longer than thirty days. Every order and extension thereof shall contain a provision that the authorization to intercept shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications not otherwise subject to interception under this chapter, and must terminate upon attainment of the authorized objective, or in any event in thirty days.

"(6) Whenever an order authorizing interception is entered pursuant to this chapter, the order may require reports to be made to the judge who issued the order showing what progress has been made toward achievement of the authorized objectives and the need for continued interception. Such reports shall me made at such intervals as the judge may require.

"(7) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the Attorney General or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

"(a) an emergency situation exists that requires a wire or oral communication to be intercepted before an order authorizing such interception can with due diligence be obtained, and

"(b) there are grounds upon which an order could be entered under this chapter to authorize such interception,

may intercept such wire or oral communication if an application for an order approving the interception is made in accordance with this secton withn forty-eight hours after the interception has occurred, or begins to occur. In the absence of an order, such interception shall immediately terminate when the communication sought is obtained or when the application for the order is denied, whichever is earlier. In the event such application for approval is denied, or in any other case where the interception is terminated without an order having been issued, the contents of any wire or oral communication intercepted shall be treated as having been obtained in violation of this chapter, and an inventory shall be served as provided for in subsection (d) of this section on the person named in the application.

"(8)(a) The contents of any wire or oral communication intercepted by any means authorized by this chapter shall, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any wire or oral communication under this subsection shall be done in such way as will protect the recording from editing or other alterations. Immediately upon the expiration of the period of the order, or extensions thereof, such recordings shall be made available to the judge issuing such order and sealed under his directions. Custody of the recordings shall be wherever the judge orders. They shall not be destroyed except upon an order of the issuing or denying judge and in any event shall be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subsections (1) and (2) of section 2517 of this chapter for investigations. The presence of the seal provided for by this subsection, or a satisfactory explanation for the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any wire or oral communication or evidence derived therefrom under subsection (3) of section 2517.

"(b) Applications made and orders granted under this chapter shall be sealed by the judge. Custody of the applications and orders shall be wherever the judge directs. Such applications and orders shall be disclosed only upon a showing of good cause before a judge of competent jurisdiction and shall not be destroyed except on order of the issuing or denying judge, and in any event shall be kept for ten years.

"(c) Any violation of the provisions of this subsection may be punished as contempt of the issuing or denying judge.

"(d) Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under section 2518(7)(b) which is denied or the termination of the period of an order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, an inventory which shall include notice of—

"(1) the fact of the entry of the order or the application;

"(2) the date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

"(3) the fact that during the period wire or oral communications were or were not intercepted.

On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed.

"(9) The contents of any intercepted wire or oral communication or evidence derived therefrom shall not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in a Federal or State court unless each party, not less than ten days before the trial, hearing, or proceeding, has been furnished with a copy of the court order under which the interception was authorized or approved. This ten-day period may be waived by the judge if he finds that it was not possible to furnish the party with the above information ten days before the trial, hearing, or proceeding and that the party will not be prejudiced by the delay in receiving such information.

"(10)(a) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the contents of any intercepted wire or oral communication, or evidence derived therefrom, on the grounds that—

"(i) the communication was unlawfully intercepted;

"(ii) the order of authorization or approval under which it was intercepted is insufficient on its face; or

"(iii) the interception was not made in conformity with the order of authorization or approval.

Such motion shall be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of the motion. If the motion is granted, the contents of the intercepted wire or oral communication, or evidence derived therefrom, shall be treated as having been obtained in violation of this chapter. The judge, upon the filing of such motion by the aggrieved person, may in his discretion make available to the aggrieved person or his counsel for inspection such portions of the intercepted communication or evidence derived therefrom as the judge determines to be in the interests of justice.

"(b) In addition to any other right to appeal, the United States shall have the right to appeal from an order granting a motion to suppress made under paragraph (a) of this subsection, or the denial of an application for an order of approval, if the United States attorney shall certify to the judge or other official granting such motion or denying such application that the appeal is not taken for purposes of delay. Such appeal shall be taken within thirty days after the date the order was entered and shall be diligently prosecuted.

"§ 2519. Reports concerning intercepted wire or oral communications

"(1) Within thirty days after the expiration of an order (or each extension thereof) entered under section 2518, or the denial of an order approving an interception, the issuing or denying judge shall report to the Administrative Office of the United States Courts—

"(a) the fact that an order or extension was applied for;

"(b) the kind of order or extension applied for;

"(c) the fact that the order or extension was granted as applied for, was modified, or was denied;

"(d) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

"(e) the offense specified in the order or application, or extension of an order;

"(f) the identity of the applying investigative or law enforcement officer, and agency making the application and the person authorizing the application; and

"(g) the nature of the facilities from which or the place where communications were to be intercepted.

"(2) In January of each year the Attorney General, an Assistant Attorney General specially designated by the Attorney General, or the principal prosecuting attorney of a State, or the principal prosecuting attorney for any political subdivision of a State, shall report to the Administrative Office of the United States Courts—

"(a) the information required by paragraphs (a) through (g) of subsection (1) of this section with respect to each application for an order or extension made during the preceding calendar year;

"(b) a general description of the interceptions made under such order or extension, including (i) the approximate nature and frequency of incriminating communications intercepted, (ii) the approximate nature and frequency of other communications intercepted, (iii) the approximate number of persons whose communications were intercepted, and (iv) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

"(c) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

"(d) the number of trials resulting from such interceptions;

"(e) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

"(f) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

"(g) the information required by paragraphs (b) through (f) of this subsection with respect to orders or extensions obtained in a preceding calendar year.

"(3) In April of each year the Director of the Administrative Office of the United States Courts shall transmit to the Congress a full and complete report concerning the number of applications for orders authorizing or approving the interception of wire or oral communications and the number of orders and extensions granted or denied during the preceding calendar year. Such report shall include a summary and analysis of the data required to be filed with the Administrative Office by subsections (1) and (2) of this section. The Director of the Administrative Office of the United States Courts is authorized to issue binding regulations dealing with the content and form of the reports required to be filed by subsections (1) and (2) of this section.

"§ 2520. Recovery of civil damages authorized

"Any person whose wire or oral communication is intercepted, disclosed, or used in violation of this chapter shall (1) have a civil cause of action against any person who intercepts, discloses, or uses, or procures any other person to intercept, disclose, or use such communications, and (2) be entitled to recover from any such person—

"(a) actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

"(b) punitive damages; and

"(c) a reasonable attorney's fee and other litigation costs reasonably incurred:

A good faith reliance on a court order or on the provisions of section 2518(7) of this chapter shall constitute a complete defense to any civil or criminal action brought under this chapter."

SEC. 803. Section 605 of the Communications Act of 1934 (48 Stat. 1103; 47 U.S.C. 605) is amended to read as follows:

"UNAUTHORIZED PUBLICATION OF COMMUNICATIONS

"SEC. 605. Except as authorized by chapter 119, title 18, United States Code, no person receiving, assisting in receiving, transmitting, or assisting in transmitting, any interstate or foreign communication by wire or radio shall divulge or publish the existence, contents, substance, purport, effect, or meaning thereof, except through authorized channels of transmission or reception, (1) to any person other than the addressee, his agent, or attorney, (2) to a person employed or authorized to forward such communication to its destination, (3) to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, (4) to the master of a ship under whom he is serving, (5) in response to a subpena issued by a court of competent jurisdiction, or (6) on demand of other lawful authority. No person not being authorized by the sender shall intercept any radio communication and divulge or publish the existence, contents, substance, purport, effect, or meaning of such intercepted communication to any person. No person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by radio and use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. No person having received any intercepted radio communication or having become acquainted with the contents, substance, purport, effect, or meaning of such communication (or any part thereof) knowing that such communication was intercepted, shall divulge or publish the existence, contents, substance, purport, effect, or meaning of such communication (or any part thereof) or use such communication (or any information therein contained) for his own benefit or for the benefit of another not entitled thereto. This section shall not apply to the receiving, divulging, publishing, or utilizing the contents of any radio communication which is broadcast or transmitted by amateurs or others for the use of the general public, or which relates to ships in distress."

TITLE IV—STATE FIREARMS CONTROL ASSISTANCE

FINDINGS AND DECLARATION

SEC. 901. (a) The Congress hereby finds and declares—

(1) that there is a widespread traffic in firearms moving in or otherwise affecting interstate or foreign commerce, and that the existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(2) that the ease with which any person can acquire firearms other than a rifle or shotgun (including criminals, juveniles without the knowledge or consent of their parents or guardians, narcotics addicts, mental defectives, armed groups who would supplant the functions of duly constituted public authorities, and others whose possession of such weapons is similarly contrary to the public interest) is a significant factor in the prevalence of lawlessness and violent crime in the United States;

(3) that only through adequate Federal control over interstate and foreign commerce in these weapons, and over all persons engaging in the businesses of importing, manufacturing, or dealing in them, can this grave problem be properly dealt with, and effective State and local regulation of this traffic be made possible;

(4) that the acquisition on a mail-order basis of firearms other than a rifle or shotgun by nonlicensed individuals, from a place other than their State of residence, has materially tended to thwart the effectiveness of State laws and regulations, and local ordinances;

(5) that the sale or other disposition of concealable weapons by importers, manufacturers, and dealers holding Federal licenses, to nonresidents of the State in which the licensees' places of business are located, has tended to make ineffective the laws, regulations, and ordinances in the several States and local jurisdictions regarding such firearms;

(6) that there is a causal relationship between the easy availability of firearms other than a rifle or shotgun and juvenile and youthful criminal behavior, and that such firearms have been widely sold by federally licensed importers and dealers to emotionally immature, or thrill-bent juveniles and minors prone to criminal behavior;

(7) that the United States has become the dumping ground of the castoff surplus military weapons of other nations, and that such weapons, and the large volume of relatively inexpensive pistols and revolvers (largely worthless for sporting purposes), imported into the United States in recent years, has contributed greatly to lawlessness and to the Nation's law enforcement problems;

(8) that the lack of adequate Federal control over interstate and foreign commerce in highly destructive weapons (such as bazookas, mortars, antitank guns, and so forth,

and destructive devices such as explosive or incendiary grenades, bombs, missiles, and so forth) has allowed such weapons and devices to fall into the hands of lawless persons, including armed groups who would supplant lawful authority, thus creating a problem of national concern;

(9) that the existing licensing system under the Federal Firearms Act does not provide adequate license fees or proper standards for the granting or denial of licenses, and that this has led to licenses being issued to persons not reasonably entitled thereto, thus distorting the purposes of the licensing system.

(b) The Congress further hereby declares that the purpose of this title is to cope with the conditions referred to in the foregoing subsection, and that it is not the purpose of this title to place any undue or unnecessary Federal restrictions or burdens on law-abiding citizens with respect to the acquisition, possession, or use of firearms appropriate to the purpose of hunting, trap shooting, target shooting, personal protection, or any other lawful activity, and that this title is not intended to discourage or eliminate the private ownership or use of firearms by law-abiding citizens for lawful purposes, or provide for the imposition by Federal regulations of any procedures or requirements other than those reasonably necessary to implement and effectuate the provisions of this title.

SEC. 902. Title 18, United States Code, is amended by inserting after section 917 thereof the following new chapter:

"CHAPTER 44—FIREARMS

"Sec.
"921. Definitions.
"922. Unlawful acts.
"923. Licensing.
"924. Penalties.
"925. Exceptions: Relief from disabilities.
"926. Rules and regulations.
"927. Effect on State law.
"928. Separability clause.

"§ 921. Definitions

"(a) As used in this chapter—

"(1) The term 'person' and the term 'whoever' includes any individual, corporation, company, association, firm, partnership, society, or joint stock company.

"(2) The term 'interstate or foreign commerce' includes commerce betwen any State or possession (not including the Canal Zone) and any place outside thereof; or between points within the same State or possession (not including the Canal Zone), but through any place outside thereof; or within any possession or the District of Columbia. The term 'State' shall include the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia.

"(3) The term 'firearm' means any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or any destructive device.

"(4) The term 'destruction device' means any explosive, incendiary, or poison gas bomb, grenade, mine, rocket, missile, or similar device; and includes any type of weapon which will or is designed to or may readily be converted to expel a projectile by the action of any explosive and having any barrel with a bore of one-half inch or more in diameter.

"(5) The term 'shotgun' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of ball shot or a single projectile for each single pull of the trigger.

"(6) The term 'short-barreled shotgun' means a shotgun having one or more barrels less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six inches.

"(7) The term 'rifle' means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

"(8) The term 'short-barreled rifle' means a rifle having one or more barrels less than sixteen inches in length and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six inches.

"(9) The term 'importer' means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term 'licensed importer' means any such person licensed under the provisions of this chapter.

"(10) The term 'manufacturer' means any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution; and the term 'licensed manufacturer' means any such person licensed under the provisions of this chapter.

"(11) The term 'dealer' means (A) any person engaged in the business of selling firearms or ammunition at wholesale or retail, (B) any person engaged in the business of repairing such firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms or (C) any person who is a pawnbroker. The term 'licensed dealer' means any dealer who is licensed under the provisions of this chapter.

"(12) The term 'pawnbroker' means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.

"(13) The term 'indictment' includes an indictment or an information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

"(14) The term 'fugitive from justice' means any person who has fled from any State or possession to avoid prosecution for a crime punishable by imprisonment for a term exceeding one year or to avoid giving testimony in any criminal proceeding.

"(15) The term 'antique firearm' means any firearm of a design used before the year 1870 (including any matchlock, flintlock, percussion cap, or similar early type of ignition system) or replica thereof, whether actually manufactured before or after the year 1870; but not including any weapon designed for use with smokeless powder or using rimfire or conventional center-fire ignition with fixed ammunition.

"(16) The term 'ammunition' means ammunition for a destructive device; it shall not include shotgun shells or any other ammunition designed for use in a firearm other than a destructive device.

"(17) The term 'Secretary' or 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

"(b) As used in this chapter—

"(1) The term 'firearm' shall not include an antique firearm.

"(2) The term 'destructive device' shall not include—

"(A) a device which is not designed or redesigned or used or intended for use as a weapon; or

"(B) any device, although originally designed as a weapon, which is redesigned so that it may be used solely as a signaling, linethrowing, safety or similar device; or

"(C) any shotgun other than a short-barreled shotgun; or

"(D) any nonautomatic rifle (other than a short-barreled rifle) generally recognized or particularly suitable for use for the hunting of big game; or

"(E) surplus obsolete ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of sections 4684(2), 4685, or 4686 of title 10, United States Code; or

"(F) any other device which the Secretary finds is not likely to be used as a weapon.

"(3) The term 'crime punishable by imprisonment for a term exceeding one year' shall not include any Federal or State offenses pertaining to antitrust violations, unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate.

"§ 922. Unlawful acts

"(a) It shall be unlawful—

"(1) for any person, except a licensed importer, licensed manufacturer, or licensed dealer, to engage in the business of importing, manufacturing, or dealing in firearms, or ammunition, or in the course of such business to ship, transport, or receive any firearm or ammunition in interstate or foreign commerce.

"(2) for any importer, manufacturer, or dealer licensed under the provisions of this chapter to ship or transport in interstate or foreign commerce, any firearm other than a rifle or shotgun, or ammunition to any person other than a licensed importer, licensed manufacturer, or licensed dealer, except that—

"(A) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from returning a firearm or replacement firearm of the same kind and type to a person from whom it was received;

"(B) this paragraph shall not be held to preclude a licensed importer, licensed manufacturer, or licensed dealer from depositing a firearm for conveyance in the mails to any officer, employee, agent, or watchman who, pursuant to the provisions of section 1715 of title 18 of the United States Code, is eligible to receive through the mails pistols, revolvers, and other firearms capable of being concealed on the person, for use in connection with his official duty;

"(C) nothing in this paragraph shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were in fact a State of the United States.

"(3) for any person other than a licensed importer, licensed manufacturer, or licensed dealer to transport into or receive in the State where he resides (or if the persons is a corporation or other business entity, in which he maintains a place of business)—

"(A) any firearm, other than a shotgun or rifle, purchased or otherwise obtained by him outside that State;

"(B) any firearm, purchased or otherwise obtained by him outside that State, which it would be unlawful for him to purchase or possess in the State or political subdivision thereof wherein he resides (or if the person is a corporation or other business entity, in which he maintains a place of business).

"(4) for any person, other than a licensed importer, licensed manufacturer, or licensed dealer, to transport in interstate or foreign commerce any destructive device, machine-gun (as defined in section 5848 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, except as specifically authorized by the Secretary.

"(5) for any person to transfer, sell, trade, give, transport, or deliver to any person (other than a licensed importer, licensed manufacturer, or licensed dealer) who resides in any State other than that in which

the transferor resides (or in which his place of business is located if the transferor is a corporation or other business equity—

"(A) any firearm, other than a shotgun or rifle;

"(B) any firearm which the transferee could not lawfully purchase or possess in accord with applicable laws, regulations or ordinances of the State or political subdivision thereof in which the transferee resides (or in which his place of business is located if the transferee is a corporation or other business entity).

"This paragraph shall not apply to transactions between licensed importers, licensed manufacturers, and licensed dealers.

"(6) for any person in connection with the acquisition or attempted acquisition of any firearm from a licensed importer, licensed manufacturer, or licensed dealer, knowingly to make any false or fictitious oral or written statement or to furnish or exhibit any false or fictitious or misrepresented identification, intended or likely to deceive such importer, manufacturer, or dealer with respect to any fact material to the lawfulness of the sale or other disposition of such firearm under the provisions of this chapter.

"(b) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell or deliver—

"(1) any firearm to any individual who the licensee knows or has reasonable cause to believe is less than twenty-one years of age, if the firearm is other than a shotgun or rifle.

"(2) any firearm to any person who the licensee knows or has reasonable cause to believe is not lawfully entitled to receive or possess such firearm by reason of any State or local law, regulation, or ordinance applicable at the place of sale, delivery, or other disposition of the firearm.

"(3) any firearm to any person who the licensee knows or has reasonable cause to believe does not reside in (or if the person is a corporation or other business entity, does not maintain a place of business in) the State in which the licensee's place of business is located; except that this paragraph shall not apply in the case of a shotgun or rifle.

"(4) to any person any destructive device, machinegun (as defined in section 5848 of the Internal Revenue Code of 1954), short-barreled shotgun, or short-barreled rifle, unless he has in his possession a sworn statement executed by the principal law enforcement officer of the locality wherein the purchaser or person to whom it is otherwise disposed of resides, attesting that there is no provision of law, regulation, or ordinance which would be violated by such person's receipt or possession thereof, and that he is satisfied that it is intended by such person for lawful purposes; and such sworn statement shall be retained by the licensee as a part of the records required to be kept under the provisions of this chapter.

"(5) any firearm to any person unless the licensee notes in his records required to be kept pursuant to section 923 of this chapter, the name, age, and place of residence of such person if the person is an individual, or the identity and principal and local places of business of such person if the person is a corporation or other business entity.

Paragraphs (1), (2), (3) and (4) of this subsection shall not apply to transactions between licensed importers, licensed manufacturers, and licensed dealers.

"(c) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell or otherwise dispose of any firearm or ammunition to any person, knowing or having reasonable cause to believe that such person is a fugitive from justice or is under indictment or has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year. This subsection shall not apply with respect to sales or disposition of a firearm to a licensed importer, licensed manufacturer, or licensed dealer who pursuant to subsection (b) of section 925 of this chapter is not precluded from dealing in firearms, or to a person who has been granted relief from disabilities pursuant to subsection (c) of section 925 of this chapter.

"(d) It shall be unlawful for any common or contract carrier to transport or deliver in interstate or foreign commerce any firearm with knowledge or reasonable cause to believe that the shipment, transportation, or receipt thereof would be in violation of the provisions of this chapter.

"(e) It shall be unlawful for any person who is under indictment or who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice, to ship or transport any firearm or ammunition in interstate or foreign commerce.

"(f) It shall be unlawful for any person who is under indictment or who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, or is a fugitive from justice, to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

"(g) It shall be unlawful for any person to transport or ship in interstate or foreign commerce, any stolen firearm or stolen ammunition, knowing or having reasonable cause to believe the same to have been stolen.

"(h) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition, or pledge or accept as security for a loan any stolen firearm or stolen ammunition, moving as or which is a part of or which constitutes interstate or foreign commerce, knowing or having reasonable cause to believe the same to have been stolen.

"(i) It shall be unlawful for any person knowingly to transport, ship, or receive, in interstate or foreign commerce, any firearm the importer's or manufacturer's serial number of which has been removed, obliterated, or altered.

"(j) It shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition, except as provided in subsection (d) of section 925 of this chapter; and it shall be unlawful for any person knowingly to receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this chapter.

"(k) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer knowingly to make any false entry in, or to fail to make appropriate entry in or to fail to properly maintain, any record which he is required to keep pursuant to section 923 of this chapter or regulations promulgated thereunder.

"§ 923. Licensing

"(a) No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so, from, the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulation prescribe. Each applicant shall be required to pay a fee for obtaining such a license, a separate fee being required for each place in which the applicant is to do business, as follows:

"(1) If a manufacturer—

"(A) of destructive devices and/or ammunition a fee of $1,000 per year;

"(B) of firearms other than destructive devices a fee of $500 per year.

"(2) If an importer—

"(A) of destructive devices and/or ammunition a fee of $1,000 per year;

"(B) of firearms other than destructive devices a fee of $500 per year.

"(3) If a dealer—

"(A) in destructive devices and/or ammunition a fee of $1,000 per year;

"(B) who is a pawnbroker dealing in firearms other than destructive devices a fee of $250 per year;

"(C) who is not a dealer in destructive devices or a pawnbroker, a fee of $10 per year; except that for the first renewal following the effective date of this chapter or for the first year he is engaged in business as a dealer such dealer will pay a fee of $25.

"(b) Upon the filing of a proper application and payment of the prescribed fee, the Secretary may issue to the applicant the appropriate license which, subject to the provisions of this chapter and other applicable provisions of law, shall entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license.

"(c) Any application submitted under subsections (a) and (b) of this section shall be disapproved and the license denied and the fee returned to the applicant if the Secretary, after notice and opportunity for hearing, finds that—

"(1) the applicant is under twenty-one years of age; or

"(2) the applicant (including in the case of a corporation, partnership, or association, any individual possessing directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under the provisions of this chapter; or is, by reason of his business experience, financial standing, or trade connections, not likely to commence business operations during the term of the annual license applied for or to maintain operations in compliance with this chapter; or

"(3) the applicant has willfully violated any of the provisions of this chapter or regulations issued thereunder; or

"(4) the applicant has willfully failed to disclose any material information required, or has made any false statement as to any material fact, in connection with his application; or

"(5) the applicant does not have, or does not intend to have or to maintain, in a State or possession, business premises for the conduct of the business.

"(d) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, and sale or other disposition, of firearms and ammunition at such place, for such period and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, and dealers shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary or his delegate may enter during business hours the premises (including places of storage) of any firearms or ammunition importer, manufacturer, or dealer for the purpose of inspecting or examining any records or documents required to be kept by such importer or manufacturer or dealer under the provisions of this chapter or regulations issued pursuant thereto, and any firearms or ammunition kept or stored by such importer, manufacturer, or dealer at such premises. Upon the request of any State, or possession, or any political subdivision thereof, the Secretary of the Treasury may make available to such State, or possession, or any political subdivision thereof,

any information which he may obtain by reason of the provisions of this chapter with respect to the identification of persons within such State, or possession, or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of such firearms or ammunition.

"(e) Licenses issued under the provisions of subsection (b) of this section shall be kept posted and kept available for inspection on the business premises covered by the license.

"(f) Licensed importers and licensed manufacturers shall identify, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer.

"§ 924. Penalties

"(a) Whoever violates any provision of this chapter or any rule or regulation promulgated thereunder, or knowingly makes any false statement or representation with respect to the information required by the provisions of this chapter to be kept in the records of a person licensed under this chapter, or in applying for any license or exemption or relief from disability under the provisions of this chapter, shall be fined not more than $5,000 or imprisoned not more than five years, or both.

"(b) Whoever, with intent to commit therewith an offense punishable by imprisonment for a term exceeding one year, or with knowledge or reasonable cause to believe that an offense punishable by imprisonment for a term exceeding one year is to be committed therewith, ships, transports, or receives a firearm in interstate or foreign commerce shall be fined not more than $10,000 or imprisoned not more than ten years, or both.

"(c) Any firearm or ammunition involved in, or used or intended to be used in, any violation of the provisions of this chapter, or a rule or regulation promulgated thereunder, or violation of any other criminal law of the United States, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5848(1) of said Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this chapter.

"§ 925. Exceptions: relief from disabilities

"(a) The provisions of this chapter shall not apply with respect to the transportation, shipment, receipt, or importation of any firearm or ammunition imported for, or sold or shipped to, or issued for the use of the United States or any department, or agency thereof; or any State or possession, or any department, agency, or political subdivision thereof.

"(b) A licensed importer, licensed manufacturer, or licensed dealer who is indicted for a crime punishable by imprisonment for a term exceeding one year, may, notwithstanding any other provisions of this chapter, continue operations pursuant to his existing license (provided that prior to the expiration of the term of the existing license timely application is made for a new license) during the term of such indictment and until any conviction pursuant to the indictment becomes final.

"(c) A person who has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this chapter or of the National Firearms Act) may make application to the Secretary for relief from the disabilities under this chapter incurred by reason of such conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation, are such that the applicant will not be likely to conduct his operations in an unlawful manner, and that the granting of the relief would not be contrary to the public interest. A licensee conducting operations under this chapter, who makes application for relief from the disabilities incurred under this chapter by reason of such a conviction, shall not be barred by such conviction from further operations under his license pending final action on an application for relief filed pursuant to this section. Whenever the Secretary grants relief to any person pursuant to this section he shall promptly publish in the Federal Register notice of such action, together with the reasons therefor.

"(d) The Secretary may authorize a firearm to be imported or brought into the United States or any possession thereof if the person importing or bringing in the firearm establishes to the satisfaction of the Secretary that the firearm—

"(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10 of the United States Code; or

"(2) is an unserviceable firearm, other than a machinegun as defined by 5848(2) of the Internal Revenue Code of 1954 (not readily restorable to firing condition), imported or brought in as a curio or museum piece; or

"(3) is of a type that does not fall within the definition of a firearm as defined in section 5848(1) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, and in the case of surplus military firearms is a rifle or shotgun; or

"(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm.

*Provided*, That the Secretary may permit the conditional importation or bringing in of a firearm for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearms will be allowed under this subsection.

"§ 926. Rules and regulations

"The Secretary may prescribe such rules and regulations as he deems reasonably necessary to carry out the provisions of this chapter. The Secretary shall give reasonable public notice, and afford to interested parties opportunity for hearing, prior to prescribing such rules and regulations.

"§ 927. Effect on State law

"No provision of this chapter shall be construed as indicating an intent on the part of the Congress to occupy the field in which such provision operates to the exclusion of the law of any State or possession on the same subject matter, unless there is a direct and positive conflict between such provision and the law of the State or possession so that the two cannot be reconciled or consistently stand together.

"§ 928. Separability

"If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected thereby."

"SEC. 903. The administration and enforcement of the amendment made by this title shall be vested in the Secretary of the Treasury.

"SEC. 904. Nothing in this title or amendment made thereby shall be construed as modifying or affecting any provision of—

"(a) the National Firearms Act (chapter 53 of the Internal Revenue Code of 1954); or

(b) section 414 of the Mutual Security Act of 1954 (22 U.S.C. 1934), as amended, relating to munitions control; or

(c) section 1715 of title 18, United States Code, relating to nonmailable firearms.

"SEC. 905. The table of contents to 'PART I.—CRIMES' of title 18, United States Code, is amended by inserting after

"43. False personation ..... 911"

a new chapter reference as follows:

"44. Firearms ..... 921"

SEC. 906. The Federal Firearms Act (52 Stat. 1250; 15 U.S.C. 901–910), as amended, is repealed.

"SEC. 907. The amendments made by this title shall become effective one hundred and eighty days after the date of its enactment; except that repeal of the Federal Firearms Act shall not in itself terminate any valid license issued pursuant to that Act and any such license shall be deemed valid until it shall expire according to its terms unless it be sooner revoked or terminated pursuant to applicable provisions of law.

TITLE V—GENERAL PROVISIONS

SEC. 1001. If the provisions of any part of this Act or any amendments made thereby or the application thereof to any person or circumstances be held invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

## RECESS

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Senate stand in recess subject to the call of the Chair, but not later than 1:30 p.m. this afternoon.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Thereupon (at 12 o'clock and 52 minutes p.m.) the Senate took a recess subject to the call of the Chair.

At 1 o'clock and 30 minutes p.m., the Senate reassembled, when called to order by the Presiding Officer (Mr. INOUYE in the chair).

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RIOTS AND THE MARCH ON WASHINGTON

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to have printed in the RECORD the following newspaper items:

An article entitled "District of Columbia Firemen Outmanned During the Riot," written by Robert G. Kaiser and published in the Washington Post for today, May 1, 1968.

An article entitled "Looted Shop Owner Slain in Gun Duel," written by Alfred E. Lewis, and published in the Washington Post for today, May 1, 1968.

An article entitled "Officials Get a Scolding," written by Willard Clopton, Jr., and published in the Washington Post for today, May 1, 1968.

An article entitled "Hill Is Noncommittal," written by Jean M. White, and

published in the Washington Post for today, May 1, 1968.

An article entitled "Objectives of Poor People's March Ill Conceived," written by Richard Wilson, and published in the Washington Evening Star for today, May 1, 1968.

An article entitled "Demands on the Table, the Marching Starts," written by David Holmberg and published in the Washington Daily News for today, May 1, 1968.

An article entitled, "Arson Is Suspected in Three New Fires Here," published in the Washington Post for today, May 1, 1968.

An article entitled, "'Shoot Him,' Youths Cry in Holdup: A Reporter's First-Person Account," written by Martin Weil and published in the Washington Post for today, May 1, 1968.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington (D.C.) Post, May 1, 1968]

DISTRICT OF COLUMBIA FIREMEN OUTMANNED DURING RIOT

(By Robert G. Kaiser)

During three hours and 47 minutes on the afternoon of Friday, April 5—the second day of rioting here—103 fires broke out in the city, most of them along 7th and 14th Streets nw. and H Street ne.

According to Fire Department records, this startling pace was too much for city firemen. Many of these fires burned out of control for long periods before firefighting equipment could be brought in to fight them.

Most of the damage in the riot was apparently caused by these fires, and all of them began before any significant number of troops were in the city.

Just seven substantial fires broke out Thursday night and early Friday (April 4–5) in the first wave of violence. But in 48 minutes beginning shortly after noon Friday, 11 major blazes were lit along 14th Street nw. At 1:01 p.m., firemen were called to the first of many fires along 7th Street nw. At 3:11, the first fire on H Street ne. was reported.

ARSONISTS ORGANIZED?

Fire Department officials attribute virtually all of the fires during the riot to arsonists. However, according to Patrick V. Murphy, the director of public safety, and other top officials, there is little evidence that arsonists were organized.

"We do not have strong evidence of organization," Murphy said last week. "That is not the same thing as saying there was no organization . . . I suspect there is some organization."

Several top officials have said privately that the remarkable number of fires that began early Friday afternoon suggested some organized arson. These officials have declined to be identified, however.

TWENTY-FIVE-AN-HOUR RATE

New fires were reported Friday afternoon at a rate of more than 25 an hour. This was a fast pace even compared with the Nation's worst riot in Detroit last summer. At one point in Detroit when violence was near its peak, officials reported ten new fires an hour.

The riot cost the District Fire Department more than $290,000 in extraordinary costs, mostly overtime pay. Damage to the Department's equipment was relatively light, and was placed at slightly more than $10,000.

The Department has reported rescuing 120 persons from fires during the riot. Fifty of these were taken from buildings while fire or smoke was severe, according to Department records.

Firemen reported dozens of incidents when they or their equipment were assaulted by rocks, bottles and verbal abuse from crowds of onlookers. On nine occasions, companies reported that they had to delay fighting a fire because of harassment from citizens.

At 4:30 p.m. Friday, District firemen concluded that they could not cope with the rash of fires, and called on suburban departments for help. Nearby jurisdictions responded by dispatching 69 pieces of equipment to the city. Many of them remained until 7 a.m. Saturday.

Fire Department figures indicate that clothing, liquor and grocery stores suffered the most damage from fires during the riot. At least 61 clothing stores, 57 liquor stores and 53 groceries were burned wholly or in part.

Other types of businesses badly damaged by fires included 23 furniture stores, 19 drug stores, 19 cleaners, 18 variety stores and 23 restaurants of various kinds.

About 15 per cent of the city's 380 liquor stores suffered fire damage. Another 120, or more than 30 per cent, were looted or otherwise damaged.

A total of 418 businesses of all descriptions were affected by fires in the riot.

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LOOTED SHOP OWNER SLAIN IN GUN DUEL

(By Alfred E. Lewis)

A 59-year-old Washington liquor store owner, whose brother was killed in a liquor store holdup in 1964, was shot and killed in a holdup or looting yesterday afternoon.

Benjamin Brown was shot fatally at about 4:30 p.m., yesterday in Brown's Service Liquor Store, 1100 9th st. nw. His older brother, Lewis Brown Sr., 72, owner of a liquor store at 1432 New Jersey ave. nw., was shot to death in a holdup on Oct. 29, 1964.

Benjamin Brown, who lived at 1900 Lyttonsville rd., Silver Spring, died in an ambulance on the way to George Washington University Hospital shortly after the shooting yesterday. He had been shot once in the chest.

His older brother was shot to death with a .45-caliber pistol wielded by a man who terrorized customers and escaped with $2400. The gunman was later tried, convicted and drew a life term in the slaying.

In yesterday's holdup, Police Insp. John Williams said witnesses told detectives that more than a dozen youths, ranging in age from 11 to 20, burst into Brown's store shortly before 4:30 p.m.

Police gave this account:

A man who seemed older than the others went directly to the cash register and began pounding the keys with his fist and demanding that someone open it for him.

Brown, standing behind the short end of an L-shaped counter, drew a .38-caliber revolver from his pocket and as he did so the man at the register drew a gun from his pocket and fired once, felling Brown. Brown got off two shots, police said, but it could not be determined if they hit anyone.

All the intruders fled at the outset of the gunfire, police said, and Brown's bullets may have gone out the open door. Three others, all of Brown's employees, were in the store at the time, but were uninjured.

Williams said Brown's store was looted during the rioting April 5 by a gang who smashed all the windows and stripped the shelves of stock that had been only partially replaced.

Brown had operated the store for about 25 years, police said. He remained closed for several days after the looting, and friends said he was uncertain about resuming the business at the site.

As far as could be determined, nothing was taken yesterday from the store, police said.

The police lookout for the gunman described him as a Negro about 25 years old. He was wearing a black cap, a blue jacket and a yellow shirt. The lookout described him as armed and dangerous and said he may be wounded. It urged all doctors and hospitals to be on the alert for the suspect.

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OFFICIALS GET A SCOLDING

(By Willard Clopton, Jr.)

Poverty victims from both slums and backwoods angrily scolded two Cabinet members yesterday and told them they should resign if they can't do a better job.

Spokesmen for the Poor People's Campaign delivered the tongue-lashings to Robert C. Weaver, Secretary of Housing and Urban Development, and to Wilbur Cohen, acting Secretary of Health, Education and Welfare.

Colleen Buckley, a slim, intense housewife from Columbus, Ohio, pointed an accusing forefinger at Weaver and declared:

"We're talking about babies who have their noses bitten off by rats . . . about people who flush their commodes with a bucket of rainwater that leaked from a hole in the roof . . .

"If you can't do the job, quit and give it to someone who can."

At HEW, the Rev. Jesse Jackson, an official of the Southern Christian Leadership Conference, looked fixedly at Cohen and said, "Those administering aid are mostly old, rich and white. Most of you are over the hill, too old to understand."

Weaver thanked the group for coming and said he was already developing administrative and legislative proposals to deal with many of the points raised.

At HEW, the group insisted that the Government give its highest priority to meeting the health and educational needs of the poor and that welfare programs be revamped to provide a guaranteed minimum income for all needy persons.

Cohen said at the end of the meeting that the points made "have a great deal of validity," and would be thoughtfully considered. He was applauded.

While the campaign participants were venting their frustration, their leader, the Rev. Ralph David Abernathy, was telling a press conference that he was not acting out of anger toward his country:

"I love America, and fought a war to defend it . . . Whatever I do, I do because of my love for America, I hold no bitterness at all."

Mr. Abernathy also described as "incorrect" a report in Tuesday's editions of the Washington Post that he had referred to some Government officials as "honkies" during a talk to his supporters.

A Washington Post reporter who was at the gathering said he had used the term.

Mr. Abernathy said he had never used the word. "I do not believe in calling (a member of) any ethnic or racial group by a derogatory name," he said.

VISITS CONGRESS

Mr. Abernathy's activity yesterday was chiefly limited to calls on House and Senate leaders, to whom he outlined the campaign's demands for programs to aid the Nation's poor.

His more than 100 supporters, who represent most of the country's geographical regions and racial minorities, paid only the two visits to Weaver and Cohen.

At each stop, they presented a list of demands and pledged that they would return in ten days, accompanied by several thousand poor people from around the country who are to stage a massive "camp-in" at a still-undesignated spot in Washington.

At HUD, the group demanded action to meet "the real needs of America's ill-housed millions."

ROLE ASKED FOR POOR

Among the demands were that the poor be given a basic role in planning renewal programs, that replacement dwellings be found for ghetto-dwellers before their old homes are razed and a massive increase in the provision of new housing for low-income families.

In addition, more than a dozen of the visitors complained of and demanded correction of conditions in their areas.

The day's congressional response to the campaign included the introduction by all ten Virginia members of the House of a resolution that would forbid the use of park areas or other public lands in the District as camp grounds unless they have been designated for camping.

At Mr. Abernathy's press conference, one reporter commented that the SCLC president appeared in a less militant mood than he had during a public rally Monday night at a church in the Cardozo area.

Replied Mr. Abernathy: "This is not a mass meeting. This is a press conference. There is no reason for me to try to preach a sermon to the press."

He added that he considered himself a militant believer in nonviolence, which he called "not a weapon of the weak but of the strong."

He also asked reporters to begin using his full name of David in referring to him. He explained that David was his original given name and that Ralph was prefixed to it during his youth.

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HILL IS NONCOMMITTAL

(By Jean M. White)

The Poor People's Campaign was carried yesterday to Capitol Hill, the place where many of its demands on jobs and income have been stalled or undercut.

After meeting with the leadership of both the House and Senate, the Rev. Ralph D. Abernathy said his advance contingent of poor petitioners had been received "quite graciously" but with "no guarantees, no promises that our demands will be met."

Asked if he really believed that Congress would do anything in response to the Poor People's Campaign, Mr. Abernathy replied:

"For us, this is not a physical fitness program. We are not walking to Washington for our health. We are going on business."

After the hour-and-a-half discussion with Mr. Abernathy and his aides, Senate Majority Leader Mike Mansfield (D-Mont.) told reporters that there were "no threats, no demands, only a reasonable explanation of their views."

"I explained the situation to them vis-a-vis several pieces of legislation they were interested in," the Senator added.

House Speaker John W. McCormack (D-Mass.) described the hour-long session with the Poor People's leaders as "very cordial." Asked what Congress might do in face of the proposed massive demonstrations starting May 12, he answered:

"The Congress, of course, will exercise its judgment in connection with specific legislation. They are coming to Washington to march, and as American citizens they have the right to do so."

Mr. Abernathy reported that both the House and Senate leaders expressed concern that the demonstrations be orderly and not explode into violence.

SPEAKER MENTIONS PROBLEMS

He reported that Speaker McCormack had mentioned the problem of control and pointed out that it sometimes was "kind of difficult to control members of the House."

The meetings with the Senate and House leadership came after a special hearing for the Poor People's representatives before the Senate Anti-poverty subcommittee headed by Sen. Joseph S. Clark (D-Pa.).

For the first time, the leaders of the Poor People's Campaign—who have been saying that their task is to raise the general problems and let Congress write legislation—began to spell out their stand on specific pieces of legislation.

Mr. Abernathy, who succeeded the slain Rev. Dr. Martin Luther King Jr., as head of the Southern Christian Leadership Conference, backed Clark's training bill as "only a beginning."

This would provide jobs and job training in the public and private sectors for 2.4 million hard-core unemployed during the next four years.

The SCLC head said a "minimum" of 1 million jobs is needed this year and another million over the next four years.

He called on Congress to enact the following programs: rent supplements; model cities; the home ownership program for low-income families; repeal of the "forced-work" program for mothers on welfare and of the welfare-roll freeze on aid to children; aid for the hungry poor, including a declaration of national emergency and a special food program in the 256 "hunger" counties named in a recent citizens' inquiry; a free food stamp program; and an expanded school lunch program.

These programs, Mr. Abernathy told the subcommittee, are desperately needed to help "hundreds of thousands of Americans (who) daily drag out their lives in depths of an economic depression as crippling as this country has ever known."

Mr. Abernathy brought along a contingent of poor people—white, black, Indian, Mexican-American, and Puerto Rican—to speak for themselves.

And they did.

With a straw hat perched solidly on top of her head, Alberta Scott told the Senators what it's like to be poor:

"Now, my husband is a disability. All welfare gives us is $130. Well, we have to pay $65 for the house we live in, and it's a slum house . . . with roaches, rats."

SPEAKS FOR APPALACHIA

Robert Fulcher spoke for the poor white people of Appalachia.

"I gave my life to the coal mines," he said. "I went in when I was 15. I got hurt ten years ago . . . There is no time to get an education because he's down in that dark hole."

Martha Grass, who came from Oklahoma for the Poor People's Campaign, said she was a "proud Indian" and "didn't want to come for a 'handout.' "

But, she added: "We have 11 children. My husband is a disabled veteran. We go to bed at night and sometimes hate to get up in the morning because the cupboard is bare."

An angry voice came from Jose Ortez, of New York City, who complained: "We don't need professional people to come down there and program us and tell us how to run our lives."

Sen. Clark said the Antipoverty subcommittee intended to call in some Cabinet members to ask why something has not been done to feed hungry people.

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[From the Washington (D.C.) Evening Star, May 1, 1968]

OBJECTIVES OF POOR PEOPLE'S MARCH ILL-CONCEIVED

(By Richard Wilson)

If all goes according to plan Washington at the end of May will be seething with hundreds of thousands of "poor people" from every corner of the nation demanding new multi-billion dollar federal programs to relieve their condition.

They will be camped out in make-shift tent cities, further overtaxing the already inadequate public facilities and services of the capital. This is the "Poor People's March" Martin Luther King would have led.

The march was poorly conceived from the beginning. Its objectives are not clearly spelled out. Its potential for harm is probably greater than for good. But it is not possible to convince its leaders of this for one reason.

They believe that public commotion, demonstrations, even rioting are necessary preliminaries to action. Riot commission reports, hunger commission reports, are deemed inadequate to stir Congress into action, and only the stark threat of public disorder implicit in mass demonstrations will do the trick.

Washington will be a television producer's paradise during this period. Marching and countermarching. Unsanitary and disorderly conditions in the poverty cantonments, with the dome of the Capitol or the Washington Monument in the background. Visits to the poverty camps by Bobby Kennedy and Hubert Humphrey.

And, in the end, perhaps some violent action to evict from the public's grounds tens of thousands who have taken up residence there.

There is to be a progressive buildup beginning with the recent visit of 100 leaders to denounce Washington's poverty programs as inadequate and illusory. The first marchers will come from Memphis, Tenn. and Jackson, Miss. Chicago will send a Midwestern contingent. Mexican-American groups will head out from Los Angeles and a Northeastern contingent from Boston.

Groups from elsewhere will converge on Washington.

So far as it can be judged from the hazy plans now available the object is to paralyze the capital of the Nation beginning on May 20 by impeding transportation and clogging the city so that its normal functions cannot be carried out.

In this respect the march is entirely different than any of the other descents on Washington beginning with Coxey's army in the last century, on through the first and second bonus marches, and a few farmers, mothers, and unemployed visitations in intervening years.

The special character of the Poor People's March, if its purposes are carried out, will inevitably call for repressive measures at an earlier stage than when Gen. Douglas MacArthur was ordered to rout out the bonus marchers in 1932.

What is most discouraging about all this is that need does exist, inequalities want correction, but the methods chosen to dramatize the need are likely to have the opposite effect.

If the "Poor people" are coming here for specific reasons such as a guaranteed annual income, more generous housing measures than already are proposed, and greatly liberalized welfare programs, they will not find Congress in a receptive mood. Disorder in Washington could easily cause Congress to become even less receptive.

The "poor people's" answer is not likely to be found in intimidation of members of Congress, nor in Washington at all at this stage. Their answer lies in the election of congressmen who are prepared to vote for guaranteed annual incomes and for massive increases in welfare and poverty programs, and these congressmen are not elected in Washington, D.C. The answer lies in the congressional districts from which the "Poor People" marchers will come.

This is clearly understood by some of the leaders of the march, but they have been carried away by the demonstration psychology of present times into thinking that minority views can be forced on the majority by the threat of disorder.

If the oncoming march has any more precise purpose, it is to cause Congress to authorize from $10 to $20 billion more annually for the relief of families below some arbitrarily chosen level of income. The present Congress is not in a mood to do that and even less so under duress. If the marchers are unsuccessful they will probably have to march back home to elect, if they can, congressmen who are in a more favorable mood.

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[From the Washington (D.C.) Daily News, May 1, 1968]

REV. ABERNATHY WINDS UP HERE, HEADS FOR MEMPHIS: DEMANDS ON THE TABLE, THE MARCHING STARTS

(By David Holmberg)

The Poor People's Campaign ends nearly three days of pointed confrontations with officialdom today and enters its next phase tomorrow: the long march to the Capital by poor people from thruout the country.

Rev. Ralph Abernathy, a model of punctuality and decorum following his Monday campaign debut in which he kept several Cabinet members waiting for hours, outlined to a Senate subcommittee some of the Campaign's goals yesterday, and met with Senate and House leadership.

This morning he meets with the House Ways and Means Committee—one of the foremost Congressional barriers to the kind of legislation the Campaign seeks—while other Campaign representatives huddle with some individual senators. Rev. Abernathy will leave the city later today for Memphis, where tomorrow morning he begins a march to the Capital from the spot where Dr. Martin Luther King was assassinated April 4.

DEMANDS LISTED

Rev. Abernathy began yesterday by asking the Senate Labor and Public Welfare Sub-Committee, chaired by Sen. Joseph Clark (D., Pa.,) for such items as:

Legislation that "will provide for the thousands of new units of low income housing so desperately needed this year, and for thousands more that must be added in the next three or four years . . ."

The expansion of Model City programs "from neighborhoods to communities."

The providing of "a minimum of one million jobs in the public and private sector this year and another million jobs over the next four years."

An "immediate income maintenance program" for the poor and the disabled, or, "at the bare minimum," a "fair Federal standard of need for welfare payments."

Repeal of "the forced work program for mothers and the freeze on AFDC (Aid For Dependent Children) mothers in the Social Security Act of 1967."

AGRICULTURE DEPARTMENT HIT

The Southern Christian Leadership Conference Director took a particular rap at the Department of Agriculture for "hesitating" in providing food to the needy in the face of what he said was extensive documentation of hunger and malnutrition in the nation.

Sen. Clark, who interrupted Rev. Abernathy several times to endorse his proposals and to note his own efforts in seeking the same goals, said he "couldn't even get an answer to my letters" inquiring about Agriculture's position on food programs. The Senator added that "I'm not going to stop there, and I hope you won't either."

Sen. George Murphy (R., Calif.) told Abernathy that "the things you have said here today have been said before, and we are aware of it . . . I don't understand the discrepancy between what we've seen (on the Sub-Committee's trips to impoverished area) and the actions of the Secretary of Agriculture. I'm embarrassed at sitting here a year later (after the trips) having you ask us why we haven't done things."

CABINET CALLS

While Rev. Abernathy lobbied on the Hill, others in his contingent called on Housing and Urban Development Secretary Robert C. Weaver and Health, Education and Welfare acting Secretary Wilbur Cohen, both of whom came in for an angry scolding.

Ohio housewife Colleen Buckley pointed an accusing finger at Secretary Weaver and shouted, "We're talking about babies who have their noses bitten off by rats . . . about people who flush their commodes with a bucket of rainwater that leaked from a hole in the roof."

She told him if he couldn't handle the job of alleviating such conditions he should "quit and give it to someone who can."

At HEW, Rev. Jesse Jackson of the Southern Christian Leadership Conference told Acting Secretary Cohen "Those administering aid are mostly old, rich and white. Most of you are over the hill, too old to understand." Secretary Cohen didn't wince.

Rev. Abernathy, meanwhile, went off to a 90-minute session with Senate Majority Leader Mike Mansfield (D., Mont.), Minority Leader Everett Dirksen (R., Ill.) and Sen. Russell Long (D., La.). He later termed the meeting "constructive and profitable," echoing Sen. Dirksen, who termed it "reasonably profitable . . . certainly restrained."

Rev. Abernathy said he told the senators the Campaign was the beginning of a "revolution" in the country, and that "the main problem in this country today is poverty."

He said he told them that more jobs was the main solution to the dilemma of poverty, and that the three senators had agreed with him.

The minister said the senators had also shown "concern" over the planned demonstrations and that he had "made it clear that we intend to conduct a non-violent peaceful demonstration, which is guaranteed to us under the constitution."

Rev. Abernathy, attempting in a cordial manner to counteract reports of confusion and lateness on the Campaign's first day, said he thought that "yesterday was the greatest day in the history of this present revolution that is taking place in our country." He said it was the first time members of various ethnic groups "came together to express themselves to the officials of our government."

"HONKIE" USE DENIED

He also vehemently denied a report that he had used the term "honkie" in referring to government officials Monday. He said, in fact, that the first time he'd used it was in denying its use. "I don't believe in anybody calling any ethnic or racial group by any degrogatory name," he said, "I don't condemn others for using it but I just happen to have other words in my vocabulary."

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[From the Washington (D.C.) Post, May 1, 1968]

ARSON IS SUSPECTED IN THREE NEW FIRES HERE

Three fires in which arson is suspected were reported early yesterday, including one in which more than $350 in cash, liquor and cigarettes was stolen.

Firemen put out a fire in the Northeast Tavern, 4810 Deane ave. ne. shortly after 5:30 a.m. Investigation showed that more than $150 in cash had been stolen, as well as several cases of liquor, cigarettes and cigars, police said.

An upstairs rear door had been pried open, they said, and a gasoline can was found on the second floor, where damage was extensive. A telephone booth was damaged and an unknown amount of money stolen from the coin box.

Other fires in which arson is suspected were reported at 1:17 a.m. in a restaurant at 2467 18th st. nw., and at 3:38 a.m. in Samuel's Men's Shop, 1942 14th st. nw. Both fires caused considerable damage.

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"SHOOT HIM," YOUTHS CRY IN HOLDUP: A REPORTER'S FIRST-PERSON ACCOUNT

(By Martin Weil)

"How much?" I asked.

He glared and put a silver-plated revolver against my stomach.

"All of it," he said, and his friends laughed.

I was held up last night at Vermont Avenue and R Street nw., as I waited for a taxi to take me back to the office from an assignment.

This is how it happened:

I left the YMCA building on 12th Street between R and S Streets nw. about 9:25 p.m. and started looking for a cab.

As I walked down the long, lonely block of Vermont Avenue beside a playground fence, I called to one or two taxis, but they were far off and occupied.

I turned to see if any were coming from behind. There were no taxis, but there was a group of youths, sauntering down the block toward me.

I kept walking.

The more I turned to look for the cab that wasn't coming, the more they seemed to laugh and the faster they seemed to approach. I wanted that cab to come.

I stopped at Vermont and R. I was going to catch a cab right there.

The youths reached the corner seconds after I did.

The leader wore an orange windbreaker and a thin mustache. He was no more than 16, and he seemed pleasant enough.

"Got a match?" he asked. I didn't. "Got a cigarette?"

No luck.

"Got any money?"

I sighed. "How much?"

Then the revolver was in my stomach. "All of it."

"All right," I said. "All right," trying to be agreeable. They didn't wait. One grabbed me around the neck from behind. I didn't resist as he pulled me to the pavement.

"Shoot him," one youth called, giggling, as the leader stood over me with the gun. "Shoot him."

I didn't know if he would or wouldn't. I was scared and I won't forget it. I lay very limp and let them pull the wallet containing about $45 out of my pocket and the watch off my wrist. Then they ran down the street laughing.

Just across the street, a woman screamed. "He's being robbed!" Several people near her began laughing.

After the youths ran away, I got up and began walking toward the office. I never did find a cab.

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## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## ORDER FOR ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 noon tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECESS

Mr. BYRD of West Virginia. Mr. President, I move that the Senate stand in recess until 2 p.m. today.

The motion was agreed to; and (at 1 o'clock and 45 minutes p.m.) the Senate took a recess until 2 p.m.

The Senate reassembled at 2 p.m., when called to order by the Presiding Officer (Mr. HARTKE in the chair).

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

### PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent, at the request of the senior Senator from Virginia [Mr. BYRD], that the privilege of the floor be given to two members of his staff—Mr. Jack Lewis and Mr. Bill Utz—during the consideration of the Omnibus Crime Control and Safe Streets Act of 1967.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the following members of the staff of the Subcommittee on Criminal Laws and Procedures be allowed on the floor of the Senate for the duration of the consideration of S. 917: William Paisley, G. Robert Blakey, W. Arnold Smith, James C. Wood, Jr., and Richard W. Velde.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, I ask unanimous consent that the committee amendment, in the nature of a substitute, be agreed to, and that the bill as thus amended be considered as original text for the purpose of amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, will the Senator from Arkansas yield?

Mr. McCLELLAN. I yield.

Mr. DODD. Does that include title IV.

Mr. McCLELLAN. It includes all of it. The entire substitute that was adopted by the Judiciary Committee for the original text.

Mr. DODD. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas? The Chair hears none, and it is so ordered.

Mr. McCLELLAN. Mr. President, I believe it is most appropriate and quite fitting that we commence debate today on S. 917, the Omnibus Crime Control and Safe Streets Act of 1967, for, as Senators know, today is Law Day.

Let us hope that this happy coincidence will overwhelm us as we embark on our deliberations of this landmark moment of adding crime legislation to our agenda. Likewise, Mr. President, let us fervently hope that it will mark the beginning of a return to respect for law and order and for stricter law enforcement in this country.

Mr. President, S. 917 is a rather lengthy bill. It is also a highly controversial measure and is quite consequential. I think I can say without reservation that this bill is the most important legislation that will be considered by the Senate during the remainder of this session of Congress.

The enactment of its major provisions is urgent, for we are literally at war with a vicious and tenacious enemy.

Mr. President, crime and the threat of crime, rioting, and violence, stalk America. Our streets are unsafe. Our citizens are fearful, terrorized, and outraged. They demand and deserve relief from this scourge of lawlessness, which today imperils our internal security. The skyrocketing incidence of major crimes during the decade of the 1960's has reached intolerable proportions. From decent, law-abiding citizens a clarion call for relief from this threat and danger reverberates across the land. In the past 7 years alone, the rate of serious crime in this country has doubled.

In 1960 there were 1,861,300 major crimes committed, whereas in 1967 there were approximately 3,750,400 major crimes committed in our country. And since I introduced S. 917 in February of last year, serious crime has risen another 16 percent. This rash lawlessness, this raw contempt for law and order, coupled with the wanton mass destruction inflicted on many of our Nation's cities in recent weeks, underscore the urgency for enactment of the bill now before the Senate.

We need to improve and strengthen law enforcement at all levels of government. The war on crime must be waged on many fronts. Programs to better train and equip our police personnel are needed. Prosecution efforts should be intensified and made more aggressive. Court decisions that dispense "unequal" justice to society and which protect and liberate guilty and confirmed criminals to pursue and repeat their nefarious crimes should be reversed and overruled.

Mr. President, the enactment of S. 917, the Omnibus Crime Control and Safe Streets Act will not solve all the problems. Far from it. But it will deal effectively with many of them. Moreover, it will let the lawless elements know that the tide is beginning to turn in America and, hopefully, it will reassure decent Americans that their pleas for help have been heard by Congress.

In recommending the enactment of S. 917, the Judiciary Committee concluded in part that—

> Crime is the most critical and urgent domestic problem facing the Nation. Although law enforcement is essentially a local problem, the incidence of crime has reached proportions that threaten the peace, security, and general welfare of the Nation.

The Federal Government has a clear responsibility to help meet and to repel this threat. For the Congress, this means the enactment of remedial legislation and the appropriation of funds to assist the States and units of local government to devise and implement programs to combat crime.

S. 917 offers four major anticrime proposals and, at the same time, authorizes the appropriation of $400 million over the next 2 years. This bill is the product of long and thorough hearings by the Subcommittee on Criminal Laws and Procedures, which I am privileged to chair.

The bill retains and strengthens the substance of the President's original safe streets bill to give Federal assistance to the States and units of local government to improve and to expand their law-enforcement capability through Federal grants. The thrust of the bill, however, has been significantly expanded and its scope made much more comprehensive. Its added provisions will equip law enforcement officers and the judiciary with urgently needed legal authority and procedures with which to improve the administration of justice and to battle more successfully the forces of lawlessness and crime.

S. 917, as reported, contains four major titles. Title I is the law enforcement assistance part which would provide financial assistance to States and units of local government or combinations thereof having a population of not less than 50,000 persons for strengthening and improving law enforcement.

Part A of this title would establish within the Department of Justice, under the general authority of the Attorney General, a three-member Law Enforcement Assistance Administraiton to be appointed by the President by and with the consent of the Senate. Not more than two of the members shall be of the same political party. The Administrators shall be appointed with due regard to their fitness, knowledge, and experience in the area of law enforcement. Composed of an Administrator and two Associate Administrators of Law Enforcement, the Administration would administer the grant provisions of this title under the general authority of the Attorney General.

Part B provides grants up to 80 percent to States and units of general local government for the purpose of developing and planning comprehensive law-enforcement plans.

Part C provides grants up to 60 percent for action purposes, which are specifically detailed in this title. Briefly, grants are authorized for first, public protection, including development, demonstration, evaluation, implementation, and purchase of methods, devices, facilities and equipment designed for the purposes of this title; second, the recruiting and training of law enforcement personnel; and third, public education relating to crime prevention and encouraging respect for law and order; fourth, construction grants of up to 50 percent for buildings or other facilities which would fulfill the purposes of this title are authorized; fifth, grants up to 75 percent

for the organization, education, and training of special officers to combat organized crime and the establishment of State organized crime councils are provided; sixth, similar grants—75 percent—are provided for the organization, education, and training of special officers in the prevention, detection, and control of riots and other violent civil disorders, including the acquisition of riot control equipment; and, seventh, up to one-third of any applicant's grant may be expended for the compensation of personnel, except that the amount of any grant expended for this purpose shall not exceed the amount of State or local funds made available to increase such compensation. This limitation does not apply to personnel engaged in training programs.

Part D provides for training, education, research, and demonstration projects. There is to be established for the purpose of research and demonstration projects within the Department of Justice a National Institute of Law Enforcement and Criminal Justice. The Institute is authorized to make grants to or enter into contracts with public agencies, institutions of higher education, or private organizations to conduct research, demonstrations, or special projects pertaining to the purposes described in title I. Grants authorized under this part may be up to 100 percent, with the condition that the administration shall require, wherever feasible, that the recipient contribute money, facilities, or services to carry out the purposes of the grant.

There is authorized to be appropriated $5,111,000 to expand and increase the program of training assistance conducted by the Federal Bureau of Investigation at the request of States and localities.

The Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic assistance to improve and strengthen law enforcement. The Administration is authorized to enter into contracts and to make payments to institutions of higher education for loans not exceeding $1,800 per academic year to police or correctional personnel enrolled on a full-time basis in undergraduate or graduate programs leading to degrees or certificates in areas directly related to law enforcement.

These loans are subject to cancellation for service as full-time officers or employees of a law enforcement agency at the rate of 25 percent per annum of the total amount. Tuition fees may be paid not to exceed $200 per academic quarter or $300 per academic semester for any officer of a public law enforcement agency enrolled in a full-time or a part-time course which leads to a degree or certificate related to law enforcement.

Part E: Funds authorized to be appropriated under this title would be so used as to supplement, and to the extent practicable, increase the amount of funds that the applicant would, in the absence of Federal funds, make available for law enforcement.

The Law Enforcement Assistance Act of 1965 would be repealed. However, provision is made for the Administration, in its discretion, to obligate funds for the continuation of projects approved under LEA prior to the effective date of this act, provided that the original approval made provision for project continuation. The Administration would have the duty to study, review and evaluate projects funded under LEA.

The title provides for a three-stage review procedure for aggrieved applicants.

There is authorized to be appropriated for the fiscal years 1968 and 1969, $100,111,000, of which amount $25,000,000 shall be for the purpose of planning grants, $50,000,000 shall be for the purpose of action grants, of which amount $15,000,000 shall be for the purpose of riot control and $15,000,000 for the purpose of combating organized crime, and not more than $10,000,000 shall be for the purposes of corrections, probation, courts and parole, and $25,111,000 shall be for the purposes of training, education, research and demonstration, of which amount $5,111,000 shall be for FBI training, and not more than $10,000,000 shall be for the purpose of academic education.

The bill also authorizes appropriations in the amount of $300 million for fiscal year 1970.

Mr. President, no matter how much money we appropriate for local police departments, we will not have effective law enforcement so long as the courts allow self-confessed criminals to go unpunished. The confusion and disarray injected into law enforcement by such decisions as Mallory—*Mallory* v. *United States*, 354 U.S. 449, decided June 27, 1957, Escobedo—*Escobedo* v. *Illinois*, 378 U.S. 478, 1964, and Miranda—*Miranda* v. *Arizona*, 384 U.S. 436, decided June 13, 1966—are deplorable and demoralizing. They have weakened intolerably the force and effect of our criminal laws, and Congress had better do something about it.

These decisions have set free many dangerous criminals and are daily preventing the conviction of others who are guilty. How can the freeing of known, admitted, and confessed murderers, robbers, and rapists by the courts, not on the basis of innocence but rather on the pretext of some alleged, minor, or dubious technicality, be justified?

The breakdown of law and order emanating from such slavish dedication to technicalities in diminishing the safety of our citizens in their homes and on the streets of our cities. It is, to some degree, responsible for the increase in vicious assaults that are being made by thugs and hoodlums upon police and law enforcement officials upon whom we must rely for protection.

Gangsters, racketeers, and habitual criminals are increasingly defying the law and flouting duly constituted authority and getting away with it. As a consequence, public confidence in the ability of the courts to administer justice is being undermined and gravely impaired. Until the courts, and particularly the U.S. Supreme Court, become cognizant of this damaging trend and begin to administer justice with greater emphasis on truth and a deeper concern for the protection of the public, the crime rate will continue its upward spiral and the quality of justice will further deteriorate.

Criminal laws and punishment of the guilty are imperative to the preservation of social order and the civic liberties of our people. In the pursuit of those objectives, the scales of justice should be balanced proportionately and firmly so as to protect both the rights of society and those of the individual.

In 1947, Congress indicated its approval of the Federal Rules of Criminal Procedure, including rule 5(a) which, in effect, states that an officer making an arrest shall take the arrested person "without unnecessary delay" before a committing magistrate.

I call attention to the fact that that rule does not say that a suspect—one under arrest—must be taken to a committing magistrate immediately or forthwith, as the court interpreted it to mean.

That rule is not contradictory to nor is it out of harmony with procedures that have been followed in Federal and State courts for many years. It was simply designed to prevent protracted confinement in order to coerce the prisoner. The determination of what constitutes "unnecessary delay" was properly left to the court. The language carries with it the full import that "unnecessary delay" would be influenced and determined by the particular circumstances in any given case. But I dare say that few, if any, of the Congressmen or Senators who approved the adoption of rule 5(a) in 1947 had any idea that it would be perverted by the courts as it was in the Mallory case. Not only the clear meaning but also the significant connotation of the word "unnecessary" clearly implies and recognizes that a different set of circumstances may attend each separate case or instance of arrest or detention.

I think we should review the salient facts of the Mallory case and some others.

In April of 1954, a woman in Washington, D.C., was raped in the basement of the apartment building in which she lived. The circumstances clearly indicated that the perpetrator of this crime was one of three young men. The rapist was disguised, and the woman was unable to make positive identification. So the police took all three suspects to headquarters for questioning. They all agreed to take a lie detector test. At the conclusion of the test and some 7 hours after he had been taken into custody, Andrew Mallory confessed to the crime. The police could not locate a committing magistrate that night, and therefore, he was not arraigned until the next day. For this reason, the Supreme Court—*Mallory* v. *U.S.*, 354, U.S. 449, decided June 27, 1957—reversed his conviction and released him saying that the delay between arrest and arraignment was too long.

He was not turned loose because he was innocent. He was not freed, and returned to society to repeat his depredations, because of truth, but he was turned loose because the Court felt he was detained too long.

Under these circumstances, what

should the police have done? What they would have to do now is turn him loose if the police could not find a magistrate. They could not question him, or anything like that.

Should they have released him that night after he confessed because no committing magistrate was available for his arraignment? The answer is "Positively no." Had they done so, they would have been flagrantly and inexcusably derelict in their duty; but no more so than the Supreme Court when it released him on society to resume pursuit of his criminal and predatory instincts. And, after his release, Mallory did pursue those instincts. For not long after he was freed on the charge he admitted, he perpetrated another crime—another personal assault, in another city—in Philadelphia—for which he was convicted and was sentenced to 11½ to 23 years imprisonment. This second victim, and probably others we do not know about, would have been spared the ravages of this criminal if justice had not miscarried—if the courts had not seized upon a dubious technicality to set him free.

Interrogation is one of the principal methods used by law enforcement officers in solving crimes. It is a traditional, a legitimate, and an indispensable detection procedure. Most crimes are committed in secret. The simple fact is that if a man is intent on committing serious crimes—murder, rape, robbery, and so forth—he will do it, if at all possible, when there are no witnesses present, as did Andrew Mallory. He will disguise himself so as to prevent identification, as did Andrew Mallory. Thus, at the very outset, the task of the police in attempting to ferret out the criminal—with all of his wiles, guises, and disguises—is often like looking for the proverbial needle in a haystack. And court decisions, such as in the Mallory case, are presenting barricades that prevent the police from even getting to the haystack, much less permitting them to search in it for the elusive needle.

The evil consequences of the Mallory rule are strikingly illustrated in the decision rendered by the District of Columbia Circuit Court of Appeals in the Killough case—*Killough* v. *U.S.*, 315 F 2d 241, decided October 4, 1963.

The facts in that case are as follows:

In 1960, James Killough strangled his wife, Goldie, and buried her at a Washington, D.C., city dump. Because of strongly suspicious circumstances surrounding Goldie's disappearance, Killough was questioned at some length. At the end of the day, he confessed and took the police to the dump and showed them where he had buried her body. He was then arraigned. The next day, while still in confinement, he confessed again. He was tried in a District court and convicted. But the District of Columbia Court of Appeals, basing its decision largely upon the rule laid down by the U.S. Supreme Court in the Mallory case, reversed his conviction and held that the first confession made by him was inadmissible because of the delay in arraignment from the time Killough was detained for questioning before he confessed, and that his second confession was inadmissible because it was tainted with the first. *Killough* v. *U.S.*, 315 F. 2d 241, decided October 4, 1963.

Mr. President, if this can be termed justice by any standard, it must certainly fall within the category of uncivilized justice. It is not the justice one would expect a civilized society to mete out to those who commit violent crimes against citizens.

In his dissenting opinion in that case, Judge Berger said, in part:

> It is inconceivable that justice would go to such lengths ignoring a reasonable balance between individual rights and the protection of the public.

Killough confessed a third time to a civilian classification clerk at the jail. Again, that was after his arraignment.

When an attempt was made to try Killough again—after a second trial and reversal—the trial judge observed that according to the ruling by the court of appeals the government had no case whatsoever against him, because without his first confession which led the officers to the finding of his wife's body, the crime of murder could not be established because the government had no corpse to present as evidence that a murder had been committed.

In my view, the right of this murderer, James Killough, to a speedy arraignment was not paramount to Goldie Killough's right to stay alive nor should it transcend the right of society to have him tried and punished for her murder.

But the acme of irrationality and the ultimate in absurdity occurred when this same U.S. Court of Appeals for the District of Columbia in *Alston* v. *U.S.* D.C. Circuit No. 18750, decided May 6, 1965, reversed the manslaughter conviction of Tom E. Alston, Jr., because he was interviewed for 5 minutes before being taken to a magistrate for arraignment. This clearly demonstrates the incongruous and unconscionable extremes to which this court has gone to favor and release the guilty to the detriment of law and order and a safe society. The phrase, "without unnecessary delay," under the distorted construction now applied by this court, means that the police cannot detain and talk to or interrogate for even 5 minutes one who is suspected of having committed a crime of violence.

Mr. President, before discussing some other aspects of title II, I should like to pay high and deserved tribute to the distinguished Senator from Nevada [Mr. BIBLE], who, over the last 6 or 8 years, has done such a creditable job in helping to point up to the Congress just how the Mallory rule has shackled the hands of the police from doing their job of keeping law and order.

It was Senator BIBLE's guidance as chairman of the District of Columbia Committee that laid the groundwork in the 87th and 88th Congresses for enactment in 1966 of legislation giving police greater questioning authority, and modifying the Mallory rule here in the Nation's Capital City. After a Presidential veto of that bill, Senator BIBLE came back again with another try in 1967. Both Houses 1 year ago overwhelmingly approved and the President signed into law a District of Columbia omnibus crime bill, a major provision of that considerably modified the Mallory rule and substituted a more reasonable questioning period of suspects by police.

The persistence of Senator BIBLE and other members of his committee in keeping the real dangers and legal complexities of this police-questioning issue before the Senate has been of inestimable value to our committee in its deliberations. His counsel and testimony on this bill before the Senate today are deeply appreciated. I congratulate him as one of the Senate's best and most effective crime fighters.

The Senator from Mississippi [Mr. STENNIS], who spent 20 years in the trial courtroom as a practicing lawyer, as a trial lawyer, and then as a trial judge, strongly supported title II of S. 917. Testifying on the Miranda decision before the subcommittee, he said:

> This decision is less than a year old and it is still too early to assess its full impact on law enforcement. This is no reason for Congress to hesitate in counteracting it, however. The Court had no sure knowledge of what its effects would be when it laid down its new rule, and Congress need not wait to see what the full consequences will be before restoring the old. We have already had several months' experience under the new rule, and all of it bad. There are frequent reports in the press of confessed murderers, rapists, and other vicious criminals being set free under the Miranda ruling, but I have yet to read an instance where the Miranda decision has contributed to the conviction of a guilty man or has even saved a genuinely innocent man from an unjust conviction. If the purpose of our system of criminal justice is to convict the guilty and clear the innocent, it has been seriously and unnecessarily impaired by the Miranda decision.

The Senator from Ohio [Mr. LAUSCHE], who had 10 years service as a judge in Cuyahoga County, Ohio, four of which were spent as presiding judge of the criminal court, also testified before the subcommittee in support of title II of S. 917, saying:

> If we want to aggravate the fear and trepidation of the women in our homes, keep the Miranda law in effect; on the other hand, if law and order is to be maintained the Congress should take action to nullify that decision.
>
> The jury in my State has the power to determine whether a man shall be put to death. Why shouldn't it have the power to determine whether or not a statement was voluntarily or involuntarily made?

I agree with these Senators and acknowledge the help and support that they have given us in fashioning the legislation before us today.

Other Senators who testified before the subcommittee include Senator BENNETT, Senator BURDICK, Senator ERVIN, Senator FANNIN, Senator HRUSKA, Senator EDWARD KENNEDY, Senator TYDINGS, and Senator YARBOROUGH.

Mr. President, I pay tribute to the distinguished Senator from West Virginia, whom I see present in the Chamber. He has joined with us in the fight. His counsel has been beneficial to us in the drafting of the pending legislation.

The restrictive rule laid down in the Escobedo case—*Escobedo* v. *Illinois*, 378 U.S. 478, 1964—also emphasizes the plight of the police in their efforts to

cope with crime as a result of the shackles that have been placed on them by court decisions. In that case, the Supreme Court held:

When, as here, an investigation no longer is a general inquiry into an unsolved crime, but has begun to focus on a particular suspect who has been taken into custody, and the police carry out interrogation that lends itself to incriminating statements, without warning him of his constitutional rights and with acceding to his requests for assistance of counsel, the accused has been denied the right to counsel guaranteed by Amendment 6 of the due process clause of Amendment 14. Consequently any statements elicited from him during such interrogation is inadmissible at his trial.

Justice White and others dissented from that ruling. Justice White, in his dissenting opinion, stated:

The Court seems to think that it is uncivilized for law enforcement to use an accused's own admission at his trial, and effects this by attaching the right to counsel to its rule. This right attaches once the accused becomes suspect and thus bars admissions. This rule will prove unworkable unless police cars are equipped with public defenders and undercover agents and police informants have defense counsel at their side. Under this approach one might argue that a potential defendant is constitutionally entitled to an attorney before, not after, he commits a crime since it is then that incriminating evidence is put within reach of government by the would-be accused. The defendant here knew full well that he did not have to answer. This new rule will cripple law enforcement.

I agree with Justice White. The prohibitions imposed by this rule is definitely thwarting legitimate and necessary efforts of law enforcement officers to detect and investigate crime and to apprehend and prosecute those who are guilty. Thus, by this decision, the rights of society and the safety of the public are further imperiled while the wages of crime and protection of the criminal are greatly enhanced.

Mr. President, three dissenting Justices, in addition to Mr. Justice White, filed dissents to the majority ruling. There were Justice Harlan, Justice Clark, and Justice Stewart.

Following the reversal of his murder conviction—as is usually true in these cases and is certainly the rule and not the exception—Escobeda continued his criminal career and was subsequently convicted on four counts of possessing and selling heroin and sentenced to 22 years in prison.

But it was in the case of *Miranda* v. *Arizona*, 384 U.S. 436, decided June 13, 1966, that one of the dissenting Justices, Associate Justice Clark, said that the Supreme Court went "too far on too little." In that case the Court in a 5-to-4 decision, formulated a new constitutional code of rules for police interrogation of criminal suspects. The decision provides that no confession—even if wholly voluntary in the traditional sense—can be admitted in evidence in a State or Federal criminal proceeding unless the prosecution can sustain the burden of proving that a fourfold warning of his rights was given to the suspect in custody before he was questioned; namely, that he has a right to remain silent; that anything he says may be used against him; that he has the right to have an attorney present during all questioning; and that, if indigent, he has the right to a lawyer without charge. Under this decision, the prosecution also has the burden of proving that the suspect voluntarily waived these rights by some affirmative statement and that such waiver continued in force throughout the entire questioning period. Any conviction depending in whole or part upon voluntary confessions obtained by methods which do not measure up to these rigid standards must be reversed on appeal.

Mr. President, this decision was an abrupt departure from precedent extending back to the earliest days of the Republic. Up to the time of this 5-to-4 decision, the "totality of circumstances" had been the test in both State and Federal courts in determining the admissibility of incriminating statements and evidence derived by leads therefrom.

Mr. President, this is significant and very persuasive. Even the Supreme Court as late as 1963—just 3 years before—recognized that custodial interrogation had always been "undoubtedly an essential tool in effective law enforcement" *Haynes* v. *Washington*, 373 U.S. 503, 515 (1963).

The Miranda majority opinion upset what had been the law in practically every State and in all Federal Circuits. It nullified four trials by jury. One of five cases heard together was later disposed of by a holding that the newly announced restrictions should not be applied retroactively.

Mr. President, I point out—and I will emphasize this further in the course of the debate on the bill when the constitutionality of title II is put in issue, as I anticipate it will be—that the manner of interrogating and the admissibility of confessions as provided by title II of the bill was constitutional and was held by the Supreme Court to be the law of the land as far back as 1896, and continued to be constitutional and the law of the land until 1963, when the Court again reaffirmed the 1896 decision on the same point. It only became unconstitutional, Mr. President, when the Supreme Court amended the Constitution by fashioning a new constitutional rule. And when I use the word "fashioning," I quote from a dissenting Justice, Justice Clark, when he used that term in his dissenting opinion.

I also state, Mr. President, that it was done by the Supreme Court "incorporating" into the Constitution, by its edict, language that was not there, and a rule and a decision that had never been the law of the land before. When it held that the Constitution required that, it held adversely to its predecessors and overruled its own decision of only 3 years earlier.

And to whose benefit has all of this inured? Not to the benefit of society or to law enforcement, not to the safety of the streets—this is called a safe streets bill—not to the safety of anybody except the self-confessed criminal. Is that justice in our civilized society?

Mr. President, the Constitution has not changed. Only the Supreme Court—not the Constitution, not right or wrong, not truth or falsehood—only the Supreme Court has changed.

I believe that Congress should undertake to consider some of the changes that have been made by the Supreme Court, and if we do not, we will be derelict in our duty.

In my judgment, if the fruits of the Miranda decision, the Mallory decision, and the Escobedo decision are permitted to continue, the entire tree and all its fruits will be poisoned, because these are poison fruits. They simply have been injected into the Constitution by a Court that has changed its mind—not by a change of the Constitution, not by a change of what is right and wrong, not by a change in truth and falsehood.

It is a change to benefit whom? A murderer, a rapist—self-confessed. Is that justice? If that is justice, if that is to be the criterion for justice in our society, I do not believe our society can survive.

I wish to say with respect to this bill, and these vital issues that we who are going to cast our votes on, are going to aline ourselves, either wittingly or unwittingly, either deliberately or unthoughtfully, on one side or the other—enforce the law, convict and punish the guilty, or support and sustain and perpetuate rules, so-called, that are not in the Constitution, that inure to the benefit of those who would destroy our society; who would rape the innocent womanhood of our country; who would murder the innocent citizen of our community; and who would rob and pillage and plunder. We are going to get on one side or the other.

Prior to the Miranda majority opinion the Court had consistently held, as so clearly demonstrated by Mr. Justice White in his dissent, that:

It is *not* essential to the admissibility of a confession that it should appear that the person was warned that what he said would be used against him, but on the contrary, if the confession was voluntary, it is sufficient though it appears that he was not so warned.

Mr. President, I ask unanimous consent to have inserted at the conclusion of my remarks the Supreme Court's decision in the Miranda case.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, I urge my colleagues to review this case, particularly the vigorous dissenting opinion submitted by Justices Clark, White, Harlan, and Stewart. Justice Clark aptly characterized the decision by saying:

Even in Escobeda the Court never hinted that an affirmative 'waiver' was on the prosecution; that the presence of counsel—absent a waiver—during interrogation was required; that a waiver can be withdrawn at the will of the accused; that counsel must be furnished during an accusatory stage to those unable to pay; nor that admissions and exculpatory statements are 'confessions'. To require all those things at one gulp should cause the Court to choke over more cases than [the two it] expressly . . . overruled by Miranda."

Justice Harlan said:

I believe the decision of the Court represents poor constitutional law and entails harmful consequences for the country at large. How serious these consequences may prove to be only time can tell.

The new rules are not designed to guard against police brutality or other unmistakably baned forms of coercion. . . . Rather, the thrust of the new rules is to negate all pressures, to reinforce the nervous or ignorant suspect, and ultimately, to discourage any confession at all. The aim in short, is toward "voluntariness" in a utopian sense, or to view it from a different angle, voluntariness with a vengeance.

To incorporate this notion into the Constitution requires a strained reading of history and precedent and a disregard of the very pragmatic concerns that alone may on occasion justify such strains. Viewed as a choice based on pure policy, these new rules prove to be a highly debatable, if not one-sided appraisal of the competing interests, imposed over widespread objection, at the very time when judicial restraint is most called for by the circumstances.

Examined as an expression of public policy, the Court's new regime proves so dubious that there can be no due compensation for its weakness in constitutional law.

We do know that some crimes cannot be solved without confessions, that ample expert testimony attests to their importance in crime control, and that the Court is taking a real risk with society's welfare in imposing its new regime on the country. The social costs of crime are too great to call the new rules anything but a hazardous experimentation.

Society has always paid a stiff price for law and order and peaceful interrogation is not one of the dark moments of the law.

Mr. President, I submit that if the Supreme Court can incorporate amendments into the Constitution according to its whims, then we do not have a democracy. We do not have three separate and equal branches of government. Congress cannot amend the Constitution. It can only submit amendments to the several States and to the people thereof for their ratification. But the Supreme Court is bypassing that process. It is bypassing the congressional authority, duty, and prerogative to draft, and by resolution to approve and submit to the several states and to the people thereof, constitutional amendments. The Supreme Court is bypassing that.

Well, Members of this body can, by their votes, put their sanction and stamp of approval on that practice, but I shall not do it.

Justice White said:

Although in the Court's view in-custody interrogation is inherently coercive, it says that the spontaneous product of the coercion of arrest and detention is still to be deemed voluntary. An accused, arrested on probable cause, may blurt out a confession which will be admissible despite the fact that he is alone and in custody, without any showing that he had any notion of his right to remain silent or of the consequences of his admission.

This is not my language; it is the language of a Supreme Court Justice, Justice White, who dissented. He continued:

Yet, under the Court's rule, if the police ask him a single question such as 'Do you have anything to say?' or 'Did you kill your wife?' his response, if there is one, has somehow been compelled, even if the accused has been clearly warned of his right to remain silent. Common sense informs us to the contrary. While one may say that response was 'involuntary' in the sense the question provoked or was the occasion for the response and thus the defendant was induced to speak out when he might have remained silent if not arrested and not questioned, it is patently unsound to say the response is compelled.

I see nothing wrong or immoral, and certainly nothing unconstitutional, with the police asking a suspect whom they have reasonable cause to arrest whether or not he killed his wife or with confronting him with the evidence on which the arrest was based, at least where he has been plainly advised that he may remain completely silent.

Until today, 'the admissions or confessions of the prisoner, when voluntarily and freely made, have always ranked high in the scale of incriminating evidence.'

Particularly when corroborated, as where the police have confirmed the accused's disclosure of the hiding place of implements or fruits of the crime, such confessions have the highest reliability and significantly contribute to the certitude with which we may believe the accused is guilty.

I refer at this point to the Killough case, in which a man killed his wife and buried her in a dump, and later took the police and showed them where the body was, which was recovered. Then the Court turned him loose because he was not arraigned immediately upon being arrested. Justice White, in his dissenting opinion, continued:

Moreover, it is by no means certain that the process of confessing is injurious to the accused. To the contrary it may provide psychological relief and enhance the prospects for rehabilitation.

The rule [of Miranda] will measurably weaken the ability of the criminal law to perform [its] tasks.

There is, in my view, every reason to believe that a good many criminal defendants, who otherwise would have been convicted on what [the] Court has previously thought to be the most satisfactory kind of evidence, will now, under this new version of the Fifth Amendment, either not be tried at all or acquitted if the State's evidence, minus the confession, is put to the test of litigation.

I have no desire whatsoever to share the responsibility for any such impact on the present criminal process.

In some unknown number of cases the Court's rule will return a killer, a rapist or other criminal to the streets and to the environment which produced him, to repeat his crime whenever it pleases him.

Nor can [the Miranda] decision do other than have a corrosive effect on the criminal law as an effective device to prevent crime. A major component in its effectiveness in this regard is its swift and sure enforcement. The easier it is to get away with rape and murder, the less the deterrent effect on those who are inclined to attempt it. This is still good common sense. If it were not, we should posthaste liquidate the whole law enforcement establishment as a useless, misguided effort to control human conduct.

In other words, Mr. President, if we are going to amend the Constitution just to suit the immediate whims of five members of the Supreme Court, with the result that a guilty rapist and murderer is turned loose—if that is to be our practice, then, Mr. President, I am inclined to agree with Mr. Justice White that we may as well liquidate the whole law-enforcement establishment as a useless, misguided effort to control human conduct.

Justice White added:

Much of the trouble with the Court's new rule is that it will operate indiscriminately in all criminal cases, regardless of the severity of the crime or the circumstances involved.

And that is regardless of the individual, whether he be a lawyer who knows all the law and the Constitution, whether he is a habitual criminal who has been to the penitentiary a number of times and is a repeater, or whether he is a first offender. It does not discriminate. It requires the same of all, irrespective of their intellect, their education, their experience with the law, or their knowledge of the law.

Justice White said:

It applies to every defendant, whether the professional criminal or one committing a crime of momentary passion who is not part and parcel of organized crime. It will slow down the investigation and the apprehension of confederates in those cases where time is of the essence, such as kidnapping.

Mr. President, that the fears expressed by the minority were well founded is clear from the testimony received by the Subcommittee on Criminal Laws and Procedures.

Judge Lawrence T. Wren, who presided at the second Miranda trial testified before the subcommittee. Mr. President, I made some reference to this a few minutes ago. I wish to quote here a part of his testimony:

*Miranda would have gone free on his second trial, because of the exclusionary ruling, on an instructed verdict of acquittal had not the county attorney's office, 1 week before the second trial—*

I said 9 days; I am sorry—

*literally stumbled onto a statement made by the accused to a woman with whom he had been living at the time of the rape.*

Judge Wren described the case as "9-day game of constitutional chess." This is where I got the 9 days. I was confused. The trial lasted 9 days. He refers to it as "a 9-day game of constitutional chess"—Mr. President, this is the second trial—"during which time the jurors, during the 9 days, heard only 6 hours of testimony."

Continuing, he said—and this is the trial judge, Judge Wren, talking:

When the verdict was finally in, I suddenly realized with complete amazement and infinite disgust, that we had dealt, not at all, during that 9-day trial with the basic question of guilt or innocence. Not once had this question been even a part of our thorny legal arguments and motions. In fact, the trial had a very ironical twist on that point.

Listen to this, Mr. President:

Miranda himself took the witness chair, in the absence of the jury, of course, and, while testifying that his second confession was tainted by the first, admitted on cross-examination, that he had, in fact, raped the girl.

This was on a hearing on the admissibility of his statements to the so-called common-law wife, that is, to the woman with whom he had been living.

I do not know what the court will hold when that case gets back up here. Fortunately, the man is off of the streets. Miranda is not now running loose; he has been convicted since on another crime and given a 20-year sentence, and is now in jail. Whether that one will be reversed I do not know. Whether this second trial will be reversed because he confided in his common-law wife, and that is privileged, I do not know.

I am beginning to say I cannot know. I can have no idea; when these technical questions go up to the highest court of the land, on the basis of its past history and what it has been doing in recent years, what it will decide the law of the land is on any given day is anybody's guess.

Judge Wren continued:

And of course the question was immediately asked by me and others, and was discussed rather extensively; can you imagine the utter consternation and complete dismay of the 12 jurors had they acquitted Miranda and then read later in the newspapers that he had confessed in the witness chair?

I knew the newspapers in Arizona would be asking the question—does this type of thing create the increased respect for law enforcement officials which the *Miranda* principle is said to do?

How the Miranda principle could increase respect for the law I do not know, when it turns loose self-confessed rapists possibly guilty of many crimes, as the testimony and the facts are now demonstrating. How turning him loose, because somebody did not tell him that he was entitled to a lawyer before he talked—and that is the principal thing they turned him loose on—that he did not have to say anything, that he was entitled to get a lawyer, and that if he could not get a lawyer, it was the duty of the State to furnish him one, could increase respect for the law and those who seek to enforce it, is beyond me. That made him innocent? He has sworn, now, under oath that he is guilty. Yet he goes free.

The judge continued:

I know that the hue and cry of *Miranda* has created an out and out bitterness in Arizona in many circles. His release might also have been rather hard on an unknown future victim because *he had a history of sex offenses, and yet, in spite of all this, the Supreme Court opinion admitted that the 2-hour interrogation preceding his confession had not been unreasonable and was free of coercion in its historical sense.*

Mr. President, I have cited only a few such cases. But I ask any who may think the Miranda decision is related only to Miranda, just one crook, one criminal, one rapist who has gone free, to listen to this.

In Columbus, Ohio, recently a self-confessed murderer was turned loose because of the Miranda decision. He had voluntarily confessed and told where the murder weapon, a shotgun, could be found. It was found, and tests proved it was the weapon used in the commission of the crime. Both confession and gun had to be excluded from the evidence. Why? Because of the Miranda case. As a consequence, that murderer walks the streets today, free and unpunished for his horrible crime. The streets of America will never be safe as long as murderers can escape punishment.

In Evansville, Ind., a murderer was seen leaving his victim's apartment. Later he admitted the crime. No coercion was exerted over him. Yet, under the Miranda decision, the prosecuting attorney felt the confession had to be excluded and, therefore, allowed the murderer to plead guilty to manslaughter. Numerous prosecuting attorneys in our major cities have informed the subcommittee that this decision has had similar effect in their jurisdictions.

This is a very striking case, Mr. President. In Seattle, Wash., on March 19, 1966, a hotel clerk was shot and killed during the course of a robbery. He was shot twice with different caliber pistols. A suspect was questioned and given all the warnings required by the Miranda decision, including the right to counsel, but was not furnished with an attorney before being questioned, although he was told the court would appoint an attorney for him at his trial. He freely confessed to the robbery and murder. The confession was corroborated by the finding of the guns, but it was excluded on the basis of the Miranda decision. The guns were likewise excluded as derivative evidence, and so was the testimony of three witnesses who saw the murderer borrow one of the guns and later return it. Thus, the State had to capitulate to the unrealistic technicalities of the Miranda doctrine and dismiss an otherwise open-and-shut case of murder and robbery. But, the real loser in this case was not the State. It was the victims and society who suffered tragically, while a self-confessed murderer and robber goes free.

The newspapers are replete with incidents of this type in which cases have to be dismissed. One says, "Well, the police are doing so-and-so." Mr. President, that is not very comforting to the widow of the man who has been murdered, or to the sweet, innocent woman who has been ravished. Such statements, such a ruling, and such a requirement under those circumstances is actually insulting. The police have to turn the man loose so that he may once again prey upon society.

In November 1965, in Brooklyn, N.Y., a mother killed her 4-year-old child. She taped his mouth and hands and beat him with a rubber hose and a broomstick. When the police arrived, the tape had been removed, but the child was dead. And, of course, there were no witnesses except the mother. She made a confession which was not coerced and which was not repudiated. But, she had not been told that she need not make a statement and that she was entitled to have a lawyer sitting beside her when questioned. The trial judge had no choice, under the Miranda decision, but to dismiss the indictment. Whereupon, the defendant thanked the judge, who replied:

Don't thank me; thank the Supreme Court. Don't thank me at all. You killed the child, and you ought to go to jail.

In commenting upon this unbelievable result, the Washington Star on September 29, 1966, in an editorial, said:

This is what passes for justice in this country in 1966. Surely, the men who drafted our Constitution more than a century and a half ago would shudder if they could know what has happened to their handiwork.

In the same editorial, it was pointed out that five members of the Supreme Court apparently had discovered something in the Constitution that had gone undetected for 177 years by all of the distinguished justices who had served on that tribunal.

In another editorial concerning a similar case, in which 12 persons had been killed by an arsonist, the Washington Star stated that the Miranda decision and the results that will continue to flow from it are a travesty on justice—October 28, 1966.

In November 1967, a few months ago, we read of the finding of innocence in the case of a 14-year-old Oklahoma boy who admitted killing his mother with 10 shots from a rifle. He confessed to his father first when they were in a room by themselves. The father then brought him to the police officers where he repeated his confession. Yet he went free. He was found innocent of murder because he was not advised of his right to an attorney before he confessed to his father and two police officers. The prosecuting attorney in that case assailed the acquittal as "the worst miscarriage of justice I've ever seen," adding that the decision meant that "you can't even question your own child if he breaks a window without getting him a lawyer. This is ridiculous." This is the current Supreme Court justice of our time. District Court Judge Merle Lansden ruled that the confession could not be admitted into evidence because of a recent U.S. Supreme Court decision. He said that he disagreed with the high court's ruling but that he had "no alternative."

Another example of the impact of the Miranda decision on law enforcement is contained in the New York Times of February 21, 1967, as follows:

A man who admitted slaying his wife and five small children walked out of a Brooklyn courtroom yesterday, free because the only available evidence against him was his own confession.

The defendant, Jose Suarez, 22 years, a factory worker, was arrested on April 27, 1966. Questioned by the police, he signed a statement, acknowledging having killed his common-law wife, Maria Torres, 24; their children, Yvette, 4; Nancy, 3; and Jose, 11 months; and also Harry Santiago, 4; and Maria Antonio, 2.

Suarez said in the confession that after his wife had cut his leg with a knife during an argument, he seized the weapon and stabbed her and the children more than 100 times. That was on April 23 in their home at 301 Hooper Street.

On June 13 the United States Supreme Court ruled in the landmark *Miranda* case that a defendant in custory must be informed of his rights. These include the right to remain silent if he wishes to do so, the right to consult a lawyer and the right to a warning that anything he says may be used against him at trial.

Suarez was advised on none of these points, since New York State law at the time did not require it. However, the *Miranda* decision applied to him, inasmuch as it was made retroactive to cover all defendants who had not yet been tried. * * *

For seven months the office of District Attorney Aaron A. Koota and the police sought, without success, to obtain evidence other than the confession against Suarez. A grand jury finally indicted him on Nov. 4. One week later, with a lawyer, Suarez retracted the confession and pleaded not guilty.

"I daresay that if his questioning had conformed with the requirements of *Miranda*, this defendant would be in Sing Sing Prison serving several life sentences," Assistant District Attorney Nathan R. Schor told the court yesterday. "I am now constrained to ask for dismissal of the indictment."

Suarez stood at the defense table, his head bowed. At no time did he speak or even look up. Frank Ortiz, his lawyer, was beside him.

State Supreme Court Justice Michael Kern then spoke: "Unfortunately the general pub-

lic doesn't understand the law. Even an animal such as this one, and I believe this is insulting the animal kingdom, must be protected with all the legal safeguards. This is a very sad thing. It is so repulsive it makes one's blood run cold and any decent human being's stomach turn to let a thing like this out on the street."

Leaning forward, Justice Kern addressed the prosecutor: "Are you sure, I ask you most seriously, whether his (confession) is all you have in this case?"

Mr. Schor replied: "I say reluctantly, with a heavy heart, that we simply have no alternative. There is no other evidence."

Suarez was led away in handcuffs for routine processing before his release. An hour later he was a free man.

Last night Mr. Koota issued the following statement: "The United States Supreme Court has weighted the scales of justice heavily in favor of the criminal suspect. I am not a prophet, but the hand-writing on the wall indicates a trend on the part of the Court to outlaw all confessions made to police. If and when that melancholy day comes, the death knell of effective criminal law enforcement will have been sounded."

Mr. President, the cases I have cited are representative of literally hundreds, if not thousands, that have occurred.

The foregoing cases are but samples of what is happening all over the country as a direct result of strained and unjust decisions by a bare majority of one on the Supreme Court. Reports of the Subcommittee on Criminal Laws and Procedures from many prosecuting attorneys and other officials who are constantly beset with the problems posed by these decisions show that they share my contention that a majority on the Supreme Court has lost judicial balance and is subjugating the rights and safety of society to privileged exploitations and atrocities by the criminal.

Mr. President, this situation will continue—even worsen—so long as confusion and uncertainty over the admissibility of voluntary confessions and admissions exist in our judicial system.

Statistical evidence further indicates the harmful effects of the Miranda decision. During the subcommittee hearings, Arlen Specter, district attorney of the city of Philadelphia, revealed a study on the effects of Miranda conducted by his office. The results indicated that prior to the Escobedo case 90 percent of the suspects would make a statement, often not incriminating on their face, but valuable in investigating the crime. After Escobedo, only 80 would give statements. After the second circuit Russo case, only 68 percent of suspects would give statements. Then came the Miranda case in June of 1966. For a period after Miranda, out of 5,220 suspects arrested for serious crimes, 3,095 refused to give a statement. This is a percentage of only 41 percent who would give statements, a decrease of 49 percent since Escobedo. These statistics are inclined to become more alarming as more criminals become familiar with Miranda.

Aaron Koota, district attorney for Kings County, N.Y., conducted a similar survey, indicating that prior to Miranda, approximately 90 percent of the suspects involved in serious crimes made statements or confessions to police. After Miranda, 49 percent made statements or confessions. Specifically, between June and September of 1966, Mr. Koota revealed that 130 of 316 suspects refused to make any statements at all. In only 30 of these 130 cases did Mr. Koota have sufficient evidence to prosecute apart from the confession. Mr. Koota was unequivocal in stating that confessions are helpful in securing convictions.

Charles E. Moylan, Jr., State's attorney for the city of Baltimore, Md., reports more disturbing statistics. Mr. Moylan said:

> We used to get * * * (confessions) in 20 to 25% of our cases, and now we are getting * * * (them) in 2% of our cases. The confession as a law-enforcement instrument has been virtually eliminated (hearings, p. 622).

Mr. Moylan noted that the Miranda case has encouraged criminals, discouraged the police, and disappointed the public that depends on the courts for protection.

Frank S. Hogan, New York County district attorney, reported similar findings. In the 6 months prior to the Miranda case, 49 percent of the nonhomicide felony defendants in New York County made incriminating statements. In the 6 months after this decision, only 15 percent of the defendants gave incriminating statements. Mr. Hogan characterized it as being most harmful to efforts to convict criminals who roam our streets and assault our citizens.

Mr. President, to allow reasonable questioning of suspects would protect the innocent, and would not, I am convinced, infringe in any way on the real constitutional rights of the criminal.

More than any other nation, our criminal trials are replete with protection for the accused. This was true before Miranda. Since Miranda, the trial has become a quest not for truth or innocence, but whether the policeman followed the latest edict from the Supreme Court.

I have cited a number of distinguished jurists and prosecutors, Mr. President (Mr. SPONG in the chair), in opposition to the Miranda decision and supporting the efforts of the Committee on the Judiciary as it reports this bill with title II in it, trying to remedy the grievous errors the Supreme Court has committed.

Congress must deal with this problem. We can shirk this responsibility only in dereliction of our duty. Mr. President, this is the age of change. It is time for change—time for change in the Supreme Court of the United States. The thrust of the Miranda ruling, if it is not changed, will sweep us into the throes of anarchy and horror. It must be changed. It simply does not make sense that uncoerced confessions and incriminating statements cannot be used in the prosecution of a criminal. From time immemorial, voluntary confessions and incriminating statements have been considered the very best of evidence. After all, a criminal trial should be a serious effort to ascertain the truth. It is a flagrant travesty on justice to reject and exclude from consideration the strongest and most reliable evidence of guilt. No lawyer or judge for one moment would contend that coerced confessions should be admitted against an accused. They have always been excluded, for the simple reason that coerced confessions or statements are not trustworthy. But, if uncoerced, they are obviously the most trustworthy and convincing evidence of guilt that it is possible to produce.

How, then, is civilized society to determine the issue of whether or not such evidence was coerced? Commonsense dictates that the determination, in each individual case, should be made in the same manner that other disputed issues of fact are determined under our system of jurisprudence—by judge and jury. When the confession or incriminating statement is offered in evidence and the issue of voluntariness is raised, the trial judge should exclude the jury and hear the evidence. If the trial judge concludes it was involuntarily given, he should exclude it. If he concludes it was the voluntary act of the defendant, he should admit it and then permit the jury to hear all the evidence as to the circumstances of the giving of the confession or statement, with instructions that it be given such weight as the jury may feel it is entitled to receive. In short, voluntariness should be the only test for the court in determining admissibility, and the jury should be allowed to consider all the circumstances in weighing such voluntary confessions or statements of the accused.

Certainly, such a procedure would adequately safeguard the rights of the defendants. Judge and jury decide the ultimate issue of guilt or innocence in criminal cases. There is no reason why the issue of voluntariness should not be determined in the manner I have just outlined—a procedure that has long been approved and accepted by our courts. And that is the procedure that title II would restore, Mr. President. I believe that our trial judges and juries are to be trusted. They see and hear the witnesses and, therefore, are better able to determine the truth than an appellate court which sees only a cold printed record.

Title II would require the trial judge to take into consideration, in determining the issues of voluntariness, all the circumstances surrounding the giving of the confession or incriminating statement of the accused. Such circumstances would include the length of time between arrest and arraignment; whether the defendant knew the nature of the offense with which he was charged or suspected; whether he was advised or knew that he was not required to make any statement and that such statement could be used against him; whether the defendant had been advised prior to questioning of his right to the assistance of counsel; and whether he was without the assistance of counsel when questioned and when giving his statement or confession. The trial judge would have to take into consideration these factors, together with any others which have relevance in determining voluntariness. This procedure would provide a workable yardstick for the court, the jury, the accused, and the law enforcement officers, and would protect the public interest. It would be eminently fair to the accused as well as to society. It is reasonable. No arbitrary time limit would be set for holding and questioning an accused before arraignment. Nor would this procedure deny the prosecution the use of prime evidence of guilt—

that is, voluntary confessions and incriminating statements—on the arbitrary and unreasonable ground that the arresting officer did not warn the accused of his constitutional rights and that the accused did not have a lawyer present.

We all know that a confession might be involuntary and coerced no matter how much warning the arresting officer might have given or how short the time between arrest and arraignment. And we all know that a confession might be unquestionably and completely voluntary even though the accused had not been so warned and had not been arraigned without delay. The test of admissibility should, therefore, rest upon the circumstances in each individual case and should be applied by those best able to make the determination—our trial judges and juries who hear and see the witnesses as they testify.

Mr. President, the majority opinion in the Miranda decision actually "encourages" Congress and State legislatures to enact legislation on the subject which would safeguard the rights of the accused while promoting efficient enforcement of our criminal laws. It is my view that Congress should enact corrective legislation such as I am proposing.

Section 3502 of title II is a complement to section 3501 and would bring about a complete judicial restoration of the sound rule which allows the admissibility of a confession of an accused if it is voluntarily made. This section would deny jurisdiction to the Supreme Court or any inferior Federal court established by Congress to modify the ruling of any State trial court in any criminal prosecution admitting in evidence as voluntarily made an admission or confession of an accused, if such ruling has been affirmed or otherwise upheld by the highest court of the State having appellate jurisdiction.

The need for a revision of the Miranda decision is well documented. Mr. Justice Harlan's warning "that the Court—in the Miranda case—is taking a real risk with society's welfare" has come true. While section 3501 would rectify the Miranda decision with respect to the Federal courts, there must be legislation to complete the job and free our State courts from the arbitrary rules which the Supreme Court has placed on our police.

The Miranda decision has done great damage to State law enforcement and no one can measure the real problem it has created by restraining the police at the initial confrontation of a suspect when the chance of acquiring a confession or statement is greatest.

In addition to the incriminating statement of the accused, many times the only other source of evidence in crimes of violence are the statements of the victim of eyewitness. In two recent cases, *U.S.* v. *Wade*, 388 U.S. 218 (1967) and *Gilbert* v. *California*, 388 U.S. 263 (1967) the court held that an identifying witnesses' participation in a post indictment pretrial lineup without notice to and in absence of the accused's counsel denies him the right to counsel and calls into question the admissibility at the trial of the in-court identifications of the accused witnesses who attended the lineup. This means that an eyewitness to any crime, even though he might be its sole surviving victim, is prevented from looking at any suspect for identification purposes in the absence of an attorney representing the suspect.

Section 3503 would simply deny jurisdiction to the Supreme Court or any inferior Federal court established by Congress to modify the ruling of any Federal or State trial court admitting in evidence in any criminal prosecution the testimony of a witness that he saw the accused commit or participate in the commission of a crime for which the accused is tried.

Thus, in both sections 3502 and 3503, Congress will be acting to readmit evidence in a criminal trial from the two best possible sources—statements of the accused and eyewitness to the crime.

In both of these sections, Congress is exercising the power provided it under article III of the Constitution which provides that the Supreme Court "shall have appellate jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make," and under article I, which provides that Congress has the power to establish an inferior system of courts. There is no doubt that Congress has the power to withdraw the appellate jurisdiction of the Court and this right was clearly enunciated in *Ex Parte McCardle*, 73 U.S. (6 Wall.) 318 (1868). The Court said:

> Without jurisdiction the Court cannot proceed at all in any cause. Jurisdiction is power to declare the law and when it ceases to exist, the only function remaining to the Court is that of announcing the fact and dismissing the case.

There is also no doubt that Congress may restrict the privilege of the writ of habeas corpus and numerous Supreme Court cases have so held. Therefore, I feel Congress should enact section 3504 which would provide that a final judgment of the State supreme court shall be subject to review only by the Supreme Court of the United States by appeal or writ of certiorari. Liberalized rules governing the issuance of Federal habeas corpus have granted the guilty party the right to file over and over again a petition for habeas corpus with the lower Federal Court at anytime after his conviction. This bill would prevent these lower Federal courts from sitting in judgment on a matter litigated in State Courts and which in many cases has already been appealed to the U.S. Supreme Court. I feel there must be an end to this litigation, and I am hopeful Congress will realize this necessity and pass section 3405.

Mr. President, title II of this bill will go a long way to answering the crying need of the hour—restoration of respect for law and order and effective law enforcement.

The next major section of the bill is title III. It is essentially a combination of S. 675, introduced by me and Senator HRUSKA on January 25, 1967, and S. 2050, introduced by Senator HRUSKA on June 29, 1967. S. 675 was drafted prior to the Supreme Court's decision in *Berger* v. *New York*, 388 U.S. 41 (1967).

Consequently, it did not in every respect reflect the constitutional tests for electronic surveillance set out by the Court in that decision. S. 2050, however, was specifically drafted to meet the requirements announced by the Court in Berger. Between the time the Subcommittee on Criminal Laws and Procedures reported out title III and its consideration by the full Judiciary Committee, the Supreme Court decided *Katz* v. *United States*, 389 U.S. 347 (1967). This title of the bill was redrafted in light of that decision. The hallmark of the statute is the particularity demanded by the Supreme Court's decisions in Berger and Katz.

The report of the committee contains a detailed explanation of legislative intent. Every effort was made to set out what was meant as carefully as possible.

The first major purpose of the title III is to protect privacy of communication. The tremendous scientific and technological developments that have taken place in the last half century have made possible today the widespread use and abuse of electronic surveillance techniques, particularly wiretapping and bugging. Commercial and domestic relations espionage is becoming widespread. Title III attempts to strike at these practices in two ways.

First, it makes it a felony punishable by 5 years in jail or $10,000 fine, or both, for an unauthorized person to willfully intercept, use or disclose private telephone communications. This provision changes present law, which requires both "interception" and "divulgence." It then strikes at the interception, use or disclosure of oral communication uttered in private.

Second, title III makes the possession, distribution, manufacture, and advertising of any device whose design renders it primarily useful for the surreptitious interception of wire or oral communications a felony punishable by 5 years in jail or $10,000 fine, or both. "Intercepting device" is defined as a device "primarily designed for the surreptitious interception" of communications. This provision is designed to eliminate such objectionable devices as the "spike mike," the "cufflink microphone," and the "martini olive transmitter." The bill also provides for the confiscation of devices used in violation of its prohibitions. This provision should be particularly effective in stripping the professional eavesdropper of the tools of his trade and taking off the market the stock of those who supply the eavesdropper.

The second major purpose of the bill is to strengthen law enforcement, particularly in the organized crime area.

> The American system (of law enforcement) was not designed with (organized crime) . . . in mind—

The President's Crime Commission noted—

> and it has not been notably successful to date in preventing such organizations from preying on society.

The measure of that lack of success is reflected in statistics of the Department of Justice's recent organized crime drive.

Over 5,000 members of La Cosa Nostra have been identified since 1961. Yet from 1961–66, only 185 of these racketeers have been indicted, and only 102 convicted. A conviction rate of only 2 percent is negligible. No society can long endure which allows so great a measure of freedom from legal accountability to a fraternity of hoodlums. This bill is designed to change this situation.

While the bill will strengthen law enforcement, it has been carefully drafted to meet both the letter and spirit of the constitutional tests set out in Berger and Katz. Electronic surveillance is authorized, but only under strict controls. The standards set out in the bill, too, will be applicable both to Federal and State law enforcement officials. There is no intent to preempt State law in this field. States will be free to adopt statutes permitting the use of electronic surveillance techniques by thier law enforcement officers. They will not be free, however, to go below the Federal minimum.

Broadly, title III creates a court order system of electronic surveillance. Initially, approval of all applications will have to be secured from the appropriate chief prosecuting officer. On the Federal level, that will be the Attorney General or his special designee, while on the State level, that will be the State attorney general or the district attorney of a county or their special designees. This provision will centralize authority and responsibility for the formulation of policy in this area in a visible, usually politically accountable, individual. This should be a strong safeguard against abuse.

Next, the application for an order must be approved by a court. On the Federal level, it will be the U.S. district court or courts of appeals judges. The procedure is thus more stringent than the present search warrant practice, which allows U.S. Commissioners to approve warrants. On the State level, the State statute will have to designate the judge.

Approval may be given only under certain carefully detailed conditions. First, the court must find probable cause to believe a specially designated crime is being, has been, or is about to be committed by a particular person, and that evidence of that particular crime may be obtained by surveillance of a particular place or of a particular phone. Next, the court must find that other investigative procedures have been tried and have failed or reasonably appear unlikely to succeed or to be too dangerous. This requirement is patterned after the English practice, which permits wiretapping on the home secretary's warrant. It clearly and narrowly assures that electronic surveillance is intended to be the exception, rather than the rule.

It is envisioned that these techniques will be employed in only limited numbers and kinds of criminal investigations. On the Federal level, the two chief areas are national security matters and organized crime. The specific offenses are designated in the statute. On the State level, a similar list of specific offenses is set out. There is no intent or purpose to allow this technique to be employed promiscuously or as a substitute for normal police investigative efforts. It is intended to be used only by duly authorized law enforcement personnel for law enforcement purposes.

All orders granted under the statute must be strictly limited in respect to time. The order must be executed as soon as practicable, and it must terminate as soon as the particular evidence is obtained, or, in any event, after 30 days. If longer surveillance is necessary, a new order, meeting all the standards of the old order, must be obtained.

Once the surveillance is terminated, a return must be made to the judge who issued the order, giving due notice of the surveillance. An inventory must also be served on the individual named in the order. These two provisions parallel the present requirements of search and seizure law. They make the officers responsible to the court both before and after the surveillance.

The statute also contains a civil damages section. Anyone whose privacy is unlawfully invaded may sue to recover damages. He may also invoke a suppression order. On the motion of a person aggrieved by an unlawful surveillance any intercepted communication or evidence derived therefrom may not be used in any civil or criminal trail, hearing or proceeding on the Federal or State level. Again, these two provisions are specifically designed to prevent abuse.

Finally, title III sets out a series of detailed reporting requirements. Prosecutors and judicial officers in the system must make annual reports to the Director of the Administrative Office of the U.S. Courts. The purpose of the reports, which must be annually summarized for the Congress is to make public the character and extent of the use of these techniques and to subject them to public evaluation of the fullest possible extent.

Title III is needed legislation. This has been recognized and recommended by the President's Crime Commission, the Judicial Conference of the United States, which is, of course, headed by the Chief Justice of the United States, the National Association of Attorneys General, the National District Attorneys' Association, and, the National Council on Crime and Delinquency.

District Attorney Frank Hogan, a recognized national authority, who has served in the New York district attorney's office for 32 years, states that wiretapping is an indispensable weapon in the fight against organized crime. The President's Commission on Law Enforcement and Administration of Justice had this to say about the organized crime problem in New York:

> Over the years New York has faced one of the Nation's most aggravated organized crime problems. Only in New York have law enforcement officials achieved some level of continuous success in bringing prosecutions against organized crime. For over 20 years, New York has authorized wiretapping on court order. Since 1957 "bugging" has been similarly authorized. Wiretapping was the mainstay of the New York attack against organized crime until Federal Court decisions intervened.

The principal argument of those who oppose wiretapping and electronic surveillance by law enforcement officers on court order is that it will destroy our right of privacy. Wiretapping and electronic surveillance as practiced by law enforcement officers has been subject to much confusion and misunderstanding. As District Attorney Frank Hogan so aptly put it when testifying before the subcommittee:

> This is a field that produces the most extravagant accusations of abusive practices, as ill-founded and unsupported as they are shocking, and as irresponsible as they are inaccurate.

When the facts are brought to light, statistics show that extremely few telephones are tapped by law enforcement officers—and that even fewer electronic surveillance devices are installed. Testimony at the subcommittee hearings revealed the following statistics: In Kings County, N.Y., with over 3 million people, 47 wiretap orders were obtained the first 11 months of 1966. In Nassau County, N.Y., which has a population of approximately 1,500,000 persons, 78 wiretap orders were obtained in 1966. In New York County, N.Y., with a population of nearly 3,200,000 persons, 73 wiretap orders were obtained in 1966. In 1966, in New York County, 23 orders granting installations of electronic surveillance devices were entered. Since 1958, when the law permitting this type of eavesdropping by law enforcement authorities under court order was enacted, the average in New York County has been less than 19 orders a year.

In his testimony before the subcommittee, District Attorney Frank Hogan referred to a study conducted by the New York Legislature which reinforces the above figures and shows that the danger that law enforcement officials may listen in on conversations that do not concern some criminal enterprise is exceedingly remote. According to Mr. Hogan, starting in 1955 a joint legislative committee conducted a 5-year study in the State of New York inquiring particularly into possible abuses by law enforcement officers. In its report the committee explicitly declared that no abuses whatever by any district attorney had been found in the use of the wiretapping privilege. Quite the contrary is true. The committee concluded that the system of legalized telephonic interception had worked well in New York for over 20 years, that it had popular approval, and that it enjoyed the overwhelming support of New York's highest State officers, executive, legislative, and judicial. There was unanimous agreement that law enforcement in New York had used this investigative weapon fairly, sparingly, and with the most selective discrimination. Law enforcement officers simply have too much to do to be listening in on conversations of law-abiding citizens. Available manpower just does not permit such abuse. It is idle to contend otherwise.

Two arguments are made against the proposal. The first argument is that it would invade privacy. We would outlaw all wiretapping and electronic surveillance equipment except that which is authorized by court, and we would provide heavy penalties for anyone who taps a wire or invades privacy with electronic devices. Then we provide that it would be used only for these purposes in investigating crime, and provide rules for

the supervision thereof in the trusted courts of our land.

The other reason that is given is that it would be abused and misused. I think we can trust the courts. New York had a statute for over 20 years. They had a select investigating committee investigate the charges of abuse for a period of 5 years and they found that the statute had been administered and used wisely and prudently, and used strictly for enforcement of law and not for snooping into people's private affairs.

If New York can do it, cannot the Federal Government use instrumentalities that exist against crime; cannot Virginia do it; cannot Nebraska do it; cannot Arkansas do it? Have we lost all confidence in the integrity and intellect of the judiciary of the land except in the Supreme Court?

Mr. President, we are dealing with war. The criminal, the rioter, and the looter today are warring and warring on society in America. Are we going to shackle our policemen and deny them instrumentalities which are used by criminals; or are we going to fight fire with fire? Are we afraid politically; are we afraid that some dissidents or liberal reactionaries might vote against us? We are going to be tested in this Chamber when we vote on these issues.

Mr. President, The present state of the law is intolerable. It protects neither privacy nor community.

Title IV of S. 917 contains a controversial firearms amendment adopted at the final executive meeting of the Judiciary Committee on this bill.

According to the sponsor of the amendment, Senator DODD, it incorporates certain provisions of the existing Federal Firearms Act, strengthens others and adds additional controls, all of which will be incorporated into title 18 of the United States Code, with repeal of the Federal Firearms Act.

Briefly, its major provisions would—

First. Prohibit the interstate mail-order sale of all firearms, other than rifles and shotguns.

Second. Prohibit the nonresident sale of all firearms, other than rifles and shotguns.

Third. Prohibit the sale of all firearms, other than rifles and shotguns to persons under 21 years of age.

Fourth. Prohibit the importation of military surplus handguns, and other nonsporting handguns, and destructive devices.

Fifth. Require that all dealers, manufacturers and importers of firearms, and destructive device ammunition be licensed and set reasonable fees and definite standards in order to obtain such licenses, which strengthens the existing provisions of the Federal Firearms Act.

Sixth. Require that the identity and age of all purchasers of firearms be obtained and recorded by Federal licenses, which strengthens the existing provisions of the Federal Firearms Act.

Seventh. Require that records of acquisition and disposition of all firearms be maintained by Federal licensees, which strengthens the existing provisions of the Federal Firearms Act.

Eighth. Place stringent controls over the acquisition of destructive devices.

Ninth. Prohibit the sale or other disposition of firearms to felons, fugitives and persons under indictment for felonies, which strengthens the existing provisions of the Federal Firearms Act.

Tenth. Prohibit the receipt in interstate commerce of firearms by felons, fugitives and persons under indictment for felonies, which strengthens the existing provisions of the Federal Firearms Act.

Mr. President, S. 917 represents the combined efforts of many people. Cosponsoring the original bill with me were Senator BYRD of West Virginia—to whom I made reference awhile ago and thanked him for his contribution to the work on this committee; Senators ERVIN—a member of the subcommittee; HARRIS; HART—also a member of the subcommittee; HRUSKA, also a member; JAVITS; MUNDT; SCOTT, also a member of the subcommittee; TYDINGS and YARBOROUGH. Some of these and other Senators offered amendments which were adopted.

For example, the section on organized crime—part B, section 302(b)(5)—was offered by Senator HRUSKA: The section on riot control—part B, section 302(b)(6)—was offered by Senator HART: The National Institute section—part D, section 402—was offered by Senator EDWARD KENNEDY: The educational assistance provisions represent the combined suggestions of Senators RIBICOFF and TYDINGS.

Sections 701 and 702 of title II, relating to the reviewability of confessions in State cases; the admissibility in evidence of eye witness testimony; and the procedures in obtaining writs of habeas corpus were all offered by Senator ERVIN. That portion of title II relating to the admissibility in evidence of confessions contains the substance of S. 675, which I introduced along with Senators BYRD of West Virginia, ERVIN, HOLLINGS, and HRUSKA. Title III, on wiretapping, is a combination of S. 675 and S. 2050, introduced by myself and Senator HRUSKA, DIRKSEN, ERVIN, and HANSEN. And, finally, title IV contains the firearms amendment offered by Senator DODD.

Each of these Senators, and others, worked diligently to process the legislation now before us, and I am indebted to them for their efforts and assistance.

Mr. President, I have asked unanimous consent that the Miranda decision, to which I have referred in my presentation of the bill this afternoon, be printed in full in the RECORD at the conclusion of my remarks. I think it is important that we have it in the RECORD so those who read the RECORD may also have immediate reference to the Miranda case itself and will be able to read and understand for themselves what has happened to law enforcement in this country as a result of this grievous decision.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. McCLELLAN. Mr. President, respect for law and order must be resurrected and restored to its traditional place in America. To this end we should heed the words of Abraham Lincoln, who said:

> Let reverence for the laws be breathed by every American mother to the lisping babe that prattles on her lap; let it be taught in schools, in seminaries and in colleges; let it be written in primers, spelling-books and in almanacs; let it be preached from the pulpit, proclaimed in legislative halls and enforced in courts of justice. And, in short, let it become the political religion of the nation; and let the old and the young, the rich and the poor, the grave and the gay of all sexes and tongues and colors and conditions, sacrifice unceasingly upon its altars.

Mr. President, I have made this presentation of S. 917 a little lengthy, but not unduly so in view of the many provisions in the bill, and not unduly so in view of the gravity of the issues involved.

Mr. President, S. 917 is a strong anticrime bill. It is not perfect. It can be amended somewhat. It can be strengthened. It can be improved. But, Mr. President, this bill will not be improved by striking vital provisions that actually do something about law enforcement.

It can be impaired. It can be weakened. I hope that will not be done. It is sorely and urgently needed, and I most respectfully urge, and hope for, its prompt enactment.

EXHIBIT 1

[Supreme Court of the United States, Nos. 759, 760, 761, and 584, October term 1965]

ERNESTO A. MIRANDA, PETITIONER, 759 *v.* STATE OF ARIZONA

On Writ of Certiorari to the Supreme Court of the State of Arizona.

MICHAEL VIGNERA, PETITIONER, 760 *v.* STATE OF NEW YORK

On Writ of Certiorari to the Court of Appeals of the State of New York.

CARL CALVIN WESTOVER, PETITIONER, 761 *v.* UNITED STATES

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

STATE OF CALIFORNIA, PETITIONER, 584 *v.* ROY ALLEN STEWART

On Writ of Certiorari to the Supreme Court of the State of California.

[June 13, 1966]

MR. CHIEF JUSTICE WARREN delivered the opinion of the Court.

The cases before us raise questions which go to the roots of our concepts of American criminal jurisprudence: the restraints society must observe consistent with the Federal Constitution in prosecuting individuals for crime. More specifically, we deal with the admissibility of statements obtained from an individual who is subjected to custodial police interrogation and the necessity for procedures which assure that the individual is accorded his privilege under the Fifth Amendment of the Constitution not to be compelled to incriminate himself.

We dealt with certain phases of this problem recently in *Escobedo* v. *Illinois*, 378 U.S. 478 (1964). There, as in the four cases before us, law enforcement officials took the defendant into custody and interrogated him in a police station for the purpose of obtaining a confession. The police did not effectively advise him of his right to remain silent or of his right to consult with his attorney. Rather, they confronted him with an alleged accomplice who accused him of having perpetrated a murder. When the defendant denied the accusation and said "I didn't shoot Manuel, you did it," they handcuffed him and took him to an interrogation room. There, while handcuffed and standing, he was questioned for four hours until he confessed. During this interrogation, the police denied his request to speak to his attorney, and they prevented his retained attorney, who had come to the police station, from consulting with him. At his trial, the State, over his ob-

jection, introduced the confession against him. We held that the statements thus made were constitutionally inadmissible.

This case has been the subject of judicial interpretation and spirited legal debate since it was decided two years ago. Both state and federal courts, in assessing its implications, have arrived at varying conclusions.[1] A wealth of scholarly material has been written tracing its ramifications and underpinnings.[2] Police and prosecutor have speculated on its range and desirability.[3] We granted certiorari in these cases, 382 U.S. 924, 925, 937, in order further to explore some facets of the problems, thus exposed, of applying the privilege against self-incrimination to in-custody interrogation, and to give concrete constitutional guidelines for law enforcement agencies and courts to follow.

We start here, as we did in *Escobedo*, with the premise that our holding is not an innovation in our jurisprudence, but is an application of principles long recognized and applied in other settings. We have undertaken a thorough re-examination of the *Escobedo* decision and the principles it announced, and we reaffirm it. That case was but an explication of basic rights that are enshrined in our Constitution—that "No person . . . shall be compelled in any criminal case to be a witness against himself," and that "the accused shall . . . have the Assistance of Counsel"—rights which put in jeopardy in that case through official overbearing. These precious rights were fixed in our Constitution only after centuries of persecution and struggle. And in the words of Chief Justice Marshall, they were secured "for ages to come and . . . designed to approach immortality as nearly as human institutions can approach it," *Cohens* v. *Virginia*, 6 Wheat. 264, 387 (1821).

Over 70 years ago, our predecessors on this Court eloquently stated:

"The maxim *nemo tenetur seipsum accusare* had its origin in a protest against the inquisitorial and manifestly unjust methods of interrogating accused persons, which has long obtained in the continental system, and, until the expulsion of the Stuarts from the British throne in 1688, and the erection of additional barriers for the protection of the people against the exercise of arbitrary power, was not uncommon even in England. While the admissions or confessions of the prisoner, when voluntarily and freely made, have always ranked high in the scale of incriminating evidence, if an accused person be asked to explain his apparent connection with a crime under investigation, the ease with which the questions put to him may assume an inquisitorial character, the temptation to press the witness unduly, to browbeat him if he be timid or reluctant, to push him into a corner, and to entrap him into fatal contradictions, which is so painfully evidenced in many of these earlier state trials, notably in those of Sir Nicholas Throckmorton, and Udal, the Puritan minister, made the system so odious as to give rise to a demand for its total abolition. The change in the English criminal procedure in that particular seems to be founded upon no statute and no judicial opinion, but upon a general and silent acquiescence of the courts in a popular demand. But, however adopted, it has become firmly embedded in English, as well as in American jurisprudence. So deeply did the inequities of the ancient system impress themselves upon the minds of the American colonists that the States, with one accord, made a denial of the right to question an accused person a part of their fundamental law, so that a maxim, which in England was a mere rule of evidence, became clothed in this country with the impregnability of a constitutional enactment." *Brown* v. *Walker*, 161 U.S. 591, 596–597 (1896).

In stating the obligation of the judiciary to apply these constitutional rights, this Court declared in *Weems* v. *United States*, 217 U.S. 349, 373 (1910):

". . . our contemplation cannot be only what has been but of what may be. Under any other rule a constitution would indeed be as easy of application as it would be deficient in efficacy and power. Its general principles would have little value and be converted by precedent into impotent and lifeless formulas. Rights declared in words might be lost in reality. And this has been recognized. The meaning and vitality of the Constitution have developed against narrow and restrictive construction."

This was the spirit in which we delineated, in meaningful language, the manner in which the constitutional rights of the individual could be enforced against overzealous police practices. It was necessary in *Escobedo*, as here, to insure that what was proclaimed in the Constitution had not become but a "form of words," *Silverthorne Lumber Co.* v. *United States*, 251 U.S. 385, 392 (1920), in the hands of government officials. And it is in this spirit, consistent with our role as judges, that we adhere to the principles of *Escobedo* today.

Our holding will be spelled out with some specificity in the pages which follow but briefly stated it is this: the prosecution may not use statements, whether exculpatory or inculpatory, stemming from custodial interrogation of the defendant unless it demonstrates the use of procedural safeguards effective to secure the privilege against self-incrimination. By custodial interrogation, we mean questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way.[4] As for the procedural safeguards to be employed, unless other fully effective means are devised to inform accused persons of their right of silence and to assure a continuous opportunity to exercise it, the following measures are required. Prior to any questioning, the person must be warned that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney, either retained or appointed. The defendant may waive effectuation of these rights, provided the waiver is made voluntarily, knowingly and intelligently. If, however, he indicates in any manner and at any stage of the process that he wishes to consult with an attorney before speaking there can be no questioning. Likewise, if the individual is alone and indicates in any manner that he does not wish to be interrogated, the police may not question him. The mere fact that he may have answered some questions or volunteered some statements on his own does not deprive him of the right to refrain from answering any further inquiries until he has consulted with an attorney and thereafter consents to be questioned.

I

The constitutional issue we decide in each of these cases is the admissibility of statements obtained from a defendant questioned while in custody and deprived of his freedom of action. In each, the defendant was quesioned by police officers, detectives, or a prosecuting attorney in a room in which he was cut off from the outside world. In none of these cases was the defendant given a full and effective warning of his rights at the outset of the interrogation process. In all the cases, the questioning elicited oral admissions, and in three of them, signed statements as well which were admitted at their trials. They all thus share salient features—incommunicado interrogation of individuals in a police-dominated atmosphere, resulting in self-incriminating statements without full warnings of constitutional rights.

An understanding of the nature and setting of this in-custody interrogation is essential to our decisions today. The difficulty in depicting what transpires at such interrogations stems from the fact that in this country they have largely taken place incommunicado. From extensive factual studies undertaken in the early 1930's, including the famous Wickersham Report to Congress by a Presidential Commission, it is clear that police violence and the "third degree" flourished at that time.[5] In a series of cases

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[1] Compare *United States v. Childress*, 347 F. 2d 448 (C.A. 7th Cir. 1965) with *Collins* v. *Beto*, 348 F. 2d 823 (C.A. 5th Cir. 1965). Compare *People* v. *Dorado*, 62 Cal. 2d 350, 398 P. 2d 361, 42 Cal. Rptr. 169 (1964) with *People* v. *Hartgraves*, 31 Ill. 2d 375, 202 N.E. 2d 33 (1964).

[2] See, *e.g.*, Enker and Elsen, Counsel for the Suspect: *Massiah* v. *United States* and *Escobedo* v. *Illinois*, 49 Minn. L. Rev. 47 (1964); Herman, The Supreme Court and Restrictions on Police Interrogations, 25 Ohio St. L.J. 449 (1964); Kamisar, Equal Justice in the Gatehouses and Mansions of American Criminal Procedure, in Criminal Justice in Our Time (1965); Dowling, Escobedo and Beyond: The Need for a Fourteenth Amendment Code of Criminal Procedure, 56 J. Crim. L., C. & P.S. 156 (1965).

The complex problems also prompted discussions by jurists. Compare Bazelon, Law, Morality and Civil Liberties, 12 U.C.L.A. L. Rev. 13 (1964), with Friendly, The Bill of Rights as a Code of Criminal Procedure, 53 Calif. L. Rev. 929 (1965).

[3] For example, the Los Angeles Police Chief stated that "If the police are required . . . to . . . establish that the defendant was apprised of his constitutional guarantees of silence and legal counsel prior to the uttering of any admission or confession, and that he intelligently waived these guarantees . . . a whole Pandora's box is opened as to under what circumstances . . . can a defendant intelligently waive these rights. . . . Allegations that modern criminal investigation can compensate for the lack of a confession or admission in every criminal case is totally absurd!" Parker, 40 L.A. Bar. Bull. 603, 607. 642 (1965). His prosecutorial counterpart, District Attorney Younger, stated that "[I]t begins to appear that many of these seemingly restrictive decisions are going to contribute directly to a more effective, efficient and professional level of law enforcement." L.A. Times, Oct. 2, 1965, p. 1. The former Police Commissioner of New York, Michael J. Murphy, stated of *Escobedo:* "What the Court is doing is akin to requiring one boxer to fight by Marquis of Queensbury rules while permitting the other to butt, gouge and bite." N.Y. Times, May 14, 1965, p. 39. The former United States Attorney for the District of Columbia, David C. Acheson, who is presently Special Assistant to the Secretary of the Treasury (for Enforcement), and directly in charge of the Secret Service and the Bureau of Narcotics, observed that "Prosecution procedure has, at most, only the most remote casual connection with crime. Changes in court decisions and prosecution procedure would have about the same effect on the crime rate as an aspirin would have on a tumor of the brain." Quoted in Herman, *supra*, n. 2, at 500, n. 270. Other views on the subject in general are collected in Weisberg, Police Interrogation of Arrested Persons: A Skeptical View, 52 J. Crim. L., C. & P.S., 21 (1961).

[4] This is what me meant in *Escobedo* when we spoke of an investigation which had focused on an accused.

[5] See, for example, IV National Commission on Law Observance and Enforcement, Report on Lawlessness in Law Enforcement (1931) [Wickersham Report]; Booth, Confessions and Methods Employed in Procuring Them, 4 So. Calif. L. Rev. 83 (1930); Kauper, Judicial Examination of the Accused—A Remedy for the Third Degree, 30 Mich L. Rev. 1224

decided by this Court long after these studies, the police resorted to physical brutality—beatings, hanging, whipping—and to sustained and protracted questioning incommunicado in order to extort confessions.[6] The 1961 Commission on Civil Rights found much evidence to indicate that "some policemen still resort to physical force to obtain confessions," 1961 Comm'n on Civil Rights Rep., Justice, pt. 5, 17. The use of physical brutality and violence is not, unfortunately, relegated to the past or to any part of the country. Only recently in Kings County, New York, the police brutally beat, kicked and placed lighted cigarette butts on the back of a potential witness under interrogation for the purpose of securing a statement incriminating a third party. *People* v. *Portelli*, 15 N.Y. 2d 235, 205 N. E. 2d 857, 257 N. Y. S. 2d 931 (1965).[7]

The examples given above are undoubtedly the exception now, but they are sufficiently widespread to be the object of concern. Unless a proper limitation upon custodial interrogation is achieved—such as these decisions will advance—there can be no assurance that practices of this nature will be eradicated in the foreseeable future. The conclusion of the Wickersham Commission Report, made over 30 years ago, is still pertinent:

"To the contention that the third degree is necessary to get the facts, the reporters aptly reply in the language of the present Lord Chancellor of England (Lord Sankey): 'It is not admissible to do a great right by doing a little wrong. . . . It is not sufficient to do justice by obtaining a proper result by irregular or improper means.' Not only does the use of the third degree involve a flagrant violation of law by the officers of the law, but it involves also the dangers of false confessions, and it tends to make police and prosecutors less zealous in the search for objective evidence. As the New York prosecutor quoted in the report said, "It is a short cut and makes the police lazy and unenterprising.' Or, as another official quoted remarked: 'If you use your fists, you are not so likely to use your wits.' We agree with the conclusion expressed in the report, that 'The third degree brutalizes the police, hardens the prisoner against society, and lowers the esteem in which the administration of justice is held by the public.' " IV National Commission on Law Observance and Enforcement, Report on Lawlessness in Law Enforcement (1931), 5.

Again we stress that the modern practice of in-custody interrogation is psychologically rather than physically oriented. As we have stated before. "Since *Chambers* v. *Florida*, 309 U.S. 227, this Court has recognized that coercion can be mental as well as physical, and that the blood of the accused is not the only hallmark of an unconstitutional inquisition." *Blackburn* v. *Alabama*, 361 U.S. 199, 206 (1960). Interrogation still takes place in privacy. Privacy results in secrecy and this in turn results in a gap in our knowledge as to what in fact goes on in the interrogation rooms. A valuable source of information about present police practices, however, may be found in various police manuals and texts which document procedures employed with success in the past, and which recommend various other effective tactics.[8] These texts are used by law enforcement agencies themselves as guides.[9] It should be noted that these texts professedly present the most enlightened and effective means presently used to obtain statements through custodial interrogation. By considering these texts and other data, it is possible to describe procedures observed and noted around the country.

The officers are told by the manuals that the "principal psychological factor contributing to a successful interrogation is *privacy*—being alone with the person under interrogation."[10] The efficacy of this tactic has been explained as follows:

"If at all practicable, the interrogation should take place in the investigator's office or at least in a room of his own choice. The subject should be deprived of every psychological advantage. In his own home he may be confident, indignant, or recalcitrant. He is more keenly aware of his rights and more reluctant to tell of his indiscretions of criminal behavior within the walls of his own home. Moreover his family and other friends are nearby, their presence lending moral support. In his own office, the investigator possesses all the advantages. The atmosphere suggests the invincibility of the forces of the law."[11]

To highlight the isolation and unfamiliar surroundings, the manuals instruct the police to display an air of confidence in the suspect's guilt and from outward appearance to maintain only an interest in confirming certain details. The interrogator should direct his comments toward the reasons why the subject committed the act, rather than to court failure by asking the subject whether he did it. Like other men, perhaps the subject has had a bad family life, had an unhappy childhood, had too much to drink, had an unrequited attraction to women. The officers are instructed to minimize the moral seriousness of the offense,[12] to cast blame on the victim or on society.[13] These tactics are designed to put the subject in a psychological state where his story is but an elaboration of what the police purport to know already—that he is guilty. Explanations to the contrary are dismissed and discouraged.

The texts thus stress that the major qualities an interrogator should possess are patience and perseverance. One writer describes the efficacy of these characteristics in this manner:

"In the preceding paragraphs emphasis has been placed on kindness and stratagems. The investigator will, however, encounter many situations where the sheer weight of his personality will be the deciding factor. Where emotional appeals and tricks are employed to no avail, he must rely on oppressive atmosphere of dogged persistence. He must interrogate steadily and without relent, leaving the subject no prospect of surcease. He must dominate his subject and overwhelm him with his inexorable will to obtain the truth. He should interrogate for a spell of several hours pausing only for the subject's necessities in acknowledgment of the need to avoid a charge of duress that can be technically substantiated. In a serious case, the interrogation may continue for days, with the required intervals for food and sleep, but with no respite from the atmosphere of domination. It is possible in this way to induce the subject to talk without resorting to duress or coercion. This method should be used only when the guilt of the subject appears highly probable."[14] The manuals suggest that the suspect be offered legal excuses for his actions in order to obtain an initial admission of guilt. Where there is a suspected revenge-killing, for example, the interrogator may say:

"Joe, you probably didn't go out looking for this fellow with the purpose of shooting him. My guess is, however, that you expected something from him and that's why you

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(1932). It is significant that instances of third-degree treatment of prisoners almost invariably took place during the period between arrest and preliminary examination. Wickersham Report, at 169; Hall, The Law of Arrest in Relation to Contemporary Social Problems, 3 U. Chi. L. Rev. 345, 357 (1936). See also Foote, Law and Police Practice: Safeguards in the Law of Arrest, 52 Nw. U.L. Rev. 16 (1957).

[6] *Brown* v. *Mississippi*, 297 U.S. 278 (1936); *Chambers* v. *Florida*, 309 U.S. 227 (1940); *Canty* v. *Alabama*, 309 U.S. 629 (1940); *White* v. *Texas*, 310 U.S. 530 (1940); *Vernon* v. *Alabama*, 313 U.S. 547 (1941); *Ward* v. *Texas*, 316 U.S. 547 (1942); *Ashcraft* v. *Tennessee*, 322 U.S. 143 (1944); *Malinski* v. *New York*, 325 U.S. 401 (1945); *Leyra* v. *Denno*, 347 U.S. 556 (1954). See also *Williams* v. *United States*, 341 U.S. 97 (1951).

[7] In addition, see *People* v. *Wakat*, 415 Ill. 610, 114 N.E. 2d 706 (1953); *Wakat* v. *Harlib*, 253 F. 2d 59 (C.A. 7th Cir. 1958) (defendant suffering from broken bones, multiple bruises and injuries sufficiently serious to require eight months' medical treatment after being manhandled by five policemen); *Kier* v. *State*, 213 Md. 556, 132 A. 2d 494 (1957) (police doctor told accused, who was strapped to a chair completely nude, that he proposed to take hair and skin scrapings from anything that looked like blood or sperm from various parts of his body); *Bruner* v. *People*, 113 Col. 194, 156 P. 2d 111 (1945) (defendant held in custody over two months, deprived of food for 15 hours, forced to submit to a lie detector test when he wanted to go to the toilet); *People* v. *Matlock*, 51 Cal. 2d 682, 336 P. 2d 505 (1959) (defendant questioned incessantly over an evening's time, made to lie on cold board and to answer questions whenever it appeared he was getting sleepy). Other cases are documented in American Civil Liberties Union, Illinois Division, Secret Detention by the Chicago Police (1959); Pott, The Preliminary Examination and "The Third Degree," 2 Baylor L. Rev. 131 (1950); Sterling, Police Interrogation and the Psychology of Confession, 14 J. Pub. L. 25 (1965).

[8] The manuals quoted in the text following are the most recent and representative of the texts currently available. Material of the same nature appears in Kidd, Police Interrogation (1940); Mulbar, Interrogation (1951); Dienstein, Technics for the Crime Investigator (1952), 97–115. Studies concerning the observed practices of the police appear in LaFave, Arrest: The Decision To Take a Suspect Into Custody (1965), 244–437, 490–521; LaFave, Detention for Investigation by the Police: An Analysis of Current Practices, 1962 Wash. U. L. Q. 331; Barrett, Police Practices and the Law—From Arrest to Release or Charge, 50 Calif L. Rev. 11 (1962); Sterling, *supra*, n. 7, at 47–65.

[9] The methods described in Inbau and Reid, Criminal Interrogation and Confessions (1962), are a revision and enlargement of material presented in three prior editions of a predecessor text. Lie Detection and Criminal Interrogation (3d ed. 1953). The authors and their associates are officers of the Chicago Police Scientific Crime Detection Laboratory and have had extensive experience in writing, lecturing and speaking to law enforcement authorities over a 20-year period. They say that the techniques portrayed in their manuals reflect their experiences and are the most effective psychological stratagems to employ during interrogations. Similarly, the techniques described in O'Hara, Fundamentals of Criminal Investigation (1959), were gleaned from long service as observer, lecturer in police science, and work as a federal criminal investigator. All these texts have had rather extensive use among law enforcement agencies and among students of police science, with total sales and circulation of over 44,000.

[10] Inbau and Reid, *supra*, at 1.

[11] O'Hara, *supra*, at 99.

[12] Inbau and Reid, *supra*, at 34–43, 87. For example, in *Leyra* v. *Denno*, 347 U.S. 556 (1954), the interrogator-psychiatrist told the accused, "We do sometimes things that are not right, but in a fit of temper or anger we sometimes do things we aren't really responsible for," *id.*, at 562, and again, "We know that morally you were just in anger. Morally, you are not to be condemned," *id.*, at 582.

[13] Inbau and Reid, *supra*, at 43–55.

[14] O'Hara, *supra*, at 112.

carried a gun—for your own protection. You knew him for what he was, no good. Then when you met him he probably started using foul, abusive language and he gave you some indication that he was about to pull a gun on you, and that's when you had to act to save your own life. That's about it, isn't it, Joe?" [15]

Having then obtained the admission of shooting, the interrogator is advised to refer to circumstantial evidence which negates the self-defense explanation. This should enable him to secure the entire story. One text notes that "Even if he fails to do so, the inconsistency between the subject's original denial of the shooting and his present admission of at least doing the shooting will serve to deprive him of a self-defense 'out' at the time of trial." [16]

When the techniques described above prove unavailing, the texts recommended they be alternated with a show of some hostility. One ploy often used has been termed the "friendly-unfriendly" or the "Mutt and Jeff" act:

". . . In this technique, two agents are employed, Mutt, the relentless investigator, who knows the subject is guilty and is not going to waste any time. He's sent a dozen men away for this crime and he's going to send the subject away for the full term. Jeff, on the other hand, is obviously a kind-hearted man. He has a family himself. He has a brother who was involved in a little scrape like this. He disapproves of Mutt and his tactics and will arrange to get him off the case if the subject will cooperate. He can't hold Mutt off for very long. The subject would be wise to make a quick decision. The technique is applied by having both investigators present while Mutt acts out his role. Jeff may stand by quietly and demur at some of Mutt's tactics. When Jeff makes his plea for cooperation, Mutt is not present in the room." [17]

The interrogators sometimes are instructed to induce a confession out of trickery. The technique here is quite effective in crimes which require identification or which run in series. In the identification situation, the interrogator may take a break in his questioning to place the subject among a group of men in a line-up. "The witness or complainant (previously coached, if necessary) studies the line-up and confidently points out the subject as the guilty party." [18] Then the questioning resumes "as though there were now no doubt about the guilt of the subject." A variation on this technique is called the "reverse line-up":

"The accused is placed in a line-up, but this time he is identified by several fictitious witnesses or victims who associated him with different offenses. It is expected that the subject will become desperate and confess to the offense under investigation in order to escape from the false accusation." [19]

The manuals also contain instructions for police on how to handle the individual who refuses to discuss the matter entirely, or who asks for an attorney or relatives. The examiner is to concede him the right to remain silent. "This usually has a very undermining effect. First of all, he is disappointed in his expectation of an unfavorable reaction on the part of the interrogator. Secondly, a concession of this right to remain silent impresses the subject with the apparent fairness of his interrogator." [20] After this psychological conditioning, however, the officer is told to point out the incriminating significance of the suspect's refusal to talk:

"Joe, you have a right to remain silent. That's your privilege and I'm the last person in the world who'll try to take it away from you. If that's the way you want to leave this, O.K. But let me ask you this. Suppose you were in my shoes and I were in yours and you called me in to ask me about this and I told you, 'I don't want to answer any of your questions.' You'd think I had something to hide, and you'd probably be right in thinking that. That's exactly what I'll have to think about you, and so will everybody else. So let's sit here and talk this whole thing over." [21]

Few will persist in their initial refusals to talk, it is said, if this monologue is employed correctly.

In the event that the subject wishes to speak to a relative or an attorney, the following advice is tendered:

"[T]he interrogator should respond by suggesting the subject first tell the truth to the interrogator himself rather than get anyone else involved in the matter. If the request is for an attorney, the interrogator may suggest that the subject save himself or his family the expense of any such professional service, particularly if he is innocent of the offense under investigation. The interrogator may also add, 'Joe, I'm only looking for the truth, and if you're telling the truth, that's it. You can handle this by yourself.'" [22]

From these representative samples of interrogation techniques, the setting prescribed by the manuals and observed in practice becomes clear. In essence, it is this: To be alone with the subject is essential to prevent distraction and to deprive him of any outside support. The aura of confidence in his guilt undermines his will to resist. He merely confirms the preconceived story the police seek to have him describe. Patience and persistence, at times relentless questioning, are employed. To obtain a confession, the interrogator must "patiently maneuver himself or his quarry into a position from which the desired object may be obtained." [23] When normal procedures fail to produce the needed result, the police may resort to deceptive stratagems such as giving false legal advice. It is important to keep the subject off balance, for example, by trading on his insecurity about himself or his surroundings. The police then persuade, trick, or cajole him out of exercising his constitutional rights.

Even without employing brutality, the "third degree" or the specific stratagems described above, the very fact of custodial interrogation exacts a heavy toll on individual liberty and trades on the weakness of individuals.[24] This fact may be illustrated simply by referring to three confession cases decided by this Court in the Term immediately preceding our *Escobedo* decision. In *Townsend* v. *Sain*, 372 U.S. 293 (1963), the defendant was a 19-year-old heroin addict, described as a "near mental defective," *id.*, at 307–310. The defendant in *Lynumn* v. *Illinois*, 372 U.S. 528 (1963), was a woman who confessed to the arresting officer after being importuned to "cooperate" in order to prevent her children from being taken by relief authorities. This Court similarly reversed the conviction of a defendant in *Haynes* v. *Washington*, 373 U.S. 503 (1963), whose persistent request during his interrogation was to phone his wife or attorney.[25] In other settings, these individuals might have exercised their constitutional rights. In the incommunicado police-dominated atmosphere, they succumbed.

In the cases before us today, given this background, we concern ourselves primarily with this interrogation atmosphere and the evils it can bring. In No. 759, *Miranda* v. *Arizona*, the police arrested the defendant and took him to a special interrogation room where they secured a confession. In No. 760, *Vignera* v. *New York*, the defendant made oral admissions to the police after interrogation in the afternoon, and then signed an inculpatory statement upon being questioned by an assistant district attorney later the same evening. In No. 761, *Westover* v. *United States*, the defendant was handed over to the Federal Bureau of Investigation by local authorities after they had detained and interrogated him for a lengthy period, both at night and the following morning. After some two hours of questioning, the federal officers had obtained signed statements from the defendant. Lastly, in No. 584, *California* v. *Stewart*, the local police held the defendant five days in the station and interrogated him on nine separate occasions before they secured his inculpatory statement.

In these cases, we might not find the defendants' statements to have been involuntary in traditional terms. Our concern for adequate safeguards to protect precious Fifth Amendment rights is, of course, not lessened in the slightest. In each of the cases, the defendant was thrust into an unfamiliar atmosphere and run through menacing police interrogation procedures. The potentiality for compulsion is forcefully apparent, for example, in *Miranda*, where the indigent Mexican defendant was a seriously disturbed individual with pronounced sexual fantasies, and in *Stewart*, in which the defendant was an indigent Los Angeles Negro who had dropped out of school in the sixth grade. To be sure, the records do not evince overt physical coercion or patented psychological ploys. The fact remains that in none of these cases did the officers undertake to afford appropriate safeguards at the outset of the interrogation to insure that the statements were truly the product of free choice.

It is obvious that such an interrogation environment is created for no purpose other

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[15] Inbau and Reid, *supra*, at 40.

[16] *Ibid.*

[17] O'Hara, *supra*, at 104, Inbau and Reid, *supra*, at 58–59. See *Spano* v. *New York*, 360 U.S. 315 (1959). A variant on the technique of creating hostility is one of engendering fear. This is perhaps best described by the prosecuting attorney in *Malinski* v. *New York*, 324 U.S. 401, 407 (1945): "Why all this talk about being undressed? Of course, they had a right to undress him to look for bullet scars, and keep the clothes off him. That was quite proper police procedure. That is some more psychology—let him sit around with a blanket on him, humiliate him there for a while; let him sit in the corner, let him think he is going to get a shellacking."

[18] O'Hara, *supra*, at 105–106.

[19] *Id.*, at 106.

[20] Inbau and Reid, *supra*, at 111.

[21] *Ibid.*

[22] Inbau and Reid, *supra*, at 112.

[23] Inbau and Reid, Lie Detection and Criminal Interrogation (3d ed. 1953), 185.

[24] Interrogation procedures may even give rise to a false confession. The most recent conspicuous example occurred in New York, in 1964, when a Negro of limited intelligence confessed to two brutal murders and a rape which he had not committed. When this was discovered, the prosecutor was reported as saying: "Call it what you want—brain-washing, hypnosis, fright. They made him give an untrue confession. The only thing I don't believe is that Whitmore was beaten." N.Y. Times, Jan. 28, 1965, p. 1, col. 5. In two other instances, similar events had occurred. N.Y. Times, Oct. 20, 1964, p. 22, col. 1; N.Y. Times, Aug. 24, 1965, p. 1, col. 1. In general, see Borchard, Convicting the Innocent (1932); Frank and Frank, Not Guilty (1957).

[25] In the fourth confession case decided by the Court in the 1963 Term, *Fay* v. *Noia*, 372 U.S. 391 (1963), our disposition made it unnecessary to delve at length into the facts. The facts of the defendant's case there, however, paralleled those of his co-defendants, whose confessions were found to have resulted from continuous and coercive interrogation for 27 hours, with denial of requests for friends or attorney. See *United States* v. *Murphy*, 222 F. 2d 698 (C. A. 2d Cir. 1955) (Frank, J.); *People* v. *Bonino*, 1. N.Y. 2d 752, 135 N.E. 2d 51 (1956).

than to subjugate the individual to the will of his examiner. This atmosphere carries its own badge of intimidation. To be sure, this is not physical intimidation, but it is equally destructive of human dignity.[26] The current practice of incommunicado interrogation is at odds with one of our Nation's most cherished principles—that the individual may not be compelled to incriminate himself. Unless adequate protective devices are employed to dispel the compulsion inherent in custodial surroundings, no statement obtained from the defendant can truly be the product of his free choice.

From the foregoing, we can readily perceive an intimate connection between the privilege against self-incrimination and police custodial questioning. It is fitting to turn to history and precedent underlying the Self-Incrimination Clause to determine its applicability in this situation.

II

We sometimes forget how long it has taken to establish the privilege against self-incrimination, the sources from which it came and the fervor with which it was defended. Its roots go back into ancient times.[27] Perhaps the critical historical event shedding light on its origins and evolution was the trial of one John Lilburn, a vocal anti-Stuart Leveller, who was made to take the Star Chamber Oath in 1637. The oath would have bound him to answer to all questions posed to him on any subject. The Trial of John Lilburn and John Wharton, 3 How. St. Tr. 1315 (1637–1645). He resisted the oath and declaimed the proceedings, stating:

"Another fundamental right I then contended for, was, that no man's conscience ought to be racked by oaths imposed, to answer to questions concerning himself in matters criminal, or pretended to be so." Heller and Davies, The Leveller Tracts 1647–1653 (1944), 454.

On account of the Lilburn Trial, Parliament abolished the inquisitorial Court of Star Chamber and went further in giving him generous reparation. The lofty principles to which Lilburn had appealed during his trial gained popular acceptance in England.[28] These sentiments worked their way over to the Colonies and were implanted after great struggle into the Bill of Rights.[29] Those who framed our Constitution and the Bill of Rights were ever aware of subtle encroachments on individual liberty. They knew that "illegitimate and unconstitutional practices get their first footing . . . by silent approaches and slight deviations from legal modes of procedure." *Boyd* v. *United States*, 116 U.S. 616, 635 (1886). The privilege was elevated to constitutional status and has always been "as broad as the mischief against which it seeks to guard." *Counselman* v. *Hitchcock*, 142 U.S. 547, 562 (1892). We cannot depart from this noble heritage.

Thus we may view the historical development of the privilege as one which groped for the proper scope of government power over the citizen. As a "noble principle often transcends its origins," the privilege has come rightfully to be recognized in part as an individual's substantive right, a "right to a private enclave where he may lead a private life. That right is the hallmark of our democracy." *United States* v. *Grunewald*, 233 F. 2d 556, 579, 581–582 (Frank J., dissenting), rev'd, 353 U.S. 391 (1957). We have recently noted that the privilege against self-incrimination—the essential mainstay of our adversary system—is founded on a complex of values, *Murphy* v. *Waterfront Comm'n*, 378 U.S. 52, 55–57, n. 5 (1964); *Tehan* v. *Shott*, 382 U.S. 406, 414–415, n. 12 (1966). All these policies point to one overriding thought: the constitutional foundation underlying the privilege is the respect a government—state or federal—must accord to the dignity and integrity of its citizens. To maintain a "fair state-individual balance," to require the government "to shoulder the entire load," 8 Wigmore, Evidence (McNaughton rev., 1961), 317, to respect the inviolability of the human personality, our accusatory system of criminal justice demands that the government seeking to punish an individual produce the evidence against him by its own independent labors, rather than by the cruel, simple expedient of compelling it from his own mouth. *Chambers* v. *Florida*, 309 227, 235–238 (1940). In sum, the privilege is fulfilled only when the person is guaranteed the right "to remain silent unless he chooses to speak in the unfettered exercise of his own will." *Malloy* v. *Hogan*, 378 U.S. 1, 8 (1964).

The question in these cases is whether the privilege is fully applicable during a period of custodial interrogation. In this Court, the privilege has consistently been accorded a liberal construction. *Albertson* v. *SACB*, 382 U.S. 70, 81 (1965); *Hoffman* v. *United States*, 341 U.S. 479, 486 (1951); *Arndstein* v. *McCarthy*, 254 U.S. 71, 72–73 (1920); *Counselman* v. *Hitchcock*, 142 U.S. 547, 562 (1892). We are satisfied that all the principles embodied in the privilege apply to informal compulsion exerted by law-enforcement officers during in-custody questioning. An individual swept from familiar surroundings into police custody, surrounded by antagonistic forces, and subjected to the techniques of persuasion described above cannot be otherwise than under compulsion to speak. As a practical matter, the compulsion to speak in the isolated setting of the police station may well be greater than in courts or other official investigations, where there are often impartial observers to guard against intimidation or trickery.[30]

This question, in fact, could have been taken as settled in federal courts almost 70 years ago, when, in *Bram* v. *United States*, 168 U.S. 532, 542 (1897), this Court held:

"In criminal trials, in the courts of the United States, wherever a question arises whether a confession is incompetent because not voluntary, the issue is controlled by that portion of the Fifth Amendment . . . commanding that no person 'shall be compelled in any criminal case to be a witness against himself.' "

In *Bram*, the Court reviewed the British and American history and case law and set down the Fifth Amendment standard for compulsion which we implement today:

"Much of the confusion which has resulted from the effort to deduce from the adjudged cases what would be a sufficient quantum of proof to show that a confession was or was not voluntary, has arisen from a misconception of the subject to which the proof must address itself. The rule is not that in order to render a statement admissible the proof must be adequate to establish that the particular communications contained in a statement were voluntarily made, but it must be sufficient to establish that the making of the statement was voluntary; that is to say, that from the causes, which the law treats as legally sufficient to engender in the mind of the accused hope or fear in respect to the crime charged, the accused was not involuntarily impelled to make a statement, when but for the improper influences he would have remained silent. . . ." 168 U.S., at 549. And see, *id.*, at 542.

The Court has adhered to this reasoning. In 1924, Mr. Justice Brandeis wrote for a unanimous Court in reversing a conviction resting on a compelled confession, *Wan* v. *United States*, 266 U.S. 1. He stated:

"In the federal courts, the requisite of voluntariness is not satisfied by establishing merely that the confession was not induced by a promise or a threat. A confession is voluntary in law if, and only if, it was, in fact, voluntarily made. A confession may have been given voluntarily, although it was made to police officers, while in custody, and in answer to an examination conducted by them. But a confession obtained by compulsion must be excluded whatever may have been the character of the compulsion, and whether the compulsion was applied in a judicial proceeding or otherwise. *Bram* v. *United States*, 168 U.S. 532." 266 U.S., at 14–15.

In addition to the expansive historical development of the privilege and the sound policies which have nurtured its evolution, judicial precedent thus clearly establishes its application to incommunicado interrogation. In fact, the Government concedes this point as well established in No. 761, *Westover* v. *United States*, stating: "We have no doubt . . . that it is possible for a suspect's Fifth Amendment right to be violated during in-custody questioning by a law-enforcement officer." [31]

Because of the adoption by Congress of rule 5(a) of the Federal Rules of Criminal Procedure, and this Court's effectuation of that Rule in *McNabb* v. *United States*, 318 U.S. 332 (1943), and *Mallory* v. *United States*, 354 U.S. 449 (1957), we have had little occasion in the past quarter century to reach the constitutional issues in dealing with federal interrogations. These supervisory rules, requiring production of an arrested person before a commissioner "without unnecessary delay" and excluding evidence obtained in default of that statutory obligation, were nonetheless responsive to the same considerations

[26] The absurdity of denying that a confession obtained under these circumstances is compelled is aptly portrayed by an example in Professor Sutherland's recent article, Crime and Confession, 79 Harv. L. Rev. 21, 37 (1965):

"Suppose a well-to-do testatrix says she intends to will her property to Elizabeth. John and James want her to bequeath it to them instead. They capture the testatrix, put her in a carefully designed room, out of touch with everyone but themselves and their convenient 'witnesses,' keep her secluded there for hours while they make insistent demands, weary her with contradictions and finally induce her to execute the will in their favor. Assume that John and James are deeply and correctly convinced that Elizabeth is unworthy and will make base use of the property if she gets her hands on it, whereas John and James have the noblest and most righteous intentions. Would any judge of probate accept the will so procured as the 'voluntary' act of the testatrix?"

[27] Thirteenth century commentators found an analogue to the privilege grounded in the Bible. "To sum up the matter, the principle that no man is to be declared guilty on his own admission is a divine decree." Maimonides, Mishneh Torah (Code of Jewish Law), Book of Judges, Laws of the Sanhedrin, c. 18, § 6, 3 Yale Judaica Series 52–53. See also Lamm, The Fifth Amendment and Its Equivalent in the Halakha, 5 Judaism 53 (Winter 1956).

[28] See Morgan, The Privilege Against Self-Incrimination, 34 Minn. L. Rev. 1, 9–11 (1949); 8 Wigmore, Evidence (McNaughton rev., 1961), 289–295. See also Lowell, The Judicial Use of Torture, 11 Harv. L. Rev. 220, 290 (1897).

[29] See Pittman, The Colonial and Constitutional History of the Privilege Against Self-Incrimination in America, 21 Va. L. Rev. 763 (1935); *Ullmann* v. *United States*, 350 U.S. 422, 455–449 (1956) (Douglas, J. dissenting).

[30] Compare *Brown* v. *Walker*, 161 U. S. 596 (1896); *Quinn* v. *United States*, 349 U. S. 155 (1955).

[31] Brief for the United States, p. 28. To the same effect, see Brief for the United States, pp. 40–49, n. 44, *Anderson* v. *United States*, 318 U. S. 350 (1943); Brief for the United States, pp. 17–18, *McNabb* v. *United States*, 318 U. S. 332 (1943).

of Fifth Amendment policy that unavoidably face us now as to the States. In *McNabb*, 318 U.S. at 343–344, and in *Mallory*, 354 U.S., at 455–456, we recognized both the dangers of interrogation and the appropriateness of prophylaxis stemming from the very fact of interrogation itself.[32]

Our decision in *Malloy* v. *Hogan*, 378 U.S. 1 (1964), necessitates an examination of the scope of the privilege in state cases as well. In *Malloy*, we squarely held the privilege applicable to the States, and held that the substantive standards underlying the privilege applied with full force to state court proceedings. There, as in *Murphy* v. *Waterfront Comm'n*, 378 U.S. 52 (1964), and *Griffin* v. *California*, 380 U.S. 609 (1965), we applied the existing Fifth Amendment standards to the case before us. Aside from the holding itself, the reasoning in *Malloy* made clear what had already become apparent—that the substantive and procedural safeguards surrounding admissibility of confessions in state cases had become exceedingly exacting, reflecting all the policies embedded in the privilege, 378 U.S., at 7–8.[33] The voluntariness doctrine in the state cases, as *Malloy* indicates, encompasses all interrogation practices which are likely to exert such pressure upon an individual as to disable him from making a free and rational choice.[34] The implications of this proposition were elaborated in our decision in *Escobedo* v. *Illinois*, 378 U.S. 478, decided one week after *Malloy* applied the privilege to the States.

Our holding there stressed the fact that the police had not advised the defendant of his constitutional privilege to remain silent at the outset of the interrogation, and we drew attention to that fact at several points in the decision, 378 U.S., at 483, 485, 491. This was no isolated factor, but an essential ingredient in our decision. The entire thrust of police interrogation there, as in all the cases today, was to put the defendant in such an emotional state as to impair his capacity for rational judgment. The abdication of the constitutional privilege—the choice on his part to speak to the police—was not made knowingly or competently because of the failure to apprise him of his rights; the compelling atmosphere of the in-custody interrogation, and not an independent decision on his part, caused the defendant to speak.

A different phase of the *Escobedo* decision was significant in its attention to the absence of counsel during the questioning. There, as in the cases today, we sought a protective device to dispel the compelling atmosphere of the interrogation. In *Escobedo*, however, the police did not relieve the defendant of the anxieties which they had created in the interrogation rooms. Rather, they denied his request for the assistance of counsel, 378 U.S., at 481, 488, 491.[35] This heightened his dilemma, and made his later statements the product of this compulsion. Cf. *Haynes* v. *Washington*, 373 U.S. 503, 514 (1963). The denial of the defendant's request for his attorney thus undermined his ability to exercise the privilege—to remain silent if he chose or to speak without any intimidation, blatant or subtle. The presence of counsel, in all the cases before us today, would be the adequate protective device necessary to make the process of police interrogation conform to the dictates of the privilege. His presence would insure that statements made in the government-established atmosphere are not the product of compulsion.

It was in this manner that *Escobedo* explicated another facet of the pre-trial privilege, noted in many of the Court's prior decisions: the protection of rights at trial.[36] That counsel is present when statements are taken from an individual during interrogation obviously enhances the integrity of the fact-finding processes in court. The presence of an attorney, and the warnings delivered to the individual, enable the defendant under otherwise compelling circumstances to tell his story without fear, effectively, and in a way that eliminates the evils in the interrogation process. Without the protections flowing from adequate warnings and the rights of counsel, "all the careful safeguards erected around the giving of testimony, whether by an accused or any other witness, would become empty formalities in a procedure where the most compelling possible evidence of guilt, a confession, would have already been obtained at the unsupervised pleasure of the police." *Mapp* v. *Ohio*, 367 U.S. 643, 685 (1961) (HARLAN, J., dissenting). Cf. *Pointer* v. *Texas*, 380 U.S. 400 (1965).

III

Today, then, there can be no doubt that the Fifth Amendment privilege is available outside of criminal court proceedings and serves to protect persons in all settings in which their freedom of action is curtailed from being compelled to incriminate themselves. We have concluded that without proper safeguards the process of in-custody interrogation of persons suspected or accused of crime contains inherently compelling pressures which work to undermine the individual's will to resist and to compel him to speak where he would not otherwise do so freely. In order to combat these pressures and to permit a full opportunity to exercise the privilege against self-incrimination, the accused must be adequately and effectively apprised of his rights and the exercise of those rights must be fully honored.

It is impossible for us to foresee the potential alternatives for protecting the privilege which might be devised by Congress or the States in the exercise of their creative rule-making capacities. Therefore we cannot say that the Constitution necessarily requires adherence to any particular solution for the inherent compulsions of the interrogation process as it is presently conducted. Our decision in no way creates a constitutional straitjacket which will handicap sound efforts at reform, nor is it intended to have this effect. We encourage Congress and the States to continue their laudable search for increasingly effective ways of protecting the rights of the individual while promoting efficient enforcement of our criminal laws. However, unless we are shown other procedures which are at least as effective in apprising accused persons of their right of silence and in assuring a continuous opportunity to exercise it, the following safeguards must be observed.

At the outset, if a person in custody is to be subjected to interrogation, he must first be informed in clear and unequivocal terms that he has the right to remain silent. For those unaware of the privilege, the warning is needed simply to make them aware of it—the threshold requirement for an intelligent decision as to its exercise. More important, such a warning is an absolute prerequisite in overcoming the inherent pressures of the interrogation atmosphere. It is not just the subnormal or woefully ignorant who succumb to an interrogator's imprecations, whether implied or expressly stated, that the interrogation will continue until a confession is obtained or that silence in the face of accusation is itself damning and will bode ill when presented to a jury.[37] Further, the warning will show the individual that his interrogators are prepared to recognize his privilege should he choose to exercise it.

The Fifth Amendment privilege is so fundamental to our system of constitutional rule and the expedient of giving an adequate warning as to the availability of the privilege so simple, we will not pause to inquire in individual cases whether the defendant was aware of his rights without a warning being given. Assessments of the knowledge the the defendant possessed, based on information as to his age, education, intelligence, or prior contact with authorities, can never be more than speculation;[38] a warning is a

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[32] Our decision today does not indicate in any manner, of course, that these rules can be disregarded. When federal officials arrest an individual, they must as always comply with the dictates of the congressional legislation and cases thereunder. See generally, Hogan and Snee, The McNabb-Mallory Rule: Its Rise, Rationale and Rescue, 47 Geo. L. J. 1 (1958).

[33] The decisions of this Court have guaranteed the same procedural protection for the defendant whether his confession was used in a federal or state court. It is now axiomatic that the defendant's constitutional rights have been violated if his conviction is based, in whole or in part, on an involuntary confession, regardless of its truth or falsity. *Rogers* v. *Richmond*, 365 U. S. 534, 544 (1961); *Wan* v. *United States*, 266 U.S. 1 (1924). This is so even if there is ample evidence aside from the confession to support the conviction, *e. g.*, *Malinski* v. *New York*, 324 U. S. 401, 404 (1945); *Bram* v. *United States*, 168 U. S. 532, 540–542 (1897). Both state and federal courts now adhere to trial procedures which seek to assure a reliable and clear-cut determination of the voluntariness of the confession offered at trial, *Jackson* v. *Denno*, 378 U. S. 368 (1964); *United States* v. *Carignan*, 342 U. S. 36, 38 (1951); see also *Wilson* v. *United States*, 162 U. S. 613, 624 (1896). Appellate review is exacting, see *Haynes* v. *Washington*, 373 U. S. 503 (1963); *Blackburn* v. *Alabama*, 361 U. S. 199 (1960). Whether his conviction was in a federal or state court, the defendant may secure a post-conviction hearing based on the alleged involuntary character of his confession, provided he meets the procedural requirements, *Fay* v. *Noia*, 372 U. S. 391 (1963); *Townsend* v. *Sain*, 372 U. S. 293 (1963). In addition, see *Murphy* v. *Waterfront Comm'n*, 378 U. S. 52 (1964).

[34] See *Lisenba* v. *California*, 314 U.S. 219, 241 (1941); *Ashcraft* v. *Tennessee*, 322 U.S. 143 (1944); *Malinski* v. *New York*, 324 U.S. 401 (1945); *Sano* v. *New York*, 360 U.S. 315 (1959); *Lynumn* v. *Illinois*, 372 U.S. 528 (1963); *Haynes* v. *Washington*, 373 U.S. 503 (1963).

[35] The police also prevented the attorney from consulting with his client. Independent of any other constitutional proscription, this action constitutes a violation of the Sixth Amendment right to the assistance of counsel and excludes any statement obtained in its wake. See *People* v. *Donovan*, 13 N.Y. 2d 148, 193 N.E. 2d 628, 243 N.Y. S. 2d 841 (1964) (Fuld, J.).

[36] In *re Groban*, 352 U.S. 330, 340–352 (1957) (BLACK, J., dissenting); Note, 73 Yale, L. J. 1000, 1048–1051 (1964); Comment, 31 U. Chi. L. Rev. 313, 320 (1964) and authorities cited.

[37] See p. 16, *supra*. Lord Devlin has commented:

"It is probable that even today, when there is much less ignorance about these matters than formerly, there is still a general belief that you must answer all questions put to you by a policeman, or at least that it will be the worst for you if you do not." Devlin, The Criminal Prosecution in England (1958), 32.

In accord with this decision, it is impermissible to penalize an individual for exercising his Fifth Amendment privilege when he is under police custodial interrogation. The prosecution may not, therefore, use at trial the fact that he stood mute or claimed his privilege in the face of accusation. Cf. *Griffin* v. *California*, 380 U.S. 609 (1965); *Malloy* v. *Hogan*, 378 U.S. 1, 8 (1964); Comment, 31 U. Chi. L. Rev. 556 (1964); Developments in the Law—Confessions, 79 Harv. L. Rev. 935, 1041–1044 (1966). See also *Bram* v. *United States*, 168 U.S. 532, 562 (1897).

[38] Cf. *Betts* v. *Brady*, 316 U.S. 455 (1942), and the recurrent inquiry into special cir-

clearcut fact. More important, whatever the background of the person interrogated, a warning at the time of the interrogation is indispensable to overcome its pressures and to insure that the individual knows he is free to exercise the privilege at that point in time.

The warning of the right to remain silent must be accompanied by the explanation that anything said can and will be used against the individual in court. This warning is needed in order to make him aware not only of the privilege, but also of the consequences of forgoing it. It is only through an awareness of these consequences that there can be any assurance of real understanding and intelligent exercise of the privilege. Moreover, this warning may serve to make the individual more acutely aware that he is faced with a phase of the adversary system—that he is not in the presence of persons acting solely in his interest.

The circumstances surrounding in-custody interrogation can operate very quickly to overbear the will of one merely made aware of his privilege by his interrogators. Therefore, the right to have counsel present at the interrogation is indispensable to the protection of the Fifth Amendment privilege under the system we delineate today. Our aim is to assure that the individual's right to choose between silence and speech remains unfettered throughout the interrogation process. A once-stated warning, delivered by those who will conduct the interrogation, cannot itself suffice to that end among those who most require knowledge of their rights. A mere warning given by the interrogators is not alone sufficient to accomplish that end. Prosecutors themselves claim that the admonishment of the right to remain silent without more "will benefit only the recidivist and the professional." Brief for the National District Attorneys Association as *amicus curiae*, p. 14. Even preliminary advice given to the accused by his own attorney can be swiftly overcome by the secret interrogation process. Cf. *Escobedo* v. *Illinois*, 378 U.S. 478, 485, n. 5. Thus, the need for counsel to protect the Fifth Amendment privilege comprehends not merely a right to consult with counsel prior to questioning, but also to have counsel present during any questioning if the defendant so desires.

The presence of counsel at the interrogation may serve several significant subsidiary functions as well. If the accused decides to talk to his interrogators, the assistance of counsel can mitigate the dangers of untrustworthiness. With a lawyer present the likelihood that the police will practice coercion is reduced, and if coercion is nevertheless exercised the lawyer can testify to it in court. The presence of a lawyer can also help to guarantee that the accused gives a fully accurate statement to the police and that the statement is rightly reported by the prosecution at trial. See *Crooker* v. *California*, 357 U.S. 433, 443–448 (1958) (DOUGLAS, J. dissenting).

An individual need not make a pre-interrogation request for a lawyer. While such request affirmatively secures his right to have one, his failure to ask for a lawyer does not constitute a waiver. No effective waiver of the right to counsel during interrogation can be recognized unless specifically made after the warnings we here delineate have been given. The accused who does not know his rights and therefore does not make a request may be the person who most needs counsel. As the California Supreme Court has aptly put it:

Finally, we must recognize that the imposition of the requirement for the request would discriminate against the defendant who does not know his rights. The defendant who does not ask for counsel is the very defendant who most needs counsel. We cannot penalize a defendant who, not understanding his constitutional rights, does not make the formal request and by such failure demonstrates his helplessness. To require the request would be to favor the defendant whose sophistication or status has fortuitously prompted him to make it." *People* v. *Dorado*, 62 Cal. 2d 338, 351, 398 P. 2d 361, 369–370, 42 Cal. Rptr. 169, 177–178 (1965) (Tobriner, J.).

In *Carnley* v. *Cochran*, 369 U.S. 506, 513 (1962), we stated: "[I]t is settled that where the assistance of counsel is a constitutional requisite, the right to be furnished counsel does not depend on a request." This proposition applies with equal force in the context of providing counsel to protect an accused's Fifth Amendment privilege in the face of interrogation.[39] Although the role of counsel at trial differs from the role during the interrogation, the differences are not relevant to the question whether a request is a prerequisite.

Accordingly we hold that an individual held for interrogation must be clearly informed that he has the right to consult with a lawyer and to have the lawyer with him during interrogation under the system for protecting the privilege we delineate today. As with the warnings of the right to remain silent and that anything stated can be used in evidence against him, this warning is an absolute prerequisite to interrogation. No amount of circumstantial evidence that the person may have been aware of this right will suffice to stand in its stead. Only through such a warning is there ascertainable assurance that the accused was aware of this right.

If an individual indicates that he wishes the assistance of counsel before any interrogation occurs, the authorities cannot rationally ignore or deny his request on the basis that the individual does not have or cannot afford a retained attorney. The financial ability of the individual has no relationship to the scope of the rights involved here. The privilege against self-incrimination secured by the Constitution applies to all individuals. The need for counsel in order to protect the privilege exists for the indigent as well as the affluent. In fact, were we to limit these constitutional rights to those who can retain an attorney, our decisions today would be of little significance. The cases before us as well as the vast majority of confession cases with which we have dealt in the past involve those unable to retain counsel.[40] While authorities are not required to relieve the accused of his poverty, they have the obligation not to take advantage of indigence in the administration of justice.[41] Denial of counsel to the indigent at the time of interrogation while allowing an attorney to those who can afford one would be no more supportable by reason or logic than the similar situation at trial and on appeal struck down in *Gideon* v. *Wainwright*, 372 U.S. 335 (1963), and *Douglas* v. *California*, 372 U.S. 353 (1963).

In order fully to apprise a person interrogated of the extent of his rights under this system then, it is necessary to warn him not only that he has the right to consult with an attorney, but also that if he is indigent a lawyer will be appointed to represent him. Without this additional warning, the admonition of the right to consult with counsel would often be understood as meaning only that he can consult with a lawyer if he has one or has the funds to obtain one. The warning of a right to counsel would be hollow if not couched in terms that would convey to the indigent—the person most often subjected to interrogation—the knowledge that he too has a right to have counsel present.[42] As with the warnings of the right to remain silent and of the general right to counsel, only by effective and express explanation to the indigent of this right can there be assurance that he was truly in a position to exercise it.[43]

Once warnings have been given, the subsequent procedure is clear. If the individual indicates in any manner, at any time prior to or during questioning, that he wishes to remain silent, the interrogation must cease.[44] At this point he has shown that he intends to exercise his Fifth Amendment privilege; any statement taken after the person invokes his privilege cannot be other than the product of compulsion, subtle or otherwise. Without the right to cut off questioning, the setting of in-custody interrogation operates on the individual to overcome free choice in producing a statement after the privilege has been once invoked. If the individual states that he wants an attorney, the interrogation must cease until an attorney is present. At that time, the individual must have an opportunity to confer with the attorney and to have him present during any subsequent questioning. If the individual cannot obtain an attorney and he indicates that he wants one before speaking to police, they must respect his decision to remain silent.

This does not mean, as some have suggested, that each police station must have a "station house lawyer" present at all times to advise prisoners. It does mean, however, that if police propose to interrogate a person

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cumstances it necessitated. See generally, Kamisar, *Betts* v. *Brady* Twenty Years Later: The Right to Counsel and Due Process Values, 61 Mich. L. Rev. 219 (1962).

[39] See Herman, The Supreme Court and Restrictions on Police Interrogation, 25 Ohio St. L. J. 449, 480 (1964).

[40] Estimates of 50–90% indigency among felony defendants have been reported. Pollock, Equal Justice in Practice, 45 Minn. L. Rev. 737, 738–739 (1961); Birzon, Kasanof and Forma, The Right to Counsel and the Indigent Accused in Courts of Criminal Jurisdiction in New York State, 14 Buff. L. Rev. 428, 433 (1965).

[41] See Kamisar, Equal Justice in the Gatehouses and Mansions of American Criminal Procedure, in Criminal Justice in Our Time (1965), 64–81. As was stated in the Report of the Attorney General's Committee on Poverty and the Administration of Federal Criminal Justice (1963), p. 9:

"When government chooses to exert its powers in the criminal area, its obligation is surely no less than that of taking reasonable measures to eliminate those factors that are irrelevant to just administration of the law but which, nevertheless, may occasionally affect determinations of the accused's liability or penalty. While government may not be required to relieve the accused of his poverty, it may properly be required to minimize the influence of poverty on its administration of justice."

[42] Cf. *United States ex rel. Brown* v. *Fay*, 242 F. Supp. 273, 277 (D. C. S. D. N. Y. 1965); *People* v. *Witenski*, 15 N. Y. 2d 392, 207 N.E. 2d 358, 259 N. Y.S. 2d 413 (1965).

[43] While a warning that the indigent may have counsel appointed need not be given to the person who is known to have an attorney or is known to have ample funds to secure one, the expedient of giving a warning is too simple and the rights involved too important to engage in *ex post facto* inquiries into financial ability when there is any doubt at all on that score.

[44] If an individual indicates his desire to remain silent, but has an attorney present, there may be some circumstances in which further questioning would be permissible. In the absence of evidence of overbearing, statements then made in the presence of counsel might be free of the compelling influence of the interrogation process and might fairly be construed as a waiver of the privilege for purposes of these statements.

they must make known to him that he is entitled to a lawyer and that if he cannot afford one, a lawyer will be provided for him prior to any interrogation. If authorities conclude that they will not provide counsel during a reasonable period of time in which investigation in the field is carried out, they may do so without violating the person's Fifth Amendment privilege so long as they do not question him during that time.

If the interrogation continues without the presence of an attorney and a statement is taken, a heavy burden rests on the Government to demonstrate that the defendant knowingly and intelligently waived his privilege against self-incrimination and his right to retained or appointed counsel. *Escobedo* v. *Illinois*, 378 U.S. 478, 490, n. 14. This Court has always set high standards of proof for the waiver of constitutional rights, *Johnson* v. *Zerbst*, 304 U.S. 458 (1938), and we reassert these standards as applied to in-custody interrogation. Since the State is responsible for establishing the isolated circumstances under which the interrogation takes place and has the only means of making available corroborated evidence of warnings given during incommunicado interrogation, the burden is rightly on its shoulders.

An express statement that the individual is willing to make a statement and does not want an attorney followed closely by a statement could constitute a waiver. But a valid waiver will not be presumed simply from the silence of the accused after warnings are given or simply from the fact that a confession was in fact eventually obtained. A statement we made in *Carnley* v. *Cochran*, 369 U.S. 506, 516 (1962), is applicable here:

"Presuming waiver from a silent record is impermissible. The record must show, or there must be an allegation and evidence which show, that an accused was offered counsel but intelligently and understandingly rejected the offer. Anything less is not waiver."

See also *Glasser* v. *United States*, 315 U.S. 60 (1942). Moreover, where in-custody interrogation is involved, there is no room for the contention that the privilege is waived if the individual answers some questions or gives some information on his own prior to invoking his right to remain silent when interrogated.[45]

Whatever the testimony of the authorities as to waiver of rights by an accused, the fact of lengthy interrogation or incommunicado incarceration before a statement is made is strong evidence that the accused did not validly waive his rights. In these circumstances the fact that the individual eventually made a statement is consistent with the conclusion that the compelling influence of the interrogation finally forced him to do so. It is inconsistent with any notion of a voluntary relinquishment of the privilege. Moreover, any evidence that the accused was threatened, tricked, or cajoled into a waiver will, of course, show that the defendant did not voluntarily waive his privilege. The requirement of warnings and waiver of rights is a fundamental with respect to the Fifth Amendment privilege and not simply a preliminary ritual to existing methods of interrogation.

The warnings required and the waiver necessary in accordance with our opinion today are, in the absence of a fully effective equivalent, prerequisites to the admissibility of any statement made by a defendant. No distinction can be drawn between statements which are direct confessions and statements which amount to "admissions" of part or all of an offense. The privilege against self-incrimination protects the individual from being compelled to incriminate himself in any manner; it does not distinguish degrees of incrimination. Similarly, for precisely the same reason, no distinction may be drawn between inculpatory statements and statements alleged to be merely "exculpatory." If a statement made were in fact truly exculpatory it would, of course, never be used by the prosecution. In fact, statements merely intended to be exculpatory by the defendant are often used to impeach his testimony at trial or to demonstrate untruths in the statement given under interrogation and thus to prove guilt by implication. These statements are incriminating in any meaningful sense of the word and may not be used without the full warnings and effective waiver required for any other statement. In *Escobedo* itself, the defendant fully intended his accusation of another as the slayer to be exculpatory as to himself.

The principles announced today deal with the protection which must be given to the privilege against self-incrimination when the individual is first subjected to police interrogation while in custody at the station or otherwise deprived of his freedom of action in any way. It is at this point that our adversary system of criminal proceedings commences, distinguishing itself at the outset from the inquisitorial system recognized in some countries. Under the system of warnings we delineate today or under any other system which may be devised and found effective, the safeguards to be erected about the privilege must come into play at this point.

Our decision is not intended to hamper the traditional function of police officers in investigating crime. See *Escobedo* v. *Illinois*, 378 U.S. 478, 492. When an individual is in custody on probable cause, the police may of course, seek out evidence in the field to be used at trial against him. Such investigation may include inquiry of persons not under restraint. General on-the-scene questioning as to facts surrounding a crime or other general questioning of citizens in the fact-finding process is not affected by our holding. It is an act of responsible citizenship for individuals to give whatever information they may have to aid in law enforcement. In such situations the compelling atmosphere inherent in the process of in-custody interrogation is not necessarily present.[46]

In dealing with statements obtained through interrogation, we do not purport to find all confessions inadmissible. Confessions remain a proper element in law enforcement. Any statement given freely and voluntarily without any compelling influences is, of course, admissible in evidence. The fundamental import of the privilege while an individual is in custody is not whether he is allowed to talk to the police without the benefit of warnings and counsel, but whether he can be interrogated. There is no requirement that police stop a person who enters a police station and states that he wishes to confess to a crime,[47] or a person who calls the police to offer a confession or any other statement he desires to make. Volunteered statements of any kind are not barred by the Fifth Amendment and their admissibility is not affected by our holding today.

To summarize, we hold that when an individual is taken into custody or otherwise deprived of his freedom by the authorities and is subjected to questioning, the privilege against self-incrimination is jeopardized. Procedural safeguards must be employed to protect the privilege, and unless other fully effective means are adopted to notify the person of his right of silence and to assure that the exercise of the right will be scrupulously honored, the following measures are required. He must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires. Opportunity to exercise these rights must be afforded to him throughout the interrogation. After such warnings have been given, and such opportunity afforded him, the individual may knowingly and intelligently waive these rights and agree to answer questions or make a statement. But unless and until such warnings and waiver are demonstrated by the prosecution at trial, no evidence obtained as a result of interrogation can be used against him.[48]

IV

A recurrent argument made in these cases is that society's need for interrogation outweighs the privilege. This argument is not unfamiliar to this Court. See, *e.g.*, *Chambers* v. *Florida*, 309 U.S. 227, 240–241 (1940). The whole thrust of our foregoing discussion demonstrates that the Constitution has prescribed the rights of the individual when confronted with the power of government when it provided in the Fifth Amendment that an individual cannot be compelled to be a witness against himself. That right cannot be abridged. As Mr. Justice Brandeis once observed:

"Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the means . . . would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face." *Olmstead* v. *United States*, 277 U.S. 438, 485 (1928) (dissenting opinion).[49]

In this connection, one of our country's distinguished jurists has pointed out: "The quality of a nation's civilization can be

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[45] Although this Court held in *Rogers* v. *United States*, 340 U.S. 367 (1951), over strong dissent, that a witness before a grand jury may not in certain circumstances decide to answer some questions and then refuse to answer others, that decision has no application to the interrogation situation we deal with today. No legislative or judicial fact-finding authority is involved here, nor is there a possibility that the individual might make self-serving statements of which he could make use at trial while refusing to answer incriminating statements.

[46] The distinction and its significance has been aptly described in the opinion of a Scottish court:

"In former times such questioning, if undertaken, would be conducted by police officers visiting the house or place of business of the suspect and there questioning him, probably in the presence of a relation or friend. However convenient the modern practice may be, it must normally create a situation very unfavourable to the suspect." *Chalmers* v. *H. M. Advocate*, [1954] Sess. Cas. 66, 78 (J. C.).

[47] See *People* v. *Dorado*, 62 Cal. 2d 338, 354, 398 P. 2d 361, 371, 42 Cal. Rptr. 169, 179 (1965).

[48] In accordance with our holdings today and in *Escobedo* v. *Illinois*, 378 U.S. 478, 492, *Crooker* v. *California*, 357 U.S. 433 (1958) and *Cicenia* v. *Lagay*, 357 U.S. 504 (1958) are not to be followed.

[49] In quoting the above from the dissenting opinion of Mr. Justice Brandeis we, of course, do not intend to pass on the constitutional questions involved in the *Olmstead* case.

largely measured by the methods it uses in the enforcement of its criminal law."[50]

If the individual desires to exercise his privilege, he has the right to do so. This is not for the authorities to decide. An attorney may advise his client not to talk to police until he has had an opportunity to investigate the case, or he may wish to be present with his client during any police questioning. In doing so an attorney is merely exercising the good professional judgment he has been taught. This is not cause for considering the attorney a menace to law enforcement. He is merely carrying out what he is sworn to do under his oath—to protect to the extent of his ability the rights of his client. In fulfilling this responsibility the attorney plays a vital role in the administration of criminal justice under our Constitution.

In announcing these principles, we are not unmindful of the burdens which law enforcement officials must bear, often under trying circumstances. We also fully recognize the obligation of all citizens to aid in enforcing the criminal laws. This Court, while protecting individual rights, has always given ample latitude to law enforcement agencies in the legitimate exercise of their duties. The limits we have placed on the interrogation process should not constitute an undue interference with a proper system of law enforcement. As we have noted, our decision does not in any way preclude police from carrying out their traditional investigatory functions. Although confessions may play an important role in some convictions, the cases before us present graphic examples of the overstatement of the "need" for confessions. In each case authorities conducted interrogations ranging up to five days in duration despite the presence, through standard investigating practices, of considerable evidence against each defendant.[51] Further examples are chronicled on our prior cases. See, *e.g., Haynes* v. *Washington,* 373 U.S. 503, 518–519 (1963); *Rogers* v. *Richmond,* 365 U.S. 534, 541 (1961); *Malinski* v. *New York,* 324 U.S. 401, 402 (1945).[52]

It is also urged that an unfettered right to detention for interrogation should be allowed because it will often redound to the benefit of the person questioned. When police inquiry determines that there is no reason to believe that the person has committed any crime, it is said, he will be released without need for further formal procedures. The person who has committed no offense, however, will be better able to clear himself after warnings, with counsel present than without. It can be assumed that in such circumstances a lawyer would advise his client to talk freely to police in order to clear himself.

Custodial interrogation, by contrast, does not necessarily afford the innocent an opportunity to clear themselves. A serious consequence of the present practice of the interrogation alleged to be beneficial for the innocent is that many arrests "for investigation" subject large numbers of innocent persons to detention and interrogation. In one of the cases before us, No. 584, *California* v. *Stewart,* police held four persons, who were in the defendant's house at the time of the arrest, in jail for five days until defendant confessed. At that time they were finally released. Police stated that there was "no evidence to connect them with any crime." Available statistics on the extent of this practice where it is condoned indicate that these four are far from alone in being subjected to arrest, prolonged detention, and interrogation without the requisite probable cause.[53]

Over the years the Federal Bureau of Investigation has compiled an exemplary record of effective law enforcement while advising any suspect or arrested person, at the outset of an interview, that he is not required to make a statement, that any statement may be used against him in court, that the individual may obtain the services of an attorney of his own choice and, more recently, that he has a right to free counsel if he is unable to pay.[54] A letter received from the Solicitor General in response to a question from the Bench makes it clear that the present pattern of warnings and respect for the rights of the individual followed as a practice by the FBI is consistent with the procedure which we delineate today. It states:

"At the oral argument of the above cause, MR. JUSTICE FORTAS asked whether I could provide certain information as to the practices followed by the Federal Bureau of Investigation. I have directed these questions to the attention of the Director of the Federal Bureau of Investigation and am submitting herewith a statement of the questions and of the answers which we have received.

"'(1) When an individual is interviewed by agents of the Bureau, what warning is given to him?

"'The standard warning long given by Special Agents of the FBI to both suspects and persons under arrest is that the person has a right to say nothing and a right to counsel, and that any statement he does make may be used against him in court. Examples of this warning are to be found in the *Westover* case at 342 F. 2d 685 (1965), and *Jackson* v. *U.S.* 337 F. 2d 136 (1964), cert. den. 380 U.S. 985.

"'After passage of the Criminal Justice Act of 1964, which provides free counsel for Federal defendants unable to pay, we added to our instructions to Special Agents the requirement that any person who is under arrest for an offense under FBI jurisdiction, or whose arrest is contemplated following the interview, must also be advised of his right to free counsel if he is unable to pay, and the fact that such counsel will be assigned by the Judge. At the same time, we broadened the right to counsel warning to read counsel of his own choice, or anyone else with whom he might wish to speak.

"'(2) When is the warning given?

"'The FBI warning is given to a suspect at the very outset of the interview, as shown in the *Westover* case, cited above. The warning may be given to a person arrested as soon as practicable after the arrest, as shown in the *Jackson* case, also cited above, and in *U.S.* v. *Konigsberg,* 336 F. 2d 884 (1964), cert. den. 379 U.S. 930, 933, but in any event it must precede the interview with the person for a confession or admission of his own guilt.

"'(3) What is the Bureau's practice in the event that (a) the individual requests counsel and (b) counsel appears?

"'When the person who has been warned of his right to counsel decides that he wishes to consult with counsel before making a statement, the interview is terminated at that point, *Shultz* v. *U.S.,* 351 F. 2d 287 (1965). It may be continued, however, as to all matters *other* than the person's own guilt or innocence. If he is indecisive in his request for counsel, there may be some question on whether he did or did not waive counsel. Situations of this kind must necessarily be left to the judgment of the interviewing Agent. For example, in *Hiram* v. *U.S.,* 354 F. 2d 4 (1965), the Agent's conclusion that the person arrested had waived his right to counsel was upheld by the courts.

"'A person being interviewed and desiring to consult counsel by telephone must be permitted to do so, as shown in *Caldwell* v. *U.S.,* 351 F. 2d 459 (1965). When counsel appears in person, he is permitted to confer with his client in private.

"'(4) What is the Bureau's practice if the individual requests counsel, but cannot afford to retain an attorney?

"'If any person being interviewed after warning of counsel decides that he wishes to consult with counsel before proceeding further the interview is terminated, as shown above. FBI Agents do not pass judgment on the ability of the person to pay for counsel. They do, however, advise those who have been arrested for an offense under FBI jurisdiction, or whose arrest is contemplated following the interview, of a right to free counsel *if* they are unable to pay, and the availability of such counsel from the Judge.'"[55]

The practice of the FBI can readily be emu-

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[50] Schaefer, Federalism and State Criminal Procedure, 70 Harv. L. Rev. 1, 26 (1956).

[51] Miranda, Vignera, and Westover were identified by eyewitnesses. Marked bills from the bank robbed were found in Westover's car. Articles stolen from the victim as well as from several other robbery victims were found in Stewart's home at the outset of the investigation.

[52] Dealing as we do here with constitutional standards in relation to statements made, the existence of independent corroborating evidence produced at trial is, of course, irrelevant to our decisions. *Haynes* v. *Washington,* 373 U.S. 503, 518–519 (1963); *Lynumn* v. *Illinois,* 372 U.S. 528, 537–538 (1963); *Rogers* v. *Richmond,* 365 U.S. 534, 541 (1961); *Blackburn* v. *Alabama,* 361 U.S. 199, 206 (1960).

[53] See, *e.g.,* Report and Recommendations of the Commissioner's Committee on Police Arrests for Investigation (1962); American Civil Liberties Union, Secret Detention by the Chicago Police (1959). An extreme example of this practice occurred in the District of Columbia in 1958. Seeking three "stocky" young Negroes who had robbed a restaurant, police rounded up 90 persons of that general description. Sixty-three were held overnight before being released for lack of evidence. A man not among the 90 arrested was ultimately charged with the crime. Washington Daily News, January 21, 1958, p. 5, col. 1; Hearings before a Subcommittee of the Senate Judiciary Committee on H.R. 11477, S. 2970, S. 3325, and S. 3355 (July 1958), pp. 40, 78.

[54] In 1952, J. Edgar Hoover, Director of the Federal Bureau of Investigation, stated:

"Law enforcement, however, in defeating the criminal, must maintain inviolate the historic liberties of the individual. To turn back the criminal, yet, by so doing, destroy the dignity of the individual, would be a hollow victory.

"We can have the Constitution, the best laws in the land, and the most honest reviews by courts—but unless the law enforcement profession is steeped in the democratic tradition, maintains the highest in ethics, and makes its work a career of honor, civil liberties will continually—and without end—be violated. . . . The best protection of civil liberties is an alert, intelligent and honest law enforcement agency. There can be no alternative.

". . . Special Agents are taught that any suspect or arrested person, at the outset of an interview, must be advised that he is not required to make a statement and that any statement given can be used against him in court. Moreover, the individual must be informed that, if he desires, he may obtain the services of an attorney of his own choice."

Hoover, Civil Liberties and Law Enforcement: The Role of the FBI, 37 Iowa L. Rev. 175, 177–182 (1952).

[55] We agree that the interviewing agent must exercise his judgment in determining whether the individual waives his right to counsel. Because of the constitutional basis of the right, however, the standard for waiver is necessarily high. And, of course, the ultimate responsibility for resolving the constitutional question lies with the courts.

lated by state and local enforcement agencies. The argument that the FBI deals with different crimes than are dealt with by state authorities does not mitigate the significance of the FBI experience.[56]

The experience in some other countries also suggests that the danger to law enforcement in curbs on interrogation is overplayed. The English procedure since 1912 under the Judge's Rules is significant. As recently strengthened, the Rules require that a cautionary warning be given an accused by a police officer as soon as he has evidence that affords reasonable grounds for suspicion; they also require that any statement made be given by the accused without questioning by police.[57] The right of the individual to consult with an attorney during this period is expressly recognized.[58]

The safeguards present under Scottish law may be even greater than in England. Scottish judicial decisions bar use in evidence of most confessions obtained through police interrogation.[59] In India, confessions made to police not in the presence of a magistrate have been excluded by rule of evidence since 1872, at a time when it operated under British law.[60] Identical provisions appear in the Evidence Ordinance of Ceylon, enacted in 1895.[61] Similarly, in our country the Uniform Code of Military Justice has long provided that no suspect may be interrogated without first being warned of his right not to make a statement and that any statement he makes may be used agains him.[62] Denial of the right to consult counsel during interrogation has also been proscribed by military tribunals.[63] There appears to have been no marked detrimental effect on criminal law enforcement in these jurisdictions as a result of these rules. Conditions of law enforcement in our country are sufficiently similar to permit reference to this experience as assurance that lawlessness will not result from warning an individual of his rights or allowing him to exercise them. Moreover, it is consistent with our legal system that we give at least as much protection to these rights as is given in the jurisdictions described. We deal in our country with rights grounded in a specific requirement of the Fifth Amendment of the Constitution, whereas other jurisdictions arrived at their conclusions on the basis of principles of justice not so specifically defined.[64]

It is also urged upon us that we withhold decision on this issue until state legislative bodies and advisory groups have had an opportunity to deal with these problems by rule making.[65] We have already pointed out that the Constitution does not require any specific code of procedures for protecting the privilege against self-incrimination during custodial interrogation. Congress and the States are free to develop their own safeguards for the privilege, so long as they are fully as effective as those described above in informing accused persons of their right of silence and in affording a continuous opportunity to exercise it. In any event, however, the issues presented are of constitutional dimensions and must be determined by the courts. The admissibility of a statement in the face of a claim that it was obtained in violation of the defendant's constitutional rights is an issue the resolution of which has long since been undertaken by this Court. See *Hopt* v. *Utah*, 110 U.S. 574 (1884). Judicial solutions to problems of constitutional dimension have evolved decade by decade. As courts have been presented with the need to enforce constitutional rights, they have found means of doing so. That was our responsibility when *Escobedo* was before us and it is our responsibility today. Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them.

V

Because of the nature of the problem and because of its recurrent significance in numerous cases, we have to this point discussed the relationship of the Fifth Amendment privilege to police interrogation without specific concentration on the facts of the cases before us. We turn now to these facts to consider the application to these cases of the constitutional principles discussed above. In each instance, we have concluded that statements were obtained from the defendant under circumstances that did not meet constitutional standards for protection of the privilege.

No. 759. *Miranda* v. *Arizona*.

On March 13, 1963, petitioner, Ernesto Miranda, was arrested at his home and taken in custody to a Phoenix police station. He was there identified by the complaining witness. The police then took him to "Interrogation Room No. 2" of the detective bureau. There he was questioned by two police officers. The officers admitted at trial that Miranda was not advised that he had a right

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[56] Among the crimes within the enforcement jurisdiction of the FBI are kidnaping, 18 U.S.C. § 1201 (1964 ed.), white slavery, 18 U.S.C. §§ 2421–2423 (1964 ed.), bank robbery, 18 U.S.C. § 2113 (1964 ed.), interstate transportation and sale of stolen property, 18 U.S.C. §§ 2311–2317 (1964 ed.), all manner of conspiracies, 18 U.S.C. § 371 (1964 ed.), and violations of civil rights, 18 U.S.C. §§ 241–242 (1964 ed.). See also 18 U.S.C. § 1114 (1964 ed.) (murder of officer or employee of the United States).

[57] [1964] Crim. L. Rev. 166–170. These Rules provide in part:

"II. As soon as a police officer has evidence which would afford reasonable grounds for suspecting that a person has committed an offense, he shall caution that person or cause him to be cautioned before putting to him any questions, or further questions, relating to that offence.

"The caution shall be in the following terms:

" 'You are not obliged to say anything unless you wish to do so but what you say may be put into writing and given in evidence.'

"When after being cautioned a person is being questioned, or elects to make a statement, a record shall be kept of the time and place at which any such questioning or statement began and ended and of the persons present.

* * * * *

"(b) It is only in exceptional cases that questions relating to the offence should be put to the accused person after he has been charged or informed that he may be prosecuted.

* * * * *

"IV. All written statements made after caution shall be taken in the following manner:

"(a) If a person says that he wants to make a statement he shall be told that it is intended to make a written record of what he says.

"He shall always be asked whether he wishes to write down himself what he wants to say; if he says that he cannot write or that he would like someone to write it for him, a police officer may offer to write the statement for him . . . .

"(b) Any person writing his own statement shall be allowed to do so without any prompting as distinct from indicating to him what matters are material.

* * * * *

"(d) Whenever a police officer writes the statement, he shall take down the exact words spoken by the person making the statement, without putting any questions other than such as may be needed to make the statement coherent, intelligible and relevant to the material matters: he shall not prompt him."

The prior Rules appear in Devlin, The Criminal Prosecution in England (1958), 137–141.

Despite suggestions of some laxity in enforcement of the Rules and despite the fact some discretion as to admissibility is invested in the trial judge, the Rules are a significant influence in the English criminal law enforcement system. See *e.g.*, [1964] Crim. L. Rev., at 182; and articles collected in [1960] Crim. L. Rev., at 298–356.

[58] The introduction to the Judge's Rules states in part:

"These Rules do not affect the principles.

"(c) That every person at any stage of an investigation should be able to communicate and consult privately with a solicitor. This is so even if he is in custody provided that in such a case no unreasonable delay or hindrance is caused to the processes of investigation or the administration of justice by his doing so . . ." [1964] Crim. L. Rev., at 166–167.

[59] As stated by the Lord Justice General in *Chalmers* v. *H. M. Advocate*, [1954] Sess. Cas. 66, 78 (J. C.):

"The theory of our law is that at the stage of initial investigation the police may question anyone with a view to acquiring information which may lead to the detection of the criminal; but that, when the stage has been reached at which suspicion, or more than suspicion, has in their view centred upon some person as the likely perpetrator of the crime, further interrogation of that person becomes very dangerous, and, if carried too far, *e. g.*, to the point of extracting a confession by what amounts to cross-examination, the evidence of that confession will almost certainly be excluded. Once the accused has been apprehended and charged he has the statutory right to a private interview with a solicitor and to be brought before a magistrate with all convenient speed so that he may, if so advised, emit a declaration in presence of his solicitor under conditions which safeguard him against prejudice."

[60] "No confession made to a police officer shall be proved against a person accused of any offense." Indian Evidence Act § 25

"No confession made by any person whilst he is in the custody of a police officer unless it be made in the immediate presence of a Magistrate, shall be proved as against such person." Indian Evidence Act, § 26. See 1 Ramaswami & Rajagopalan, Law of Evidence in India (1962), 553–569. To avoid any continuing effect of police pressure or inducement, the Indian Supreme Court has invalidated a confession made shortly after police brought a suspect before a magistrate, suggesting: "[I]t would, we think, be reasonable to insist upon giving an accused person at least 24 hours to decide whether or not to make a confession." *Sarwan Singh* v. *State of Punjab*, 44 All India Rep. 1957, Sup. Ct. 637, 644.

[61] 1 Legislative Enactments of Ceylon (1958), 211.

[62] 10 U.S.C. § 831 (b) (1964 ed.).

[63] *United States* v. *Rose*, 24 Court-Martial Reports 251 (1957); *United States* v. *Gunnels*, 23 Court-Martial Reports 354 (1957).

[64] Although no constitution existed at the time confessions were excluded by rule of evidence in 1872, India now has a written constitution which includes the provision that "No person accused of any offence shall be compelled to be a witness against himself." Constitution of India, Article 20(3). See Tope, The Constitution of India (1960), 63–67.

[65] Brief for United States in No. 761, *Westover* v. *United States*, pp. 44–47; Brief for the State of New York as *amicus curiae*, pp. 35–39. See also Brief for the National District Attorneys Association as *amicus curiae*, pp. 23–26.

to have an attorney present.[66] Two hours later, the officers emerged from the interrogation room with a written confession signed by Miranda. At the top of the statement was a typed paragraph stating that the confession was made voluntarily, without threats or promises of immunity and "with full knowledge of my legal rights, understanding any statement I make may be used against me." [67]

At his trial before a jury, the written confession was admitted into evidence over the objection of defense counsel, and the officers testified to the prior oral confession made by Miranda during the interrogation. Miranda was found guilty of kidnaping and rape. He was sentenced to 20 to 30 years' imprisonment on each count, the sentences to run concurrently. On appeal, the Supreme Court of Arizona held that Miranda's constitutional rights were not violated in obtaining the confession and affirmed the conviction. 98 Ariz. 18, 401 P. 2d 721. In reaching its decision, the court emphasized heavily the fact that Miranda did not specifically request counsel.

We reverse. From the testimony of the officers and by the admission of respondent, it is clear that Miranda was not in any way apprised of his right to consult with an attorney and to have one present during the interrogation, nor was his right not to be compelled to incriminate himself effectively protected in any other manner. Without these warnings the statements were inadmissible. The mere fact that he signed a statement which contained a typed-in clause stating that he had "full knowledge" of his "legal rights" does not approach the knowing and intelligent waiver required to relinquish constitutional rights. Cf. *Haynes* v. *Washington*, 373 U.S. 503, 512–513 (1963); *Haley* v. *Ohio*, 332 U.S. 596, 601 (1948) (opinion of Mr. JUSTICE DOUGLAS).

No. 760. *Vignera* v. *New York*.

Petitioner, Michael Vignera, was picked up by New York police on October 14, 1960, in connection with the robbery three days earlier of a Brooklyn dress shop. They took him to the 17th Detective Squad headquarters in Manhattan. Sometime thereafter he was taken to the 66th Detective Squad. There a detective questioned Vignera with respect to the robbery. Vignera orally admitted the robbery to the detective. The detective was asked on cross-examination at trial by defense counsel whether Vignera was warned of his right to counsel before being interrogated. The prosecution objected to the question and the trial judge sustained the objection. Thus, the defense was precluded from making any showing that warnings had not been given. While at the 66th Detective Squad, Vignera was identified by the store owner and a saleslady as the man who robbed the dress shop. At about 3:00 p.m. he was formally arrested. The police then transported him to still another station, the 70th Precinct in Brooklyn, "for detention." At 11:00 p. m. Vignera was questioned by an assistant district attorney in the presence of a hearing reporter who transcribed the questions and Vignera's answers. This verbatim account of these proceedings contains no statement of any warnings given by the assistant district attorney. At Vignera's trial on a charge of first degree robbery, the detective testified as to the oral confession. The transcription of the statement taken was also introduced in evidence. At the conclusion of the testimony, the trial judge charged the jury in part as follows:

"The law doesn't say that the confession is void or invalidated because the police officer didn't advise the defendant as to his rights. Did you hear what I said? I am telling you what the law of the State of New York is."

Vignera was found guilty of first degree robbery. He was subsequently adjudged a third-felony offender and sentenced to 30 to 60 years' imprisonment.[68] The conviction was affirmed without opinion by the Appellate Division, Second Department, 21 A. D. 2d 752, 252 N. Y. S. 2d 19, and by the Court of Appeals, also without opinion, 15 N. Y. 2d 970, 207 N. E. 2d 527, 259 N. Y. S. 2d 857, remittitur amended, 16 N. Y. 2d 614, 209 N E. 2d 110, 261 N. Y. S. 2d 65. In argument to the Court of Appeals, the State contended that Vignera had no constitutional right to be advised of his right to counsel or his privilege against self-incrimination

We reverse. The foregoing indicates that Vignera was not warned of any of his rights before the questioning by the detective and by the assistant district attorney. No other steps were taken to protect these rights. Thus he was not effectively apprised of his Fifth Amendment privilege or of his right to have counsel present and his statements are inadmissible.

No. 761. *Westover* v. *United States*.

At approximately 9:45 p.m., on March 20, 1963, petitioner, Carl Calvin Westover, was arrested by local police in Kansas City as a suspect in two Kansas City robberies. A report was also received from the FBI that he was wanted on a felony charge in California. The local authorities took him to a police station and placed him in a line-up on the local charges, and at about 11:45 p. m. he was booked. Kansas City police interrogated Westover on the night of his arrest. He denied any knowledge of criminal activities. The next day local officers interrogated him again throughout the morning. Shortly before noon they informed the FBI that they were through interrogating Westover and that the FBI could proceed to interrogate him. There is nothing in the record to indicate that Westover was ever given any warning as to his rights by local police. At noon, three special agents of the FBI continued the interrogation in a private interview room of the Kansas City Police Department this time with respect to the robbery of a savings and loan association and a bank in Sacramento, California. After two or two and one-half hours, Westover signed separate confessions to each of these two robberies which had been prepared by one of the agents during the interrogation. At trial one of the agents testified, and a paragraph on each of the statements states, that the agents advised Westover that he did not have to make a statement, that any statement he made could be used against him, and that he had the right to see an attorney.

Westover was tried by a jury in federal court and convicted of the California robberies. His statements were introduced at trial. He was sentenced to 15 years' imprisonment on each count, the sentences to run consecutively. On appeal, the conviction was affirmed by the Court of Appeals for the Ninth Circuit. 342 F. 2d 684.

We reverse. On the facts of this case we cannot find that Westover knowingly and intelligently waived his right to remain silent and his right to consult with counsel prior to the time he made the statement.[69] At the time the FBI agents began questioning Westover, he had been in custody for over 14 hours and had been interrogated at length during that period. The FBI interrogation began immediately upon the conclusion of the interrogation by Kansas City police and was conducted in local police headquarters. Although the two law enforcement authorities are legally distinct and the crimes for which they interrogated Westover were different, the impact on him was that of a continuous period of questioning. There is no evidence of any warning given prior to the FBI interrogation nor is there any evidence of an articulated waiver of rights after the FBI commenced their interrogation. The record simply shows that the defendant did in fact confess a short time after being turned over to the FBI following interrogation by local police. Despite the fact that the FBI agents gave warnings at the outset of their interview, from Westover's point of view the warnings came at the end of the interrogation process. In these circumstances an intelligent waiver of constitutional rights cannot be assumed.

We do not suggest that law enforcement authorities are precluded from questioning any individual who has been held for a period of time by other authorities and interrogated by them without appropriate warnings. A different case would be presented if an accused were taken into custody by the second authority, removed both in time and place from his original surroundings, and then adequately advised of his rights and given an opportunity to exercise them. But here the FBI interrogation was conducted immediately following the state interrogation in the same police station—in the same compelling surroundings. Thus, in obtaining a confession from Westover the Federal authorities were the beneficiaries of the pressure applied by the local in-custody interrogation. In these circumstances the giving of warnings alone was not sufficient to protect the privilege.

No. 584. *California* v. *Stewart*.

In the course of investigating a series of purse-snatch robberies in which one of the victims had died of injuries inflicted by her assailant, respondent, Roy Allen Stewart, was pointed out to Los Angeles police as the endorser of dividend checks taken in one of the robberies. At about 7:15 p.m., January 31, 1963, police officers went to Stewart's house and arrested him. One of the officers asked Stewart if they could search the house, to which he replied, "Go ahead." The search turned up various items taken from the five robbery victims. At the time of Stewart's arrest, police also arrested Stewart's wife and three other persons who were visiting him.

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[66] Miranda was also convicted in a separate trial on an unrelated robbery charge not presented here for review. A statement introduced at that trial was obtained from Miranda during the same interrogation which resulted in the confession involved here. At the robbery trial, one officer testified that during the interrogation he did not tell Miranda that anything he said would be held against him or that he could consult with an attorney. The other officer stated that they had both told Miranda that anything he said would be used against him and that he was not required by law to tell them anything.

[67] One of the officers testified that he read this paragraph to Miranda. Apparently, however, he did not do so until after Miranda had confessed orally.

[68] Vignera thereafter successfully attacked the validity of one of the prior convictions, *Vignera* v. *Wilkins*, Civ. 9901 (D. C. W. D. N. Y. Dec. 31, 1961) (unreported), but was then resentenced as a second-felony offender to the same term of imprisonment as the original sentence. R. 31–33.

[69] The failure of defense counsel to object to the introduction of the confession at trial, noted by the Court of Appeals and emphasized by the Solicitor General, does not preclude our consideration of the issue. Since the trial was held prior to our decision in *Escobedo* and, of course, prior to our decision today making the objection available, the failure to object at trial does not constitute a waiver of the claim. See, *e.g.*, *United States ex rel. Angelet* v. *Fay*, 333 F. 2d 12, 16 (C. A. 2d Cir. 1964), aff'd, 381 U.S. 654 (1965). Cf. *Ziffrin, Inc.* v. *United States*, 318 U.S. 73, 78 (1943).

These four were jailed along with Stewart and were interrogated. Stewart was taken to the University Station of the Los Angeles Police Department where he was placed in a cell. During the next five days, police interrogated Stewart on nine different occasions. Except during the first interrogation session, when he was confronted with an accusing witness, Stewart was isolated with his interrogators.

During the ninth interrogation session, Stewart admitted that he had robbed the deceased and stated that he had not meant to hurt her. Police then brought Stewart before a magistrate for the first time. Since there was no evidence to connect them with any crime, the police then released the other four persons arrested with him.

Nothing in the record specifically indicates whether Stewart was or was not advised of his right to remain silent or his right to counsel. In a number of instances, however, the interrogating officers were asked to recount everything that was said during the interrogations. None indicated that Stewart was ever advised of his rights.

Stewart was charged with kidnapping to commit robbery, rape, and murder. At his trial, transcripts of the first interrogation and the confession at the last interrogation were introduced in evidence. The jury found Stewart guilty of robbery and first degree murder and fixed the penalty as death. On appeal, the Supreme Court of California reversed. 62 Cal. 2d 571, 400 P. 2d 97, 43 Cal. Rptr. 201. It held that under this Court's decision in *Escobedo,* Stewart should have been advised of his right to remain silent and of his right to counsel and that it would not presume in the face of a silent record that the police advised Stewart of his rights.[70]

We affirm.[71] In dealing with custodial interrogation, we will not presume that a defendant has been effectively apprised of his rights and that his privilege against self-incrimination has been adequately safeguarded on a record that does not show that any warnings have been given or that any effective alternative has been employed. Nor can a knowing and intelligent waiver of these rights be assumed on a silent record. Furthermore, Stewart's steadfast denial of the alleged offenses through eight of the nine interrogations over a period of five days is subject to no other construction than that he was compelled by persistent interrogation to forgo his Fifth Amendment privilege.

Therefore, in accordance with the foregoing, the judgments of the Supreme Court of Arizona in No. 759, of the New York Court of Appeals in No. 760, and of the Court of Appeals for the Ninth Circuit in No. 761 are reversed. The judgment of the Supreme Court of California in No. 584 is affirmed.

*It is so ordered.*

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[70] Because of this disposition of the case, the California Supreme Court did not reach the claims that the confession was coerced by police threats to hold his ailing wife in custody until he confessed, that there was no hearing as required by *Jackson* v. *Denno,* 378 U.S. 368 (1964), and that the trial judge gave an instruction condemned by the California Supreme Court's decision in *People* v. *Morse,* 60 Cal. 2d 631, 388 P. 2d 33, 36 Cal. Rptr. 201 (1964).

[71] After certiorari was granted in this case, respondent moved to dismiss on the ground that there was no final judgment from which the State could appeal since the judgment below directed that he be retried. In the event respondent was successful in obtaining an acquittal on retrial, however, under California law the State would have no appeal. Satisfied that in these circumstances the decision below constituted a final judgment under 28 U.S.C. § 1257 (3) (1964 ed.), we denied the motion. 383 U.S. 903.

[Supreme Court of the United States, Nos. 759, 760, 761, and 584, October term, 1965]

ERNESTO A. MIRANDA, PETITIONER, 759 *v.* STATE OF ARIZONA

On Writ of Certiorari to the Supreme Court of the State of Arizona.

MICHAEL VIGNERA, PETITIONER, 760 *v.* STATE OF NEW YORK

On Writ of Certiorari to the Court of Appeals of the State of New York.

CARL CALVIN WESTOVER, PETITIONER, 761 *v.* UNITED STATES

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

STATE OF CALIFORNIA, PETITIONER, 584 *v.* ROY ALLEN STEWART

On Writ of Certiorari to the Supreme Court of the State of California.

[June 13, 1966]

MR. JUSTICE CLARK, dissenting in Nos. 759, 760, and 761, and concurring in result in No. 584.

It is with regret that I find it necessary to write in these cases. However, I am unable to join the majority because its opinion goes too far on too little, while my dissenting brethren do not go quite far enough. Nor can I agree with the Court's criticism of the present practices of police and investigatory agencies as to custodial interrogation. The materials it refers to as "police manuals"[1] are, as I read them, merely writings in this field by professors and some police officers. Not one is shown by the record here to be the official manual of any police department, much less in universal use in crime detection. Moreover, the examples of police brutality mentioned by the Court are rare exceptions to the thousands of cases that appear every year in the law reports.[2] The police agencies—all the way from municipal and state forces to the federal bureaus—are responsible for law enforcement and public safety in this country. I am proud of their efforts, which in my view are not fairly characterized by the Court's opinion.

I

The *ipse dixit* of the majority has no support in our cases. Indeed the Courts admits that "we might not find the defendants' statements [here] to have been involuntary in traditional terms." *Ante,* p. —— In short, the Court has added more to the requirements that the accused is entitled to consult with his lawyer and that he must be given the traditional warning that he may remain silent and that anything that he says may be used against him. *Escobedo* v. *Illinois,* 378 U.S. 478, 490–491 (1964). Now, the Court fashions a constitutional rule that the police may engage in no custodial interrogation without additionally advising the accused that he has a right under the Fifth Amendment to the presence of counsel during interrogation and that, if he is without funds, that counsel will be furnished him. When at any point during an interrogation the accused seeks affirmatively or impliedly to invoke his rights to silence or counsel, interrogation must be forgone or postponed. The Court further holds that failure to follow the new procedures requires inexorably the exclusion of any statement by the accused, as well as the fruits thereof. Such a strict constitutional specific inserted at the nerve center of crime detection may well kill the patient.[3] Since there is at this time a paucity of information and an almost total lack of empirical knowledge on the practical operation of requirements, truly comparable to those announced by the majority, I would be more restrained lest we go too far too fast.

II

Custodial interrogation has long been recognized as "undoubtedly an essential tool in effective law enforcement." *Haynes v. Washington,* 373 U.S. 503, 515 (1963). Recognition of this fact should put us on guard against the promulgation of doctrinaire rules. Especially is this true where the Court finds that "the Constitution has prescribed" its holding and where the light of our past cases, from *Hopt* v. *Utah,* 110 U.S. 574, (1884), down to *Haynes* v. *Washington, supra,* are to the contrary. Indeed, even in *Escobedo* the Court never hinted that an affirmative "waiver" was a prerequisite to questioning; that the burden of proof as to waiver was on the prosecution; that the presence of counsel—absent a waiver—during interrogation was required; that a waiver can be wtihdrawn at the will of the accused; that counsel must be furnished during an accusatory stage to those unable to pay; nor that admissions and exculpator statements are "confessions." To require all those things at one gulp should cause the Court to choke over more cases than *Crooker* v. *California,* 357 U.S. 433 (1958) and *Cicenia* v. *Lagay,* 357 U.S. 504 (1958), which it expressly overrules today

The rule prior to today—as Mr. Justice Goldberg, the author of the Court's opinion in *Escobedo,* stated it in *Haynes* v. *Washington*—depended upon "a totality of circumstances evidencing an involuntary . . . admission of guilt." 373 U.S., at 514. And he concluded:

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[1] *E. g.,* Inbau and Reid, Criminal Interrogation and Confessions (1962); O'Hara, Fundamentals of Criminal Interrogation (1956); Dienstein, Technics for the Crime Investigator (1952); Mulbar, Interrogation (1951); Kidd, Police Interrogation (1940).

[2] As developed by my Brother HARLAN, *post,* pp. ——, ——, such cases, with the exception of the long-discredited decision in *Bram* v. *United States,* 168 U.S. 532 (1897), were adequately treated in terms of due process.

[3] The Court points to England, Scotland, Ceylon and India as having equally rigid rules. As my Brother HARLAN points out, *post,* pp. ——, ——, the Court is mistaken in this regard, for it overlooks counterbalancing prosecutorial advantages. Moreover, the requirements of the Federal Bureau of Investigation do not appear from the Solicitor General's letter, *ante,* pp. ——, ——, to be as strict as those imposed today in a least two respects: (1) The offer of counsel is articulated only as "a right to counsel"; nothing is said about a right to have counsel present at the custodial interrogation. (See also the examples cited by the Solicitor General, *Westover* v. *United States,* 342 F. 2d 684, 685 (1965) ("right to consult counsel"); *Jackson* v. *United States,* 337 F. 2d 136, 138 (1964) (accused "entitled to an attorney").) Indeed, the practice is that whenever the suspect "decides that he wishes to consult counsel before making a statement, the interview is terminated at that point . . . When counsel appears in person, he is permitted to confer with his client in private." This clearly indicates that the FBI does not warn that counsel may be present during custodial interrogation. (2) The Solicitor General's letter states: "[T]hose who have been arrested for an offense under FBI jurisdiction, or whose arrest is contemplated following the interview, [are advised] of a right to free counsel *if* they are unable to pay, and the availability of such counsel from the Judge." So phrased, this warning does not indicate that the agent will secure counsel. Rather, the statement may well be interpreted by the suspect to mean that the burden is placed upon himself and that he may have counsel appointed only when brought before the judge or at trial—but not at custodial interrogation. As I view the FBI practice, it is not as broad as the one laid down today by the Court.

"Of course, detection and solution of crime is, at best, a difficult and arduous task requiring determination and persistence on the part of all responsible officers charged with the duty of law enforcement And, certainly, we do not mean to suggest that all interrogation of witnesses and suspects is impermissible. Such questioning is undoubtedly an essential tool in effective law enforcement. The line between proper and permissible police conduct and techniques and methods offensive to due process is, at best, a difficult one to draw, particularly in cases such as this where it is necessary to make fine judgments as to the effect of psychologically coercive pressures and inducement on the mind and will of an accused. . . . We are here impelled to the conclusion, from all of the facts presented, that the bounds of due process have been exceeded." *Id.*, at 515.

III

I would continue to follow that rule. Under the "totality of circumstances" rule of which my Brother Goldberg spoke in *Haynes* I would consider in each case whether the police officer prior to custodial interrogation added the warning that the suspect might have counsel present at the interrogation and, further, that a court would appoint one at his request if he was too poor to employ counsel. In the absence of warnings, the burden would be on the State to prove that counsel was knowingly and intelligently waived or that in the totality of the circumstances, including the failure to give the necessary warnings, the confession was clearly voluntary.

Rather than employing the arbitrary fifth Amendment rule[4] which the Court lays down I would follow the more pliable dictates of Due Process Clauses of the Fifth and Fourteenth Amendments which we are accustomed to administering and which we know from our cases are effective instruments in protecting persons in police custody. In this way we would not be acting in the dark nor in one full sweep changing the traditional rules of custodial interrogation which this Court has for so long recognized as a justifiable and proper tool in balancing individual rights against the rights of society. It will be soon enough to go further when we are able to appraise with somewhat better accuracy the effect of such a holding.

I would affirm the convictions in *Miranda* v. *Arizona*, No. 759; *Vignera* v. *New York*, No. 760; and *Westover* v. *United States*, No. 761. In each of those cases I find from the circumstances no warrant for reversal. In *California* v. *Stewart*, No. 584, I would dismiss the writ of certiorari for want of a final judgment, 28 U.S.C. § 1257(3) (1964); but if the merits are to be reached I would affirm on the ground that the State failed to fulfill its burden, in the absence of a showing that appropriate warnings were given, of proving a waiver or a totality of circumstances showing voluntariness. Should there be a retrial, I would leave the State free to attempt to prove these elements.

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[Supreme Court of the United States, Nos. 759, 760, 761, and 584, October Term, 1965]

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STATE OF CALIFORNIA, PETITIONER, 584 *v.* ROY ALLEN STEWART

On Writ of Certiorari to the Supreme Court of the State of California.

[June 13, 1966]

MR. JUSTICE HARLAN, whom MR. JUSTICE STEWART and MR. JUSTICE WHITE join, dissenting.

I believe the decision of the Court represents poor constitutional law and entails harmful consequences for the country at large. How serious these consequences may prove to be only time can tell. But the basic flaws in the Court's justification seem to me readily apparent now once all sides of the problem are considered.

I. INTRODUCTION

At the outset, it is well to note exactly what is required by the Court's new constitutional code of rules for confessions. The foremost requirement, upon which later admissibility of a confession depends, is that a fourfold warning be given to a person in custody before he is questioned: namely, that he has a right to remain silent, that anything he says may be used against him, that he has a right to have present an attorney during the questioning, and that if indigent he has a right to a lawyer without charge. To forgo these rights, some affirmative statement of rejection is seemingly required, and threats, tricks, or cajolings to obtain this waiver are forbidden. If before or during questioning the suspect seeks to invoke his right to remain silent, interrogation must be forgone or cease; a request for counsel brings about the same result until a lawyer is procured. Finally, there are a miscellany of minor directives, for example, the burden of proof of waiver is on the State, admissions and exculpatory statements are treated just like confessions, withdrawal of a waiver is always permitted, and so forth.[1]

While the fine points of this scheme are far less clear than the Court admits, the tenor is quite apparent. The new rules are not designed to guard against police brutality or other unmistakably banned forms of coercion. Those who use third-degree tactics and deny them in court are equally able and destined to lie as skillfully about warnings and waivers. Rather, the thrust of the new rules is to negate all pressures, to reinforce the nervous or ignorant suspect, and ultimately to discourage any confession at all. The aim in short is toward "voluntariness" in a utopian sense, or to view it from a different angle, voluntariness with a venegeance.

To incorporate this notion into the Constitution requires a strained reading of history and precedent and a disregard of the very pragmatic concerns that alone may on occasion justify such strains. I believe that reasoned examination will show that the Due Process Clauses provide an adequate tool for coping with confessions and that, even if the Fifth Amendment privilege against self-incrimination be invoked, its precedents taken as a whole do not sustain the present rules. Viewed as a choice based on pure policy, these new rules prove to be a highly debatable if not one-sided appraisal of the competing interests, imposed over widespread objection, at the very time when judicial restraint is most called for by the circumstances.

II. CONSTITUTIONAL PREMISES

It is most fitting to begin an inquiry into the constitutional precedents by surveying the limits on confessions the Court has evolved under the Due Process Clause of the Fourteenth Amendment. This is so because these cases show that there exists a workable and effective means of dealing with confessions in a judicial manner; because the cases are a baseline from which the Court now departs and so serve to measure the actual as opposed to the professed distance it travels; and because examination of them helps reveal how the Court has coasted into its present position.

The earliest confession cases in this Court emerged from federal prosecutions and were settled on a nonconstitutional basis, the Court adopting the common-law rule that the absence of inducements, promises, and threats made a confession voluntary and admissible. *Hopt* v. *Utah*, 110 U.S. 574; *Pierce* v. *United States*, 160 U.S. 355. While a later case said the Fifth Amendment privilege controlled admissibility, this proposition was not itself developed in subsequent decisions.[2] The Court did, however, heighten the test of admissibility in federal trials to one of voluntariness "in fact," *Wan* v. *United States*, 266 U.S. 1, 14 (quoted, *ante*, p. 24), and then by and large left federal judges to apply the same standards the Court began to derive in a string of state court cases.

This new line of decisions, testing admissibility by the Due Process Clause, began in 1936 with *Brown* v. *Mississippi*, 297 U.S. 278, and must now embrace somewhat more than 30 full opinions of the Court.[3] While the voluntariness rubric was repeated in many instances, *e.g.*, *Lyons* v. *Oklahoma*, 322 U.S. 596, the Court never pinned it down to a single meaning but on the contrary infused it with a number of different values. To travel quickly over the main themes, there was an initial emphasis on reliability, *e.g.*, *Ward* v. *Texas*, 316 U.S. 547, supplemented by concern over the legality and fairness of the police practices, *e.g.*, *Ashcraft* v. *Tennessee*, 322 U.S. 143, in an "accusatorial" system of law enforcement, *Watts* v. *Indiana*, 338 U.S. 49, 54, and eventually by close attention to the individual's state of mind and capacity for effective choice, *e.g.*, *Gallegos* v. *Colorado*, 370 U.S. 49. The outcome was a continuing reevaluation on the facts of each case of *how much* pressure on the suspect was permissible.[4]

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[4] In my view there is "no significant support" in our cases for the holding of the Court today that the Fifth Amendment privilege, in effect, forbids custodial interrogation. For a discussion of this point see the dissenting opinion of my Brother WHITE, *post*, pp. ——, ——.

[1] My discussion in this opinion is directed to the main questions decided by the Court and necessary to its decision; in ignoring some of the collateral points, I do not mean to imply agreement.

[2] The case was *Bram* v. *United States*, 168 U.S. 532 (quoted, *ante*, p. 23). Its historical premises were afterwards disproved by Wigmore, who concluded "that no assertions could be more unfounded." 3 Wigmore, Evidence § 823, at 250, n. 5 (3d ed. 1940). The Court in *United States* v. *Carignan*, 342 U.S. 36, 41, declined to chose between *Bram* and Wigmore, and *Stein* v. *New York*, 346 U.S. 156, 191, n. 35, cast further doubt on *Bram*. There are, however, several Court opinions which assume in dicta the relevance of the Fifth Amendment privilege to confessions. *Burdeau* v. *McDowell*, 256 U.S. 465, 475; see *Shotwell Mfg. Co.* v. *United States*, 371 U.S. 341, 347. On *Bram* and the federal confession cases generally, see Developments in the Law—Confessions, 79 Harv. L. Rev. 935, 959–961 (1966).

[3] Comment, 31 U. Chi. L. Rev. 313 & n. 1 (1964), states that by the 1963 Term 33 state coerced confession cases had been decided by this Court, apart from *per curiams*. *Spano* v. *New York*, 360 U.S. 315, 321, n. 2, collects 28 cases.

[4] Bator & Vorenberg, Arrest, Detention, Interrogation and the Right to Counsel, 66 Col. L. Rev. 62, 73 (1966): "In fact, the concept of involuntariness seems to be used by the courts as a shorthand to refer to practices

Among the criteria often taken into account were threats or imminent danger, *e.g. Payne* v. *Arkansas*, 356 U.S. 560, physical deprivations such as lack of sleep or food, *e.g., Reck* v. *Pate*, 367 U.S. 433, repeated or extended interrogation, *e.g., Chambers* v. *Florida*, 309 U.S. 227, limits on access to counsel or friends, *Crooker* v. *California*, 357 U.S. 433; *Cicenia* v. *Lagay*, 357 U.S. 504, length and illegality of detention under state law, *e.g., Haynes* v. *Washington*, 373 U.S. 503, and individual weakness or incapacities, *Lynumn* v. *Illinois*, 372 U.S. 528. Apart from direct physical coercion, however, no single default or fixed combination of them guaranteed exclusion, and synopses of the cases would serve little use because of the overall gauge has been steadily changing, usually in the direction of restricting admissibility. But to mark just what point had been reached before the Court jumped the rails in *Escobedo* v. *Illinois*, 378 U.S. 478, it is worth capsulizing the then-recent case of *Haynes* v. *Washington*, 373 U.S. 573. There, Haynes had been held some 16 or more hours in violation of state law before signing the disputed confession, had received no warnings of any kind, and despite requests had been refused access to his wife or to counsel, the police indicating that access would be allowed after a confession. Emphasizing especially this last inducement and rejecting some contrary indicia of voluntariness, the Court in a 5-to-4 decision held the confession inadmissible.

There are several relevant lessons to be drawn from this constitutional history. The first is that with over 25 years of precedent the Court has developed an elaborate, sophisticated, and sensitive approach to admissibility of confessions. It is "judicial" in its treatment of one case at a time, see *Culombe* v. *Connecticut*, 367 U.S. 568, 635 (concurring opinion of THE CHIEF JUSTICE), flexible in its ability to respond to the endless mutations of fact presented, and ever more familiar to the lower courts. Of course, strict certainty is not obtained in this developing process, but this is often so with constitutional principles, and disagreement is usually confined to that borderland of close cases where it matters least.

The second point is that in practice and from time to time in principle, the Court has given ample recognition to society's interest in suspect questioning as an instrument of law enforcement. Cases countenancing quite significant pressures can be cited without difficulty,[5] and the lower courts may often have been yet more tolerant. Of course the limitations imposed today were rejected by necessary implication in case after case, the right to warnings having been explicitly rebuffed in this Court many years ago. *Powers* v. *United States*, 223 U. S. 303; *Wilson* v. *United States*, 162 U. S. 613. As recently as *Haynes* v. *Washington*, 373 U. S. 503, 515, the Court openly acknowledged that questioning of witnesses and suspects "is undoubtedly an essential tool in effective law enforcement." Accord *Crooker* v. *California*, 357 U.S. 433, 441.

Finally, the cases disclose that the language in many of the opinions overstates the actual course of decision. It has been said, for example, that an admissible confession must be made by the suspect "in the unfettered exercise of his own will," *Malloy* v. *Hogan*, 378 U. S. 1, 8, and that "a prisoner is not 'to be made the deluded instrument of his own conviction,'" *Culombe* v. *Connecticut*, 367 U. S. 568, 581 (Frankfurter, J., announcing the Court's judgment and an opinion). Though often repeated, such principles are rarely observed in full measure. Even the word "voluntary" may be deemed somewhat misleading, especially when one considers many of the confessions that have been brought under its umbrella. See *e. g., supra*, n. 5. The tendency to overstate may be laid in part to the flagrant facts often before the Court; but in all events one must recognize how it has tempered attitudes and lent some color of authority to the approach now taken by the Court.

I turn now to the Court's asserted reliance on the Fifth Amendment, an approach which I frankly regard as a *trompe l'oeil*. The Court's opinion in my view reveals no adequate basis for extending the Fifth Amendment's privilege against self-incrimination to the police station. Far more important, it fails to show that the Court's new rules are well supported, let alone compelled, by Fifth Amendment precedents. Instead, the new rules actually derive from quotation and analogy drawn from precedents under the Sixth Amendment, which should properly have no bearing on police interrogation.

The Court's opening contention, that the Fifth Amendment governs police station confessions, is perhaps not an impermissible extension of the law but it has little to commend itself in the present circumstances. Historically, the privilege against self-incrimination did not bear at all on the use of extralegal confessions, for which distinct standards evolved; indeed, "the *history* of the two principles is wide apart, differing by one hundred years in origin, and derived through separate lines of precedents . . . ." 8 Wigmore, Evidence § 2266, at 401 (McNaughton rev. 1961). Practice under the two doctrines has also differed in a number of important respects.[6] Even those who would readily enlarge the privilege must concede some linguistic difficulties since the Fifth Amendment in terms proscribes only compelling any person "in any criminal case to be a witness against himself." Cf. Kamisar, Equal Justice in The Gatehouses and Mansions of American Criminal Procedure, in Criminal Justice in Our Time 25–26 (1965).

Though weighty, I do not say these points and similar ones are conclusive, for as the Court reiterates the privilege embodies basic principles always capable of expansion.[7] Certainly the privilege does represent a protective concern for the accused and an emphasis upon accusatorial rather than inquisitorial values in law enforcement, although this is similarly true of other limitations such as the grand jury requirement and the reasonable doubt standard. Accusatorial values, however, have openly been absorbed into the due process standard governing confessions; this indeed is why at present "the kinship of the two rules [governing confessions and self-incrimination] is too apparent for denial." McCormick, Evidence 155 (1954). Since extension of the general principle has already occurred, to insist that the privilege applies as such serves only to carry over inapposite historical details and engaging rhetoric and to obscure the policy choices to be made in regulating confessions.

Having decided that the Fifth Amendment privilege does apply in the police station, the Court reveals that the privilege imposes more exacting restrictions than does the Fourteenth Amendment's voluntariness test.[8] It then emerges from a discussion of *Escobedo* that the Fifth Amendment requires for an admissible confession that it be given by one distinctly aware of his right not to speak and shielded from "the compelling atmosphere" of interrogation. See *ante*, pp. 27–28. From these key premises, the Court finally develops the safeguards of warning, counsel, and so forth. I do not believe these premises are sustained by precedents under the Fifth Amendment.[9]

The more important premise is that pressure on the suspect must be eliminated though it be only the subtle influence of the atmosphere and surroundings. The Fifth Amendment, however, has never been thought to forbid *all* pressure to incriminate one's self in the situation covered by it. On the contrary, it has been held that failure to incriminate one's self can result in denial of removal of one's case from state to federal court, Maryland 1. Soper, 270 U.S. 9; in refusal of a military commission, *Orloff* v. *Willoughby*, 345 U.S. 83; in denial of a discharge in bankruptcy, *Kaufman* v. *Hurwitz*, 176 F. 2d 210; and in numerous other adverse consequences. See 8 Wigmore, Evidence § 2272, at 440–444, n. 17 (McNaughton rev. 1961); Maguire, Evidence of Guilt § 2.062 (1959). This is not to say that short of jail or torture any sanction is permissible in any case; policy and history alike may impose sharp limits. See, *e. g., Griffin* v. *California*, 380 U.S. 609. However, the Court's unspoken assumption that *any* pressure violates the privilege is not supported by the precedents and it has failed to show why the Fifth Amendment prohibits that relatively mild pressure the Due Process Clause permits.

The Court appears similarly wrong in thinking that precise knowledge of one's rights is a settled prerequisite under the Fifth Amendment to the loss of its protections. A number of lower federal court cases have held that grand jury witnesses need not always be warned of their privilege, *e. g., United States* v. *Scully*, 225 F. 2d 113, 116, and Wigmore states this to be the better rule for trial witnesses. See 8 Wigmore, Evidence § 2269 (McNaughton rev. 1961). Cf. *Henry* v. *Mississippi*, 379 U.S. 443, 451–452 (waiver of constitutional rights by counsel despite de-

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which are repellent to civilized standards of decency or which, under the circumstances, are thought to apply a degree of pressure to an individual which unfairly impairs his capacity to make a rational choice." See Herman, The Supreme Court and Restrictions on Police Interrogation, 25 Ohio St. L. J. 449, 452–458 (1964); Developments, *supra*, n. 2, at 964–984.

[5] See the cases synopsized in Herman, *supra*, n. 4, at 456, nn. 36–39. One not too distant example is *Stroble* v. *California*, 343 U.S. 181, in which the suspect was kicked and threatened after his arrest, questioned a little later for two hours, and isolated from a lawyer trying to see him; the resulting confession was held admissible.

[6] Among the examples given in 8 Wigmore, Evidence § 2266, at 401 (McNaughton rev. 1961), are these: the privilege applies to any witness, civil or criminal, but the confession rule protects only criminal defendants; the privilege deals only with compulsion, while the confession rule may exclude statements obtained by trick or promise; and where the privilege has been nullified—as by the English Bankruptcy Act—the confession rule may still operate.

[7] Additionally, there are precedents and even historical arguments that can be arrayed in favor of bringing extra-legal questioning within the privilege. See generally Maguire, Evidence of Guilt § 2.03, at 15–16 (1959).

[8] This, of course, is implicit in the Court's introductory announcement that "[o]ur decision in *Malloy* v. *Hogan*, 378 U.S. 1 (1964) [extending the Fifth Amendment privilege to the States] necessitates an examination of the scope of the privilege in state cases as well." *Ante*. p. 25. It is also inconsistent with *Malloy* itself, in which extension of the Fifth Amendment to the States rested in part on the view that the Due Process Clause restriction on state confessions has in recent years been "the same standard" as that imposed in federal prosecution assertedly by the Fifth Amendment. 378 U.S., at 7.

[9] I lay aside *Escobedo* itself; it contains no reasoning or even general conclusion addressed to the Fifth Amendment and indeed its citation in this regard seems surprising in view of *Escobedo's* primary reliance on the Sixth Amendment.

fendant's ignorance held allowable). No Fifth Amendment precedent is cited for the Court's contrary view. There might of course be reasons apart from Fifth Amendment precedent for requiring warning or any other safeguard on questioning but that is a different matter entirely. See *infra*, pp. 13–15.

A closing word must be said about the Assistance of Counsel Clause of the Sixth Amendment, which is never expressly relied on by the Court but whose judicial precedents turn out to be linchpins of the confession rules announced today. To support its requirement of a knowing and intelligent waiver, the Court cites to *Johnson* v. *Zerbst*, 304 U.S. 458, *ante*, p. 37; appointment of counsel for the indigent suspect is tied to *Gideon* v. *Wainwright*, 372 U.S. 335, and *Douglas* v. *California*, 372 U.S. 353, *ante*, p. 35; the silent-record doctrine is borrowed from *Carnley* v. *Cochran*, 369 U.S. 506, *ante*, p. 37, as is the right to an express offer of counsel, *ante*, p. 33. All these cases imparting glosses to the Sixth Amendment concerned counsel at trial or on appeal. While the Court finds no pertinent difference between judicial proceedings and police interrogation, I believe the differences are so vast as to disqualify wholly the Sixth Amendment prescedents as suitable analogies in the present cases.[10]

The only attempt in this Court to carry the right to counsel into the station house occurred in *Escobedo*, the Court repeating several times that that stage was no less "critical" than trial itself. See 378 U.S., 485–488. This is hardly persuasive when we consider that a grand jury injuiry, the filing of a certiorari petition, and certainly the purchase of narcotics by an undercover agent from a prospective defendant may all be equally "critical" yet provision of counsel and advice on that score have never been thought compelled by the Constitution in such cases. The sound reason why this right is so freely extended for a criminal trial is the severe injustice risked by confronting an untrained defendant with a range of technical points of law, evidence, and tactics familiar to the prosecutor but not to himself. This danger shrinks markedly in the police station where indeed the lawyer in fulfilling his professional responsibilities of necessity may become an obstacle to truth-finding. See *infra*, n. 12. The Court's summary citation of the Sixth Amendment cases here seems to me best described as "the domino method of constitutional adjudication . . . wherein every explanatory statement in a previous opinion is made the basis for extension to a wholle different situation." Friendly, *supra*, n. 10, at 950.

III. POLICY CONSIDERATIONS

Examined as an expression of public policy, the Court's new regime proves so dubious that there can be no due compensation for its weakness in constitutional law. Foregoing discussion has shown, I think, how mistaken is the Court in implying that the Constitution has struck the balance in favor of the approach the Court takes. *Ante*, p. 41. Rather, precedent reveals that the Fourteenth Amendment in practice has been construed to strike a different balance, that the Fifth Amendment gives the Court little solid support in this context, and that the Sixth Amendment should have no bearing at all. Legal history has been stretched before to satisfy deep needs of society. In this instance, however, the Court has not and cannot make the powerful showing that its new rules are plainly desirable in the context of our society, something which is surely demanded before these rules are engrafted onto the Constitution and imposed on every State and county in the land.

Without at all subscribing to the generally black picture of police conduct painted by the Court, I think it must be frankly recognized at the outset that police questioning allowable under due process precedents may inherently entail some pressure on the suspect and may seek advantage in his ignorance or weaknesses. The atmosphere and questioning techniques, proper and fair though they be, can in themselves exert a tug on the suspect to confess, and in this light "[t]o speak of any confessions of crime made after arrest as being 'voluntary' or 'uncoerced' is somewhat inaccurate, although traditional. A confession is wholly and incontestably voluntary only if a guilty person gives himself up to the law and becomes his own accuser." *Ashcraft* v. *Tennessee*, 322 U.S. 143, 161 (Jackson, J., dissenting). Until today, the role of the Constitution has been only to sift out *undue* pressure, not to assure spontaneous confessions.[11]

The Court's new rules aim to offset these minor pressures and disadvantages intrinsic to any kind of police interrogation. The rules do not serve due process interests in preventing blatant coercion since, as I noted earlier, they do nothing to contain the policeman who is prepared to lie from the start. The rules work for reliability in confessions almost only in the Pickwickian sense that they can prevent some from being given at all.[12] In short, the benefit of this new regime is simply to lessen or wipe out the inherent compulsion and inequalities to which the Court devotes some nine pages of description. *Ante*, pp. 10–18.

What the Court largely ignores is that its rules impair, if they will not eventually serve wholly to frustrate, an instrument of law enforcement that has long and quite reasonably been thought worth the price paid for it.[13] There can be little doubt that the Court's new code would markedly decrease the number of confessions. To warn the suspect that he may remain silent and remind him that his confession may be used in court are minor obstructions. To require also an express waiver by the suspect and an end to questioning whenever he demurs must heavily handicap questioning. And to suggest or provide counsel for the suspect simply invites the end of the interrogation. See, *supra*, n. 12.

How much harm this decision will inflict on law enforcement cannot fairly be predicted with accuracy. Evidence on the role of confessions is notoriously incomplete, see Developments, *supra*, n. 2, at 941–944, and little is added by the Court's reference to the FBI experience and the resources believed wasted in interrogation. See *infra*, n. 19, and text. We do know that some crimes cannot be solved without confessions, that ample expert testimony attests to their importance in crime control,[14] and that the Court is taking a real risk with society's welfare in imposing its new regime on the country. The social costs of crime are too great to call the new rules anything but a hazardous experimentation.

While passing over the costs and risks of its experiment, the Court portrays the evils of normal police questioning in terms which I think are exaggerated. Albeit stringently confined by the due process standards interrogation is no doubt often inconvenient and unpleasant for the suspect. However, it is no less so for a man to be arrested and jailed, to have his house searched, or to stand trial in court, yet all this may properly happen to the most innocent given probable cause, a warrant, or an indictment. Society has always paid a stiff price for law and order, and peaceful interrogation is not one of the dark moments of the law.

This brief statement of the competing considerations seems to me ample proof that the Court's preference is highly debatable at best and therefore not to be read into the Constitution. However, it may make the analysis more graphic to consider the actual facts of one of the four cases reversed by the Court. *Miranda* v. *Arizona* serves best, being neither the hardest nor easiest of the four under the Court's standards.[15]

On March 3, 1963, an 18-year-old girl was kidnapped and forcibly raped near Phoenix, Arizona. Ten days later, on the morning of March 13, petitioner Miranda was arrested and taken to the police station. At this time Miranda was 23 years old, indigent, and educated to the extent of completing half the ninth grade. He had "an emotional illness" of the schizophrenic type, according to the doctor who eventually examined him; the doctor's report also stated that Miranda was "alert and oriented as to time, place, and person," intelligent within normal limits, competent to stand trial, and sane within the legal definition. At the police station, the victim picked Miranda out of a lineup, and two officers then took him into a separate room to interrogate him, starting about 11:30 a.m. Though at first denying his guilt, within a short time Miranda gave a detailed oral confession and then wrote out in his own hand and signed a brief statement admitting and describing the crime. All this was accomplished in two hours or less without any force, threats or promises and—I will assume this though the record is uncertain, *ante*, 53–54 & nn. 66–67—without any effective warnings at all.

Miranda's oral and written confessions are now held inadmissible under the Court's new rules. One is entitled to feel astonished that the Constitution can be read to produce this result. These confessions were obtained during brief, daytime questioning conducted by two officers and unmarked by any of the traditional indicia of coercion. They assured a conviction for a brutal and unsettling crime, for which the police had and quite possibly

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[10] Since the Court conspicuously does not assert that the Sixth Amendment itself warrants its new police-interrogation rules, there is no reason now to draw out the extremely powerful historical and precedential evidence that the Amendment will bear no such meaning. See generally Friendly, The Bill of Rights as a Code of Criminal Procedure, 53 Calif. L. Rev. 929, 943–948 (1965).

[11] See *supra*, n. 4, and text. Of course, the use of terms like voluntariness involves questions of law and terminology quite as much as questions of fact. See *Collins* v. *Beto*, 348 F. 2d 823, 832 (concurring opinion); Bator & Vorenberg, *supra*, n. 4, at 72–73.

[12] The Court's vision of a lawyer "mitigat-[ing] the dangers of untrustworthiness" (*ante*, p. 32) by witnessing coercion and assisting accuracy in the confession is largely a fancy; for if counsel arrives, there is rarely going to be a police station confession. *Watts* v. *Indiana*, 338 U.S. 49, 59 (separate opinion of Jackson, J.): "[A]ny lawyer worth his salt will tell the suspect in no uncertain terms to make no statement to police under any circumstances." See Enker & Elsen, Counsel for the Suspect, 49 Minn. L. Rev. 47, 66–68 (1964).

[13] This need is, of course, what makes so misleading the Court's comparison of a probate judge readily setting aside as involuntary the will of an old lady badgered and beleaguered by the new heirs. *Ante*, pp. 19–20, n. 26. With wills, there is no public interest save in a totally free choice; with confessions, the solution of crime is a countervailing gain, however the balance is resolved.

[14] See, *e. g.*, the voluminous citations to congressional committee testimony and other sources collected in *Culombe* v. *Connecticut*, 367 U.S. 568, 578–579 (Frankfurter, J., announcing the Court's judgment and an opinion).

[15] In *Westover*, a seasoned criminal was practically given the Court's full complement of warnings and did not heed them. The *Stewart* case, on the other hand, involves long detention and successive questioning. In *Vignera*, the facts are complicated and the record somewhat incomplete.

could obtain little evidence other than the victim's identifications, evidence which is frequently unreliable. There was, in sum, a legitimate purpose, no perceptible unfairness, and certainly little risk of injustice in the interrogation. Yet the resulting confessions, and the responsible course of police practice they represent, are to be sacrificed to the Court's own finespun conception of fairness which I seriously doubt is shared by many thinking citizens in this country.[16]

The tenor of judicial opinion also falls well short of supporting the Court's new approach. Although *Escobedo* has widely been interpreted as an open invitation to lower courts to rewrite the law of confessions, a significant heavy majority of the state and federal decisions in point have sought quite narrow interpretations.[17] Of the courts that have accepted the invitation, it is hard to know how many have felt compelled by their best guess as to this Court's likely construction; but none of the state decisions saw fit to rely on the state privilege against self-incrimination, and no decision at all has gone as far as this Court goes today.[18]

It is also instructive to compare the attitude in this case of those responsible for law enforcement with the official views that existed when the Court undertook three major revisions of prosecutorial practice prior to this case, *Johnson* v. *Zerbst*, 304 U.S. 458, *Mapp* v. *Ohio*, 367 U.S. 643, and *Gideon* v. *Wainwright*, 372 U.S. 335. In *Johnson*, which established that appointed counsel must be offered the indigent in federal criminal trials, the Federal Government all but conceded the basic issue, which had in fact been recently fixed as Department of Justice policy. See Beany, Right to Counsel 29–30, 36–42 (1955). In *Mapp*, which imposed the exclusionary rule on the States for Fourth Amendment violations, more than half of the States had themselves already adopted some such rule. See 367 U.S., at 651. In *Gideon*, which extended *Johnson* v. *Zerbst* to the States, an *amicus* brief was filed by 22 States and Commonwealths urging that course; only two States besides the respondent came forward to protest. See 372 U.S., at 345. By contrast, in this case new restrictions on police questioning have been opposed by the United States and in an *amicus* brief signed by 27 States and Commonwealths, not including the three other States who are parties. No State in the country has urged this Court to impose the newly announced rules, nor has any State chosen to go nearly so far on its own.

The Court in closing its general discussion invokes the practice in federal and foreign jurisdictions as lending weight to its new curbs on confessions for all the States. A brief résumé will suffice to show that none of these jurisdictions has struck so one-sided a balance as the Court does today. Heaviest reliance is placed on the FBI practice. Differing circumstances may make this comparison quite untrustworthy,[19] but in all events the FBI falls sensibly short of the Court's formalistic rules. For example, there is no indication that FBI agents must obtain an affirmative "waiver" before they pursue their questioning. Nor is it clear that one invoking his right to silence may not be prevailed upon to change his mind. And the warning as to appointed counsel apparently indicates only that one will be assigned by the judge when the suspect appears before him; the thrust of the Court's rules is to induce the suspect to obtain appointed counsel before continuing the interview. See *ante*, pp. 46–48. Apparently American military practice, briefly mentioned by the Court, has these same limits and is still less favorable to the suspect than the FBI warning, making no mention of appointed counsel. Developments, *supra*, n. 2, at 1084–1089.

The law of the foreign countries described by the Court also reflects a more moderate conception of the rights of the accused as against those of society when other data is considered. Concededly, the English experience is most relevant. In that country, a caution as to silence but not counsel has long been mandated by the "Judges' Rules," which also place other somewhat imprecise limits on police cross-examination of suspects. However, in the court's discretion confessions can be and apparently quite frequently are admitted in evidence despite disregard of the Judges' Rules, so long as they are found voluntary under the common-law test. Moreover, the check that exists on the use of pretrial statements is counterbalanced by the evident admissibility of fruits of an illegal confession and by the judge's often-used authority to comment adversely on the defendant's failure to testify.[20]

India, Ceylon and Scotland are the other examples chosen by the Court. In India and Ceylon the general ban on police-adduced confessions cited by the Court is subject to a major exception: if evidence is uncovered by police questioning, it is fully admissible at trial along with the confession itself, so far as it relates to the evidence and is not blatantly coerced. See Developments, *supra*, n. 2, at 1106–1110; *Reg.* v. *Ramasamy* [1965] A. C. 1 (P. C.). Scotland's limits on interrogation do measure up to the Court's; however, restrained comment at trial on the defendant's failure to take the stand is allowed the judge, and in many other respects Scotch law redresses the prosecutor's disadvantage in ways not permitted in this country.[21] The Court ends its survey by imputing added strength to our privilege against self-incrimination since, by contrast to other countries, it is embodied in a written Constitution. Considering the liberties the Court has today taken with constitutional history and precedent, few will find this emphasis persuasive.

In closing this necessarily truncated discussion of policy considerations attending the new confession rules, some reference must be made to their ironic untimeliness. There is now in progress in this country a massive reexamination of criminal law enforcement procedures on a scale never before witnessed. Participants in this undertaking include a Special Committee of the American Bar Association, under the chairmanship of Chief Judge Lumbard of the Court of Appeals for the Second Circuit; a distinguished study group of the American Law Institute, headed by Professor Vorenberg of the Harvard Law School; and the President's Commission on Law Enforcement and Administration of Justice, under the leadership of the Attorney General of the United States.[22] Studies are also being conducted by the District of Columbia Crime Commission, the Georgetown Law Center, and by others equipped to do practical research.[23] There are also signs that legislatures in some of the States may be preparing to re-examine the problem before us.[24]

It is no secret that concern has been expressed lest long-range and lasting reforms be frustrated by this Court's too rapid departure from existing constitutional standards. Despite the Court's disclaimer, the practical effect of the decision made today must inevitably be to handicap seriously sound efforts at reform, not least by removing options necessary to a just compromise of competing interests. Of course legislative reform is rarely speedy or unanimous, though this Court has been more patient in the past.[25] But the legislative reforms when they came would have the vast advantage of empirical data and comprehensive study, they would allow experimentation and use of solutions not open to the courts, and they would restore the initiative in criminal law reform to those forums where it truly belongs.

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[16] "[J]ustice, though due to the accused, is due to the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true." *Snyder* v. *Massachusetts*, 291 U.S. 97, 122 (Cardozo, J.).

[17] A narrow reading is given in: *United States* v. *Robinson*, 354 F. 2d 109 (C. A. 2d Cir.); *Davis* v. *North Carolina*, 339 F. 2d 770 (C. A. 4th Cir.); *Edwards* v. *Holman*, 342 F. 2d 679 (C. A. 5th Cir.); *United States ex rel Townsend* v. *Ogilvie*, 334 F. 2d 837 (C. A. 7th Cir.); *People* v. *Hartgraves*, 31 Ill. 2d 375, 202 N. E. 2d 33; *State* v. *Fox*, 131 N. W. 2d 684 (Iowa); *Rowe* v. *Commonwealth*, 394 S. W. 2d 751 (Ky.); *Parker* v. *Warden*, 203 A. 2d 418 (Md.); *State* v. *Howard*, 383 S. W. 2d 701 (Mo.); *Bean* v. *State*, 398 P. 2d 251 (Nev.); *Hodgson* v. *New Jersey*, 44 N. J. 151, — A. 2d —; *People* v. *Gunner*, 15 N. Y. 2d 226, 205 N. E. 2d 852; *Commonwealth ex rel. Linde* v. *Maroney*, 416 Pa. 331, 206 A. 2d 288; *Browne* v. *State*, 24 Wis. 2d 491, 131 N. W. 2d 169.

An ample reading is given in: *United States ex rel. Russo* v. *New Jersey*, 351 F. 2d 429 (C. A. 3d Cir.); *Wright* v. *Dickson*, 336 F. 2d 878 (C. A. 9th Cir.); *People v. Dorado*, 62 Cal. 2d 338, 398 P. 2d 361; *State* v. *Dufour*, 206 A. 2d 82 (R. I.); *State* v. *Neely*, 229 Ore. 487, 395 P. 2d 557, modified, 398 P. 2d 482.

The cases in both categories are those readily available; there are certainly many others.

[18] For instance, compare the requirements of the catalytic case of *People* v. *Dorado*, 62 Cal. 2d 350, 398 P. 2d 361, with those laid down today. See also Traynor, The Devils of Due Process in Criminal Detection, Detention, and Trial, p. 26 (1966 Cardozo Lecture, N. Y. City Bar Ass'n, multilith copy).

[19] The Court's *obiter dictum* notwithstanding, *ante*, p. 48, there is some basis for believing that the staple of FBI criminal work differs importantly from much crime within the ken of local police. The skill and resources of the FBI may also be unusual.

[20] For citations and discussion covering each of these points, see Developments, *supra*, n. 2, at 1091–1097, and Enker & Elsen, *supra*, n. 12, at 80 & n. 94.

[21] On comment, see Hardin, Other Answers: Search and Seizure, Coerced Confession, and Criminal Trial in Scotland, 113 U. Pa. L. Rev. 165, 181 and nn. 96–97 (1964). Other examples are less stringent search and seizure rules and no automatic exclusion for violation of them, *id.*, at 167–169; guilt based on majority jury verdicts, *id.*, at 185; and pretrial discovery of evidence on both sides, *id.*, at 175.

[22] Of particular relevance is the ALI's drafting of a Model Code of Pre-Arraignment Procedure, now in its first tentative draft. While the ABA and National Commission studies have wider scope, the former is lending its advice to the ALI project and the executive director of the latter is one of the reporters for the Model Code.

[23] See Brief for the United States in *Westover*, p. 45. The N.Y. Times, June 3, 1966, p. 33 (city ed.) reported that the Ford Foundation has awarded $1,100,000 for a five-year study of arrests and confessions in New York.

[24] The New York Assembly recently passed a bill to require certain warnings before an admissible confession is taken, though the rules are less strict than are the Court's. N.Y. Times, May 24, 1966, p. 35 (late city ed.).

[25] The Court waited 12 years after *Wolf* v. *Colorado*, 338 U.S. 25, declared privacy against improper state intrusions to be constitutionally safeguarded before it concluded in *Mapp* v. *Ohio*, 367 U.S. 643, that adequate state remedies had not been provided to protect this interest so the exclusionary rule was necessary.

IV. CONCLUSIONS

All four of the cases involved here present express claims that confessions were inadmissible, not because of coercion in the traditional due process sense, but solely because of lack of counsel or lack of warnings concerning counsel and silence. For the reasons stated in this opinion, I would adhere to the due process test and reject the new requirements inaugurated by the Court. On this premise my disposition of each of these cases can be stated briefly.

In two of the three cases coming from state courts, *Miranda* v. *Arizona* (No. 759) and *Vignera* v. *New York* (No. 760), the confessions were held admissible and no other errors worth comment are alleged by petitioners. I would affirm in these two cases. The other state case is *California* v. *Stewart* (No. 584), where the state supreme court held the confession inadmissible and reversed the conviction. In that case I would dismiss the writ of certiorari on the ground that no final judgment is before us, 28 U.S.C. § 1257 (1964 ed.); putting aside the new trial open to the State in any event, the confession itself has not even been finally excluded since the California Supreme Court left the State free to show proof of a waiver. If the merits of the decision in *Stewart* be reached, then I believe it should be reversed and the case remanded so the state supreme court may pass on the other claims available to the respondent.

In the federal case, *Westover* v. *Untied States* (No. 761), a number of issues are raised by petitioner apart from the one already dealt with in this dissent. None of these other claims appears to me tenable, nor in this context to warrant extended discussion. It is urged that the confession was also inadmissible because not voluntary even measured by due process standards and because federal-state cooperation brought the *McNabb-Mallory* rule into play under *Anderson* v. *United States*, 318 U.S. 350. However, the facts alleged fall well short of coercion in my view, and I believe the involvement of federal agents in petitioner's arrest and detention by the State too slight to invoke *Anderson*. I agree with the Government that the admission of the evidence now protested by petitioner was at most harmless error, and two final contentions—one involving weight of the evidence and another improper prosecutor comment—seem to me without merit, I would therefore affirm Westover's conviction.

In conclusion: Nothing in the letter or the spirit of the Constitution or in the precedents squares with the heavy handed and one-sided action that is so precipitously taken by the Court in the name of fulfilling its constitutional responsibilities. The foray which the Court takes today brings to mind the wise and farsighted words of Mr. Justice Jackson in *Douglas* v. *Jeannette*, 319 U.S. 157, 181 (separate opinion): "This Court is forever adding new stories to the temples of constitutional law, and the temples have a way of collapsing when one story too many is added."

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[Supreme Court of the United States, Nos. 759, 760, 761, and 584, October term, 1965]

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ERNESTO A. MIRANDA, PETITIONER, 759 *v.* STATE OF ARIZONA

On Writ of Certiorari to the Supreme Court of the State of Arizona.

MICHAEL VIGNERA, PETITIONER, 760 *v.* STATE OF NEW YORK

On Writ of Certiorari to the Court of Appeals of the State of New York.

CARL CALVIN WESTOVER, PETITIONER, 761 *v.* UNITED STATES

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit.

STATE OF CALIFORNIA, PETITIONER, 584 *v.* ROY ALLEN STEWART

On Writ of Certiorari to the Supreme Court of the State of California.

[June 13, 1966]

MR. JUSTICE WHITE, with whom MR. JUSTICE HARLAN and MR. JUSTICE STEWART join, dissenting.

I

The proposition that the privilege against self-incrimination forbids in-custody interrogation without the warnings specified in the majority opinion and without a clear waiver of counsel has no significant support in the history of the privilege or in the language of the Fifth Amendment. As for the English authorities and the common-law history, the privilege, firmly established in the second half of the seventeenth century, was never applied except to prohibit compelled judicial interrogations. The rule excluding coerced confessions matured about 100 years later, "[b]ut there is nothing in the reports to suggest that the theory has its roots in the privilege against self-incrimination. And so far as the cases reveal, the privilege, as such, seems to have been given effect only in judicial proceedings, including the preliminary examinations by authorized magistrates." Morgan, The Privilege Against Self-Incriminations, 34 Minn. L. Rev. 1, 18 (1949).

Our own constitutional provision provides that no person "shall be compelled in any criminal case to be a witness against himself." These words, when "[c]onsidered in the light to be shed by grammar and the dictionary . . . appear to signify simply that nobody shall be compelled to give oral testimony against himself in a criminal proceeding under way in which he is defendant." Corwin, The Supreme Court's Construction of the Self-Incrimination Clause, 29 Mich. L. Rev. 1, 2. And there is very little in the surrounding circumstances of the adoption of the Fifth Amendment or in the provisions of the then existing state constitutions or in state practice which would give the constitutional provision any broader meaning. Mayers, The Federal Witness' Privilege Against Self Incrimination: Constitutional or Common-Law? 4 American Journal of Legal History 107 (1960). Such a construction, however, was considerably narrower than the privilege at common law, and when eventually faced with the issues, the Court extended the constitutional privilege to the compulsory production of books and papers, to the ordinary witness before the grand jury and to witnesses generally. *Boyd* v. *United States*, 116 U.S. 616, and *Counselman* v. *Hitchcock*, 142 U.S. 547. Both rules had solid support in common-law history, if not in the history of our own constitutional provision.

A few years later the Fifth Amendment privilege was similarly extended to encompass the then well-established rule against coerced confessions: "In criminal trials, in the courts of the United States, wherever a question arises whether a confession is incompetent because not voluntary, the issue is controlled by that portion of the Fifth Amendment to the Constitution of the United States, commanding that no person 'shall be compelled in any criminal case to be a witness against himself.'" *Bram* v. *United States*, 168 U.S. 532, 542. Although this view has found approval in other cases, *Burdeau* v. *McDowell*, 256 U.S. 465, 475; *Powers* v. *United States*, 223 U.S. 303, 313; *Shotwell* v. *United States*, 371 U.S. 341, 347, it has also been questioned, see *Brown* v. *Mississippi*, 297 U.S. 278, 285; *United States* v. *Carignan*, 342 U.S. 36, 41; *Stein* v. *New York*, 346 U.S. 156, 191, n. 35, and finds scant support in either the English or American authorities, see generally *Regina* v. *Scott*, I Dears. & Bell 47; III Wigmore, Evidence § 823, at 249 ("a confession is not rejected because of any connection with the *privilege against self-crimination*"), 250, n. 5 (particularly criticizing *Bram*) (3d ed. 1940), VIII Wigmore, Evidence § 2266, at 400–401 (McNaughton ed. 1961). Whatever the source of the rule excluding coerced confessions, it is clear that prior to the application of the privilege itself to state courts, *Malloy* v. *Hogan*, 378 U.S. 1, the admissibility of a confession in a state criminal prosecution was tested by the same standards as were applied in federal prosecutions. *Id.*, at 6–7, 10.

*Bram*, however, itself rejected the proposition which the Court now espouses. The question in *Bram* was whether a confession, obtained during custodial interrogation, had been compelled, and if such interrogation was to be deemed inherently vulnerable, the Court's inquiry could have ended there. After examining the English and American authorities, however, the Court declared that:

"In this Court also it has been settled that the mere fact that the confession is made to a police officer, while the accused was under arrest in or out of prison, or was drawn out by his questions, does not necessarily render the confession involuntary, but, as one of the circumstances, such imprisonment or interrogation may be taken into account in determining whether or not statements of the prisoner were voluntary." 168 U.S., at 558.

In this respect the Court was wholly consistent with prior and subsequent pronouncements in this Court.

Thus prior to *Bram* the Court, in *Hopt* v. *Utah*, 110 U.S. 574, 583–587, had upheld the admissibility of a confession made to police officers following arrest, the record being silent concerning what conversation has occurred between the officers and the defendant in the short period preceding the confession. Relying on *Hopt*, the Court ruled squarely on the issue in *Sparf and Hansen* v. *United States*, 156 U.S. 51, 55:

"Counsel for the accused insist that there cannot be a voluntary statement, a free open confession, while a defendant is confined and in irons under an accusation of having committed a capital offence. We have not been referred to any authority in support of that position. It is true that the fact of a prisoner being in custody at the time he makes a confession is a circumstance not to be overlooked, because it bears upon the inquiry whether the confession was voluntarily made or was extorted by threats or violence or made under the influence of fear. But confinement or imprisonment is not in itself sufficient to justify the exclusion of a confession, if it appears to have been voluntary, and was not obtained by putting the prisoner in fear or by promises. Wharton's Cr. Ev. 9th ed. §§ 661, 663, and authorities cited."

Accord, *Pierce* v. *United States*, 160 U.S. 355, 357.

And in *Wilson* v. *United States*, 162 U.S. 613, 623, the Court had considered the significance of custodial interrogation without any antecedent warnings regarding the right to remain silent or the right to counsel. There the defendant had answered questions posed by a Commissioner, who had failed to advise him of his rights, and his answers were held admissible over his claim of involuntariness. "The fact that [a defendant] is in custody and manacled does not necessarily render his statemnt involuntary, nor is that necessarily the effect of popular excitement shortly preceding . . . . And it is laid down that it is not essential to the admissibility of a confession that it should appear that the person was warned that what he said would be used against him, but on the contrary, if the confession was voluntary, it is sufficient though it appear that he was not so warned."

Since *Bram*, the admissibility of statements made during custodial interrogation has been frequently reiterated. *Powers* v.

*United States*, 223 U.S. 303, cited *Wilson* approvingly and held admissible as voluntary statements the accused's testimony at a preliminary hearing even though he was not warned that what he said might be used against him. Without any discussion of the presence or absence of warnings, presumably because such discussion was deemed unnecessary, numerous other cases have declared that "[t]he mere fact that a confession was made while in the custody of the police does not render it inadmissible," *McNabb* v. *United States*, 318 U.S. 332, 346; accord, *United States* v. *Mitchell*, 322 U.S. 65, despite its having been elicited by police examination, *Wan* v. *United States*, 266 U.S. 1, 14; *United States* v. *Carrignan*, 342 U.S. 36, 39. Likewise, in *Crooker* v. *California*, 357 U.S. 433, the Court said that "'the mere fact of police detention and police examination in private of one in official state custody does not render involuntary a confession by one so detained." And finally, in *Cicenia* v. *Lagay*, 357 U.S. 504, a confession obtained by police interrogation after arrest was held voluntary even though the authorities refused to permit the defendant to consult with his attorney. See generally *Culombe* v. *Connecticut*, 367 U.S. 568, 587–602 (opinion of Frankfurter, J.); III Wigmore, Evidence § 851, at 313 (3d ed. 1940); see also Joy, Confessions 38, 46 (1842).

Only a tiny minority of our judges who have dealt with the question, including today's majority, have considered in-custody interrogation, without more, to be a violation of the Fifth Amendment. And this Court, as every member knows, has left standing literally thousands of criminal convictions that rested at least in part on confessions taken in the course of interrogation by the police after arrest.

II

That the Court's holding today is neither compelled nor even strongly suggested by the language of the Fifth Amendment, is at odds with American and English legal history, and involves a departure from a long line of precedent does not prove either that the Court has exceeded its powers or that the Court is wrong or unwise in its present reinterpretation of the Fifth Amendment. It does, however, underscore the obvious—that the Court has not discovered or found the law in making today's decision, nor has it derived it from some irrefutable sources; what it has done is to make new law and new public policy in much the same way that it has in the course of interpreting other great clauses of the Constitution.[1] This is what the Court historically has done. Indeed, it is what it must do and will continue to do until and unless there is some fundamental change in the constitutional distribution of governmental powers.

But if the Court is here and now to announce new and fundamental policy to govern certain aspects of our affairs, it is wholly legitimate to examine the mode of this or any other constitutional decision in this Court and to inquire into the advisability of its end product in terms of the long-range interest of the country. At the very least the Court's text and reasoning should withstand analysis and be a fair exposition of the constitutional provision which its opinion interprets. Decisions like these cannot rest alone on syllogism, metaphysics or some ill-defined notions of natural justice, although each will perhaps play its part. In proceeding to such constructions as it now announces, the Court should also duly consider all the factors and interests bearing upon the cases, at least insofar as the relevant materials are available; and if the necessary considerations are not treated in the record or obtainable from some other reliable source, the Court should not proceed to formulate fundamental policies based on speculation alone.

III

First, we may inquire what are the textural and factual bases of this new fundamental rule. To reach the result announced on the grounds it does, the Court must stay within the confines of the Fifth Amendment, which forbids self-incrimination only if *compelled*. Hence the core of the Court's opinion is that because of the "compulsion inherent in custodial surroundings, no statement obtained from [a] defendent [in custody] can truly be the product of his free choice," *ante*, at 20, absent the use of adequate protective devices as described by the Court. However, the Court does not point to any sudden inrush of new knowledge requiring the rejection of 70 years experience. Nor does it assert that its novel conclusion reflects a changing consensus among state courts, see *Mapp* v. *Ohio*, 367 U. S. 643, or that a succession of cases had steadily eroded the old rule and proved it unworkable, see *Gideon* v. *Wainwright*, 372 U. S. 335. Rather than asserting new knowledge, the Court concedes that it cannot truly know what occurs during custodial questioning, because of the innate secrecy of such proceedings. It extrapolates a picture of what it conceives to be the norm from police investigatorial manuals, published in 1959 and 1962 or earlier, without any attempt to allow for adjustments in police practices that may have occurred in the wake of more recent decisions of state appellate tribunals or this Court. But even if the relentless application of the described procedures could lead to involuntary confessions, it most assuredly does not follow that each and every case will disclose this kind of interrogation or this kind of consequence.[2] Insofar as it appears from the Court's opinion, it has not examined a single transcript of any police interrogation, let alone the interrogation that took place in any one of these cases which it decides today. Judged by any of the standards for empirical investigation utilized in the social sciences the factual basis for the Court's premise is patently inadequate.

Although in the Court's view in-custody interrogation is inherently coercive, it says that the spontaneous product of the coercion of arrest and detention is still to be deemed voluntary. An accused, arrested on probable cause, may blurt out a confession which will be admissible despite the fact that he is alone and in custody, without any showing that he had any notion of his right to remain silent or of the consequences of his admission. Yet, under the Court's rule, if the police ask him a single question such as "Do you have anything to say?" or "Did you kill your wife?" his response, if there is one, has somehow been compelled, even if the accused has been clearly warned of his right to remain silent. Common sense informs us to the contrary. While one may say that the response was "involuntary" in the sense the question provoked or was the occasion for the response and thus the defendant was induced to speak out when he might have remained silent if not arrested and not questioned, it is patently unsound to say the response is compelled.

Today's result would not follow even if it were agreed that to some extent custodial interrogation is inherently coercive. See *Ashcraft* v. *Tennessee*, 322 U. S. 143, 161 (Jackson, J., dissenting). The test has been whether the totality of circumstances deprived the defendant of a "free choice to admit, to deny, or to refuse to answer," *Lisenba* v. *California*, 314 U. S. 219, 241, and whether physical or psychological coercion was of such a degree that "the defendant's will was overborne at the time he confessed," *Haynes* v. *Washington*, 373 U. S. 503, 513; *Lynumn* v. *Illinois*, 372 U. S. 528, 534. The duration and nature of incommunicado custody, the presence or absence of advice concerning the defendant's constitutional rights, and the granting or refusal of requests to communicate with lawyers relatives or friends have all been rightly regarded as important data bearing on the basic inquiry. See, *e. g.*, *Ashcraft* v. *Tennessee*, 322 U.S. 143; *Haynes* v. *Washington*, 373 U. S. 503.[3] But it has never been suggested, until today, that such questioning was so coercive and accused persons so lacking in hardihood that the very first response to the very first question following the commencement of custody must be conclusively presumed to be the product of an overborne will.

If the rule announced today were truly based on a conclusion that all confessions resulting from custodial interrogation are coerced, then it would simply have no rational foundation. Compare *Tot*. v. *United States*, 319 U.S. 463, 466; *United States* v. *Romano*, 382 U.S. 136. A *fortiori* that would be true of the extension of the rule to exculpatory statements, which the Court effects after a brief discussion of why, in the Court's view, they must be deemed incriminatory but without any discusion of why they must be deemed coerced. See *Wilson* v. *United States*, 162 U.S. 613, 624. Even if one were to postulate that the Court's concern is not that all confessions induced by police interrogation are coerced but rather that some such confessions are coerced and present judicial procedures are believed to be inadequate to identify the confessions that are coerced and those that are not, it would still not be essential to impose the rule that the Court has now fashioned. Transcripts or observers could be required, specific time limits, tailored to fit the cause, could be imposed, or other

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[1] Of course the Court does not deny that it is departing from prior precedent; it expressly overrules *Crooker* and *Cicenia*, *ante*, at 41, n. 47, and it acknowledges that "[i]n these cases . . . we might not find the statements to have been involuntary in traditional terms," *ante*, at 19.

[2] In fact, the type of sustained interrogation described by the Court appears to be the exception rather than the rule. A survey of 399 cases in one city found that in almost half of the cases the interrogation lasted less than 30 minutes. Barrett, Police Practices and the Law—From Arrest to Release or Charge, 50 Calif. L. Rev. 11, 41–45 (1962). Questioning tends to be confused and sporadic and is usually concentrated on confrontations with witnesses or new items of evidence, as these are obtained by officers conducting the investigation. See generally LaFave, Arrest: The Decision to Take a Suspect into Custody 386 (1965); ALI, Model Pre-Arraignment Procedure Code, Commentary § 5.01, at 170, n. 4 (Tent. Draft No. 1, 1966).

[3] By contrast, the Court indicates that in applying this new rule it "will not pause to inquire in individual cases whether the defendant was aware of his rights without a warning being given." *Ante*, at 31. The reason given is that assessment of the knowledge of the defendant based on information as to age, education, intelligence, or prior contact with authorities can never be more than speculation, while a warning is a clear-cut fact. But the officers' claim that they gave the requisite warnings may be disputed, and facts respecting the defendant's prior experience may be undisputed and be of such a nature as to virtually preclude any doubt that the defendant knew of his rights. See *United States* v. *Bolden*, 355 F. 2d 453 (C. A. 7th Cir. 1965), petition for cert. pending No. 1146 O. T. 1965 (secret service agent); *People* v. *DuBond*, 235 Cal. App. 2d 844, 45 Cal. Rptr. 717, pet. for cert. pending No. 1053 Misc. O. T. 1965 (former police officer).

devices could be utilized to reduce the chances that otherwise indiscernible coercion will produce an inadmissible confession.

On the other hand, even if one assumed that there was an adequate factual basis for the conclusion that all confessions obtained during in-custody interrogation are the product of compulsion, the rule propounded by the Court would still be irrational, for, apparently, it is only if the accused is also warned of his right to counsel and waives both that right and the right against self-incrimination that the inherent compulsiveness of interrogation disappears. But if the defendant may not answer without a warning a question such as "Where were you last night?" without having his answer be a compelled one, how can the court ever accept his negative answer to the question of whether he wants to consult his retained counsel or counsel whom the court will appoint? And why if counsel is present and the accused nevertheless confesses, or counsel tells the accused to tell the truth, and that is what the accused does, is the situation any less coercive insofar as the accused is concerned? The court apparently realizes its dilemma of foreclosing questioning without the necessary warnings but at the same time permitting the accused, sitting in the same chair in front of the same policeman, to waive his right to consult an attorney. It expects, however, that not too many will waive the right; and if it is claimed that he has, the State faces a severe, if not impossible burden of proof.

All of this makes very little sense in terms of the compulsion which the Fifth Amendment proscribes. That amendment deals with compelling the accused himself. It is his free will that is involved. Confessions and incriminating admissions, as such, are not forbidden evidence; only those which are compelled are banned. I doubt that the Court observes these distinctions today. By considering any answers to any interrogation to be compelled regardless of the content and course of examination and by escalating the requirements to prove waiver, the Court not only prevents the use of compelled confessions but for all practical purposes forbids interrogation except in the presence of counsel. That is, instead of confining itself to protection of the right against compelled self-incrimination the Court has created a limited Fifth Amendment right to counsel—or, as the Court expresses it, a "right to counsel to protect the Fifth Amendment privilege . . . ." *Ante,* at 32. The focus then is not on the will of the accused but on the will of counsel and how much influence he can have on the accused. Obviously there is no warrant in the Fifth Amendment for thus installing counsel as the arbiter of the privilege.

In sum, for all of the Court's expounding on the menacing atmosphere of police interrogation procedures it has failed to supply any foundation for the conclusions it draws or the measures it adopts.

IV

Criticism of the Court's opinion, however, cannot stop at a demonstration that the factual and textual bases for the rule it propounds are, at best, less than compelling. Equally relevant is an assessment of the rule's consequences measured against community values. The Court's duty to assess the consequences of its action is not satisfied by the utterance of the truth that a value of our system of criminal justice is "to respect the inviolability of the human personality" and to require government to produce the evidence against the accused by its own independent labors. *Ante,* at 22. More than the human dignity of the accused is involved; the human personality of others in the society must also be preserved. Thus the values reflected by the privilege are not the sole desideratum; society's interest in the general security is of equal weight.

The obvious underpinning of the Court's decision is a deep-seated distrust of all confessions. As the Court declares that the accused may not be interrogated without counsel present, absent a waiver of the right to counsel, and as the Court all but admonishes the lawyer to advise the accused to remain silent, the result adds up to a judicial judgment that evidence from the accused should not be used against him in any way, whether compelled or not. This is the not so subtle overtone of the opinion—that it is inherently wrong for the police to gather evidence from the accused himself. And this is precisely the nub of this dissent. I see nothing wrong or immoral, and certainly nothing unconstitutional with the police asking a suspect whom they have reasonable cause to arrest whether or not he killed his wife or with confronting him with the evidence on which the arrest was based, at least where he has been plainly advised that he may remain completely silent, see *Escobedo* v. *Illinois,* 378 U.S. 478, 499 (dissenting opinion). Until today, "the admissions or confessions of the prisoner, when voluntarily and freely made, have always ranked high in the scale of incriminating evidence." *Brown* v. *Walker,* 161 U.S. 591, 596; see also *Hopt.* v. *Utah,* 110 U.S. 574, 584–585. Particularly when corroborated, as where the police have confirmed the accused's disclosure of the hiding place of implements or fruits of the crime, such confessions have the highest reliability and significantly contribute to the certitude with which we may believe the accused is guilty. Moreover, it is by no means certain that the process of confessing is injurious to the accused. To the contrary it may provide psychological relief and enhance the prospects for rehabilitation.

This is not to say that the value of respect for the inviolability of the accused's individual personality should be accorded no weight or that all confessions should be indiscriminately admitted. This Court has long read the Constitution to proscribe compelled confessions, a salutory rule from which there should be no retreat. But I see no sound basis, factual or otherwise, and the Court gives none, for concluding that the present rule against the receipt of coerced confessions is inadequate for the task of sorting out inadmissible evidence and must be replaced by the *per se* rule which is now imposed. Even if the new concept can be said to have advantages of some sort over the present law, they are far outweighed by its likely undesirable impact on other very relevant and important interests.

The most basic function of any government is to provide for the security of the individual and of his property. *Lanzetta* v. *New Jersey,* 306 U.S. 451, 455. These ends of society are served by the criminal laws which for the most part are aimed at the prevention of crime. Without the reasonably effective performance of the task of preventing private violence and retaliation, it is idle to talk about human dignity and civilized values.

The modes by which the criminal laws serve the interest in general security are many. First the murderer who has taken the life of another is removed from the streets, deprived of his liberty and thereby prevented from repeating his offense. In view of the statistics on recidivism in this country [4] and of the number of instances in which apprehension occurs only after repeated offenses, no one can sensibly claim that this aspect of the criminal law does not prevent crime or contribute significantly to the personal security of the ordinary citizen.

Secondly, the swift and sure apprehension of those who refuse to respect the personal security and dignity of their neighbor unquestionably has its impact on others who might be similarly tempted. That the criminal law is wholly or partly ineffective with a segment of the population or with many of those who have been apprehended and convicted is a very faulty basis for concluding that it is not effective with respect to the great bulk of our citizens or for thinking that without the criminal laws, or in the absence of their enforcement, there would be no increase in crime. Arguments of this nature are not borne out by any kind of reliable evidence that I have seen to this date.

Thirdly, the law concerns itself with those whom it has confined. The hope and aim of modern penalogy, fortunately, is as soon as possible to return the convict to society a better and more law-abiding man than when he entered. Sometimes there is success, sometimes failure. But at least the effort is made, and it should be made to the very maximum extent of our present and future capabilities.

The rule announced today will measurably

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[4] Precise statistics on the extent of recidivism are unavailable, in part because not all crimes are solved and in part because criminal records of convictions of different jurisdictions are not brought together by a central data collection agency. Beginning in 1963, however, the Federal Bureau of Investigation began collating data on "Careers in Crime," which it publishes in its Uniform Crime Reports. Of 192,869 offenders processed in 1963 and 1964, 76% had a prior arrest record on some charge. Over a period of 10 years the group had accumulated 434,000 charges. FBI, Uniform Crime Reports—1964, 27–28. In 1963 and 1964 between 23% and 25% of all offenders sentenced in 88 federal district courts (excluding the District Court for the District of Columbia) whose criminal records were reported had previously been sentenced to a term of imprisonment of 13 months or more. Approximately an additional 40% had a prior record less than prison (juvenile record, probation record, etc.). Administrative Office of the United States Courts, Federal Offenders in the United States District Courts: 1964, x, 36 (hereinafter cited as Federal Offenders: 1964); Administrative Office of the United States Courts, Federal Offenders in the United States District Courts: 1963, 25–27 (hereinafter cited as Federal Offenders: 1963). During the same two years in the District Court for the District of Columbia between 28% and 35% of those sentenced had prior prison records and from 37% to 40% had a prior record less than prison. Federal Offenders: 1964, xii, 64, 66; Administrative Office of the United States Courts, Federal Offenders in the United States District Court for the District of Columbia: 1963, 8, 10 (hereinafter cited as District of Columbia Offenders: 1963).

A similar picture is obtained if one looks at the subsequent records of those released from confinement. In 1964, 12.3% of persons on federal probation had their probation revoked because of the commission of major violations (defined as one in which the probationer has been committed to imprisonment for a period of 90 days or more, been placed on probation for over one year on a new offense, or has absconded with felony charges outstanding). Twenty-three and two-tenths percent of parolees and 16.9% of those who had been mandatorily released after service of a portion of their sentence likewise committed major violations. Reports of the Proceedings of the Judicial Conference of the United States and Annual Report of the Director of the Administrative Office of the United States Courts: 1965, 138. See also Mandel et al., Recidivism Studied and Defined, 56 J. of Crim. L., C. & P. S. 59 (1965) (within five years of release 62.33% of sample had committed offenses placing them in recidivist category).

weaken the ability of the criminal law to perform in these tasks. It is a deliberate calculus to prevent interrogations, to reduce the incidence of confessions and pleas of guilty and to increase the number of trials.[5] Criminal trials, no matter how efficient the police are, are not sure bets for the prosecution, nor should they be if the evidence is not forthcoming. Under the present law, the prosecution fails to prove its case in about 30% of the criminal cases actually tried in the federal courts. See Federal Offenders: 1964, *supra,* note 4, at 6 (Table 4), 59 (Table 1); Federal Offenders: 1963, *supra,* note 4, at 5 (Table 3); District of Columbia Offenders: 1963, *supra,* note 4, at 2 (Table 1). But it is something else again to remove from the ordinary criminal case all those confessions which heretofore have been held to be free and voluntary acts of the accused and to thus establish a new constitutional barrier to the ascertainment of truth by the judicial process. There is, in my view, every reason to believe that a good many criminal defendants, who otherwise would have been convicted on what this Court has previously thought to be the most satisfactory kind of evidence, will now, under this new version of the Fifth Amendment, either not be tried at all or acquitted if the State's evidence, minus the confession, is put to the test of litigation.

I have no desire whatsoever to share the responsibility for any such impact on the present criminal process.

In some unknown number of cases the Court's rule will return a killer, a rapist or other criminal to the streets and to the environment which produced him, to repeat his crime whenever it pleases him. As a consequence, there will not be a gain, but a loss, in human dignity. The real concern is not the unfortunate consequences of this new decision on the criminal law as an abstract, disembodied series of authoritative proscriptions, but the impact on those who rely on the public authority for protection and who without it can only engage in violent self-help with guns, knives and the help of their neighbors similarly inclined. There is, of course, a saving factor: the next victims are uncertain, unnamed and unrepresented in this case.

Nor can this decision do other than have a corrosive effect on the criminal law as an effective device to prevent crime. A major component in its effectiveness in this regard is its swift and sure enforcement. The easier it is to get away with rape and murder, the less the deterrent effect on those who are inclined to attempt it. This is still good common sense. If it were not, we should posthaste liquidate the whole law enforcement establishment as a useless, misguided effort to control human conduct.

And what about the accused who has confessed or would confess in response to simple, noncoercive questioning and whose guilt could not otherwise be proved? Is it so clear that release is the best thing for him in every case? Has it so unquestionably been resolved that in each and every case it would be better for him not to confess and to return to his environment with no attempt whatsoever to help him? I think not. It may well be that in many cases it will be no less than a callous disregard for his own welfare as well as for the interests of his next victim.

There is another aspect to the effect of the Court's rule on the person whom the police have arrested on probable cause. The fact is that he may not be guilty at all and may be able to extricate himself quickly and simply if he were told the circumstances of his arrest and were asked to explain. This effort, and his release, must now await the hiring of a lawyer or his appointment by the court, consultation with counsel and then a session with the police or the prosecutor. Similarly, where probable cause exists to arrest several suspects, as where the body of the victim is discovered in a house having several residents, see *Johnson* v. *State,* 238 Md. 140, 207 A. 2d 643 (1965), pet. for cert. pending No. 274 Misc. O. T. 1965, it will often be true that a suspect may be cleared only through the results of interrogation of other suspects. Here too the release of the innocent may be delayed by the Court's rule.

Much of the trouble with the Court's new rule is that it will operate indiscriminately in all criminal cases, regardless of the severity of the crime or the circumstances involved. It applies to every defendant, whether the professional criminal or one committing a crime of momentary passion who is not part and parcel of organized crime. It will slow down the investigation and the apprehension of confederates in those cases where time is of the essence, such as kidnaping, see *Brinegar* v. *United States,* 338 U.S. 160, 183 (Jackson, J., dissenting); *People* v. *Modesto,* 398 P. 2d 753, 759, 42 Cal. Rptr. 417, 423 (1965), those involving the national security, see *Drummond* v. *United States,* 354 F. 2d 132, 147 (C.A. 2d Cir. 1965)) (*en banc*) (espionage case), pet. for cert. pending No. 1203 Misc. O. T. 1965; cf. *Gessner* v. *United States,* 354 F. 2d 726, 730, n. 10 (C.A. 10th Cir. 1965) (upholding, in espionage case, trial ruling that Government need not submit classified portions of interrogation transcript), and some organized crime situations. In the latter context the lawyer who arrives may also be the lawyer for the defendants' colleagues and can be relied upon to insure that no breach of the organization's security takes place even though the accused may feel that the best thing he can do is to cooperate.

At the same time, the Court's *per se* approach may not be justified on the ground that it provides a "bright line" permitting the authorities to judge in advance whether interrogation may safely be pursued without jeopardizing the admissibility of any information obtained as a consequence. Nor can it be claimed that judicial time and effort, assuming that is a relevant consideration will be conserved because of the ease of application of the new rule. Today's decision leaves open such questions as whether the accused was in custody, whether his statements were spontaneous or the product of interrogation, whether the accused has effectively waived his rights, and whether nontestimonial evidence introduced at trial is the fruit of statements made during a prohibited interrogation, all of which are certain to prove productive of uncertainty during investigation and litigation during prosecution. For all these reasons, if further restrictions on police interrogation are desirable at this time, a more flexible approach makes much more sense than the Court's constitutional straitjacket which forecloses more discriminating treatment by legislative or rule-making pronouncements.

Applying the traditional standards to the cases before the Court, I would hold these confessions voluntary. I would therefore affirm in Nos. 759, 760, and 761 and reverse in No. 584.

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[5] Eighty-eight federal district courts (excluding the District Court for the District of Columbia) disposed of the cases of 33,381 criminal defendants in 1964. Only 12.5% of those cases were actually tried. Of the remaining cases, 89.9% were terminated by convictions upon pleas of guilty and 10.1% were dismissed. Stated differently, approximately 90% of all convictions resulted from guilty pleas. Federal Offenders: 1964, *supra,* note 4, 3–6. In the District Court for the District of Columbia a higher percentage, 27%, went to trial, and the defendant pleaded guilty in approximately 78% of the cases terminated prior to trial. *Id.,* at 58–59. No reliable statistics are available concerning the percentage of cases in which guilty pleas are induced because of the existence of a confession or of physical evidence unearthed as a result of a confession. Undoubtedly the number of such cases is substantial.

Perhaps of equal significance is the number of instances of known crimes which are not solved. In 1964, only 388,946, or 23.9% of 1,626,574 serious known offenses were cleared. The clearance rate ranged from 89.8% for homicides to 18.7% for larcency. FBI, Uniform Crime Reports—1964, 20–22, 101. Those who would replace interrogation as an investigatorial tool by modern scientific investigation techniques significantly overestimate the effectiveness of present procedures, even when interrogation is included.

Mr. ERVIN. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. ERVIN. I should like to ask the Senator from Arkansas if the Supreme Court was not composed of nine members at the time the Miranda decision was handed down.

Mr. McCLELLAN. The Senator is correct.

Mr. ERVIN. I should like to ask the Senator from Arkansas if four of the members of the Court did not take the position which the Senator from Arkansas holds, and which I hold, that there is nothing in the Constitution to justify the decision of the five other Justices in the Miranda case.

Mr. McCLELLAN. Four of them, and I quoted two of them exactly. Justice Clark said that the majority fashioned the rule. If it had to fashion something, it did not exist before. It was not there. Justice White said they "incorporated" a constitutional provision. It was not there. It had not been there before. The Court had not found it there before. Before that, the Court had said it was not there.

So this is simply an instrumentality; an idea, a whim of five members of the Court, and it should not be given any more dignity than that.

Mr. ERVIN. I ask the Senator from Arkansas if a third Justice, Justice John M. Harlan, did not say that the decision of the five Justices in the Miranda case represented poor constitutional law and threatened injury to the country?

Mr. McCLELLAN. He did. I can say that we are seeing the effects of it. Crime is up 16 percent over last year. Look at the situation in New York. Did the Senator see this morning's issue of the New York Times? Crime in New York City was up 24.9 percent in March of this year, compared with last year.

Are we going to do anything about it? Do we have any courage? Are we intimidated? This is the age of intimidation, Mr. President. We do it by force; we do it by threats; we intimidate. Are we intimidated here? Are we afraid to measure up and meet this challenge?

Mr. ERVIN. I ask the Senator from Arkansas if he does not agree with the Senator from North Carolina that Members of the Senate who believe that self-confessed murderers, rapists, robbers, arsonists, burglars, and thieves, ought to go unwhipped of justice ought to oppose this bill?

Mr. McCLELLAN. If I were in sympathy with the criminals, I would vote against the bill. I suppose anyone else

would, if he felt that way. That does not mean that people cannot have an honest difference of opinion about these issues. But I am speaking of the consequences. There will not be a great dissent about what the consequences are. The record is too plain. The record of what is happening in this country is irrefutable. One may disagree about some technicality, but the conditions that prevail today and what is contributing to them cannot be refuted.

Mr. ERVIN. I ask the Senator from Arkansas if the Subcommittee on Criminal Laws and Procedures, of which he is the chairman, did not conduct investigations in respect to the incidence of crime in the United States, and, in so doing, did not take the testimony of prosecuting attorneys, State and Federal judges, law-enforcement officers, and others, during the course of its inquiry?

Mr. McCLELLAN. We did. And I say to the distinguished Senator that the testimony is overwhelming in support of these provisions.

No one was denied—no Senator, no one was denied—the right to appear before that subcommittee and contest or protest or present reasons or arguments why these provisions should not be in the bill. Everybody was given an opportunity.

Mr. ERVIN. Mr. President, I would like to ask the Senator from Arkansas if the district attorney of Baltimore did not appear before the subcommittee and testify under oath that as a result of the decision in the Miranda case he had to dismiss prosecutions against men for serious crimes like murder in a number of cases.

Mr. McCLELLAN. As I recall, the number of cases ran into the hundreds. He testified very forcefully a year ago on the impact at that time; and it was only 7 or 8 months after the decision in Miranda had been rendered that he testified.

Mr. ERVIN. Does not the Senator from Arkansas recall that the Senator from North Carolina asked a number of witnesses during those hearings their opinions as to the percentage of persons committing serious crimes who did not already know that they did not have to say anything and did not already know that whatever they said that was derogatory could be used against them, and did not already know that they had a right under the law to have counsel before answering any questions?

Mr. McCLELLAN. Practically everybody knows that.

Mr. ERVIN. And I wish to ask the Senator if practically all the witnesses to whom that question was addressed did not respond that in their opinion virtually all those who commit serious crimes already know these things?

Mr. McCLELLAN. The Senator is correct.

I wish to point out one matter in connection with this rule. Every Member of this body who is a lawyer knows that if it should ever occur that one is arrested for a serious crime under circumstances where it could not be proved except by his confession, and a police officer asked him, "What do you know about this crime; did you commit this crime; where were you when this crime was committed?" and he answered and said, "Yes, I committed the crime; I robbed the fellow, shot the man, or raped the woman, or whatever," they could not get that statement into evidence, only the circumstance—that the crime was committed—and the person could not be prosecuted if he had not been warned, notwithstanding the fact that he might be the Chief Justice of the Supreme Court.

There is no exception under the rule. The person must be warned even if he is the Chief Justice of the United States or he would be entitled to go free under this rule because the policeman had not read him the little ceremony and warned him.

Mr. ERVIN. I wish to ask the Senator from Arkansas if a number of witnesses who appeared before the subcommittee did not testify that as a practical result of the Miranda decision men who had been held on serious charges, were being freed virtually every day, in Federal and State courts throughout this land simply because the arresting officer had not told them something they already knew?

Mr. McCLELLAN. The Senator is absolutely correct. That is why I am saying that this rigid rule makes neither rhyme nor reason; it cannot be sustained by logic. A trial court and a jury should be permitted to consider the circumstances, weigh them, and determine whether a confession is voluntary or coerced. That was the law of the land all these years. It was constitutional and when it was challenged, the challenge was repelled by the courts and by the Supreme Court. It is only in this period of a mounting high crime rate in this country that we find the Supreme Court weakening to the point of overruling and abrogating the law of the land as it had been all these years. To whose benefit is that happening? Oh, they say it is to the benefit of someone's civil rights or someone's personal liberties.

If everyone is to have all the liberty they want in this country without any obligation, our society will return to barbarism. It cannot escape it. With liberty there must be restraint and with citizenship there must be obligation. Take away restraint and take away the obligation and a civilized society cannot survive. Those things go hand in hand.

Mr. ERVIN. I wish to ask the Senator from Arkansas if the freedom which is given by the Miranda decision is not the freedom of a man to be exempt from punishment for a crime which he himself voluntarily confessed he committed?

Mr. McCLELLAN. The Senator is correct. I shall go into the Miranda case in full later. However, in the Miranda decison, the very case we are talking about, Miranda was tried a second time. Nine days before he went to trial the second time, after the Supreme Court reversed his case and sent it back, the prosecuting attorney, according to the trial judge's sworn testimony, happened to stumble upon the evidence that Miranda had made the same confession to his common-law wife. She was brought into court and she testified. There is a question as to whether a common-law wife relationship created a privilege that she could claim or he could claim that she would not be permitted to testify against him, which would be true if she were his lawful wife. That question is going to the Supreme Court.

However, in the meantime, the attorneys for Miranda in that trial made a motion to deny her the right to testify and they made a motion to quash her evidence.

Miranda testified himself in chambers under oath that he did rape the woman. The Supreme Court turned him loose. He testified himself under oath in chambers that he did rape the woman. The jury did not know that. It was not before the jury. They had convicted him on the testimony of the common-law wife. Mr. President, can you imagine the humiliation and the embarrassment of a jury had it been required under an instructed verdict to turn him loose and then learn the minute they were discharged as jurors in this case the horrible truth that the man himself had an hour or two before under his own oath admitted that he had raped the girl?

Is that justice in America? These are things Senators must be thinking about as we decide whether we are going to have the courage to vote for legislation in an attempt to do something with these self-confessed rapists and murderers that the Court is now disposed to turn loose.

Mr. ERVIN. I wish to ask the Senator from Arkansas if the record in the Miranda case did not show that this girl had been kidnaped and raped; that Miranda was arrested and taken to the police station; that no physical force was exerted against him; that after he sat in the police station for perhaps 2 hours or some such time he voluntarily confessed that he was the man who abducted and raped the girl; that after he made an oral voluntary confession to that effect he was given a pencil and paper and asked to write out what had happened at the time of the crime; and that he took the paper and pencil and wrote out what had happened; and that despite these things when the case came before it, the Supreme Court said it was not competent for that evidence to be considered by the jury because Miranda had not been told that he did not have to say anything or that anything he might say could be used against him or that he had a right to a lawyer before saying anything.

Mr. McCLELLAN. The Senator is correct. There is not a scintilla of evidence that he was intimidated or coerced or that any attempt was made to do so by officers who had him in custody.

Mr. ERVIN. I should like to ask the Senator from Arkansas, if the five Judges who joined in the decision that the evidence in the Miranda case had to be excluded by the Constitution did not place their decision upon the words in the fifth amendment, which provide that "nor shall any person be compelled in any criminal case to be a witness against himself"——

Mr. McCLELLAN. The word in the Constitution is "compelled." That is, in effect, tantamount to ruling that if one asks a question, it is compulsory.

Mr. ERVIN. I should like to ask the Senator from Arkansas how any person who believes in giving words of the English language their obvious meaning can say that the provision in the Constitution relating only to compelled testimony can have any possible relationship to a voluntary confession.

Mr. McCLELLAN. Well, it never had until the Supreme Court, in its great "wisdom," decided that the word "compelled" included a voluntary confession.

Mr. ERVIN. I should like to ask the Senator from Arkansas if the words of the fifth amendment which I have just quoted did not become part of the Constitution on the 15th day of June 1790, and that from the 15th day of June 1790, down to the 13th day of June 1966, a period of 176 years, if, every time this question came before it, the Supreme Court of the United States, did not hold that the words had no application whatsoever to a voluntary confession.

Mr. McCLELLAN. It has repeatedly so held. As recently as 3 years before it made its ruling in the Miranda case. It again affirmed its previous rulings in those cases to that effect.

Mr. ERVIN. I should like to ask the Senator from Arkansas if the majority opinion in the Miranda case did not, on at least two occasions use these or similar words in respect to the formula which it laid down for officers to put to suspects, referring to that formula as "requirements we enumerate today"—that is June 13, 1966.

Mr. McCLELLAN. The Senator is correct.

Mr. ERVIN. Does not the Senator from Arkansas agree with the Senator from North Carolina that that constituted a voluntary confession on the part of the five Supreme Court Justices who joined in the opinion that they were then amending the Constitution instead of interpreting it?

Mr. McCLELLAN. I do not think there can be any possible question but that they did. In effect, if their ruling can be sustained, it amends the Constitution. That is a power not conferred upon the Supreme Court by the Constitution. Therefore, their act constituted a usurpation of power, a power reserved only to the people to amend the Constitution.

Mr. ERVIN. I should like to ask the Senator from Arkansas if a short time afterwards the five Justices who concurred in the majority opinion in the Miranda case did not join in an opinion in the case of Johnson against New Jersey, in which they held that the decision in the Miranda case and the interpretation they allegedly placed upon the Constitution in that case had no application to criminal cases arising before the date of the occurrence of the Miranda case.

Mr. McCLELLAN. In other words, they held that it became the law of the land the day they made the ruling, and that it had not been the law of the land prior to that time. That is an acknowledgement on their part and a confession, in my judgment—because it cannot be construed otherwise—that they themselves did amend the Constitution by that decision.

Mr. ERVIN. Since there was no compulsion on the Supreme Court to make that kind of confession in Johnson against New Jersey, did it not amount to another voluntary confession by the five justices that they had usurped authority to amend the Constitution rather than exercise an authority to interpret it; is that not correct?

Mr. McCLELLAN. That is my interpretation of their action.

Mr. ERVIN. Those same words had been in the Constitution at that time for 176 years. There had been no change whatever during that 176 years in the language employed in the Constitution.

Mr. McCLELLAN. As I said a while ago—I do not know whether the Senator was in the Chamber at the time—the Constitution did not change. Right and wrong did not change. Truth and falsehood did not change. Only the Supreme Court changed on that day.

Mr. ERVIN. I heard the Senator from Arkansas make that statement, a statement as true and as eloquent as can be made on the subject.

I should like to ask the Senator from Arkansas another question and invite his attention to one other point. The Senator referred awhile ago to an article published in the New York Times today which reported the great increase in major crimes in the city of New York.

I invite the attention of the Senator from Arkansas to this part of the article:

> The increase in murders and non-negligent murders rose 39 percent over March 1967. The number of major crimes reported for the first three months of the year was 105,368, an increase of more than 18 percent over the 87,195 committed in the three months ending March 31, 1967.

That is a stupendous rise in the crime rate in America's largest city, it seems to me.

Mr. McCLELLAN. There has been a rise in the crime rate in the District of Columbia that is somewhat comparable—I am not sure, I saw the figures somewhere—but that may be a little above the average for the Nation.

However, the crime rate is still rising in this country at such a rapid pace that it cannot continue that course, and there must be a reversal; there must be an arrest to the trend; otherwise, there will be social chaos and no one will be safe anywhere in this land. Most Americans are hardly safe today.

Who feels safe to walk the streets of Washington today?

Who feels safe to walk the streets of New York today?

Who feels safe to walk the streets of Indianapolis or anywhere else in this country today?

Who feels safe to do so? Oh, perhaps in one or two neighborhoods, but there are many more neighborhoods in almost every major city where no one feels safe to walk the streets, and no one does.

We call this the safe streets bill. It originated with the President of the United States as a safe streets bill.

The way to make the streets safe is to put the criminal in the penitentiary, where he belongs, and keep him off the streets. We will not make our streets safe and they cannot be kept safe by turning loose the Mirandas, the Mallorys, the Killoughs, and the Escobedos. We cannot keep our streets safe when that element is running at large.

And who is responsible for that?

No matter how guilty, the police have got to turn them loose.

That is ridiculous. It is absurdity in the extreme.

Mr. ERVIN. I should like to ask the Senator from Arkansas, to what avail would it be to spend $100 million or $500 million to train officers of the law if artificial rules adopted by the Supreme Court will prevent them from testifying after they have been trained?

Mr. McCLELLAN. Cannot the Senator imagine the consternation of prosecuting attorneys, policemen, and judges who conscientiously and in good faith are dedicated to their duties and perform their duties to the best of their ability under the law of the land, and who have done so for over 100 years, in order to meet every constitutional requirement and then have the Supreme Court say, "Well, we have decided that we should have some amendments to the Constitution. We are going to say what constitutes the law. We will require this and we will require that, and we will turn loose the man you have arrested."

I can have some understanding of the frustrations that a dedicated policeman must feel who risked his life to go out and arrest and bring to the bar of justice one of the habitual, self-confessed, violent criminals and then have the Supreme Court of the United States slap him in the face, although he did his duty under the law of the land as of the hour he did it, and the Court says, "Well, we have decided to change the law of the land. We are going to turn your man loose," and not just say it, but do it.

I say to you, Mr. President, this is serious. The Nation cannot survive; law and order will perish if this trend is not stopped. Nobody wants to criticize the Court. I want to have every respect for the Supreme Court as a tribunal. I do respect it as established by the Constitution. But I cannot agree with, and I cannot acquiesce in, and I cannot condone, and I must oppose and try to rectify, the distorted constructions that the present-day Court is placing upon the Constitution. I must do it as a matter of duty in the position I occupy.

During the consideration of this bill, I will have an opportunity, as will every other Senator in this body, to stand up and be counted on the question: "Do you favor turning the guilty loose, or are you going to stand for law and order and protect womanhood and decent citizenship in America and truly make our streets safe?" Or are we going down this road? I do not intend to travel it with my vote.

Mr. ERVIN. Mr. President, I want to thank the Senator from Arkansas for his generosity in yielding to me for questions and to say that I agree with the Senator from Arkansas in the proposition that enough has been done for those who murder and rape and rob; it is time for Congress to do something for those who do not wish to be murdered or raped or robbed.

Mr. McCLELLAN. I thank my colleague, who is a member of the subcom-

mittee that processed the bill, and who has worked so faithfully, diligently, and constructively in helping us bring to the floor of the Senate a bill that will do something for law enforcement—not just spend money. We are going to do that. We are going to try to support our policemen and give them better training. We are going to do that. But, Mr. President, spending money will not alone do the job. It will not do the job if all we can do is appropriate $5 or $10 billion. Spending the taxpayers' money is not going to do the job unless some character, wisdom, and courage are exercised by those who have the responsibility for enforcing the law.

Mr. HRUSKA. Mr. President, will the Senator yield?

Mr. McCLELLAN. I yield.

Mr. HRUSKA. Before I propound a few questions to the distinguished Senator from Arkansas I should like to observe that there are many Law Day programs and observations being held all over the land this week. It happens that the Senator from Arkansas was committed to go to Omaha, my home city, for the purpose of speaking, but he was unable to go because of the pending bill. I would find it difficult to envision a more suitable, better-stated, and more effective observance for Law Day than the statement the Senator from Arkansas has made in the Chamber today. It is in keeping with his studious and scholarly approach to the subject, which he has presented with logic and persuasiveness. I know the statement will not be wasted on those who read the RECORD. It is very convincing.

I wish to address a few questions to the Senator with regard to title III. There seems to be some misapprehension as to its objectives, provisions, and operation. I have an idea this concern comes about because of the propensity of too many people to consider things by labels. It is doctrinaire to say that wiretapping will bring in 1968 what George Orwell wrote about 1984; namely, that every movement, every act, every comment of every citizen will be known to Big Brother. This title does not work that way.

I wish to ask the Senator if it is true that the Supreme Court, in two decisions last year, the Berger case in New York and the Katz case in California, declared wiretapping and electronic surveillance unconstitutional.

Mr. McCLELLAN. The Senator is referring to the Berger case and the Katz case?

Mr. HRUSKA. Yes. Did the Supreme Court hold electronic surveillance and wiretapping unconstitutional per se?

Mr. McCLELLAN. The Court did not outlaw wiretapping. On the contrary, the Court clearly indicated it could be done constitutionally under proper guidelines and supervision by a court.

Mr. HRUSKA. In the Berger case is it not true the Court held that the New York statute did not comply with the requirements which the Supreme Court thought necessary in order to abide by constitutional commands?

Mr. McCLELLAN. They felt that statute in some respects was not as restrictive as it should be and did not require some test and some procedures that they felt were essential. The statute we propose here is much stricter than the New York statute. It would come within the purview of the Katz case and the Berger case. Even under statute which would be more susceptible to more abuses than this statute, New York operated for 20 years and then had a 5-year investigation, a legislative investigation, of the way in which the law was administered and the charges of abuse, and they found none.

I highly commend the law-enforcement officers and prosecuting attorneys and the courts for the sparing way, the judicious way, and the fair way they have administered that law.

The proposal before us today is more strict, there are more requirements, and it is more difficult to meet the test to get the order than it was in New York.

Some people say, "Law-enforcement officers would be snooping in on some fellow making a date with his sweetheart." My goodness, who cares about that? One can walk on the streets today and see all the lovemaking he wants.

I say they will not snoop. There is no necessity for them to do it. I am sure our officers will not spend their time doing that. If we do not have any more confidence in the integrity of the police establishment of this Nation, the prosecuting attorneys, and our courts than to refer to them as being untrustworthy in a matter of this responsibility, then, I say there is no way to save this society if it is that far gone. Neither law nor anything else that we can do in this body will stay its doom.

Mr. HRUSKA. Is it not true that title III of the bill is based upon, and analogous to the law on searches and seizures? As I remember it, the only command of the Constitution is that search and seizures shall not be unreasonable. The Court has departed from there and has had any number of decisions on which interpretations have been made holding that this procedure is reasonable or that procedure is not reasonable.

Mr. McCLELLAN. Under this bill, it first must be authorized at the Federal level by the chief prosecutor, the Attorney General of the United States or by a State attorney general at the State level. Then the police, or the prosecuting attorney, must go before a court and make a showing that they are not able to get evidence by other means, or by investigation, or that it is too dangerous to attempt it. Then the court still has jurisdiction to determine whether the evidence is worthwhile, whether the crime is of that importance, and whether there is a presentation of the likelihood of such crime sufficient to justify the court in issuing an order.

There is every legitimate restraint that should be placed on it, if is to function and be an effective instrument.

Mr. HRUSKA. Including a strict time limitation, an inventory and reporting of all the acts done pursuant to the court order back to the authorizing court; is that not correct?

Mr. McCLELLAN. That is correct. Not only that, but records are to be kept and a report to Congress made as to how it operates throughout the land. We will have a chance to review it. Every safeguard that is practical and necessary to protect the legitimate rights of privacy is incorporated in the bill. The committee took guidance from the Supreme Court decisions and had the wisdom to ferret out, construct it, and make it a part of the provisions of this title. They are all in there.

Every member of the committee is just as concerned for the integrity of use of the instrumentality as is those who may oppose it. We do not want the loose or promiscuous use of this power. We want it under strict court supervision. We do not want to deny to law-enforcement officers the use of the very same weapon or instrumentality to detect crime and apprehend the criminal that is being used by the criminal to organize his forces and to serve himself in violating the law and committing crimes.

Mr. HRUSKA. I am sure that the Senator from Arkansas has the same convictions about the very valuable constitutional right which the right of privacy constitutes. But, is it not true that the right of privacy, as every other constitutional right, is not an absolute right? There are instances where we must give way. For example, the search of homes or residences under a writ of search and seizure means that we lose the sanctity of the home. But that right is not absolute any more than the right of privacy is absolute; is that not true?

Mr. McCLELLAN. That is absolutely true. Again I say, and I want to say it for the RECORD for the benefit of those who oppose title III in the bill as being character snooping, which they are complaining about; they say it is a bill to permit officers to do just that, and that it is also an invasion of privacy, which they complain about, and which they say the bill would permit, is being done today by criminals with absolute impunity. There is no law under which we can convict them for doing that, because the law today requires that we not only have to prove the interception of the conversation but also have to prove that they disclosed it.

The one who wants to make use of it, who wants to indulge in listening to gossip between man and wife, or between sweethearts, girlfriends and their boyfriends, can do it today and get satisfaction in their depraved attitude and state of mind with absolute impunity, because we cannot prosecute them or convict them unless we are able to prove that after listening to them, they went somewhere and talked about it to someone else.

Mr. HRUSKA. As a matter of fact, when former Attorney General Katzenbach appeared before the committee, he described the situation that we have now as being worse than no law at all, did he not?

Mr. McCLELLAN. He did.

Mr. HRUSKA. Because it does not have any legal prohibition nor any sanction for the employment of wiretapping surveillance, is that not correct?

Mr. McCLELLAN. Yes. It does not deal with it. It is completely impotent.

Mr. HRUSKA. I want to thank the Senator very much for his responses to my questions.

Mr. President, for the benefit of the

Members of the Senate I quote from the 1966 hearing record when Mr. Katzenbach testified before the Criminal Laws Subcommittee. He said:

I agree with my predecessor that the present law regarding wiretapping is intolerable. In fact, I would go so far to state that it would be difficult to devise a law more totally unsatisfactory in its consequences than that which has evolved from section 605.

First, it adequately protects the privacy of no one. To prosecute successfully, the Government now must prove both interception and disclosure. Under these circumstances there is a good deal of illicit wiretapping. Estimates as to how much vary greatly, but since the technique is relatively simple, it is safe to assume that considerable private tapping goes on.

Second, under present law, use of wiretapping for potentially justifiable prosecutive purposes is impossible. A number of State laws authorize wiretapping by police officials under certain circumstances and procedures. But the Federal law has been interpreted by the courts to prevent the use of this information in a criminal prosecution.

Mr. McCLELLAN. I want to thank the distinguished Senator from Nebraska for the very valuable assistance he has given as a member of the subcommittee, and for the contribution he has made to the development of the legislation now pending before the Senate. Without his assistance, we might still be somewhere in the jungle trying to get out of the wilderness. He has made a splendid contribution and I know that every other member of the committee and every Member of the Senate is indebted to him for his labors on behalf of the bill.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had passed a bill (H.R. 15190) to amend sections 3 and 4 of the act approved September 22, 1964 (78 Stat. 990), providing for an investigation and study to determine a site for the construction of a sea-level canal connecting the Atlantic and Pacific Oceans, in which it requested the concurrence of the Senate.

## HOUSE BILL REFERRED

The bill (H.R. 15190) to amend sections 3 and 4 of the act approved September 22, 1964 (78 Stat. 990), providing for an investigation and study to determine a site for the construction of a sea-level canal connecting the Atlantic and Pacific Oceans, was read twice by its title and referred to the Committee on Commerce.

## OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. HRUSKA. Mr. President, the bill before us represents the culmination of efforts expended over a long period of time, as much as several years in some of its aspects.

The fact that it is now pending before the Senate in its present form is eloquent testimony to the leadership and experience of the chairman of the Subcommittee on Criminal Laws and Procedures, the senior Senator from Arkansas [Mr. McCLELLAN].

Reflected in this measure are his seasoned knowledge of American jurisprudence, his patience, and his tenacity. With all of these, Mr. President, must be listed his never-failing courtesy and understanding.

Senator McCLELLAN is to be warmly commended by all of us, and I wish to express my personal appreciation for the many courtesies and continuing assistance he has extended throughout the long sessions and negotiations which led to the bill now before the Senate.

The clearest evidence of the leadership of the Senator from Arkansas lies in this fact: The bill, as originally proposed and submitted, contained one title; namely, law enforcement assistance. It was not a comprehensive measure even on that subject. It now contains three additional titles dealing with procedures, admissibility, and competence of certain evidence in criminal cases; wiretapping and electronic surveillance; and regulation of commerce in firearms. Further, the scope of title I was greatly expanded.

The inclusion of the additional titles occurred because of the clear necessity to take strong, affirmative action in these areas as a part of congressional response to the continuing deterioration of effective law enforcement in the Nation in recent years.

Each of the titles has been thoroughly processed. Complete and competent testimony from authoritative sources was taken.

The nature and scope of the problems and the need for remedial legislation are not too difficult to understand. This is clearly demonstrated by the fact that there has been substantial agreement in the Judiciary Committee on the thrust which should be imparted in each title.

This is not to say that there have not been divergences of views as to specific provisions. The individual and minority views contained in the report bear testimony to this. This is, however, not unusual in committee processes.

I intend to call attention to several examples of these differences as I proceed with my comments on the several titles. In some of these cases, amendments will be proposed at suitable times. My comments on the substance of the measure will be brief because of the splendid discussion by the Senator from Arkansas. However, before proceeding with such comment, I should like to advance some general observations which I believe to be highly pertinent to our consideration of this bill.

### LAW ENFORCEMENT IS A LOCAL RESPONSIBILITY

Law enforcement is primarily and properly a local responsibility. This is quite clear upon consideration of statistics developed by the President's Commission on Law Enforcement and Administration of Justice. An excerpt from a task force report, "The Police," reads:

There are today in the United States 40,000 separate agencies responsible for enforcing laws on the Federal, State, and local levels of government. But law enforcement agencies are not evenly distributed among these three levels, for the function is primarily a concern of local government. There are only 50 law enforcement agencies on the Federal level of government and 200 departments on the State level. The remaining 39,750 agencies are dispersed throughout the many counties, cities, towns, and villages that form our local governments.

In tabular form, the satistics for 1965 with reference to the number of agencies and the full-time personnel for each of those agencies, Federal, State, and local were stated by the task force as follows:

| | *Agencies* | *Full-time personnel* |
|---|---|---|
| Federal | 50 | 23,000 |
| State | 200 | 40,000 |
| Local | 39,750 | 308,000 |

Another way to demonstrate this proposition is found in the report of the Commission where a table of daily average number of inmates in American correctional institutions in 1965, reads:

| | |
|---|---|
| Institutions primarily for adults: | |
| Federal prisons | 20,377 |
| State prisons | 201,220 |
| Local jails and workhouses | 141,303 |
| Total | 362,900 |
| Institutions primarily for juveniles: | |
| Public training schools (including 1247 in federal) | 43,636 |
| Local juvenile institutions | 6,024 |
| Detention homes | 13,113 |
| Total | 62,773 |
| Grand total | 425,673 |

### LAW ENFORCEMENT SHOULD REMAIN A LOCAL RESPONSIBILITY

Inherent in the constitutional structure of the United States is the concept that State and local authorities are expected to assume responsibility for securing peace and order. This is necessarily so from the basic structure of our Government.

President Johnson's February, 1968, message to Congress on crime, states the case very succinctly and well:

The Federal Government must never assume the role of the Nation's policeman. True, the Federal Government has certain direct law enforcement responsibilities. But these are carefully limited to such matters as treason, espionage, counterfeiting, tax evasion and certain interstate crimes.

Crime is essentially a local matter. Police operations—if they are to be effective and responsible—must likewise remain basically local. This is the fundamental premise of our constitutional structure and of our heritage of liberty.

The existing pattern of law enforcement makes it clear that local governments must play the primary role in any effective program to combat crime.

Mr. President, it is this Senator's judgment that in several major instances, the bill transgresses this principle of local responsibility for law enforcement. It does so massively and deliberately in its provisions for administration of the Federal grants under title I for law enforcement assistance, and in title III with regard to imposition on States of certain requirements for such electronic surveillance legislation as any State may want to enact.

It is also true in title IV for regulation of firearms sales, where vast enforcement duties are enjoined upon Federal au-

thorities, and where technical violation of numerous State law or city ordinances would become Federal offenses.

It is my intention to discuss these and other instances in greater detail later in my remarks. Amendments I shall propose for correction of these defects will enable the bill to conform to our law and our history.

Mr. President, it will be my purpose, in more extended remarks on another day, to comment generally on the several titles of the measure. I shall then discuss the substance of and the reasons for several amendments which I intend to offer, or which will probably be offered by others, inasmuch as their intentions have been recorded in individual and minority views included in the committee report.

One series of our amendments will go to title I, and will have to do with the method of disbursement of funds thereunder. The present provision in title I is that the Attorney General, with the assistance of a three-member Law Enforcement Administration, will approve applications and make allocation of funds. Many members of Judiciary Committee strongly feel that this is an error; that it should be done by a system of block grants. Federal financial assistance would be made to States pursuant to comprehensive plans developed by the States themselves. The plans would be approved by the Attorney General or Law Enforcement Administration, as the case may be, after which the State would receive its allocation of funds and make distribution pursuant to its master plan.

In that connection, it is the further observation and judgment of this Senator that this program should be administered by an independent agency, separate and apart from the Attorney General or the Department of Justice.

Mr. President, this is no nominal bill. The present authorization is $100 million. For second full year of operation, it would be $300 million. The Attorney General testified that, by the third year, the program should increase the amount to the level of $1 billion a year.

Many of us have seen enough of direct grants in this Nation, from Washington, D.C., to individual political subdivisions, and in some cases to groups of individuals, whether or not formally organized, to want to add to that list. The present provision amounts to a grant of power to the Attorney General which would be largely discretionary. When the block grant amendments are proposed, it will not be with the idea of furnishing any basis intimation whatsoever of any reflection upon either the ability, the competence, or the integrity of any Attorney General who occupies that office; but simply that it will make for good government. A second amendment will contain a proposal for administration of the program by an independent board of three men to be confirmed by the Senate after having been named by the President.

Then there will be an amendment to delete from the bill the assistance that can be given to various police jurisdictions, either city, State, or county, to supplement policemen's salaries. Policemen's present salary scales are a national disgrace in most jurisdiction.

However, the amount of Federal funds required to be worthwhile money would be tremendous, Mr. President. But the inadvisability of creating a situation where there would be a foundation laid for a national police force must be very carefully considered. On that subject, I shall expand my remarks in due time.

Under title III, wiretapping, the only general comments I would make at this time is that for the last 31-odd years, and until the present incumbent, the Attorneys General of this Nation have favored a bill which would enable law-enforcement officers to tap wires and to have electronic surveillance. Highly placed and very well regarded experts say that it is a needed and effective tool for law enforcement.

I emphasize again that the Supreme Court decisions in Berger against New York and in the Katz case did not declare electric surveillance illegal or unconstitutional.

The decision in the New York case said that the New York statute was deficient in some of the constitutional safeguards necessary by reason of the provisions. Therefore, the invitation was extended, in effect, to have those safeguards inserted.

We have attempted to follow most meticulously the requirements of the Berger and Katz cases in the drafting of title III. It is my honest and deliberate judgment that it will stand the scrutiny of the Supreme Court because in many cases, the language was taken directly from the Supreme Court's opinions.

Title IV deals with regulation of commerce in firearms. It is a slightly different proposal than has been proposed by the administration in the past. As modified by the committee the title prohibits mail-order sales of handguns, but not long guns. However, long guns are dealt with and strictly regulated in many other provisions.

There are several fundamental criticisms which can be rightfully leveled against title IV as it presently exists. I will discuss that in greater detail at a later time.

There are two acts which now deal with commerce in firearms. One is the National Firearms Act of 1934. That is popularly known as the Machinegun Act. It now strictly regulates machineguns and sawed-off rifles and shotguns by Federal registration and transfer taxes on each sale.

The other act was passed in 1938. It is called the Federal Firearms Act. It deals with Federal licensing of manufacturers and dealers and created certain general rules that were laid down in regard to commerce in sporting firearms.

The logical and effective way of approaching the problem would be to amend each of the separate acts. One of them is in title 15. The other is in title 26. That would be the more acceptable way. It would certainly be consistent with the idea of treating separately the sporting firearms as opposed to destructive devices.

There are two bills that have been pending before the Senate for some time. They were introduced by me and were cosponsored by several of our colleagues. One is S. 1853. The other is S. 1854. The first bill, S. 1853, deals with the amendment of the Federal Firearms Act of 1938. The other, S. 1854, deals with the 1934 Machinegun Act. They have been combined into what is now known as amendment No. 708, which I intend to offer as a substitute for title IV of S. 917, the pending measure. The amendment was submitted on April 29.

If enacted, it will be a very strict law. It will be a workable and acceptable law. And it will be an enforceable law, one which will depend for enforcement upon the States and the political subdivisions of the States.

It is my hope that as we develop this debate, we will be joined by others who will see to it that this very troublesome problem will be handled in a way that will, to the maximum extent possible, keep guns out of the hands of the wrong people and at the same time have every regard, consistent with that objective, for the rights of those who have a right to own, possess, and use guns for lawful purposes.

Mr. President, that is the extent of my remarks today. On another day I will go into greater detail and spell out the approach we have developed, which approach is recorded in the individual and minority views of the committee report.

I again emphasize that I wholeheartedly support the declared objectives of each and every one of the titles of the bill. I agree with the Senator from Arkansas that it is a measure that is long overdue. It is a comprehensive measure which can do much to enable our law-enforcement agencies and the administrators of criminal justice to do a much more effective job than has been possible until now.

ADDITIONAL COSPONSORS—AMENDMENT NO. 708

Mr. President, I ask unanimous consent that at the next printing of amendment No. 708, the names of the Senator from Montana [Mr. METCALF], the Senator from North Carolina [Mr. ERVIN], the Senator from Illinois [Mr. DIRKSEN], and the Senator from Colorado [Mr. ALLOTT] be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLELLAN. Mr. President, will the Senator yield?

Mr. HRUSKA. I am happy to yield.

Mr. McCLELLAN. I thank the Senator very much for his complimentary references to my work on the committee, and to the measures which I have tried to sponsor in the field of the crime problem. It is gratifying to me to know that I have the Senator's support, and that we have worked harmoniously together in this very vital task. I hope that we can continue in this effort, with a large measure of success, here on the floor of the Senate. I hope that we can get this measure passed, and that we can get a law that will actually deal with crime, and deal with it effectively, not merely give lipservice; not merely by spending more money, but get a law which will punish the criminal for his crime, take him off the streets, and make our streets safe for our citizens.

Mr. HRUSKA. I thank the Senator.

Mr. ERVIN. Mr. President, will my good friend from Nebraska yield to me for a question?

Mr. HRUSKA. I am happy to yield.

Mr. ERVIN. Will not the Senator from Nebraska agree with the Senator from North Carolina that the recent history of the Federal Government shows that whatever the Federal Government undertakes to subsidize, the executive branch of the Federal Government undertakes to control?

Mr. HRUSKA. I would agree fully. That has been demonstrated many times. They not only try to control, they do control. There is no question about it.

Mr. ERVIN. I ask the Senator from Nebraska if he does not agree with the Senator from North Carolina that if the Federal Government ever undertakes to pay a part of the compensation of State police officers, the Department of Justice will soon thereafter undertake to tell those police officers how they shall perform their duty and what crimes they shall arrest for and what crimes they shall not arrest for?

Mr. HRUSKA. Certainly. Unless they do so, they would be derelict in their duty to see that the money they are paying out will be spent for the purposes specified. That is true.

As to title II, Mr. President, I shall not make further remarks at this time. I doubt that I shall at a later time. The splendid and persuasive presentation by the Senator from Arkansas is quite sufficient.

Mr. President, I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. BYRD of West Virginia. Mr. President, on behalf of the senior Senator from Connecticut [Mr. DODD], I ask unanimous consent that during the further consideration of S. 917, Mr. Carl Perian, Mr. William Mooney, Mr. Robert Perry, and Mr. Richard Crane, members of his staff and of the staff of the Committee on the Judiciary, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL LEGAL SCHOLARS CONDEMN TITLE II OF CRIME BILL, S. 917

Mr. TYDINGS. Mr. President, on April 19 I wrote to law schools across the country calling attention to the provisions of title II of the proposed omnibus crime bill, S. 917, which is now pending before the Senate. Briefly stated, title II purports to overrule the Supreme Court's constitutionally grounded decisions in the Miranda and Wade cases, overrules its decisions in the Mallory case, removes Supreme Court appellate jurisdiction over any State criminal conviction based on confession or eyewitness testimony, and abolishes all State criminal convictions.

In my letter to the law schools, I asked for their views regarding the wisdom and the constitutionality of the provisions of title II. On Monday, April 29, I inserted in the RECORD replies which I had received from 26 law schools, in all parts of the country. These letters appear at page 10888 of the RECORD. I have since received replies from another two law schools. All of the letters I have received—from 28 law schools, signed by 150 legal scholars including 13 law school deans—express a unanimous opinion that title II should not be enacted into law.

The law schools from which I have heard to date are the following:

Boston College Law School, Brighton, Mass.

University of California School of Law at Davis, Calif.

University of California School of Law at Los Angeles, Calif.

California Western University School of Law, San Diego, Calif.

Chase College School of Law, Cincinnati, Ohio.

University of Chicago School of Law, Chicago, Ill.

University of Cincinnati College of Law, Cincinnati, Ohio.

Duke University School of Law, Durham, N.C.

Emory University School of Law, Atlanta, Ga.

Harvard University Law School, Cambridge, Mass.

Loyola University School of Law, Los Angeles, Calif.

University of Maine School of Law, Portland, Maine.

University of Maryland School of Law, Baltimore, Md.

University of Michigan School of Law, Ann Arbor, Mich.

University of Missouri School of Law, Columbia, Mo.

University of New Mexico School of Law, Albuquerque, N. Mex.

University of North Dakota School of Law, Grand Forks, N. Dak.

University of North Carolina, Chapel Hill, N.C.

Northeastern University School of Law, Boston, Mass.

University of Pennsylvania School of Law, Philadelphia, Pa.

University of South Dakota School of Law, Vermillion, S. Dak.

Southern University Law School, Baton Rouge, La.

Stanford University School of Law, Stanford, Calif.

University of Tennessee, Knoxville, Tenn.

University of Tulsa College of Law, Tulsa, Okla.

University of Virginia School of Law, Charlottesville, Va.

West Virginia University College of Law, Morgantown, W. Va.

Yale University School of Law, New Haven, Conn.

I ask unanimous consent that the additional letters which I have received from faculty members at the Harvard University Law School, the University of New Mexico School of Law and from the dean of the University of Virginia School of Law appear at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LAW SCHOOL OF HARVARD UNIVERSITY,
*Cambridge, Mass., April 30, 1968.*

Senator JOSEPH D. TYDINGS,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR TYDINGS: We are writing to urge the Senate to reject Title II of the Omnibus Crime Control and Safe Streets Act of 1968 (S. 917). This Title seems designed to overrule several recent Supreme Court decisions, including *Miranda* v. *Arizona* and *United States* v. *Wade*. The effect of these decisions upon law enforcement is as yet unknown. But, regardless of their merits, we believe that enactment of Title II is not an appropriate way to deal with any problems they may raise.

The language of Title II makes far reaching, and possibly dangerous, changes in the working of our Constitutional system. By limiting the power of the federal courts to review rulings as to the admissibility of confessions and eye-witness testimony in criminal cases, the bill will lead to nonuniform interpretations of the Constitution. And, to see the Constitution applied differently in different places is likely to create disrespect for the law. Moreover, partial elimination of the habeas corpus jurisdiction of all federal courts will either prevent defendants from having questions of federal law determined in a federal forum, or vastly increase the workload and impair the efficiency of the Supreme Court. Finally, for this legislation to attempt by statute either to overturn particular Constitutional rulings, or to restrict the courts' jurisdiction over issues in a case which would be governed by those rulings, raises very serious constitutional problems. The attempt suggests a dangerous tinkering with the delicate check-and-balance system.

If revision of *Miranda* and *Wade* is felt desirable, we believe Congress should accept the Court's suggestion, made in those cases, to enact alternative legislative solutions to the underlying problems involved—the problems of police interrogation, self-incrimination, the need for counsel, the line-up, and eye-witness testimony. We see no reason to believe that these problems—which gave rise to the *Miranda* and *Wade* cases—can be solved merely by removing the courts' jurisdiction to deal with them. Finely tailored, sharply focused solutions, not a broad undiscriminating approach, are called for.

We therefore oppose enactment of Title II.

Yours sincerely,

Richard R. Baxter, Professor of Law; Harold J. Bergman, Professor of Law; Stephen G. Breyer, Assistant Professor of Law; Clark Byse, Professor of Law; David F. Cavers, Fessenden Professor of Law; James H. Chadbourn, Professor of Law; Abram J. Chayes, Professor of Law; Jerome A. Cohen, Professor of Law.

Vern Countryman, Professor of Law; John P. Dawson, Charles Stebbins Fairchild, Professor of Law; Alan M. Dershowitz, Professor of Law; Richard H. Field, Professor of Law; Roger D. Fisher, Professor of Law; Paul A. Freund, Carl M. Loeb University Professor; Charles Fried, Professor of Law; Livingston Hall, Roscoe Pound Professor of Law; Milton Katz, Henry L. Stimson, Professor of Law; Andrew L. Kaufman, Professor of Law; Louis Loss, William Nelson Cromwell, Professor of Law.

John H. Mansfield, Professor of Law; Frank I. Michelman, Professor of Law; Charles R. Nesson, Assistant Professor of Law; Frank E. A. Sander, Professor of Law; David L. Shapiro, Professor of Law; Morgan Shipman, Assistant Professor of Law; Samuel Edmund Thorne, Professor of Legal History; Donald T. Trautman, Professor of Law; Arthur T. von Mehren, Professor of Law; James Vorenberg, Professor of Law; Lloyd L. Weinreb, Assistant Professor of Law; Adam Yarmalinsky, Professor of Law; Albert M. Sachs, Professor of Law; Henry M. Hart, Jr., Dane Professor of Law; Paul M. Bator, Professor of Law; Derek C. Bok, Professor of Law.

LAW SCHOOL OF HARVARD UNIVERSITY,
*Cambridge, Mass., April 30, 1968.*
Senator JOSEPH D. TYDINGS,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR TYDINGS: I am writing to urge the defeat of Title II of the pending crime control bill, which came to my attention in Saturday's press. In my view, three simple points are enough to demonstrate that this is highly unsound legislation.

*First,* it is an exceedingly dangerous precedent for the legislative branch to overturn constitutional decisions of the Supreme Court by curtailing the Court's jurisdiction, as this bill would do in adding proposed Section 3502 to Title 18 of the United States Code. We live in times in which it is increasingly difficult yet increasingly important to maintain the rule of law. I suggest that it would encourage disrespect for law for the Congress to use political power to shut off access to normal judicial process as a method of preventing the enforcement of the Constitution.

*Second,* Congress has laid no foundation for such drastic action. It is not only possible but even probable that Congress could make enormously important contributions to the improvement of the law pertaining to confessions. The *Miranda* case should not be the last word. But as matters stand, an insufficient time has elapsed to perceive the effects of the *Miranda* line of cases, and the Congress has not even conducted a thorough and systematic study of the problems of confessions in criminal cases. All Title II accomplishes is to revive the old rule of voluntariness which, standing alone, has proved demonstrably inadequate to prevent the use of "the third degree" in procuring confessions from suspected criminals. To develop a new rule requires careful factual study of the consequences of the *Miranda* principle and the examination of alternatives. No such groundwork has been layed for the enactment of Title II.

*Third,* proposed Section 3502 of Title 18 of the United States Code is particularly objectionable. The power of the Supreme Court to reverse State convictions under the Fourteenth Amendment may have been employed in highly debatable cases, but it has also been necessary to prevent shocking travesties on justice. For example, in *Ashcraft* v. *Tennessee,* 322 U.S. 143, two defendants were convicted and sentenced to 99 years in the penitentiary almost entirely on the basis of confessions procured by holding them without sleep or rest, under a glaring light, for 36 hours of constant questioning, by teams of lawyers and investigators. In *Brown* v. *Mississippi,* 297 U.S. 278, the confession was obtained by twice hanging the defendant by the neck from a tree limb and then tying him to a tree and beating him until he confessed. The violence and torture in *Chambers* v. *Florida,* 309 U.S. 227 were scarcely less brutal. Ordinarily the State judges are quick to correct such travesties upon civilized justice. Unfortunately, there are exceptional cases in which the only corrective is the Supreme Court of the United States. Proposed Section 3502 lumps all these cases together indiscriminately in curtailing the Court's jurisdiction. The Court's effectiveness in correcting barbarities like *Brown, Chambers,* and *Ashcraft* ultimately depends upon its power to determine for itself whether fundamental rights were denied. I find it impossible to believe that, if the Senators were aware of the probable impact of Title II upon cases like *Brown, Chambers,* and *Ashcraft,* the Senate would vote to cut off Supreme Court review whenever a State court found that the confession was not the product of coercion.

Sincerely,

ARCHIBALD COX.

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LAW SCHOOL OF HARVARD UNIVERSITY,
*Cambridge, Mass., April 29, 1968.*
Senator JOSEPH D. TYDINGS,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR TYDINGS: I write to urge the rejection of Title II of S. 917. Title II has been drafted to overturn a number of Supreme Court decisions, whose development in the law I have been watching since shortly after I began teaching Criminal Law in 1932.

There are objections to Title II of S. 917 which go far beyond the unconstitutionality of some of its sections. They would undo the progress of the past twenty years in rationalizing and improving police practices. They would permit the Federal Government to hold persons for questioning before its own officials in federal cases for long periods of time. They would abandon state prisoners to the vagaries of state court decisions.

We are at long last making progress in the proper and respectable enforcement of the criminal law. I strongly urge you to advocate in the Senate, that the Senate not interfere to undo all the work of the past twenty years of the Federal Courts.

Very truly yours,

LIVINGSTON HALL,
*Roscoe Pound Professor of Law.*

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LAW SCHOOL OF HARVARD UNIVERSITY,
*Cambridge, Mass., April 29, 1968.*
Senator JOSEPH D. TYDINGS,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR TYDINGS: I am writing to urge the Senate to reject Title II of the Omnibus Crime Control and Safe Streets Act of 1968 (S. 917). I share the dissatisfaction of many persons with the decisions of the Supreme Court in Miranda, Wade, and Mallory—at least as Mallory is applied in the courts of the District of Columbia. I also deplore the indiscriminate and destructive use of habeas corpus.

But Title II is a thoroughly indefensible approach to the solution of the problems raised by these cases. The bill seeks to exclude the federal courts from the decision of major constitutional issues. This reverses nearly 200 years of constitutional history. Since the decisions in Cohens v. Virginia and Martin v. Hunters Lessee the jurisdiction of the Supreme Court to determine constitutional issues has been the cornerstone of our federal judicial system. To return the power over these decisions to the courts of our 50 states is an invitation to confusion, conflict, and futility. Furthermore, I doubt that this legislation will hold up in the Supreme Court. The Supreme Court on appeal or certiorari and the district courts in habeas corpus have jurisdiction over *cases* insofar as they involve constitutional issues. Once they have jurisdiction they cannot be forbidden to consider any issue relevant to the disposition of the case.

The proper way to deal with the issues raised by Miranda, Wade, Mallory, and habeas corpus is by legislation directly addressed to matters of criminal procedure. These questions are of the utmost difficulty. I would welcome legislation of that character, but the now proposed legislation is a failure to give these issues the serious consideration to which they are entitled.

Yours sincerely,

LOUIS L. JAFFE,
*Byrne Professor of Administrative Law.*

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CAMBRIDGE, MASS., *April 30, 1968.*
Senator TYDINGS,
*Senate Office Building,*
*Washington, D.C.:*

Urgently hope Senate will reject title two omnibus crime bill unwise and inappropriate to deal with difficult problems of criminal procedure by manipulating courts jurisdiction and endangering delicate balances underlying our separation of powers.

PAUL BATOR,
*Professor of Law,*
*Harvard Law School.*

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ALBUQUERQUE, N. MEX., *April 29, 1968.*
Hon. JOSEPH D. TYDINGS,
*Senate Office Building,*
*Washington, D.C.:*

For Senate to adopt S. 917, purporting to over rule Miranda and Wade decisions and to abolish the Mallory rule would be unwise and as to Miranda and Wade probably unconstitutional. Statistical studies show these rules are not handicapping police in proper law enforcement.

Prof. GEORGE N. STEVENS,
Prof. HENRY WEIHOFEN,
*University of New Mexico*
*School of Law.*

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UNIVERSITY OF VIRGINIA,
SCHOOL OF LAW,
*Charlottesville, Va., April 29, 1968.*
Hon. JOSEPH D. TYDINGS,
*U.S. Senate,*
*Committee on the Judiciary,*
*Washington, D.C.*

DEAR SENATOR TYDINGS: Your letter of April 19 reached me just as I was on the point of leaving for meetings in Washington. This explains my inability to reply in time to meet your deadline. I immediately referred your letter to Professor Low who replied on April 23. I hope you found his letter helpful.

I write now merely to echo the sentiments he expressed. While I can, in no sense, speak with authority on the problems raised by *Miranda* and *Wade,* I cannot escape the feeling that, even if constitutional, as to which I have reservations, the proposed legislation would be at once premature and unwise.

It would be premature because we have not yet acquired enough experience adequately to judge the impact of the decisions. It would be unwise because at this juncture in our national life the last thing we need is to generate an added sense of instability by stimulating a dispute between the Congress and the Supreme Court.

I am glad to know that one of your standing and reputation is taking up the cudgels against Title II of S. 917.

Please do not fail to call on me if you think I can be helpful.

Sincerely,

HARDY C. DILLARD,
*Dean.*

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## ORDER OF BUSINESS

Mr. BYRD of West Virginia. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

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## S. 1035 AND EMPLOYEES' RIGHT TO PRIVACY—CONGRESS LAST CLEAR CHANCE

Mr. ERVIN. Mr. President, over 7 months ago, 90 Members of this body expressed their approval of S. 1035, a bill to protect the constitutional rights of the employees of the executive branch of the U.S. Government and to prohibit unwarranted invasion of their personal pri-

vacy. The need for this bill to protect the liberties of over 3 million American citizens has been well documented in the hearings and reports of the Constitutional Rights Subcommittee, by the Administrative Practice and Procedure Subcommittee, by the Special House Subcommittee on Privacy, and by the House Foreign Operations and Government Information Subcommittee. Individual complaints of incursion on basic rights have long been received by Members of Congress.

The bill, together with 11 House companion bills, is still pending before the House Post Office and Civil Service Subcommittee on Manpower and Civil Service. Fortunately, the chairman of that subcommittee is a distinguished member of the North Carolina delegation, Congressman DAVID HENDERSON. As Representative for the Third Congressional District, he has long displayed a keen interest in protecting employee rights and in preserving the liberties of all Americans. His dedication in seeking and obtaining improvements in the Federal service is well known, as is the tenacity of the Manpower Subcommittee in forcing adherence to good Federal management practices.

The able members of that subcommittee are: CHARLES H. WILSON, of California; RICHARD C. WHITE, of Texas; LEE H. HAMILTON, of Indiana; FRANK J. BRASCO, of New York; H. R. GROSS, of Iowa; EDWARD J. DERWINSKI, of Illinois; and JAMES T. BROYHILL, of North Carolina.

In view of their reputation as a constructive and hard-hitting committee, they should find S. 1035 much to their liking as hearings on the bill progress. I feel sure they will endorse the wisdom of those Members who have already sponsored this important measure. They include Representatives ED REINECKE, of California; HENRY S. REUSS, of Wisconsin; RICHARD FULTON, of Tennessee; NICK GALIFIANAKIS, of North Carolina; GLENN CUNNINGHAM, of Nebraska; ALBERT W. WATSON, of South Carolina; JOHN E. MOSS, of California; SPARK M. MATSUNAGA, of Hawaii; CLARENCE D. LONG, of Maryland; ALTON LENNON, of North Carolina; and JAMES G. FULTON, of Pennsylvania.

According to a number of newspaper reports which have come to my attention, the "bill of rights" for citizen employees of Government is dead. This is sheer speculation by reporters. That bill for employee rights is no more dead than the Bill of Rights to the Constitution which it would implement. And I believe the members of the House committee considering it would be the first to agree with that statement.

They are as aware as the Members of this body of the need to memorialize in a statute the basic rights of employees. They know that these rights should no longer be subject to the changing whims of bureaucrats throughout Government. No longer should they depend for their protection on the off chance that Congress or some enlightened individual of the Civil Service Commission will be able to take action in time to prevent permanent erosion of liberties or to correct damages done to reputations and careers. No longer should the values we cherish as a free society be undermined by calloused decisions and techniques.

If anyone should deny there is a need for such a bill, he should review the complaints which have come to Congress of invasions of privacy and curtailment of the liberties of American citizens. Some are ludicrous examples of a basic lack of commonsense in the absence of specific guidelines; others reflect deliberate decisions at the highest level to violate constitutional rights in order to achieve some favored goal.

Certainly, there is something very wrong with the processes of government when an agency like the Army Map Service cannot assess the qualifications of 22-year-old girls for promotion without subjecting them to hours of prurient interrogation through interviews and lie detector tests.

Yet, it is clear from reports received by the subcommitte that they cannot. But, this is only one area of concern.

It is clear, from the complaints received by many Members of Congress, that there are many unfortunate tendencies, attitudes, and practices in the Federal bureaucracy which can only be corrected by legislation.

While there have been laudable efforts by the Civil Service Commission recently to correct abuses and to recommend to Departments that changes be made in some areas, this is just not enough. In the face of a vast decentralized Federal bureaucracy, the problems involved in S. 1035 are even beyond the control of the White House, the Commission, or even agency heads. The only truly effective recourse is to a common statutory guide and common limitations. Only then will existing machinery operate to protect employees. Several recent examples come to mind. Even as the Defense Department circulated new directives restating prohibitions on coercion in the savings bond campaigns and charity drives, complaints of such coercion were sent to Congress from employees and servicemen.

The Senate approved in S. 1035 a provision which prohibits requests or requirements that employees support the nomination or election of anyone to public office through personal endeavor, financial contribution, or any other thing of value. Yet, no sooner had the bill been sent to the House for final action, than reports appeared of intimidation of employees in the sale of tickets to political functions.

No sooner was the bill's provision approved banning questions on race, religion and national origins, than complaints arrived that IBM cards asking such questions are still being used for promotion actions.

No agency has a legitimate reason for opposing the substance of S. 1035. It sets reasonable guidelines. The balance it strikes is one which will promote fair and effective management of personnel, regardless of the programs administered by an agency.

There is more at stake in this proposal than a correction of a few civil service practices affecting employee rights. What is at stake here is the question whether public law is to govern the basic public rights of over 3 million citizens and their families, or whether they must continue to depend on a great mass of administrative rules and regulations, Executive orders, and oral policy pronouncements.

What is also involved in this measure is a decision by Congress on the role of the Federal service in our society now and in the future. Are these citizens and their families to be subjected to loss of liberties and to administrative tyrannies simply because they have some association with government, or simply because they form an easily identified, easily computerized, easily tyranized segment of the population? Should they be required to live out their lives as constitutional neuters?

S. 1035 provides a statutory barricade behind which these citizens may freely exercise their constitutional rights to think, speak and act on matters unrelated to their jobs, free of governmental coercion. It provides a zone of privacy where, if they please, they may also refrain from thinking, speaking or acting, free of Government pressures. It assures that they can keep to themselves what they believe or feel about religion, sex, or family relationships or what they do or do not do in their private lives. It assures also that they will never be forced as free citizens to become the unwilling instruments for imposing unauthorized political, social or economic goals of some administration which happens to be in power at the time in Washington.

S. 1035 provides an opportunity seldom afforded Congress to reinforce the rights of individuals in an age of computers, scientific technology, and growing bureaucracy. I firmly believe, as do the 54 Senate cosponsors of this measure, that it will have a beneficial impact in the Federal Government and will be emulated in State and local governments and in private industry.

It is unfortunate, but true, that this measure may well be the only comprehensive and substantive piece of legislation enacted for Federal employees by the 90th Congress.

I ask unanimous consent that there be printed in the RECORD at this point several letters from officials of the American Federation of Government Employees, the National Association of Government Employees, the National Federation of Federal Employees, National Society of Professional Engineers, National Association of Letter Carriers, the United Federation of Postal Clerks, AFL–CIO; the Federal Professional Association, and a resolution by the Federal Tobacco Inspectors Mutual Association; and the following articles and editorials:

Winston-Salem, N.C., Journal, by Bill Connelly, March 20, 1968.

Raleigh News & Observer, March 22, 1968, by Roy Parker, Jr.

Editorial, Greensboro Daily News, March 26, 1968.

Editorial, Fayetteville, N.C., Observer, March 24, 1968.

Raleigh News & Observer, March 24, 1968.

The Asheville Citizen, March 30, 1968.

The Charlotte News, by Bill Chaze, April 23, 1968.

Columbus, Ohio, Sunday Dispatch, by Roulhac Hamilton, December 10, 1967.

The Evening Star, by Joseph Young,

February 7, 19, March 21, 29, and October 22, 1967.

Washington Daily News, by John Cramer, September 29, 1967, November 27, 29, 1967, March 13, 1968, April 2, 18, 1968.

Washington Post, by Jerry Kluttz, March 19, 21, 1968, April 20, 1968.

Washington Post, by Mike Causey, February 20, 1968.

Federal Employee, April 1968.

St. Louis, Mo., Post-Dispatch, October 7, 1967.

Kentucky edition Post & Times-Star, Cincinnati, Ohio, September 28, 1967.

Paris, Ky., Daily Enterprise, September 26, 1967.

Oneonta, N.Y., Star, September 25, 1967.

Cleveland Press, October 2, 1967.

St. Louis, Mo., Post-Dispatch, October 10, 1967.

Binghamton Press, New York, October 18, 1967.

International New York City, November 20, 1967.

Chicago Tribune, March 21, 1968, by Willard Edwards.

New York Times, March 26, 1968.

Kentucky edition Courier, Evansville, Ind., September 30, 1967.

Los Angeles, Calif., Herald Examiner, December 7, 1967.

Norfolk, Va., Ledger-Star, December 6, 1967.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S.A.E.C. LODGE 2195,
*Washington, March 19, 1968.*

Hon. SAM J. ERVIN, Jr.,
*U.S. Senator.*

DEAR SENATOR ERVIN: As an officer of an AFGE lodge, whose members are principally administrative and scientific personnel in a prestige agency of our Government, I have had ample evidence of the crying need for the enactment of S. 1035.

It has been with a sense of growing anxiety that I have made inquiry after inquiry about the progress of your Bill in the House, only to learn each time that no hearings had been scheduled.

I want to thank you for your past effort to create a better Civil Service. If there is any way in which our Lodge can be of assistance in obtaining action on this vitally important legislation, please let me know.

Sincerely yours,

THEODORE WARD,
*Chairman, Grievance Committee.*

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AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
*Washington, D.C., March 20, 1968.*

Hon. SAM J. ERVIN,
*U.S. Senate, Washington, D.C.*

DEAR SENATOR ERVIN: The purpose of this letter is to both express the gratitude of a large number of AFGE members in our 14th District and to urge you to take every possible step, particularly in the House side, to get S–1035, first, through the House Sub-Committee on Manpower and Civil Service and then, through the full house.

The need for S–1035 is just as pressing now, if not more so, than when I had the privilege of testifying before your Sub-Committee in October of 1966.

As government grows bigger and more complex, it becomes easier for supervisors to deny fair treatment to employees. At the present time federal employees are accorded fair treatment only at the discretion of supervisors. It is interesting to note that due process is accorded as a matter of right to criminals whereas it is not so accorded to government employees.

Our experience indicates that an agency's personnel policies generally reflect the agency's attitude towards the general public. If an agency is inept in handling its employees it is generally inept in handling its statutory functions. In view of this, it is in the public interest to have immediate Congressional approval of S–1035.

We, therefore, wish to again express our appreciation for the superb job you have done in the Senate with S–1035. We urge you to work with the House members and do everything possible to get it through that august body.

Fraternally and sincerely,

FRANCIS J. SPEH,
*President.*

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AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
*Washington, D.C., March 20, 1968.*

Hon. SAM J. ERVIN, Jr.,
*Senator from North Carolina,*
*Washington, D.C.*

SIR: It is with considerable interest and surprise to be informed that the Senate Bill S–1035, Invasion of Privacy of the Federal Employee, has bogged down to a complete stand-still.

I would like to request and urge you, Mr. Senator, to do everything you possibly can to get this Bill moving for the great need of the Federal Employee for its passage.

Yours very truly,

RALPH B. BISER,
*National Vice President.*

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AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
*Washington, D.C., February 25, 1968.*

Mr. JOHN F. GRINER,
*National President, American Federation of Government Employees, Washington, D.C.*

DEAR JOHN: At the regular February meeting of the National Capital Area (14th District) Department, there was a discussion of newspaper reports that some officials in the Executive Department have attempted to dissuade employee groups from continuing their support of the Ervin Bill (S–3703).

The opinion was expressed by all the delegates participating that the enactment of this Bill is essential to the protection of elementary rights of Federal Government employees.

It was therefore moved and unanimously carried that the President of the Department express an urgent request that the National Office do all in its power to secure the early convening of hearings by the House Committee and prompt adoption of this legislation.

I was also instructed to bring copies of this letter to the attention of the Chairman of the Civil Service Commission, the Chairman of the House Committee, Chairman Henderson of the Subcommittee, through the regular channels of the Department.

Sincerely yours,

BERNARD WIESMAN,
*President.*

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AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES,
*Washington, D.C., March 20, 1968.*

Hon. SAM J. ERVIN,
*Senate Office Building,*
*The Capitol, Washington, D.C.*

DEAR SENATOR ERVIN: At the regular monthly meeting of the National Capital Area Department of the AFGE on Thursday, March 14, delegates expressed serious concern over the recent lack of action on S–1035, a Bill which you introduced "to prevent the invasion of privacy of employees" by the Federal Government.

When the Senate passed the Bill before the end of the First Session, we expected prompt and affirmative action in the House. Instead, there seems to have been an ominous quiet. This has caused rumors of an attempt to sidetrack the measure. It has let opponents of the Bill believe that it can be smothered during the remainder of this Session.

We have been assured by our National President that the AFGE is pressing to secure consideration in the House. He has reiterated to us the high urgency which he and his associates attach to this effort to secure statutory protection for Federal employees.

Have you any information as to the cause of apparent inaction? With 20,000 members of our Federation in this 14th District, our delegates wish to be able to report back to their respective Lodge memberships whether they can expect to see this legislation enacted in this Congress.

In my capacity as president of Lodge 1812, with 700 members who are employed in the Washington headquarters, Voice of America relay stations throughout the country, and USIS offices overseas, I express also our own interest and concern. While we have been relatively free from abuse of privacy within USIA, we realize that it has been due primarily to the high calibre of the three individuals who have headed our Office of Security since we became an independent agency in 1953 as well as to the alertness of our own Lodge to criticize any infringements, we believe these rights should have statutory basis and not be dependent on the good will of a Director of USIA or of the head of a subordinate office.

I shall appreciate your estimate of the prospects for S–1035.

Sincerely,

BERNARD WIESMAN,
*President.*

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NATIONAL ASSOCIATION OF GOVERNMENT EMPLOYEES,
*February 7, 1968.*

Hon. SAM J. ERVIN, Jr.,
*U.S. Senate,*
*Washington, D.C.*

DEAR SENATOR ERVIN: Many members of the National Association of Government Employees have asked their national office to express their dismay and concern over the lack of progress on your bill, S. 1035, to safeguard employees' rights.

In view of your outstanding effort in securing overwhelming Senate approval of this measure, and your continued keen interest in the bill, we are hopeful that you will be able to persuade key House members of the legitimate need for this legislation.

We understand that the Administration, in particular the Civil Service Commission, is assuring House members that it has corrected all inequities and instituted safeguards against infringement on the personal lives of federal employees. And, therefore, that no legislation is needed.

Even as the Commission offers these bland assurances, the Federal Aviation Administration is planning a new program of psychological testing of its employees which will constitute a wholesale invasion of their private and personal lives.

Only recently, the Navy's Office of Civilian Manpower Management concluded an investigation of charges brought by this organization of coercion to make charitable contributions at the Norfolk Naval Shipyard. The investigation substantiated the charges, yet the shipyard commander refused to take disciplinary action against the supervisors revealed by the investigation as being responsible for the coercion.

These are only two examples of situations that exist today, contrary to the Commission's stand that they have corrected such situations and that all is well.

Federal employees want and need legislation that will (1) outlaw such practices, and (2) provide disciplinary action for those who transgress upon the law.

We are hopeful that this session of Congress will see final approval and enactment of S. 1035.

Very sincerely,

ALAN J. WHITNEY,
*Executive Vice President.*

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NAGE LOCAL R12-50,
*San Pedro, Calif., December 21, 1967.*

Senator SAM J. ERVIN, Jr.,
*Chairman, Senate Subcommittee on Constitutional Rights, U.S. Senate, Washington, D.C.*

DEAR SENATOR ERVIN: As an individual, and as President of the National Association of Government Employees, Local R12-50, I am presently engaged in preparing a "writ of mandamus action" against the Federal Aviation Administration . . . requesting they obey their rules and regulations, especially in the field of promotions and awards.

Before filing in Federal District Court, however, I must show that administrative remedies have been exhausted, or the case will never be tried on its merits. This places me in the extremely undesirable predicament of begging justice from the very Supervisors, Chiefs, and Managers who I will charge in court with acts of non-compliance. I must expose myself, my case, and my witnesses to kangaroo justice then take what pieces remain and plan a court fight. This is an absolute mockery and travesty of justice; and unless justice prevails within the Career Federal Service, the Government—and through the Government, the Nation—will most certainly suffer.

The only practical method of making an Agency adhere to its rules and regulations is to allow federal employees a choice between the grievance appeal system of their Agency or a choice of filing directly in a Court of Law.

Therefore, I am extremely interested in your work, and in your "Bill of Rights." I am looking for this legislation to correct, or at the very least initiate corrections of conditions within the Federal Government which should actually be tried in criminal court.

In this regard then, I would appreciate a copy of bill No. S-1035, and if possible, an approximate estimation of when you believe it will become law.

In addition I would also like to extend my congratulations on the success you have already achieved, and offer my assistance if it should ever be requested.

Sincerely,

RICHARD R. CLAYTOR,
*President.*

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NATIONAL FEDERATION OF FEDERAL EMPLOYEES,
*Washington, D.C., January 18, 1968.*

Hon. SAM J. ERVIN, JR.,
*Senate Office Building,*
*Washington, D.C.*

DEAR SENATOR ERVIN: Reflecting the great interest we have in S. 1035, your bill to prevent unwarranted invasions of privacy against Federal employees, we have today written to Congressman Henderson urging early hearings by the House Post Office and Civil Service Committee on this measure.

We shall, of course, continue our strong support of this very worthy legislation. As indicated in our testimony before your committee, we share your interest in the abuse of administrative prerogative. An important by-product of your hearings assisted us immeasurably in resolving such abuse of power in the Comptroller of the Currency case. You are performing much needed and significant public service for Federal employees and the cause of justice. It is only another important achievement in your role as a judge and legislator.

With kind personal regards, I am,

Yours sincerely,

N. T. WOLKOMIR,
*President.*

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NATIONAL ASSOCIATION OF LETTER CARRIERS,
*Washington, D.C., April 11, 1967.*

Hon. SAM J. ERVIN, Jr.,
*Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR SENATOR ERVIN: I received your letter together with the copy of S. 1035 and your statement from the Congressional Record, which I read thoroughly.

In my opinion, the bill is an excellent one. You and your staff have done an outstanding job in correcting all of the points that appear to require correction.

I do not have any recommendations to submit, but we will support your bill enthusiastically.

Sincerely,

JEROME J. KEATING,
*President.*

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NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS,
*Washington, D.C., March 16, 1967.*

Senator SAM J. ERVIN,
*Chairman, Subcommittee on Constitutional Rights, Judiciary Committee, U.S. Senate, Washington, D.C.*

DEAR SENATOR ERVIN: I would like to take this opportunity to express the support of the National Society of Professional Engineers for S. 1035, the Federal Employee "Bill of Rights" introduced by you on February 21. While it is perhaps not an original thought to say this measure is long overdue, it bears repeating. Although engineers, as a result of their mobility, frequently may be more likely to leave the Government than complain about its shortcomings as an employer, we have, nonetheless, seen increasing evidence of dissatisfaction with areas of abuse covered by your bill. Without question, your bill would have a salutary effect in this area and make the Government service more desirable to professional engineers.

We were also pleased to see in your new bill the proviso at the end of Section 1(b), making it clear that agencies may officially encourage employees to participate in the activities of professional societies and associations. To the degree that such groups facilitate the development of both technical skills and professional attitude, their activities should certainly be officially encouraged. It should be considered as part of an engineer's normal duties to maintain and improve his professional abilities.

We have been particularly impressed by the thoroughness and perseverance with which you, the other members of your Subcommittee, and your staff, have sifted through a multitude of regulations, statutes, executive orders and administrative practices to arrive at such a clear-cut, direct, and readily enforceable solution to the many unfortunate and persistent problems which have developed over the years.

Your efforts should be appreciated by all Federal employees, as well as by all other citizens who share your dedication to and respect for individual constitutional rights.

Very truly yours,

PAUL H. ROBBINS,
*Executive Director.*

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UNITED FEDERATION OF POSTAL CLERKS, AFL-CIO,
*Washington, D.C., May 4, 1967.*

Senator SAM J. ERVIN, Jr.,
*Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary of the U.S. Senate, Senate Office Building, Washington, D.C.*

MY DEAR SENATOR: The officers and membership of the United Federation of Postal Clerks are most appreciative of your introduction of S. 1035 which has been co-sponsored by at least 54 other United States Senators. We endorse this legislation and sincerely hope the 90th Congress will enact the legislation at the earliest possible moment.

We also support this legislation as the "Exclusive" national bargaining union for the nation's 319,000 postal clerks whom we represent in labor-management relations with the Post Office Department. Our membership is exclusively in the postal clerk craft and are employed in the post offices in the 50 states, District of Columbia, Puerto Rico, Virgin Islands and Guam.

In our opinion, the enactment of legislation such as S. 1035, "To protect the civilian employees of the Executive Branch of the United States Government in the enjoyment of their constitutional rights and to prevent unwarranted governmental invasions of their privacy" has been long overdue. I have carefully reviewed the language and obvious intent of S. 1035 and certainly concur with both the principles enunciated and the protection provided for our loyal and dedicated Federal employees.

As you know, President E. C. Hallbeck and myself testified on October 5, 1966 in support of the original bill, S. 3779, which proposed to accomplish the same objectives as the present legislation, S. 1035. We appreciate very much the new sections and language introduced in S. 1035, which we are confident resulted, at least in part, from the extensive hearings which you and your Committee conducted in September and October of 1966. We can appreciate that your bill S. 3779, in the 89th Congress was an original draft of the current legislation.

Specifically, while we endorse S. 1035 in its entirety, we are particularly pleased with the following provisions in the legislation: As section 1, (1) which will permit a Federal employee who is under investigation for misconduct to be accompanied by counsel or other person of his choice when submitting to interrogation which could lead to disciplinary action.

Certainly this provision, if enacted into law, would protect federal employees generally, and more specifically the postal clerk membership we represent, who apparently do not have this constitutional or legal guarantee when being interrogated by postal inspectors or supervisors and other management officials within the Postal Service.

Certainly the language in section 5 will deter officials of the government from promiscuously abusing the constitutional rights and invading the privacy of Federal employees. That part of section 5, which states that: civilian government employees or any person applying for government employment, or seeking to establish civil service status who is "affected or aggrieved by the violation or threatened violation of this act (or other existing law) may bring a civil action in his own behalf or in behalf of himself and others similarly situated, against the offending officer or person in the United States District Court."

Another part of Section 5 which is most important to employees of the Federal Government permits, with the written consent of any person affected or aggrieved, an employee organization to bring legal action on behalf of such person, or may intervene in such action. The definition of "employee organizations" is very specific and certainly would identify and define employee organizations for the purpose of this act.

Section 6, which proposes to establish a "Board on Employees Rights," is perhaps one of the most important sections, if not the most important section, of S. 1035. It would appear absolutely essential that any final legislation enacted into law must necessarily include the provisions of Section 6. This section is extremely important to carry out the basic intent of this legislation, which is to protect civilian employees of the Executive Branch of the United States Government.

We can offer no suggestions for improvement of this section or additional language. As presently constituted, Section 6 is easily understood; and the most excellent and inclusive definition of the proposed "Board on

Employees' Rights" which could possibly be enacted into law. It defines the right of employees to challenge violations of the proposed act; defines the procedures involved, as well as the authority of the Board, penalties for violation of the act, as well as establishing the right of judicial review for an aggrieved party, and finally provides for Congressional review, and in effect, an annual audit by the Congress of all complaints, decisions, orders, and other related information resulting from activities and operations of the proposed act.

Mr. Chairman, in conclusion, we wholeheartedly endorse the legislation and desire to express our sincere thanks to you as the principal sponsor of S. 1035, and the other 54 United States Senators who have joined with you in proposing enactment of this most important "Federal Employees' Bill of Rights." We believe we speak, not only for the members of the United Federation of Postal Clerks, but on behalf of all civilian employees of the Federal Government when we urge the United States Senate and the House of Representatives to enact this legislation as soon as possible.

With best wishes, I am

Sincerely,

PATRICK J. NILAN,
*Legislative Director.*

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THE FEDERAL PROFESSIONAL ASSOCIATION,
*Washington, D.C., April 26, 1968.*

Hon. SAM J. ERVIN, JR.,
*Chairman, Subcommittee on Constitutional Rights, Committee on the Judiciary, U.S. Senate, Washington, D.C.*

DEAR SENATOR ERVIN: The Federal Professional Association is experiencing a growing concern about the enactment of S. 1035 into law at this session of the Congress.

This nationally important measure which you and your Committee developed, after much study from a massive body of evidence and testimony for the protection of Federal employees in their constitutional rights and for the prevention of unwarranted governmental invasion of their privacy, should not go unconsidered in the House before the end of this session of Congress. Its approval by the Senate, September 13, 1967, by the overwhelming vote 79–4 was highly indicative of its need for Federal employees. This was a notable legislative achievement.

The national need for assured individual privacy has never been greater. This need comprises a new emphasis on the precepts of constitutional rights for all Americans. The growth of our technological order has allowed many new intrusions in the private lives of all Americans. Thus, privacy in American life has become an objective of considerable public concern.

The need for assured privacy in Federal employment, as shown by you and your Committee, is also a national matter of widening importance. The need is now a recognized national responsibility of all Federal administrators and their administrative staffs. The continuing growth of the functions of the Federal Government makes S. 1035 essential to the future of the Federal civil service.

This legislation embraces the mission of the Federal Professional Association adopted at its Founding Conference, November 28, 1968. This mission is to—

Enhance the value of the Federal career service to the public;

Foster high standards of professional service in the Government; and

Promote the welfare of professional personnel in the Government.

This Association holds that the House of Representatives should have the opportunity to consider this Senate measure. As you will recall, the Honorable Robert Ramspeck, as this Association's Consultant, and Mr. Vincent E. Jay, Executive Vice President, presented extensive testimony September 30, 1966 in full support of the predecessor Bill of S. 1035. In January 1967, the Association made further suggestions for S. 1035.

This Association welcomes an opportunity to present testimony before the House Committee to which S. 1035 has been referred.

Sincerely yours,

ROLAND R. RENNE,
*President.*

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Resolution passed by the Federal Tobacco Inspectors Mutual Association at their annual meeting held in Raleigh, N.C., on Saturday, March 9:

"Be it resolved that the Federal Tobacco Inspectors Mutual Association endorses the provisions of Senate Bill 1035, to protect the privacy of employees of the Executive branch of the Federal government, and petitions the United States House of Representatives Post Office and Civil Service Manpower Resources Subcommittee to expedite consideration of this legislation vital to our nation's democratic processes and constitutional protections.

"Further, be it resolved that the Federal Tobacco Inspectors Mutual Association commends United States Senator Sam J. Ervin, Jr. for his introduction of this measure and for his continuing interest and leadership in protecting the rights of Federal employees."

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[From the Winston-Salem (N.C.) Journal, Mar. 20, 1968]

ERVIN BILL ON PRIVACY IS STALLED

(By Bill Connelly)

WASHINGTON.—Sen. Sam J. Ervin Jr.'s well publicized bill protecting the privacy rights of federal employes appears to be hopelessly stalled in a House subcommittee handled by Ervin's North Carolina colleague, Rep. David N. Henderson.

Although the measure passed the Senate six months ago by a vote of 79 to 4, Henderson shows no interest in scheduling hearings for it before his House Post Office and Civil Service subcommittee.

Henderson said yesterday that the bill has merely been placed on a back burner because the subcommittee has a heavy workload. But other House sources said he also has serious doubts about some parts of the legislation.

ERVIN AIDES PUZZLED

Ervin and his aides on the Senate subcommittee on constitutional rights have been puzzled and frustrated by Henderson's inaction and have been unable to learn precisely what are the congressman's objections.

One hang-up in the House is said to be the provision including the Central Intelligence Agency, the National Security Agency and the Federal Bureau of Investigation in the bill.

As passed by the Senate, the bill would prohibit federal agencies from giving employes psychological and lie-detector tests, from asking them highly personal questions and from seeking to influence their outside activities.

CIA OPPOSES BILL

The CIA vigorously opposed the bill in the Senate on the grounds that its restrictions would make it impossible for security agencies to screen prospective employes and maintain internal security. The Senate rejected this argument, but it has more appeal in the House.

Ervin's bill also is being quietly but firmly opposed by the administration, which feels that, in addition to the security hazards, it would needlessly hamper the agencies in their personnel policies.

Since Ervin's subcommittee began work on the privacy bill, the Civil Service Commission and several agencies have stopped some of the most widely criticized personnel practices. Some House members argue that this makes the bill unnecessary, but Ervin's position is that without a law there is no assurance some administrator could not revive the practices later.

RELUCTANCE UNUSUAL

Henderson's reluctance to call for hearings on the bill is unusual in several respects. For one thing, North Carolina Democrats in Congress customarily help each other push such legislation along. For another, the bill should be politically popular for Henderson because of the many federal employes in his 3rd District.

But Henderson has failed to respond to Ervin's request for action and has also been unmoved by a letter signed by 33 House members which calls for prompt hearings.

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[From the News & Observer, Mar. 22, 1968]

ERVIN SAYS EMPLOYEES HAVE WAR POLICIES DISSENT RIGHT

(By Roy Parker, Jr.)

WASHINGTON.—North Carolina Sen. Sam Ervin Jr., a staunch defender of U.S. policies in Vietnam, has also defended the right of federal government employes to dissent against those policies.

Ervin said this week that he has asked the U.S. Civil Service Commission to survey the extent to which federal agencies have attempted to prevent government workers from expressing their "thoughts and beliefs" about the Vietnam war.

"Federal employees have the same right to petition Congress as other citizens," Ervin said. The Senator is chairman of the Senate Constitutional Rights Subcommittee and author of a "Bill of Rights" for government employes.

Ervin's revelation that he was asking the Civil Service Commission for information came as a group of government workers in Washington openly protested Vietnam policies, and amid reports of White House anger over the protests.

Congressman Ed Willis, chairman of the House Un-American Activities Committee, ordered a staff investigation of an organization dubbed "federal employees against the war in Vietnam."

Willis also introduced a bill authorizing the President to fire publicly dissenting government workers in time of war or "armed conflict."

There were other reports that President Johnson had ordered a Civil Service Commission study of whether such dissent could be punished.

The commission had earlier ruefully admitted that, as long as they do it on their own time, government workers are free to publicly protest anything they want to.

A youthful government career worker, an employe of the Civil Service Commission itself, has been leading the protest movement, and claims several thousand names on petitions against the Vietnam war.

Ervin's backing for the right of dissent flowed from his longtime interest in government employe rights.

His "Bill of Rights" for government workers, guaranteeing them against several personnel practices which he claimed infringed individual rights, has passed the Senate but is hung up in the House subcommittee headed by North Carolina Third District Congressman David Henderson.

Henderson has said that the bill is simply caught in a backlog in his subcommittee.

Several government agencies, most particularly Defense and the Central Intelligence Agency, have strongly opposed the bill. They don't like its provisions prohibiting many types of personnel testing, even with lie detectors, without specific high level authority.

Meanwhile, in another related field, Ervin has forced the Agriculture Department to tone down some of its medical forms, charging they were being used to harass workers.

The forms were required for workers who took sick leave, and Ervin charged that they showed "mistrust" of the sworn statements of the workers who took sick leave while on furlough.

The question had arisen especially among tobacco inspectors, who had been taking sick leave (which is paid for) while they were on forced furlough (which is not paid for).

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[From the Greensboro Daily News, Mar. 26, 1968]

SENATOR ERVIN TO THE RESCUE

Sen. Sam Ervin Jr., never one to stand by when he feels the U.S. Constitution is being undermined, has joined the affray again—now in defense of government employees' right to criticize government policies. This time he is taking on a congressional committee, some government agencies and perhaps the White House itself, and we all should be glad he is.

Senator Ervin has asked the U.S. Civil Service Commission to find out to what extent federal agencies may be trying to prevent employees from expressing their individual opinions about the Vietnam war. "Federal employees have the same right to petition Congress as other citizens," he says. And certainly they do have.

Frighteningly enough, not all federal officials believe that. As a protest organization called "Federal Employees Against the War in Vietnam" has acquired petition signatures from several thousand workers, cries of disloyalty and even treason have been raised in Washington.

Rep. Ed Willis, chairman of the House Committee on Un-American Activities, has ordered a staff investigation of the group. He also has introduced a bill authorizing the President to fire federal employes who dissent publicly in time of war or "armed conflict."

Such irrational reaction is typical of HUAC; however it is not expected from the White House, and that is where it is coming from now. President Johnson doesn't like anyone to disagree with his Vietnam policy and is said to regard public protests by any government workers as intolerable. There are reports from Washington that he has asked the Civil Service Commission to determine whether these dissenters could be punished.

To the commission's credit, it has declared in the past that federal employes are free to make any kind of public protest so long as they do it on their own time. The leader of the "Federal Employes Against the War in Vietnam" is in fact employed by the commission, and apparently his superiors have not found his activity improper.

Senator Ervin's concern for the constitutional issue here is demonstrable—and is all the more admirable—in that he strongly supports the administration's Vietnam policy. He clearly believes government workers have the right to dissent, and the study he has called for will determine whether that right is being suppressed in some federal agencies. If it is he would have a solid case for individual liberty.

Senator Ervin's latest insistence upon constitutional protections comes as his "bill of rights" for government workers is halfway through the Congress. It seeks to protect federal employees from improper practices and invasions of privacy, and is opposed by the Central Intelligence Agency and the Defense Department, among others. Both of his efforts deserve commendation and assistance.

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[From the Fayetteville (N.C.) Observer, Mar. 24, 1968]

ERVIN ON CIVIL RIGHTS

The publicly expressed opposition of several hundred federal government employes to the nation's war policies in Vietnam came as something of a surprise. Certainly this is a rare occurrence, at least in the memory of most Americans.

In its rush to investigate this matter, however, the House Un-American Activities Committee ought to give the most serious attention to what North Carolina Sen. Sam Ervin Jr. had to say about it.

Ervin, himself a supporter of President Johnson's conduct of the war, said, "Federal employes have the same right to petition Congress as other citizens." That certainly should be the case in the American democracy. And if a U.S. Civil Service Commission study prompted by Senator Ervin finds that federal workers are being improperly prevented from expressing their "thoughts and beliefs" about the war, then corrective steps are clearly in order.

Nobody has to agree with the position taken by the federal workers who petitioned Congress about the war. But Senator Ervin deserves public commendation for insisting that federal employees are entitled to the same civil rights accorded other American citizens. And those who have faith in the fundamental principles upon which this nation was founded will agree with Senator Ervin in this matter, any inconsistency on his part where the rights of other Americans are concerned notwithstanding.

Just as clearly, the national interest cannot possibly be served by anything resembling a House Un-American Activities Committee witchhunt as a result of American citizens exercising their ligitimate rights.

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[From the News & Observer, March 24, 1968]

NOT AUTOMATONS

Senator Sam Ervin is only being consistent in his support of federal employes against harassment by the executive department because of disagreement with the war in Vietnam. So sound is his position, that every member of the Congress could wisely subscribe to it.

The notion that federal employes may not dissent and speak their minds the same as all other Americans is an especially dangerous one. Obviously they ought not to demonstrate against the very policies and programs they are employed to carry out. Those in sensitive jobs touching on security accept discretion with employment. But the thousands of others are and ought to be as free as any citizens. If it ever appeared that the rank and file of government workers were 24-hour-a-day automatons of their superiors the spectre of Big Brother really will be upon us.

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[From the Asheville Citizen, Mar. 30, 1968]

ERVIN DEFENDS RIGHT OF PROTEST

As a conservative, and as a supporter of the Administration's Asian war policies, Senator Sam Ervin of North Carolina might be classified as a "hawk." If so, however, he appears to be a hawk with principles.

Ervin defends the right of dissent, even for federal employes.

He has asked the Civil Service Commission to find out to what extent Federal agencies may be attempting to prevent employes from expressing individual opinions about the Vietnam war.

What has brought this matter to a head is a protest organization called "Federal Employes Against the War in Vietnam," which has obtained the signatures of several thousand Federal workers on a petition.

North Carolina's senior Senator rightly points out that "Federal employes have the same right to petition Congress as other citizens."

Rep. Ed Willis, Chairman of the House Committee on Un-American Activities, sees it otherwise. He has ordered a staff investigation of this group and has introduced a bill in Congress authorizing the President to discharge Federal employes who dissent publicly in time of war or "armed conflict."

In the past, the Civil Service Commission has held that Federal employes are free to make any kind of public protest as long as they do it on their own time. (In fact the leader of "Federal Employes Against the War in Vietnam" is employed by the Civil Service Commission and apparently has not been censured.

Senator Ervin believes that a man or woman doesn't lose basic constitutional rights because of being employed by the Federal government. On the contrary these people are entitled to the same privileges as all other Americans.

The Civil Service Commission should reaffirm its support of the constitutional rights of Federal workers and should bring violations in other U.S. agencies to the public attention.

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[From the Charlotte News, Apr. 23, 1968]

TO WEED OUT PROTESTORS—PENTAGON USES MENTAL TEST AGAINST EMPLOYES—ERVIN

(By Bill Chaze)

U.S. Sen. Sam Ervin charged today there is a growing tendency in Washington, particularly in the Pentagon, to use psychiatric examinations to get rid of federal employes who "aren't docile enough" in their views.

As an example, Ervin cited a recent case in the Defense Department in which a civilian employe told his boss: "Add another notch to your gun handle . . . My brother was killed in Khe Sanh."

The employe, Ervin said, was ordered to either submit to psychiatric examination or lose his job. Ervin said he was able to intervene in the case and the man's job was saved.

"Nobody in the Defense Department bothered to take into consideration all of the factors involved," Ervin said in an interview here today with The News. "The young man's mother called him and told him of the death in a state of near-hysteria."

Ervin said he was concerned about the case because it is typical of many. "In some areas of the government", he said, "there is a tendency to find a groove for an employe and kill any initiative he might have."

"Initiative," said the Morganton Democrat, includes an employe's drive to express himself on the war.

While he does not disagree with U.S. policy in Vietnam, Ervin said he feels federal employes have just as much right to protest the war as any citizen. The only exception, he said, is when an employe is actively engaged in prosecuting the war or carrying out policies connected with it.

"The Pentagon," said Ervin, "does not believe in freedom of thought or speech." Neither, he said, does the Pentagon believe a federal employe has "the right to petition the government for full redress of grievances."

Ervin said changing the prevailing mood of the government toward its employes is an "uphill fight" which is currently being fought through amendments to Civil Service regulations. He predicted that someday legislation may be necessary to soften the government's views toward the expression of opinion by its employes.

Ervin is chairman of the Senate's constitutional rights committee.

He was in the area to present a scholarship to 16-year-old Scottie Wilson at Independence High School. The $1,000 scholarship to any college was made available by the William Randolph Hearst Foundation through a Senate youth program in which Miss Wilson participated.

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[From the Columbus (Ohio) Dispatch, Dec. 10, 1967]

FEDERAL CORNER: CIVIL SERVICE STUDY PLANNED ON "RIGHTS"

(By Roulhac Hamilton)

WASHINGTON.—Undoubtedly spurred on by a House subcommittee's announcement that it has had a change of heart and will give early consideration to the Senate-approved

federal employes' so-called "Bill of Rights," the Civil Service Commission has disclosed another "in-depth" review of its personnel investigations program.

The basic purpose of the employe bill of rights legislation was to protect federal workers, and prospective workers, from invasions of their right to privacy by overzealous personnel investigators delving into such irrelevant matters as their sex lives, religious beliefs and social relationships.

The bill, the product of Chairman Sam J. Ervin Jr., D-N.C., and his Senate constitutional rights subcommittee, was fought bitterly by the Civil Service Commission and agency personnel officers. One of their tactics was repeated announcements that steps were being taken for administrative cure of the ills which had inspired the Ervin bill.

But an unimpressed Senate passed the "Bill of Rights" by an overwhelming vote. But across Capitol Hill, Chairman David Henderson, D-N.C., of a House manpower subcommittee, sidetracked the Senate bill because, he said, there were a large number of bills—none identified—which were of greater importance to federal workers.

At that point, the Civil Service Commission relaxed. But late last month, Henderson confessed that deluge of mail from all over had convinced him that federal workers regarded the "Bill of Rights" as being of a great deal more importance to them than he had thought. So he announced his subcommittee would give it top priority next year, with public hearings likely to begin in January.

Against that background, CSC came forth with a new announcement to the effect that it has ordered an in-depth review of "all aspects" of the CSC personnel investigation program. The investigation will be conducted, it said, by an interagency panel.

CSC spokesmen said it was their hope that this study group would come up with rules to protect the privacy of persons under investigation, with uniform standards governing the scope of inquiries made by various investigators and various agencies, and to provide for better selection and training of investigators.

It might be unkind to suggest that the newly announced study is aimed at persuading the House subcommittee to put the "Bill of Rights" back in a pigeonhole, but it is a fact that the announcement sounds very much like those used by the commission in its effort to block the legislation in the Senate.

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[Excerpt from the Washington (D.C.) Star, Oct. 22, 1967]

THE FEDERAL SPOTLIGHT: BENEFIT INCREASE OF 3 PERCENT IS NEAR FOR DISABLED EMPLOYEES, SURVIVORS

(By Joseph Young)

Bill of rights: In a letter to Sen. Sam Ervin, D-N.C., sponsor of the Senate-approved "bill of rights" for government employes, Rep. David Henderson, D-N.C., chairman of the House Civil Service subcommittee, made it plain his group does not intend to hold hearings on the measure this year. Henderson pleaded the pressure of other legislation which he said had priority over the Ervin bill.

Actually, the bills given priority over the Ervin measure by the House subcommittee are all relatively minor ones.

Consequently, the earliest hearings on the Ervin bill by the Henderson group won't come before early next year. Since next year's session of Congress is merely an extension of this year's, the Ervin bill won't die.

But it may lose some of its steam in the intervening months unless the federal and postal employe unions and their memberships make it plain to the House group that action next year on the Ervin bill is imperative.

[Excerpt from the Evening Star, Feb. 7, 1968]

THE FEDERAL SPOTLIGHT: CSC TRIES TO CONVINCE UNIONS "BILL OF RIGHTS" WOULD INJURE THEM

(By Joseph Young)

The Civil Service Commission is trying everything to prevent final congressional approval of the Senate-passed Ervin "bill of rights" for government employes.

The CSC's latest move is an attempt to persuade government employe union leaders that the bill would weaken federal and postal employe unions and cause large reductions in union membership.

The CSC's contention is that the central board that would be established to hear employes' complaints about agencies' violations of their rights of privacy and constitutional rights would bypass the unions' right to represent their members. If the employes could go to the board with their complaints, this would negate their need for unions, the CSC argument runs.

Actually, the CSC's crocodile tears have not made much impression on the unionists. The unions mainly represent their members at the agency level on grievances regarding working conditions and on appeals on adverse action cases involving firings, suspensions, demotions, reductions-in-force, etc.—issues which are not directly covered by the Ervin bill.

The Ervin measure guarantees government employees against invasion of their rights of privacy and violation of their constitutional rights, such as coercion to participate in charity drives and purchase savings bonds, snooping into their sex lives and financial affairs, forcing them to take psychiatric exams, etc.

Thus, the system it sets up in government would not dilute the power of the unions. Rather, it would enhance it, since employes who took their cases to the proposed board would want their union officials to represent them at the hearings.

The House Civil Service and Manpower subcommittee has promised hearings on the Ervin bill this year. If the bill is to become law this year the hearings must be held early. Government employes would do themselves a big favor if they dropped a note to Rep. David Henderson, D-N.C., chairman of the subcommitte, and to Rep. Dominick Daniels, D-N.Y., chairman of the House Civil Service Committee, urging that the hearings be held as quickly as possible.

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[Excerpt from the Washington (D.C.) Evening Star, Feb. 19, 1968]

THE FEDERAL SPOTLIGHT: SAFETY-70 PLAN JEOPARDIZES BONA FIDE CLAIMS OF INJURIES

(By Joseph Young)

President Johnson's Safety-70 program inadvertently is resulting in some government departments and agencies refusing to recognize bona fide on-the-job injury claims of federal employes or delaying action on these cases.

Of course, the President is unaware of this impact of his program designed to reduce government employe on-the-job injuries 30 percent by 1970.

But the effect has been that some departments and agencies, in a move to reduce the number of reported on-the-job injuries among their employes, have sought to discourage or prevent employes from filing injury compensation claims.

The situation has come to the attention of the Labor Department's bureau of employe compensation, which operates the government's employe injury compensation program.

The bureau has told departments and agencies to adhere to fair practices in dealing with injury compensation claims, stressing that the President's safety program never was intended to deny bona fide injury compensation claims.

Some departments and agencies, however, are continuing their practices of discouraging employe claims. A showdown between them and the Labor Department and perhaps the White House is imminent.

Some departments and agencies refuse to acknowledge the basis of an employe's injury or they discourage them from filing claims. Of course, the employes still can file with the bureau of employe compensation, but if their agency disapproves they run the risk of not getting their jobs back when they return to work, or if they remain on the job they feel their chances of promotion, etc., would be jeopardized.

In addition, some departments, such as the Post Office are now requiring injured employes to go to the departments' own doctors. Employes protest this action, since they feel the doctors would naturally tend to minimize the extent of their injuries.

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CSC retrogresses: Several years ago the Civil Service Commission, which had never been known for a pro-employe attitude, gave federal workers some hope when it began finding favorably for employes in adverse action cases.

The three commissioners began to overrule its ultraconservative board of appeal and review on occasion in order to reverse the firings of employes.

But the CSC commissioners of late have become more antiemploye in their decisions. Even in some of the relatively few cases where the CSC's board of appeals and review have ruled in favor of employes, the commissioners have seen fit to modify these decisions in order to punish the employe and at least partially vindicate the federal agencies involved.

The commissioners' philosophy appears to be that any employe involved in adverse action cases must, ipso facto, be a "troublemaker." Consequently this line of reasoning goes, they must be punished, even if the initial firing order is modified to make it a 60- or 90-day suspension.

It's small wonder that government employes have little faith in the commission's contention that the Ervin "bill of rights" for government workers is unnecessary and that federal workers can depend on the CSC to protect them.

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[From the Washington (D.C.) Evening Star, Mar. 21, 1968]

THE FEDERAL SPOTLIGHT: SICK LEAVE INVESTIGATIONS SCORED AS INVASION OF RIGHT TO PRIVACY

(By Joseph Young)

Sen. Sam Ervin, D-N.C., has denounced the sick leave investigations conducted by various government agencies.

Ervin took the Senate floor to cite examples of invasion of federal employes' right to privacy and to declare:

"Extensive privacy-invading investigation of employes who use their sick leave is an area sadly in need of common sense.

"Certainly, if an employe tells his supervisor he is sick, if he produces a certificate from a qualified medical doctor that he has been ill, that should be enough. Yet it is not enough in some agencies."

Ervin cited a case where agency investigators, determined to find out if the employe was really sick, acquired a key from the apartment-house manager and were entering the employe's apartment as he arose from his sick bed to greet them.

In other cases, Ervin said, agency inspectors called employes' doctors to verify their stories of illnesses.

In some agencies, it is the practice to compel employes to sign forms surrendering the confidentiality of their medical records and giving inspectors "a fishing permit" to examine employes' medical records and dis-

cuss details of the cases with their doctors, Ervin said.

Ervin cited an Agriculture Department form which requires employes to authorize examination of all their medical records by department inspectors.

The North Carolinian called the Agriculture form to attention of Civil Service Commission Chairman John Macy, who advised Agriculture that he felt the form was "inappropriate." It is understood that Agriculture has agreed to eliminate the form.

Commenting on the excessive zeal and practice shown by government agencies in investigating sick leave use, Ervin, the sponsor of the Senate-approved "bill of rights" for government employes, declared: "Such practices illustrate the need for early passage of the bill by Congress to protect the constitutional rights of federal employes and prohibit unwarranted government invasions of their privacy."

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[From the Evening Star, Mar. 29, 1968]

THE FEDERAL SPOTLIGHT: OUTLOOK DIMS FOR "BILL OF RIGHTS" SHELVED IN HOUSE SUBCOMMITTEE

(By Joseph Young)

Chances are rapidly dwindling for the "bill of rights" for government employes sponsored by Sen. Sam J. Ervin, D-N.C.

Although approved overwhelmingly by the Senate last year, the bill has been shelved by the House Civil Service and Manpower subcommittee.

The Johnson administration, which strongly opposes the measure that would protect government employes' constitutional rights and protect them against invasion of privacy, is doing all it can to keep the bill pigeon-holed in the House subcommittee. And so far it is succeeding.

Only one chance remains for the bill. This is for government employe unions to use their influence to have the House group schedule hearings within the next month or so on the measure. For some strange reason, the unions have not put forth any great effort to get House action on the bill, even though they fought strongly for it in the Senate.

If enacted, this could be the most important law affecting federal employes in many years. But the unions prefer to go through the motions of seeking hearings on the labor-management bill—a measure that hasn't a ghost of a chance of passage this year, hearings or no hearings.

The Ervin bill might be revived in another way. The Senate could tack its bill on an amendment to any House-approved civil measure. This admittedly would be a desperation move, but it would be the only chance for the Ervin bill unless the House group acts on it.

Other view: Any pressure on senior government career officials to purchase tickets to political fund raising dinners such as the Democratic congressional affair is indefensible.

But here is the view of a top administration political appointee, who has always been sympathetic to the workings of the federal merit system.

He says: "I don't favor forcing anyone to attend these affairs or contributing to them. But don't forget that many of these GS-16, 17, 18s got their present jobs through their political connections. Let's face it—there is no merit promotion system as such to these super-grade jobs and often the fact that a man has supported the Democratic party has played an important factor in his getting one. The same was true of Republican career people in the Eisenhower administration.

"The fact that a person starts in the federal service as a career employe doesn't mean that he eschews politics entirely. Actually, many of the most ambitious careerists affiliate with a political party, so that they can get to the top of the ladder when their party comes to power.

"So when some are asked to contribute to their party in an election year, it isn't as horrible as it may seem at first glance."

New group: Reporters and editors who cover the activities of federal employes have formed the Federal Correspondents Association.

Jerry Kluttz of the Washington Post was elected president for the coming year. Others elected were Ron Smith, Federal Times, executive vice president; Joseph Young, Washington Star, vice president; Mike Causey, Washington Post, secretary; Lew Sichelman, Bureau of National Affairs, treasurer; Ned Young, Baltimore News American; Court Gifford and Mike Conlan, Federal Times; and Mary Miller, BNA, members of the executive board.

Condolence: Our deepest sympathy to Richard Murphy, assistant postmaster general for personnel, on the death of his mother.

Assaults: A House Civil Service subcommittee has approved the bill to make assaults against postal workers a federal offense. It also provides for the discharge of postal workers assaulting fellow employes.

New holiday chances good: Sponsors of the bill that would give federal employes an extra holiday—Columbus Day—feel its chances of passage are very good.

The House Judiciary Committee has approved the bill and House chances are considered excellent. The Senate Judiciary Committee also is expected to act favorably.

Columbus Day would be observed on the second Monday in October. The bill also would provide three additional Saturday-through-Monday holidays by transferring three present holidays to Monday. Washington's Birthday would be celebrated on the third Monday in February, Memorial Day on the last Monday in May and Veterans Day on the fourth Monday in October. The bill wouldn't become law until 1971.

Defense switchover: Assistant Secretary of Defense Alfred Fitt has told the House Civil Service and Manpower subcommittee that 90,000 military men in civilian-type jobs have been transferred to military duties. Another 25,000 military personnel in civilian jobs also will be transferred to military duty by July 1, he said.

He added that the 115,000 are being replaced by civilians.

The action was hailed by the subcommittee's chairman, Rep. David Henderson, D-N.C., who has been battling for such changes. Henderson said it would mean a sizable savings to the taxpayers as well as increase efficiency in the military establishment.

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[From the 9 to 4:30 column of the Washington Daily News, Sept. 29, 1967]

WATCH ON ARM-TWISTERS MOUNTED

(By John Cramer)

The Senate Constitutional Rights Sub-Committee, headed by Sen. Sam Ervin (D., N.C.), has mounted an informal "coercion watch" to help protect Federal employes against arm-twisting in the current United Givers Fund campaign now under way here—and in other Fair Share Community Fund drives thru-out the country.

Sub-committee people, at least as charitable as the rest of us, urge all Government workers to give as generously as possible in these campaigns of such fine purpose.

But also, they invite all employes to report cases of pressure and coercion as promptly as possible.

Arm-twisting has been extremely common in past charity drives.

Official Government policy inveighs against it; says employes may contribute or not contribute as they see fit; gives them the right to make their contributions in sealed, unsigned envelopes if they so desire.

In practice, however, past charity drives have seen this policy almost universally ignored as agency officials turn on the heat to meet goals established for them by their local Community Funds.

The Sub-committee's Federal employee bill of rights, which has overwhelming Senate approval, would outlaw coercion in charity campaigns, and also in Savings Bond drives.

Arm-twisting in the D.C. Givers Fund drive appeared to recede somewhat last year.

But altho the 1967 campaign is barely under way, the Sub-committee reports several complaints of coercion.

One, relayed to it by the House Republican Conference, reported heaviest pressure on Agriculture employees to give their designated Fair Share—and not a penny less.

More specific was the complaint of a woman employee of a Defense agency, who said she has given generously to past Giver Funds—and still plans to do the same this year.

Last Friday, before the official start of the Drive, she was contacted by a Drive worker, and asked for an immediate pledge.

SAYS "NO"

She replied that she was not prepared to fill out a Fair Share pledge form that day, but would do so this week.

The Drive worker said: "We need it today."

The employee replied: "I'll give what I please, and give it when I want."

At this point, according to the complaint to the Sub-Committee, the Drive worker snapped back: "I'll put you down for 25 cents and pay it myself!"

The employee pointed out that the Givers Fund campaign wasn't officialy even under way.

Her supervisor then got in the act—and castigated her publicly in front of her co-workers.

That's one of many reasons why the Sub-committee people think their "coercion watch" is necessary . . . but still urge you to give generously.

NEW VICTORY

Sen. Ervin chalked up a new victory in his war on privacy invasion yesterday as he approved of a Senate Inter-Governmental Operations Subcommittee to legislation by Sen. Edmund Muskie (D., Me.), providing for interchange of personnel and other things to facilitate increased Federal cooperation with state and local jurisdictions.

The amendment would incorporate modified Federal employe bill of rights provisions, forbidding Federal officials to advise or compel state or local officials to:

Require their subordinates to engage in outside activities not connected with their jobs.

Require them to divulge race, religion or national origin.

Require them to take so-called personality or psychological tests, or lie detector tests.

The Muskie bill, or some variation, probably is desirable. But it contains the seeds of Federal (Civil Service Commission) domination of state and local personnel systems.

And I fear for that, people. I fear for that!

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[From the 9 to 4:30 column of the Washington Daily News, Nov. 27, 1967]

RATS ARE BACK AT THE GPO

(By John Cramer)

It was last spring, if I remember, that I wrote about unspeakably filthy working conditions—complete with innumerable mice and monstrous rats—at Government Printing Office.

The GPO officials responded promptly—and nobly.

They made an immediate inspection to confirm that conditions were as bad as reported. They called meetings of employees to apologize and promised a prompt cleanup, which was, indeed, accomplished. For a time, there were daily inspections.

Now, however, employes complain that the filth, the trash, and the rodent population have mounted again . . . back almost to former levels.

Except, that is, on the eighth floor, where GPO big wheels have their offices.

Also, by the way, I get a lot of complaints about unsanitary conditions in the ancient Main Navy Building, Constitution Avenue. From the descriptions, however, I doubt that things there are as bad as at GPO.

BRAVO

Sen. Sam Ervin (D., N.C.) continues to fight the good battle against the growing use by U.S. agencies of lie detector (polygraph) tests for Federal employes and job seekers.

His Federal employe Bill of Rights, which recently won overwhelming Senate approval, prohibits Federal officials from requiring an employe or prospective employe "to take any polygraph test designed to elicit from him information concerning his personal relationship with any person connected with him by blood or marriage, or concerning his religious beliefs or practices, or concerning his attitude or conduct with respect to sexual matters."

In a speech several days ago to the Greensboro, N.C. Bar Association, spelled out again the increasingly pressing necessity for such legislation.

He cited numerous examples of the privacy-invading questions typically asked of their "subjects" by Government polygraph operators. He said Federal agencies gave at least 28,000 such tests in 1963 alone.

He noted that there is wide disagreement about the validity of findings in polygraph tests; and large question about the competence of many polygraph operators.

He quoted a recent House Government Operations Committee report: "There is no 'lie detector', neither machine nor human. People have been deceived by a myth that a metal box can detect truth or falsehood."

Sen. Ervin especially objected to the use of lie detector tests as a pre-employment screening device. He said:

"The whole process smacks of twentieth century witchcraft. Does the flesh of the applicant burn when a hot iron is applied to it? When tightly bound and thrown into a pond, does the applicant sink or float?

"When strapped in a chair with electrodes and other gadgets attached, does the rate of respiration and blood pressure of the applicant rise? Does the salt of his pores induce increased electrical conductivity? Are we reduced to alchemy as a technique of screening applicants for highly sensitive positions in the Federal bureaucracy?

"The burden of proof should be on those who assert the efficacy of polygraph in predicting the behavior of prospective Government employees. . . .

"Why should an applicant or employee have to describe his religious beliefs and practices? As long as his record shows that his conduct is socially and legally acceptable, why should he have to tell a prospective Federal employer about his sexual attitudes and conduct; or whether he loved his mother, or whether he fights with his wife?

"Is there not a part of his personality, of his private life, which can and should be immune from governmental trespass?

"By questionable means, we are perhaps seeking truthful answers to questions which should not be asked. I think we should ask ourselves whether, by sanctioning these privacy invasions, we are not trifling with the great constitutional truths which buttress our society. I believe we are. . . .

"It is time we put a rein on the Federal Government's use of twentieth century witchcraft to find the truth. It is time the Federal Government was told what truths it should be seeking."

[From the 9 to 4:30 column of the Washington Daily News, Nov. 29, 1967]

GIBBERISH PRIZE TO AID UNIT

(By John Cramer)

Add another little star to the crown of Sen. SAM ERVIN (D., N.C.), chairman of the Constitutional Rights Sub-committee.

He has touted Agency for International Development off an operation which may have been well-intentioned—but which clearly violated Civil Service rules.

It started when the Sub-Committee staff learned that personnel recruiters in one AID unit, its Bureau for Vietnam, were using something bureaucratically-designated as a Telephone Interview Candidate Form.

This designation, by itself, deserves some sort of a prize for gibberish.

THOSE BOXES

But what especially intrigued the Sub-Committee people was a coded block on the form in which the AID recruiters were supposed to check one of four boxes marked "M", "N", "O", and "C".

So Sen. Ervin wrote AID Administrator William S. Gaud asking the meaning of the mysterious code.

And after more time than you might suppose, Mr. Gaud came back with just the reply the staff people had anticipated. He said M stood for Mexican; N-Negro; O-Oriental; and C-Caucasian.

He further explained that the code was designed to "find out how successful AID's recruiting is in appealing to minority groups."

(It could have been used, of course, for entirely different and less-edifying purposes.)

NO ENFORCEMENT

Mr. Gaud also said that "Applicants are not required to complete" the coded section. "Instead, the interviewer checks the proper box after observing the applicant's race."

This calls for a bit of explanation.

The AID explanation is that its recruiting teams—moving from city to city, publicizing their presence and their phone numbers—always include several secretaries or telephone operators who screen first calls from job seekers.

AID says that these secretary-operators filled out only the face side of the controversial form (actually a card). Further, it says that the reverse side, which included the racial designation was filled out only if the applicant was called for an interview—and only by a professional interviewer.

REASON

It was designed, AID insists, only to evaluate how successfully AID recruiting teams were getting their initial message thru to minority groups. The coded information, it says, is not made available to officials who do actual hiring.

Well and good—but the racial designation stuff continues unpleasant. There must be better ways than AID's to do it.

Moreover, the word I get is a few too many telephone operator-secretary members of AID recruiting teams were taking it on themselves to ask the race question on the phone.

Mr. Gaud said assured Sen. Ervin that the form violates CSC regulations . . . that new forms have been ordered . . . that the Bureau has been directed to "ink out the block" . . . that all AID bureau chiefs have been instructed to review all personnel forms "to make sure any reference to race is eliminated."

President Johnson will be interested in knowing just how long it took Mr. Gaud to respond to Sen. Ervin's uncomplicated inquiry, which might well have been answered the day it was received.

The Ervin letter was dated Oct. 11, the Gaud response Nov. 16. That's about par for the course these days, with AID and other agencies—as all too many members of Congress will testify.

But it definitely ain't the way any Administration wins friends and influences members of Congress!

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[From the 9 to 4:30 column of the Washington Daily News, Mar. 13, 1968]

MILICRAT INVASION REPULSED

(By John Cramer)

Thank the Senate Constitutional Rights sub-committee and the American Civil Liberties Union for knocking off another milicratic invasion of Federal employe rights.

This one came from the U.S. Transportation Center at Ft. Eustis, Va.

It took the form of a January 18 order, amending security regulations to prohibit employes from:

"Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, movement, group, or combination of persons whose aim is to influence young men to refuse induction into the military forces and to encourage men already in the military to oppose the war in Vietnam."

Sen. Sam Ervin, sub-committee chairman, questioned the Army about the new rule. So did Lawrence Speiser, director of the Washington office of the ACLU.

Mr. Speiser pointed out:

"It is probable that a person's connection or 'sympathetic association' with groups such as Clergy & Laymen Concerned About Vietnam, or the political organizations supporting Sen. Eugene McCarthy, will be interpreted as supporting the influencing of young men to refuse induction or the encouraging of young men to oppose the war in Vietnam . . .

"To encourage men already in the military to oppose the war does not mean encouraging the disobedience to orders, or the incitement of mutiny or disorder. There are millions of people who are opposed to the war—but this does not mean they are in favor of disobedience to orders or the incitement to mutiny.

"The verbs chosen—'influence', 'encourage', 'oppose' are vague and indefinite. What do they mean?"

Army Department agreed that the protests were well-founded.

The Eustis order has been rescinded.

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[From the 9 to 4:30 Column of the Washington Daily News, Apr. 18, 1968]

BID TO CURB "PSYCHO" TESTS

(By John Cramer)

It was Sen. Sam Ervin (D., N.C.), the Constitutional Rights Sub-committee chairman, who prodded Civil Service Commission into pending revision of its much-abused rules controlling mental disability retirements for Federal employees.

And now he has come up with a sense-making suggestion designed to make Federal officials think twice before they order psychiatric exams for employes who frequently may be just as healthy mentally as the officials themselves.

In a recent letter to Commission Chairman John Macy, he suggested that most agency orders for psychiatric exams be delayed until the agency has investigated any possible management problems in the employe's unit . . . until it has taken a look at his total work environment.

Sen. Ervin points out that unusual job pressures frequently can produce seemingly abnormal behavior which actually is fully normal and understandable. The stenographer who throws her steno pad at the boss isn't necessarily off her rocker. It may be she's just completely fed up with the silly so-in-so.

Needless to say, his suggestion is not intended to apply to the employee who sud-

denly goes berserk, or whose conduct becomes completely erratic.

It is intended, however, to provide at least a measure of protection for the guy confronted with the stigma of psychiatric exam at the whim of some boss whose knowledge of mental health problems may be completely nil.

There's no doubt whatever that the abuses are unbelievably numerous.

Sen. Ervin's suggestion, for example, came in a case highly suspicious on its face. It involved an Army employee illegally fired . . . restored to duty on Commission orders . . . and then almost immediately confronted with orders for a psychiatric exam.

This column recently reported the story of Federal Aviation Agency's efforts to cut its fire fighters staff at National Airport by assigning employees to special physical and/or mental exams. Five were sent to psychiatrists. All got clean bills.

It's extremely common for agencies to assign employees to both physical and mental exams in an effort to force disability retirements. There must be literally thousands of these cases. I encounter a dozen or more each year. In the great majority, the fair inference is that the agency is determined to get ride of the employee by any means possible—even if it means falsely branding him psychotic.

Most employees are ordered to psychiatric exams by laymen, acting on their own, without benefit of professional advice.

A high proportion are given clean bills by the examining psychiatrists—an indication that many of the exams never should have been ordered in the first place.

SOME ABUSES

These are some of the abuses, the things that Sen. Ervin and the Commission (belatedly) are trying to correct.

Meantime, the Commission's rule revisers say they have just about reached agreement that the new rules will provide that employes ordinarily may be ordered to psychiatric exams only by a medical doctor—or a psychiatrist.

That's a step in the right direction. Certainly, the average medical doctor is better equipped to judge such things than the average layman.

I hope, however, the Commission will take its new rules a bit further.

A few too many agency-employed doctors (I exclude the Public Health Service types) are trained seals, who will sign any order requested of them by management.

So I hope the new rules will require that a medical doctor ordering an employe to a psychiatric exam must fully state his reasons, including his own observation of conduct he considers abnormal.

It's a shame the abuses have been tolerated for so long. Thank Sen. Ervin for pushing them to the forefront.

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[From the San Antonio (Tex.) News, Apr. 2, 1968]

MEDICAL RECORDS OPEN TO SNOOPERS

(By John Cramer)

WASHINGTON.—Here are three cases which dramatically highlight the need for Civil Service Commission action to protect federal employes against invasion of privacy in matters concerning their health and medical records.

All were brought to light several days ago by Sen. Sam Ervin (D., N.C.), chairman of the Constitutional Rights Subcommittee.

Case No. 1: Involved a State Department employe. According to Sen. Ervin, investigators suspicious of his absence on sick leave "acquired a key from the apartment house manager, and were entering the employe's apartment as he arose from his sick-bed to greet them."

Case No. 2: Came from Agriculture Department's Tobacco Inspection Service which recently began asking inspectors absent on sick leave to fill out a form authorizing department investigators to obtain and examine their complete medical records.

Case No. 3: Involved a tobacco inspector who "gladly" filled out the privacy-invading form—only to find that the department investigator "wanted to see the bottles of medicine that I am taking."

The investigator, he added, "also called on two of my neighbors and asked them questions about my physical condition and about my personal financial circumstances."

Civil Service Commission Chairman John Macy ordered Agriculture to discontinue the offending forms. That, however, was only a half step. The basic problem requires much more.

Throughout Government, employe medical records are carelessly handled . . . frequently are intermingled with personnel records . . . almost routinely are available for the inspection of personnel and other management officials.

It's privacy-invasion at its worst. Yet it is practiced as a matter of course in many agencies. A newly organized association of federal physicians has a committee working on the problem. That can help. But any real attack on it must come from the commission—or perhaps from Congress.

FIRST DECISION

The Civil Service Commission's Board of Appeals and Review has ruled that a federal agency can't ignore its own negotiated labor relations agreement in adverse actions against employes.

Its first-of-its-kind decision came in the case of two employes at the Defense Electronic Supply Center, Dayton, Ohio, who were downgraded because they failed to meet production quotas.

The AFL–CIO Machinists, which has exclusive bargaining rights for employes at the Center, filed grievance actions on their behalf. It did so under its negotiated agreement with the center, which provides for arbitration of grievances, including adverse actions, such as firings, disciplinary demotions, suspensions, and downgrading.

The center refused to let the cases go to arbitration, contending that adverse actions are not grievances in the ordinary meaning of the terms.

That's true enough. The fact, however, is that IAM's agreement with the center specifically provides that adverse actions are to be handled as grievances. The Civil Service Commission's Chicago regional office sustained the union position, and the Board of Appeals and Review now has done the same.

Unless the center now appeals to the three CS commissioners, the two cases will go to arbitration. This will give the union the chance to argue them on their merits . . . to press its contention that the production quotas which led to the downgradings are arbitrary and unrealistic.

KEY RULINGS

A new U.S. Court of Claims decision (No. 386–65) reaffirms, and to some extent bolsters, the right of federal employes to cross-examine witnesses who give evidence against them in grievance cases.

It came in the case of John A. Fletcher, Jr., a former postal inspector, fired in 1964 on the basis of 10 charges not specified in the decision.

The court reversed his dismissal, and ordered retroactive back pay on the ground that the Post Office Department had not followed its own regulations, governing such dismissals. It held that the regulations—although they do not, in words, say so—guarantee the right to cross-examine witnesses.

At the department's appeals hearing on the case, it did not call all its witnesses—offered affidavits rather than personal appearances by many witnesses . . . overruled a defense contention that affidavits, without the right to cross-examine, were inadmissible.

The court sustained this contention. At the same time, it rejected a department argument that it was up to Fletcher's attorney to prove he had made "timely attempt" to produce the department's absent witnesses on his own.

Said the court: "No party to a truly adversary proceeding should be required, at the peril of losing the right to cross-examination, to request the presence of witnesses against him, who in reality he wishes to stay away."

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[From the Washington (D.C.) Post, Mar. 19, 1968]

(EXCERPT)

POLITICAL BITE?

(By Jerry Kluttz)

An employe at the General Services Administration writes to say he was called in the other day by his supervisor who said it would be nice to see him at a $100 Democratic congressional cocktail party, or better yet, at the $250 dinner to be held April 4 at the Washington Hilton Hotel.

"Admittedly," he wrote, "I and others who were talked to were not coerced, but there was the implication that the Johnson Administration had done well by getting us promotions and pay raises, and that it needed our financial support to insure others in the future."

The employe said he had "never before been subjected to this type of situation. For the record, I was a Democrat who will now vote for the other party."

Meantime, officials say flatly that no one is supposed to solicit contributions in any form for any political party, and they threaten to fire anyone who violates the principle.

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[From the Washington (D.C.) Post, Mar. 21, 1968]

LEAVE PROBES STIR HILL QUERY

(By Jerry Kluttz)

The Agriculture Department has been accused of "exceeding the bounds of common sense" in some of its investigations of the use of sick leave by its employes.

Sen. Sam J. Ervin (D-N.C.), chairman of the Senate Constitutional Rights Subcommittee, said the Department made the inquiries even after employes produced valid certificates of illness from a qualified doctor. He said:

"Extensive privacy-invading investigations and such suspicions of its employes ill become an institution of the majesty and size of the Federal Government. Certainly, it cannot enhance its image in the communities where these practices exist."

The Senator said the Agriculture Department asked employes to sign a form that authorized special agents of its office of inspector general to examine all medical records relating to their illnesses. He asked Chairman John W. Macy Jr. of the Civil Service Commission, to check the Department's use of the form.

Macy told Ervin that his inquiry showed that the Department began its investigations when an unusually large number of seasonal employees were taking sick leave during a period of furlough.

But the CSC Chairman agreed with Ervin that the investigations had gone too far and that the forms were "inappropriate." Macy has since suggested to Agriculture that the forms be withdrawn. He said:

"In the rare instances in which an agency might be justified in asking for the medical details referred to in the authorization form, those details should be received only by a medical officer."

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[Excerpt From the Washington (D.C.) Post, Apr. 20, 1968]

U.S. AIDES' BILL OF RIGHTS SEEN AFTER COURT RULING

An "administrative bill of rights for Federal employes" could emerge from the de-

cision of the U.S. Court of Appeals here that restricts the right of free speech by employes.

The purpose would be to spell out clearly to Federal personnel their right to petition and protest and conditions under which such protests could be made.

Also, it would emphasize the responsibility to employes to the Government and caution them against abusing or embarrassing their agencies and its officials.

This broad area of where employe rights begin and where they stop is controversial and unclear. The so-called bill of rights would attempt to answer employe questions and tell them what the Government expects of them.

The Civil Service Commission has been trying to write a meaningful employe bill of rights as an answer to the Senate-approved bill by Sen. Sam J. Ervin (D-N.C.) to protect the privacy of Federal personnel. Those who have been drafting the legislation haven't been able to come up with a satisfactory measure.

But pressure is now on them to try again. It was prompted first by circulation of the Vietnam peace petition among Federal employes, and the arguments over whether employes had the right to sign it.

CSC Chairman John W. Macy believes Federal employes generally have the same right as other citizens to speak out on national matters, such as the Vietnam war.

But he also warns that it would be in conflict and "incompatible" for employes who either recommend or carry out Vietnam policies to publicly protest the war or the Government's official policy on it.

For that reason, he explained, he feels employes in the State Department, the Agency for International Development the U.S. Information Agency and others should not sign the petition. However, several who have signed it in State and USIA are prepared to take their cases to court if disciplinary action is taken against them.

Finally, the decision of the Court of Appeals in the case of Richard D. Meehan, an Army employe in the Panama Canal Zone, points up the need for an employe bill of rights.

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FAA DISCLOSES PAYROLL DATA

(By Mike Causey)

How would you like your paycheck passed around the office, for examination and comment, before you got it? That, in effect, is what some people say is happening at the Federal Aviation Administration.

At least one FAA office (with 51 employees) has given out the detailed payroll data, sick and annual leave information, and so forth, to others in the office. Now, everybody should have a good idea of how much the other guy makes, how much leave he has, and what the leave is worth.

Such information is normally given to employes, but it goes only to the individual concerned—and in a sealed paycheck. The FAA employees say their records go on the bulletin board.

The National Association of Government Engineers says the sheets were passed out or posted Friday. NAGE pronounced it the "most beautiful job of utter disregard for employe's privacy" it has seen in a long time.

The computer-printed sheets list each employe's name, grade and serial number. It tells of sick and annual leave earned, used, and what it is worth. Using the data, most people could come very close to figuring out how much net pay their colleagues get. Some people find this embarrassing.

NAGE believes the incident points up the need for a "bill of rights" for Federal workers. The Senate last year approved no-snooping legislation introduced by Sen. Sam J. Ervin (D-N.C.), but the House doesn't appear eager to consider the proposal.



[From the Federal Employee, April 1968]

TOBACCO INSPECTORS VOTE TO AFFILIATE WITH THE NFFE

The Federal Tobacco Inspectors Mutual Association, an independent employee organization of U.S. Department of Agriculture tobacco inspectors, at its annual meeting on March 9, voted to affiliate with newly chartered NFFE Federal Tobacco Inspectors Local 1555, Raleigh, N.C. FTIMA members also voted to have Local 1555 represent it in dealing with USDA and to negotiate and update their Employee-Management Cooperation Agreement under E.O. 10988.

Over 50 percent of the USDA Tobacco Inspectors have joined the newly organized Local 1555 in the month that has elapsed since it was chartered and NFFE has already taken up its cudgel in their behalf.

Last year USDA severely slashed the salaries of the inspectors and reduced the periods of their employment in a series of moves which could seriously affect the responsibilities of the Department to the farmers and rural communities involved in the production of tobacco.

Tobacco is one of the major U.S. cash crops from the point of view of farm income and the number of farmers and farm families taking part. Taxes from tobacco are a significant source of Federal income. Tobacco is also an important factor in our overseas trade since large quantities are exported, assisting to maintain U.S. balance of payments.

Several weeks ago the USDA Tobacco Division initiated a series of questionable investigations into alleged abuse of sick leave by tobacco inspectors. Local 1555 and NFFE Headquarters have made it clear to the Department of Agriculture that a Congressional investigation is being vigorously sought by the NFFE.

Hospitalized Federal tobacco inspectors, some with limbs in casts, and others under the care of physicians, who have asked for sick leave during the past couple of years have been questioned. Some inspectors now retired are reportedly under investigation. NFFE is concerned about management's attitude toward the reputation of these employees, as well as the apparent lack of selectivity in investigation scheduling.

Senator Ervin's Government Employees Bill of Rights (S. 1035) is designed to prevent management excesses such as the abuse of the investigative authority that is inherent in this action by the Department of Agriculture. Accordingly, Local 1555 has petitioned Congressman David N. Henderson, Chairman of the Subcommittee on Manpower of the House PO and CS Committee to schedule hearings on S. 1035 at the earliest practical date so that it can be enacted into law as soon as possible. Until legislation such as the Ervin Bill becomes law management has the opportunity to continue with impunity abuse of employee rights and invasion of the privacy of Federal employees.

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[From the Post-Dispatch, St. Louis, Mo., Oct. 7, 1967]

DEALING WITH CREDIBILITY

In the Senate debate on the bill to protect the privacy of Government employes, Senator Sam J. Ervin alluded to the Central Intelligence Agency's "wiggle seat." The wiggle seat, it turned out, is a chair that is really a lie detector. Concealed inside its metal arms, padded back and cushioned seat are electrodes and sundry other equipment that can measure a person's emotional responses to questions he is asked.

The CIA has not explained why it is necessary to administer lie detector tests without telling the victim he is being tested. In the spy game, deception is so ingrained—witness the martini olive that is really a microphone and the cigarette lighter that is really a camera—that the question probably never came up. What could be more natural to the slouch hat and trench coat crowd than a chair that is not a chair? After all, CIA agents always pretend they are something else—tourists, students, labor leaders, a potted palm in a hotel lobby—so why shouldn't their office furniture?

As far as we know we have never sat in one of the CIA's non-chairs, but we would venture that they would not be complete unless they are equipped with an ejection device so that all prevaricators using them can be summarily catapulted from their seats, thereby exposing them unmistakably for what they are to everyone else in the room. If that is the case, we would caution the CIA against letting the chairs slip into the general furniture pool for Government offices. Imagine the sight of half of official Washington sailing out of windows everywhere!

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[From the Cincinnati (Ohio) Post & Times-Star, Sept. 28, 1967]

PRIVACY BY STATUTE

Largely through the long effort of Sen. Sam J. Ervin of North Carolina, the Senate has passed and sent to the House a bill designed to protect government employees from unnessary invasions of their privacy by zealous superiors.

In view of the evidence uncovered by a Senate committee, the bill is badly needed. And it is a disgusting reflection on the petty-minded government officials who not only tolerated this nonsense but promoted it.

In support of the bill, Sen. Roman Hruska of Nebraska said employees had been coerced into revealing highly personal information, forced to account for off-duty hours and compelled to donate time and money to assorted projects—among other things.

As passed by the Senate the bill attempts to outlaw such practices as requiring employes to take part in activities unrelated to their jobs, quizzing them about religious beliefs, or to buy bonds or contribute to charities.

In short, it is a sweeping bill to do away with "big brotherism."

We applaud the Senate action and hope the same protection eventually will be provided all citizens from nib-noses in and out of government.

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[From the Daily Enterprise, Paris (Ky.), Sept. 26, 1967]

PRIVACY INVASION CURB

The Senate took a heartening step when it overwhelmingly approved a bill to curb government agencies interference in the private lives of their employes. This measure, if it now gets through the House, should be an important step toward slowing down the trend toward invasion of individual privacy.

As enacted by the Senate, the bill makes adequate provision for inquiry where this is essential for security reasons. Three agencies—the Federal Bureau of Investigation, the Central Intelligence Agency and the National Security Agency—are expressly permitted to use polygraph and psychological tests to elicit data on such matters as religion, sexual conduct and other personal relationships in such cases.

Much more rigid limitations are rightly placed on personal inquiry by other executive agencies of the government, however. They are prohibited from forcing personnel or job applicants to disclose information of a personal nature, including personal finances except where there appears to be a possible conflict of interest. Moreover, pressure by superiors to engage in political or other outside activities, buy U.S. bonds, or make political or charitable contributions is forbidden.

In the words of the bill's sponsor, Senator Ervin of North Carolina, it is intended to

"protect the constitutional rights of civilian employes of the executive branch and to prevent unwarranted governmental invasions of privacy." This is of no small importance. Action has come in response to rising complaints about unwarranted snooping into private concerns. If enacted into law, the measure will constitute a badly needed charter of rights for many who work for the government.

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[From the Oneonta (N.Y.) Star, Sept. 25, 1967]

UNITED STATES MUCH TOO NOSY WITH JOB APPLICANTS

If the man is a qualified accountant and the federal government needs an accountant, what difference does it make if he's a Jew?

If a man has been admitted to the bar and the federal government needs an attorney, what difference does it make if he's a Catholic when he applies?

If a woman is a proficient secretary and the federal government advertises for a secretary, what difference does it make if she is a Negro applying for the job?

It doesn't make any difference in the three examples cited above.

Then why is it that government workers and job applicants have been asked by federal agencies about their religion and religious beliefs, race, national origin, family relationships, sexual matters, finances and outside activities?

Unfortunately such questions are being asked now and Sen. Sam Ervin Jr. (D), North Carolina, is trying to halt it.

The southern senator, along with 54 bipartisan cosponsors, has introduced legislation forbidding government agencies to require or request current or prospective employes to disclose this kind of information about their private lives.

The bill, due for floor debate in the near future, shouldn't really result in much debate. It seems that all legislators who consider themselves American, representing the melting pot, should support the proposal.

Why should a man or woman who accepts employment with the federal government bargain away these rights which are inalienable?

Sen. Ervin puts it more dramatically when he declares that this bill is based on the premise that "a man who works for the federal government sells his services, not his soul."

That's certainly a valid premise, and we wish Sen. Ervin luck in his efforts.

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[From The Cleveland Press, Cleveland, Ohio, Oct. 2, 1967]

PRIVACY BY STATUTE

Largely through the long effort of Sen. Sam J. Ervin of North Carolina, the Senate has passed and sent to the House a bill designed to protect government employees from unnecessary invasions of their privacy by zealous superiors or other official stuffed shirts.

In view of the evidence uncovered by a Senate committee, the bill not only is badly needed but long overdue. And it is a disgusting reflection on the petty-minded government officials who not only tolerated this nonsense but promoted it.

In support of the bill, Sen. Roman Hruska of Nebraska said employees had been coerced into revealing highly personal information, forced to account for off-duty hours and compelled to donate time and money to assorted projects—among other things. Some of the intimate questions asked of job applicants were outrageous.

As passed by the Senate the bill attempts to outlaw such practices as requiring employees to attend lectures or take part in activities unrelated to their jobs, quizzing them about religious beliefs or sexual attitudes, forcing them to attend political meetings or to buy bonds or contribute to charities.

In short, it is a sweeping bill to do away with big brotherism.

It is to be hoped that the same protection eventually will be provided all citizens who are increasingly subjected to prying, irrelevant questions from nibnoses in and out of government.

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[From the St. Louis (Mo.) Post-Dispatch, Oct. 10, 1967]

PRIVACY STILL SUSPECTED

Despite reports that the Administration is trying to stall the Senate's "right to privacy" bill in the House, we regard the Administration's position as something of a mystery which the President ought to solve.

The bill that so overwhelmingly passed the Senate is a rather modest measure; it applies only to government employes, in an effort to protect them from unwarranted government probing to which any citizen would object. Should federal officials be permitted to use lie detectors on their employess or prospective employes, or require them to answer lengthy questionnaires about their religious or domestic or sexual conduct and beliefs, or to take part or not in activities unrelated to their federal jobs? The bill says No, exempting only the three intelligence agencies, CIA, NSA and FBI, from its prohibitions.

Government officials have contended that the bill is unnecessary, and that there are adequate Administration rules to protect employes. But a Senate Judiciary subcommittee directed by Senator Ervin has five filing cabinets full of complaints against just such practices that the bill would prevent. "Anyone who wishes to understand what intrusion on privacy really means," the North Carolina Senator says, "can find out by applying for a government job."

President Johnson has already taken a firm stand against wiretapping, proposing that it be restricted to national security cases and prohibited everywhere else. The President adopted this position in the interest of protecting individual privacy, and deserves credit for it. Yet some of his subordinates evidently do not think his interest in the right of privacy extends to federal workers. The President could assure them that the place for the Government to start demonstrating respect for privacy is with its own employes.

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[From the Binghamton (N.Y.) Press, Oct. 18, 1967]

WARLOCKS AND WIGGLE SEATS

If, by some remote chance, you should be calling on the Central Intelligence Agency in Washington, be careful where you sit. Don't for instance, choose that tasteful and well-padded chair that looks as if it cost somewhere around $5,000.

You may find yourself sitting in the CIA "wiggle seat," which actually did retail at $5,250. What you don't know is that sensitive devices buried in the rich upholstery were giving you a lie detector test without your knowledge.

The "wiggle seat" is as secret as anything else around the CIA, where nobody will talk about it. But some nosey reporters learned that the agency is pushing development of the machine in contracts channeled to private industry through the Defense Department.

Such an operation will be illegal—even for the CIA—if Sen. Samuel J. Ervin's bill outlawing secret polygraph tests for government employes becomes law.

The North Carolina Democrat calls it "20th Century witchcraft." The "wiggle seat" could be worse than that—in this day of fast eroding privacy it would be a positive danger, especially in the hands of private individuals.

[From the Paterson (N.J.) Call, Nov. 20, 1967]

THE RIGHT TO REFUSE

Despite the evidence Senator John C. Stennis (D., Miss.) said there was probably exaggeration in the letters. The letters he was referring to were those the Senate Armed Services Committee produced to show that officers use coercion to induce service men to buy Savings Bonds.

From his files Senator Sam J. Ervin Jr. (D., N.C.) produced a letter from a major who said marines are obligated to buy bonds just as they are to get a haircut or spend money on shoe polish, one from a lieutenant colonel who said he lost a promotion because he did not get 100-percent participation in a bond drive, and one from a service man in combat who wrote than even in Vietnam you can't get away from it.

The pressure has been on, but it may be eased a bit. The Armed Services Committee has voted to eliminate coercion when men are asked to buy Savings Bonds. Senator Stennis said he hated to pass a law prohibiting activities which were designed to teach frugality. This is the first time buying Savings Bonds has been couched in this language—teaching frugality—and one may question whether it is the duty of the military to teach frugality. If one is interested in teaching frugality one might consider putting his money in a savings account, which pays higher interest rates, rather than in Savings Bonds.

If buying bonds is to be a patriotic exercise it must be voluntary. Imposed from above it becomes the act of a despot rather than the free choice of free men. Coercing service men to buy bonds instills neither frugality nor patriotism but rather resentment and distrust of the system and its leadership.

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[From the Chicago Tribune, Mar. 21, 1968]

CAPITOL VIEWS: COMPLAINTS CONTINUE TO FLOW TO CAPITOL

(By Willard Edwards)

So many forms of coercion were exposed in a lengthy investigation by the Senate subcommittee on constitutional rights, headed by Sen. Sam J. Ervin (D., N.C.), that the Senate last September voted, 79 to 4, a "bill of rights" for federal employes. It was hailed as terminating the "big brother" system in government. But the administration is doing its utmost to prevent House approval of the measure.

Meanwhile, hundreds of complaints continue to flow to Capitol hill each week. Workers protest against political pressures to contribute to fund-raising affairs and prying into their religious beliefs, sexual attitudes, and private finances.

The practice arousing the most passionate indignation is the filing of mental disability charges against employes who dare to question the conduct of their superiors. The subcommittee found numerous examples of employes subjected to the stigma of a mental examination merely because they ventured to criticize procedures they deemed inaccurate, inefficient, or fraudulent. Government psychiatrists usually find some pretext to recommend "involuntary retirement." The expense of an appeal is beyond most workers.

Spokesmen for government employes complain that White House aids are deaf to their complaints. If they can't get thru to the President in the next few months they agree, the message will be loud and clear when federal payrollers march to the polls in November.

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[From the New York Times, Mar. 26, 1968]

U.S. AIDES PRESSED TO HELP DEMOCRATS

WASHINGTON, March 25.—High civil service officials are being asked, in some cases with more pressure than usual even in an election year, to contribute sizable sums to a Democratic party dinner here early next month.

The war in Vietnam is complicating the response of many persons, apart from the fact that some have always found abhorrent the tradition of contributing in election years to the party in power.

The pressure to contribute varies markedly from agency to agency. But a large number of civil servants of Grade 15 or higher—whose salaries range from $18,400 up—have received invitations to the party dinner on April 4, either in the mail or through their superiors. The dinner costs $250 a plate. In at least one agency, the Maritime Administration, a special meeting on the subject was held last week at which it was indicated to the 70-odd high officials present that a contribution of $50 was appropriate, possibly through the device of five officials joining to pay for one plate at the dinner.

Versions of the meeting differ. One participant insists that the acting administrator of the agency, James W. Gulick, said the senior civil servants present should consider the usefulness of keeping a "clean file," or record.

Mr. Gulick vigorously denies this, saying the primary purpose of the meeting was to inform the officials of their rights.

He also denies, as reported by a participant, that he spoke of a "quota" for the Maritime Administration and, by implication, for the Commerce Department as a whole.

However, a senior member of another section of the Commerce Department reports that the word "quota" was used to him and that $50 was suggested as an appropriate contribution.

In another agency, a top civil servant was given his invitation to the dinner with a suggestion that a contribution might help the agency's relations with Congress.

In still another case, the man involved supports the war in Vietnam but his wife does not. They decided to make a contribution when they agreed that it would support the Democratic party, not President Johnson.

"So far," said a subagency chief with a long career in government, "the pressure is no worse than usual in an election year, though I fear it may get worse. But three-quarters of my people oppose the war. What they will decide to do I don't know."

The dinner, to take place at the Washington Hilton Hotel, is sponsored by the Senate and House Democratic Campaign Committees. President Johnson, Vice President Humphrey and the Congressional Democratic leaders are to be honored guests.

The official hosts are Representative Michael J. Kirwan of Ohio and Senator Edmund S. Muskie of Maine, chairmen of the House and Senate Campaign Committees.

About 12,000 invitations have been sent, a unknown number of them to senior civil servants. Not all top civil servants were included, for there are 26,000 in the Government of Grade 15 or above, or the equivalent in specialized pay systems such as the Foreign Service and the Post Office Department.

In some agencies, such as the National Institutes of Health, there has apparently been no pressure to contribute to the dinner and probably few, if any, invitations.

In the Agriculture Department as far as could be learned, the issue has been left entirely up to the individual. One high official said he had thrown his invitation in the wastebasket. But another, an active party member, plans to attend the dinner.

In agencies where an amount of contribution has been suggested by high appointed officials, the Commerce Department's $50 appears to be the top. In another agency $25 was mentioned, and in yet another it was suggested that 25 officials might want to join at $10 apiece to buy a plate.

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[From the Evansville (Ind.) Kentucky Edition Courier, Sept. 30, 1967]

CURB ON INVASION OF PRIVACY HAS MERIT

The Senate took a heartening step when it overwhelmingly approved a bill to curb government agencies' interference in the private lives of their employes.

This measure, if it now gets through the House, should be an important step toward slowing down the trend toward invasion of individual privacy.

As enacted by the Senate, the bill makes adequate provision for inquiry where this is essential for security reasons.

Three agencies—the Federal Bureau of Investigation, the Central Intelligence Agency and the National Security Agency—are expressly permitted to use polygraph and psychological tests to elicit data on such matters as religion, sexual conduct and other personal relationships in such cases.

Much more rigid limitations are rightly placed on personal inquiry by other executive agencies of the government, however.

They are prohibited from forcing personnel or job applicants to disclose information of a personal nature, including personal finances except where there appears to be a possible conflict of interest.

Moreover, pressure by superiors to engage in political or other outside activities, buy U.S. bonds, or make political or charitable contributions is forbidden.

In the words of the bill's sponsor, Senator Ervin of North Carolina, it is intended to "protect the constitutional rights of civilian employes of the executive branch and to prevent unwarranted governmental invasions of privacy."

This action has come in response to rising complaints about unwarranted snooping into private concerns. If enacted into law, the measure will constitute a charter of rights for many who work for the government.

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[From the Los Angeles (Calif.) Herald Examiner, Dec. 7, 1967]

U.S. EMPLOYEES' SPOTLIGHT: HEARINGS SET ON WORKERS' BILL OF RIGHTS

WASHINGTON, December 7.—The House Civil Service Manpower subcommittee plans hearings early next year on the Senate-approved "bill of rights" for Government employes.

Rep. David Henderson, D-N.C., the subcommittee chairman, has advised Government employe leaders of his plans.

The Senate-approved bill, whose sponsor is Sen. Sam Ervin, D-N.C., would safeguard the privacy and constitutional rights of Federal and Postal workers.

It has the strong support of all Government employee unions.

Although the Senate passed the measure several months ago, the House group hesitated on holding hearings, citing other bills which had priority.

But the strong presentation made by employe leaders on the need for the employe "bill of rights" legislation persuaded Henderson and the other members of the House group to hold hearings shortly after Congress returns in January.

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[From the Norfolk (Va.) Ledger-Star, Dec. 6, 1967]

HEARINGS ON BILL OF RIGHTS DUE EARLY NEXT YEAR

(By W. Fred Orapax)

WASHINGTON.—The House civil service manpower subcommittee plans hearings early next year on the Senate approved "bill of rights" for government employes.

Rep. David Henderson, D-N.C., the subcommittee chairman, has advised government employe leaders of his plans.

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## ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 1 minute p.m.), the Senate adjourned until tomorrow, Thursday, May 2, 1968, at 12 noon.

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## NOMINATION

Executive nomination received by the Senate May 1, 1968:

UNITED NATIONS

George W. Ball, of New York, to be the representative of the United States of America to the United Nations with the rank and status of Ambassador Extraordinary and Plenipotentiary, and the representative of the United States of America in the Security Council of the United Nations.

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# HOUSE OF REPRESENTATIVES—*Wednesday, May 1, 1968*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

*And this commandment we have from Him, that he who loveth God love his brother also.*—I John 4: 21.

O God, who art the creator and sustainer of mankind and the Father of all men, we pray that Thou wilt make Thy will known to us as we bow in this circle of prayer. May we be so governed by Thy good spirit and so guided by Thy gracious purpose that we may be led into the way of truth, along the path of peace, up the road of righteousness, and down the highway of good will to men.

Remove the walls which separate our people and break down the barriers which partition one life from another, one group from another, one race from another. Purge our cities and towns of the causes of corruption and the vice of violence. By Thy grace help us to live in a new unity of spirit, with a new bond of peace, by a new righteousness of life, and for a new spirit of good will.

We commend to Thy fatherly care our beloved Nation, our leaders, and our people. Help us all to labor earnestly for the freedom, the rights, and the good of all our citizens.

In the name of Him who calls upon us to love one another we pray. Amen.