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SUMMARY OF ACTIVITIES

OF THE

COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

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Summary of Activities of the Subcommittee on Immigration, Citizenship and International Law

Tabulation of public bills referred to the Subcommittee on Immigration, Citizenship, and International Law and disposition

Bills referred to subcommittee	200
Bills on which hearings were held (including duplicate bills)	28
Bills reported favorably to full committee	5
Bills reported adversely to full committee	0
Bills reported to House	4
Bills passed House	2
Bills pending in House	1
Bills pending in Senate	0
Bills which became law	2
Resolutions which became law	1

The Subcommittee on Immigration, Citizenship, and International Law, has jurisdiction over legislation on immigration, nationality and related matters as well as other legislation which may be referred. The subcommittee processes and considers a large number of private immigration bills, adjustment of status cases, and cases referred to the subcommittee by the Attorney General in which he has exercised his discretionary authority to waive certain provisions of the Immigration and Nationality Act or his special authority to grant conditional entry status or to parole certain refugees into the United States. The subcommittee reviews approved petitions granting preference status in the issuance of immigrant visas to certain workers and specialists, analyzes numerous general immigration bills as well as other assigned public bills, and exercises oversight jurisdiction which requires continuous consultation with both Government and private agencies as well as field investigations. Furthermore, the staff of the subcommittee devotes considerable time to answering inquiries from the Members' offices, as well as analyzing individual immigration problems and cases referred to the subcommittee by Members of Congress.

During the First Session of the Ninety-fourth Congress, the Subcommittee on Immigration, Citizenship, and International Law held 7 meetings on private bills and 31 meetings on public legislation to consider amendments to the Immigration and Nationality Act to grant the same immigrant status to an alien child adopted by an unmarried United States citizen as an alien child adopted by a United States citizen and his spouse; waiving the visa requirement for aliens visiting Guam; making it unlawful to knowingly employ aliens illegally residing in the United States; granting benefits to the surviving dependents of public safety officers; authorizing assistance to Indochina refugees; and restoring citizenship posthumously to Robert E. Lee.

A summary of the activities of the subcommittee follows:

The subcommittee discharged its oversight responsibility regarding the operation, administration, and implementation of the Immigration and Nationality Act. In addition to oversight hearings, consultations were frequently held with representatives of the Departments of

State, Justice, Health, Education, and Welfare, and Labor as well as voluntary agencies to review their regulations and operating instructions.

Public Legislation

The following public bills were favorably reported by the subcommittee and the full committee:

INTERNATIONAL ADOPTIONS

H.R. 568—to grant an alien child adopted by an unmarried United States citizen the same immigration status as an immigrant child adopted by a United States citizen and his spouse. The subcommittee ordered the bill favorably reported to full committee on March 6, 1975 and the full committee reported H.R. 568 to the House (House Report 94–121) March 11, 1975. The bill passed the House on the Consent Calendar on April 21, 1975. The Senate passed the bill with an amendment on December 2, 1975. The House concurred with the Senate amendment on December 3, 1975 and H.R. 568 was signed into law December 16, 1975 (Public Law 94–155).

VISAS

H.R. 2771—to waive the visa requirement for aliens visiting Guam for not more than fifteen days. A public hearing was held on September 10, 1975 and the subcommittee approved an amendment in the nature of a substitute to H.R. 2771 on November 7, 1975. H.R. 2771, as amended, was ordered favorably reported to the full committee. This bill was favorably reported to the House on December 16, 1975 by the full committee.

INDOCHINA REFUGEES

H.R. 6755—"Indochina Migration and Refugee Assistance Act of 1975."—to authorize the United States to render assistance to, or on behalf of certain migrants and refugees. This bill authorizes assistance for the transportation, temporary care and resettlement of Vietnam and Cambodian refugees. The subcommittee held two days of hearings concerning the arrival of Vietnamese orphans and the possible evacuation of Vietnamese refugees on May 5 and May 7. H.R. 6755 was ordered favorably reported with amendments to the full committee on May 7, 1975 and the full committee reported the bill to the House (House Report 94–197) May 8. The bill passed the House on May 14, 1975 by a vote of 381–31. The Senate passed a similar version of the bill on May 16, 1975.

The differences between the two versions were resolved and a conference report was filed in the House on May 20. The Conference Report (94–230) was agreed to by both the House and Senate on May 21, 1975 and H.R. 6755 was signed into law on May 23, 1975 (P.L. 94–23).

ILLEGAL ALIENS

H.R. 8713—making it unlawful to knowingly employ aliens who have not been lawfully admitted for permanent residence or are not

Authorized by the Attorney General to work in the United States. The bill establishes a three-step procedure for the imposition of sanctions against employers who hire illegal aliens and provides for the adjustment of status in the United States of natives of the Western Hemisphere, who are otherwise qualified to immigrate to the United States.

The subcommittee held six days of hearings on H.R. 982 as introduced in the Ninety-fourth Congress and after three days of mark-up sessions ordered favorably reported to the full committee a substitute bill (H.R. 8713) on July 14, 1975. The full committee favorably reported H.R. 8713, with amendments, to the House (H. Rept. 94–506) July 30, 1975; and the bill is presently pending before the Rules Committee.

GENERAL ROBERT E. LEE'S CITIZENSHIP RESTORED

S.J. Res. 23—restoring posthumously full rights of citizenship to General Robert E. Lee. The Joint Resolution was referred to the Committee on the Judiciary after Senate passage on April 10, 1975. The subcommittee considered S.J. Res. 23 in open session on June 11, 1975 and ordered the resolution favorably reported on that same date. It was reported to the House (H. Rept. 94–324) June 19, 1975 and passed the House under Suspension of the Rules on July 22, 1975. The resolution was signed into law on August 5, 1975 (P.L. 94–67).

The following public legislation was favorably reported by the subcommittee to the full committee:

BENEFITS FOR SURVIVORS OF PUBLIC SAFETY OFFICERS

H.R. 365 and *H.R. 366*—The purpose of these bills is to provide compensation ($50,000) to the surviving dependents of law enforcement officers (H.R. 366) and firefighters (H.R. 365) who are killed in the performance of duty. The subcommittee held two days of hearings and favorably reported the bills with amendments to the full committee on November 6, 1975.

Other Public Legislation

H.R. 190—To facilitate the entry of foreign tourists into the United States and *H.R. 8059*—to facilitate the entry of visitors into the United States during its Bicentennial anniversary. Hearings were held and testimony was received from the Departments of State and Justice as well as other parties.

H.R. 981 and *H.R. 367*—This legislation would extend to the Western Hemisphere the seven category preference system and the 20,000 per-country limit on the number of immigrant visas available annually, which is currently in effect for the Eastern Hemisphere. The bill establishes procedures for the admission of groups or classes of refugees into the United States. It also amends provisions in the Immigration and Nationality Act relating to the admission of certain temporary workers. Hearings were held on September 25, 30, October 9, 29, December 11, 1975. The subcommittee will continue its consideration of this legislation during the second session focusing on demographic implications with regard to the future of our immigration policy.

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Oversight Hearings

INDOCHINA MIGRATION AND REFUGEE ASSISTANCE ACT OF 1975

When the urgent situation occurred regarding the removal of orphans from South Vietnam, the Subcommittee on Immigration, Citizenship, and International Law closely followed the developments in South Vietnam as well as Cambodia. During the months of April and May numerous briefings were held with officials from the Departments of State, Justice and Defense on various problems and issues associated with the Indochina conflict.

On April 4, 13, 21, 28 and May 6 consultations with the senior Members of the committee occurred concerning the use of the parole authority of the Attorney General (section 212(d)(5) of the Immigration and Nationality Act) regarding certain categories of Vietnamese and Cambodian refugees which were to be paroled into the United States.

When it became apparent that the monies available under the Foreign Assistance Act of 1961 would be insufficient to meet the needs of these refugees, the subcommittee immediately scheduled hearings to receive testimony from Ambassador L. Dean Brown the President's special representative and Director of the Indochina Interagency Task Force. Testimony was heard regarding the need for the emergency authorization of funds for the transporting and resettling of the Vietnamese and Cambodian refugees.

The subcommittee held numerous oversight hearings reviewing the implementation of the Indochina Migration and Refugee Assistance Act of 1975; testimony was received from the officials of the Interagency Task Force for Indochina as well as representatives of the voluntary agencies engaged in the resettling of the Vietnamese and Cambodian refugees. In addition, Members and staff counsel of the subcommittee traveled to the reception centers (Ft. Chaffee, Camp Pendleton, and Indiantown Gap) as well as the staging centers on the Island of Guam to observe the conditions and processing procedures.

STUDENT VISAS

Hearings held on the administration of the Immigration and Nationality Act included the implementation of the provisions which relate to foreign students admitted with F–1 visas, the implementation and interpretation by the Department of State of Section 212(d)(3) of the Immigration and Nationality Act relating to waiving certain grounds of excludability on the part of certain aliens to the United States and a study of the consular officer function of the Department of State. The stututory functions performed by consular officers will be the subject of extensive review by the subcommittee throughout the Ninety-fourth Congress.

U.S. IMMIGRATION AND NATURALIZATION SERVICE

The subcommittee also commenced hearings discharging its oversight responsibility with regard to the Immigration and Naturalization Service. The focus of the initial hearing was a review of the budgetary and manpower problems in the Immigration and Naturalization Service particularly as it relates to the illegal alien problem.

NONIMMIGRANT ALIEN LABOR PROGRAM IN THE VIRGIN ISLANDS

The subcommittee chairman and staff counsel traveled to the Virgin Islands of the United States to investigate the nonimmigrant alien labor program in that Territory. As a result of this trip and a comprehensive review of documents in the Departments of Labor and Justice, the subcommittee issued a Committee Print entitled "Nonimmigrant Alien Labor Program on the Virgin Islands of the United States." In order to implement one of the recommendations in this Report, the Chairman of the Subcommittee, the Honorable Joshua Eilberg, introduced H.R. 11261, which establishes a Virgin Islands Commission to implement procedures for the granting of permanent residence to certain nonimmigrant aliens in the Virgin Islands.

Special Legislative Jurisdiction

A. SUSPENSION OF DEPORTATION CASES

Under section 244 of the Immigration and Nationality Act, the Attorney General is authorized to adjust the status of certain deportable aliens to that of aliens lawfully admitted for permament residence through the procedure of suspension of deportation. However, such action by the Attorney General is subject to congressional review.

Under the provisions of Section 244(a)(2) of that Act wherein affirmative action by the Congress is required in order to approve the Attorney General's suspension orders, the subcommittee reviewed 12 cases referred by the Attorney General. None were approved.

In accordance with the provisions of Section 244(a)(1) of the Immigration and Nationality Act, the subcommittee reviewed 314 cases referred by the Attorney General and 6 cases were disapproved as the result of House approval of H. Res. 926 on December 16, 1975.

B. 13(c) CASES

Under the provision of section 13(c) of the Act of September 11, 1957 (Public Law 85–316), the Attorney General is empowered to adjust the status of certain aliens who entered the United States in various diplomatic categories and who have failed to maintain their official status. The number of aliens whose status may be adjusted under this provision is limited to 50 in any fiscal year. Each of these 13(c) cases necessitates a detailed investigation of the facts involved, and requires a determination on the merits warranted. Forty-six cases in this category were reviewed by the subcommittee during the first session of the Ninety-fourth Congress.

C. EXCLUDABLE ALIEN CASES

Certain provisions of the Immigration and Nationality Act grant to the Attorney General the discretionary authority to waive various provisions of the Act. In such cases, however, he is required to submit detailed reports on his action to the Congress. Under section 212(d)(6) of the Act, the Attorney General is required to report cases of aliens who are temporarily admitted to the United States under section 212(d)(3), although they are otherwise excludable. The subcommittee

staff reviewed the 10,913 cases referred to the Subcommittee on Immigration, Citizenship and International Law in the first session of the Ninety-fourth Congress.

Section 212(a)(28)(I)(ii) of the Immigration and Nationality Act authorizes the Attorney General to admit certain aliens to the United States for permanent residence who are otherwise excludable because of their former membership in the Communist Party or other subversive organizations; provided it is established to his satisfaction that they are bona fide defectors. 24 cases in this category were referred in the first session of the Ninety-fourth Congress.

D. REVIEW OF ADMINISTRATIVE ACTION CASES

In accordance with the provision of section 203(f) of the Immigration and Nationality Act, the Attorney General submitted to the Congress 4,662 reports on January 28, 1975, and 5,710 reports on July 31, 1975, of approved applications for conditional entry. These reports were reviewed by the subcommittee staff in carrying out the committee oversight jurisdiction over refugee matters.

Under section 204(d) of the Immigration and Nationality Act, as amended by the Act of October 3, 1965 (Public Law 89–236), the Attorney General is required to submit to the Congress on the first and fifteenth day of each calendar month in which Congress is in session a complete report in each case where petitions for preference are approved under section 203(a) or section 203(a)(6) of that Act. During the first session of the Ninety-fourth Congress 16,407 such reports were submitted and referred to the subcommittee for review.

Rule 4 of "Subcommittee Rules of Procedure" governing consideration of private immigration bills provides that the committee will not request departmental reports on bills in behalf of aliens who entered the United States as nonimmigrants, in transit, as crewmen, as stowaways, or those who entered surreptitiously. A waiver of the rule may be granted if the author has submitted documentation to establish unusual hardship. Eighty-four such requests for waiver were considered by the subcommittee. Forty-two were rejected and the bills tabled by the full committee. In 42 instances the rule was waived and departmental reports requested.

Tabulation of private immigration and nationality bills

House Bills:	
Private laws	11
Passed House, pending in Senate	35
Adversely acted on tabled by the full committee	56
Ordered favorably reported to the House by the full committee	11
Deferred of administrative remedies or action on pending public legislation	14
Requests to waive rule 4 of the Committee Rules of procedure deferred for administrative remedy	7
Ordered unfavorably reported to the full committee	6
Awaiting receipt of departmental reports	74
Bills awaiting final action	31
Bills on which no action is contemplated pending enactment of public legislation	12
Tabled in previous Congress	1
Senate bill passed in lieu	1
Bills awaiting receipt of further information from authors	10
Requests to waive rule 4 of the Committee Rules of Procedure awaiting action	18
Bills on which authors have not requested any action (not considered pending bills since no interim benefit is accruing to the persons named in those bills)	75
House joint resolutions pending	2
House committee resolutions pending	1
House resolutions approved	1
Senate Bills:	
Private Law	5
Pending	9
Requests to reconsider adverse action by the subcommittee	4
Deferred for administrative remedies	2
Ordered unfavorably reported to the full committee	1
Tabled	1
Senate joint resolutions pending	1
Total bills	390
Total private laws	16

Summary of Activities of the Subcommittee on Administrative Law and Governmental Relations

Tabulation of public and private bills referred to the Subcommittee on Administrative Law and Governmental Relations and Disposition

Public bills referred to the subcommittee:	
Bills referred to subcommittee	212
Bills on which hearings were held	68
Bills reported favorably to full committee	7
Bills reported adversely to full committee	0
Bills reported to House	7
Bills passed House	7
Bills pending in the House	0
Bills pending in the Senate	5
Bills which became law	1
Private bills referred to the subcommittee:	
Referred to subcommittee	258
Hearings held	4
Favorably reported to full committee	28
Adversely recommended to full committee	3
Pending in subcommittee	226
Reported to House	28
Passed House [1]	29
Pending in the House	0
Pending in Senate	18
Private laws	10

[1] Senate bill substituted on House floor for House bill which had already passed House.

The jurisdiction of the subcommittee is comprised of several subjects which include administrative law and administrative procedure, claims, interstate compacts, public competitive bidding for Federal contracts, Federal charters for charitable organizations, termination of national emergencies, regulation of Secret Service procedures, Federal investigative agencies, lobbying activities and lotteries, as well as other related matters which might be referred.

Secret Service Protection

In the first session of the 94th Congress, the subcommittee considered the bill H.R. 1244, a bill to establish procedures and regulations for certain protective services provided by the Secret Service. After a hearing an amended bill was recommended to the full committee which ordered it reported to the House. After the same bill was reported by the House Committee on Government Operations to which it had also been referred, the bill passed the House on May 5, 1975.

National Emergencies

After four days of hearings the subcommittee recommended the bill H.R. 3884, terminating certain authorities with respect to national emergencies and providing for the implementation and termination of future emergencies, to the full committee with amendments and the bill was ordered reported to the House as recommended by the subcommittee. The bill passed the House on September 4, 1975.

Court of Claims Procedure

The subcommittee considered two bills concerning the Court of Claims. A bill concerning procedures in congressional reference cases, H.R. 4151, was the subject of a hearing. A second bill, H.R. 4152, concerning commissioners of the Court of Claims was favorably recommended to the full committee, reported and passed by the House on July 21, 1975.

Exemptions for Certain Newspapers Carrying Information Relating to State Lotteries

The subcommittee considered the bill H.R. 1607 to amend title 18 to make parallel exceptions for newspapers from lottery prohibitions as are provided for radio and television stations. The bill was favorably recommended to the full committee, reported and passed the House on June 16, 1975.

Legislation and Oversight on Federal Charters

The subcommittee conducted an oversight hearing on matters relating to governmental activities concerning non-profit corporations incorporated by Congressional Act. Testimony was received from the Departments of Justice and Treasury, and from the General Accounting Office. In the further exercise of its jurisdiction over bills providing for such federal incorporations, the subcommittee favorably recommended the bills S. 240 and S. 611 amending the charters of the National Federation of Women's Clubs and Southeastern University respectively. Both of these bills were reported and passed the House. S. 240 passed the Senate and was enacted into law as Public Law 94–151.

The subcommittee also held a hearing on December 9, 1974 on the bill H.R. 7462 and companion measures on incorporation of the USO.

International Claims Agreement Amendments

The subcommittee held a hearing on the bill H.R. 7896 providing amendments to sections 2734a and 2734b concerning the settlement of claims under international agreements. The bill was favorably recommended to the full committee, reported and passed the House on November 3, 1975.

Regulation of Lobbying Activity

The subcommittee conducted six days of hearings on the bills H.R. 15 and H.R. 1734 and companion measures concerning the regulation of lobbying activity. Testimony was received from sponsors of the bills, representatives of government departments and agencies and numerous public witnesses.

Review of Administrative Rulemaking

The subcommittee held hearings on seven days on the bills H.R. 3658 and H.R. 8231 and companion measures concerning congressional

review of administrative rulemaking. These bills would provide that regulations promulgated by regulatory agencies will not be effective until the Congress has been given a specified period to review them and will not go into effect if disapproved by the Congress.

Oversight Hearings on Delay in the Administrative Process

In November, the subcommittee initiated a series of hearings on the subject or delay in the administrative process. The subcommittee received testimony from the Federal Communications Commission on November 14, 1975. On November 20, 1975, the subcommittee heard from public witnesses who commented upon the administrative procedures and practice of the Federal Communications Commission.

Amendments to the Administrative Procedure Act

The subcommittee began its consideration of the bills H.R. 10194, H.R. 10195, H.R. 10196, H.R. 10197, H.R. 10198 and H.R. 10199 with a hearing on December 4, 1975. These bills embody recommendations of the American Bar Association and the Administrative Conference concerning various amendments to the present provisions of the Administrative Procedure Act. At the first hearing the subcommittee received testimony from the Administrative Conference, the American Bar Association and representatives of the Federal Administrative Law Judges Conference.

69-804—76——3

Summary of Activities of the Subcommittee on Courts, Civil Liberties and the Administration of Justice

Tabulation of bills referred to the Subcommittee on Courts, Civil Liberties and the Administration of Justice and disposition

Bills referred to subcommittee	194
Bills on which hearings were held	43
Bills reported favorably to the full committee	10
Bills pending in full committee	3
Bills pending in subcommittee	184
Bills reported to House	7
Bills passed House	4
Bills pending in House	3
Bills pending in Senate	1
Bills which became law	3

The subcommittee has jurisdiction over legislation which affects Federal corrections policy, privacy and civil liberties, courts, copyright, patents and the newly formed Legal Services Corporation.

During the first session of the 94th Congress a total of 194 bills were referred to the subcommittee. Highlights of the subcommittee's activities during 1975 are as follows:

Corrections

The primary legislative endeavor of the Subcommittee in the corrections area during this session was to mark up and carry successfully to fruition the Parole Commission and Reorganization Act (H.R. 5727). This bill reorganizes the Federal parole system into an independent, regionalized commission and provides for an infusion of due process into federal parole procedures. The bill passed the House on May 21, the Senate on Sept. 16, 1975. Conference with the Senate was conducted during the period from October 29 to February 24. The bill became law on March 16, 1976. In addition the subcommittee conducted a number of successful oversight projects in the corrections area during the first session.

The first of these was to examine the wisdom and efficacy of the Federal Bureau of Prisons long-range master plan for the construction of new facilities. In two full days of provocative hearings on this issue the subcommittee heard from some of the most well-respected and thoughtful spokesmen on this issue. The hearings "Prison Construction Plans and Policy" provide a useful text which is being used by both the Administration and the Appropriations Committee in resolving this difficult problem. Also, the subcommittee thoroughly reviewed the practice of using prison inmates as subjects for medical research. In two days of well-publicized hearings the subcommittee heard from former prisoners, the American Civil Liberties Union, the Department of Health, Education and Welfare, and the National Institute of Drug Abuse, as well as distinguished private parties in the field. As a direct result of the information and debate raised in

these hearings, the Director of the Federal Bureau of Prisons, Mr. Norman A. Carlson announced on March 1, 1976, that the Bureau would no longer permit the use of federal prisoners as subjects in medical research. The participation of federal prisoners at the one remaining federal program, the Addiction Research Center, Lexington, Kentucky, will be phased out by the end of 1976. The subcommittee has been working closely with the National Commission on the Protection of Human Subjects and will be watching closely the situation in the few states which still permit medical research on prisoners, to determine if the legislation proposed to ban such research, H.R. 3603, is needful or purposeful. Further, the subcommittee traveled to California in March of 1975 to inspect the federal correctional institutions at Oakland, Pleasanton, San Diego and Terminal Island. Also the members spent a provocative day at the well-known Delancy Street Project, a private rehabilitative community in San Francisco. Also, the subcommittee had the benefit of a very educational trip to the Netherlands and Sweden in May for study of Dutch and Swedish correctional policies.

Privacy

The public outcry over the invasions of privacy by law enforcement agencies resulted in an unprecedented Congressional interest in this issue. The subcommittee was involved from the beginning of the session in this area and held 9 days of hearings which covered both the general problems of privacy protection and a number of specific abuses including the use of mail covers, the CIA program of mail opening, telephone company monitoring, national security wiretapping procedures, FBI scrutiny of local police wiretapping, and the protection of banking and business records. The subcommittee will probably approve early in the second session a bill, H.R. 214, which will plug a number of existing loopholes in privacy statutes.

Copyright

One of the primary legislative responsibilities of the subcommittee has been consideration of the proposed revision of the federal copyright law. The subcommittee held 18 days of hearings on H.R. 2223, the version of the bill passed by the Senate in 1974. Markup will continue through the spring and it is anticipated that the bill will be brought before the full House during the summer of 1976.

Amnesty—President's Clemency Program

Continuing a project begun in the 93rd Congress, the subcommittee held a series of oversight hearings on the Presidential Clemency Program and unanimously agreed to a report which was sharply critical of the President's program. Further, the subcommittee favorably reported H.R. 9596, the Vietnam Era Reconciliation Act which, if enacted, would provide non-punitive relief to Vietnam-era draft resisters and military deserters who were not reached by the President's program. The legislation was not scheduled for consideration by the full committee during the first session.

Legal Services Corporation

The subcommittee, which has oversight of the newly formed Legal Services Corporation, held two days of hearings on an amendment to the Legal Services Corporation Act of 1974. H.R. 10799, which is co-sponsored by all members of the subcommittee, was reported favorably by the committee on December 16, 1975. This bill which is awaiting floor action would allow the Corporation the option of funding support activities by grant or contract.

Attorneys' Fees

Three days of hearings were held on the issue of payment of attorneys' fees of prevailing parties in civil cases. Because of the recent Supreme Court ruling in *Alyeska Pipeline Services Co.* v. *Wilderness Society*, 421 U.S. 240 (May 12, 1975), this issue has become an important concern of the public interest legal community and all concerned with equal access to the courts.

Following the conclusion of subcommittee work on copyright and privacy, legislation on this issue will be actively considered.

Courts

The subcommittee considered three issues with regard to federal court policy; the abolition of the three judge federal court, the removal of present limits on judicial salaries, and the protection of the employment of those who serve on federal juries.

The subcommittee favorably reported S. 537 which will have the effect of eliminating three judge federal courts. The legislation was not scheduled for full committee consideration during the first session. On July 30, 1975 the Congress lifted the ceiling on executive level salaries, and President Ford subsequently authorized a 5% increase in judicial pay. The subcommittee has consequently chosen not to pursue the salary increase issue during the 94th Congress. The subcommittee will further consider jury reform issues and may present an omnibus jury bill at a later date.

Other Issues

In other areas the subcommittee:

—Held two days of hearings on a number of measures designed to create a privilege for newmen against compulsory disclosure of information and sources received in the course of news gathering.

—Approved legislation extending the life of the National Commission for the Revision of Federal and State Law Relating to Wiretapping and Electronic Surveillance Public Law 94–176.

—Held one day of hearings on legislation to provide for the reorganization of the Judicial System of Guam.

—Approved legislation to carry into effect certain provisions of the Patent Cooperation Treaty Public Law 94–131.

—Held one day of hearings on H.R. 9332, a bill to provide for a federal program of pretrial diversion.

Summary of Activities of the Subcommittee on Civil and Constitutional Rights

Tabulation of bills referred to the Subcommittee on Civil and Constitutional Rights and disposition

Bills referred to subcommittee	248
Bills on which hearings were held	34
Bills reported favorably to full committee	7
Bills reported adversely to full committee	0
Bills pending in subcommittee	224
Bills reported to House	5
Bills passed House	3
Bills pending in House	1
Bills pending Senate	1
Bills which became law	1

In addition to its general legislative and oversight jurisdiction with regard to civil rights, constitutional rights and constitutional amendments, the subcommittee also has special jurisdiction over Bankruptcy and Reorganization; various Commissions; and the United States Flag Code.

A summary of the principal subcommittee activities, dealing first with legislation, is as follows:

General Legislation

BANKRUPTCY

On January 14, 1975, the chairman of the subcommittee introduced H.R. 31 and H.R. 32, two bills that would effect a major revision of the Bankruptcy Act. H.R. 31 was drafted by the Commission on the Bankruptcy Laws of the United States, a congressionally created commission established under Pub. L. 91–354 to study the Bankruptcy Act and propose reforms in the form of specific legislation. The Commission began work in 1971, and reported to the Congress, the President and the Chief Justice on July 30, 1973. Its report was in two parts, the second of which was draft legislation which was introduced by the chairman of the subcommittee in the 93d Congress as H.R. 10792. This same bill was reintroduced in this Congress as H.R. 31. The thrust of the legislation is to make the bankruptcy process more efficient and more effective, by streamlining the handling of a bankruptcy case, especially the large number of consumer bankruptcy cases which involve no assets, and by securing the positive effects of a discharge of the bankrupts' prior obligation, preventing later harassment and sharp practices by his former creditors, and setting aside to the bankrupt through a uniform minimum exemption law the property he needs to have a fresh start.

The National Conference on Bankruptcy Judges disagreed with some of the recommendations of the Commission and drafted their own bill, introduced in the 93rd Congress as H.R. 16643, and in this Congress as H.R. 32. The aims of the Judges' bill are essentially identical to those of the Commission's bill.

During the first session, the subcommittee held fourteen days of hearings on these two bills. The first two hearings were of an introductory nature, informing the subcommittee of the nature of the problems surrounding the existing Bankruptcy Act, and the nature of the process under the current system. Witnesses from the Administrative Office of the United States Courts and the National Conference of Bankruptcy Judges testified.

In September, the subcommittee held four hearings on the larger philosophical, constitutional and economic basis underlying bankruptcy law. Testimony was received from law professors, bankruptcy judges, practitioners, and economists, all experts in the field. The final two days of hearings in September concentrated on the structural and procedural issues in bankruptcy reform—the primary difference between the Commission's and judges' bills. Representatives of the judges, the Commission, and the National Bankruptcy Conference, a select group of bankruptcy practitioners, judges and professors, presented the views of these organizations.

Two days of hearings were held at the beginning of October on the municipal debt adjustment chapters of the proposed acts. These hearings, originally scheduled for a later date in the consideration of the whole Act, were held in response to the fiscal difficulties of some of the Nation's municipalities. The subcommittee heard from law professors, an economics professor, the Department of Justice, a representative of the municipal bond markets, and several bankruptcy practitioners. Based on the testimony received during these hearings, the subcommittee began drafting an amendment to the Bankruptcy Act that would make the municipal adjustments chapter, Chapter IX, more accessible as a remedy to a city in financial trouble. The procedure for the adjustment of debts under Chapter IX of the current Bankruptcy Act is archiac and unworkable for all but the smallest entities. It has not been amended since 1946. In this time of financial crises of many of the country's cities, the need for a workable reorganization procedure is vital. The bill amends Chapter IX of the Bankruptcy Act to provide this workable procedure so that a municipality of any size that has encountered financial difficulty may work with its creditors to adjust its debts.

The subcommittee's work was completed by the end of the month, and on October 30, 1975, the chairman of the committee and the chairman of the subcommittee introduced H.R. 10454, a bill to revise Chapter IX of the Bankruptcy Act. After three days of formal mark-up of the bill, on November 7, 1975, the subcommittee ordered the bill favorably reported, with amendments. A clean bill, H.R. 10624, was introduced by the chairman of the subcommittee and the majority Members, and was reported favorably to the full committee.

The committee met on November 11 and November 18, 1975 to consider the bill. The bill was ordered reported favorably with amendments, and was so reported on December 1, 1975, accompanied by H. Rept. 94–686. The amended legislation was passed by the House on December 9, and transmitted to the Senate for action. On December 10, the Senate amended the bill by substituting its own bill, S. 2597, and passed the bill as amended. The Senate insisted on its amendments, and requested a conference with the House. Acting on the advice of the committee, the chairman of the committee requested

the House to disagree with the Senate amendment and appoint conferees. The House so acted on December 16, 1975, and the Speaker appointed the Members of the subcommittee as the House conferees. The conference is expected to commence early in the second session of this Congress. The differences between the two bills are substantial (85 separate items), but the subcommittee is hopeful of reaching agreement with the Senate without great difficulty.

Also in December, the subcommittee recommenced hearings on H.R. 31 and H.R. 32. Four days of hearings were held on consumer bankruptcies. Witnesses included representatives of the National Consumer Law Center, of the National Bankruptcy Conference, of finance companies and banks, and staff members of the Federal Trade Commission. This series of hearings will resume shortly after the second session begins.

The subcommittee will also hold approximately ten days of hearings on business bankruptcies, three days on railroad reorganizations, one day on the transition provisions of the new act, and several days on miscellaneous issues. It expects to complete all hearings on the proposed revision by mid-April, and to be able to report a bill to the full committee by June.

In addition to the consideration of bankruptcy reform, the subcommittee held one day of hearings on H.R. 6184, a bill to amend Section 40 of the Bankruptcy Act, to revise the salary-setting procedures for referees in bankruptcy. The bill removes the authority to set the salaries of full-time referees in bankruptcy from the Judicial Conference, and restores this authority to the Congress. Representatives of the National Conference of Bankruptcy Judges testified. The subcommittee reported the bill favorably to the full committee, which ordered the bill reported favorably to the House on June 23, 1975. The bill was so reported on September 16, 1975, accompanied by H. Rept. 94–467. The House passed the bill on October 23, 1975, and transmitted it to the Senate, where it awaits Senate action.

VOTING REPRESENTATION FOR THE DISTRICT OF COLUMBIA

On March 5, 1975, H.J. Res. 280 was introduced by Representative Fauntroy. The Joint Resolution would amend the Constitution to provide for two Senators and the number of Representatives to which it would be entitled if it were a State for the District of Columbia, to give the Representatives elected under the amendment a vote in the selection of the President if that duty devolved upon the House of Representatives, and to give the Congress the power to implement and enforce the amendment by appropriate legislation. The proposed amendment would not make the District of Columbia a State nor invest it with any of the sovereign powers of a State. It would disturb neither Article I, section 8, clause 17 of the Constitution, which gives the Congress exclusive legislation over the District, nor the twenty-third amendment, which gives the District a limited number of presidential electors.

The purpose of the amendment is to correct a fundamental and historic inequity in the Constitution—the deprivation of the franchise in national elections from the over 725,000 people of the Nation's

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Capital. The deprivation was the result of a historical accident and oversight in both the drafting of the Constitution and the drafting of the legislation which created the District and accepted the cession of land from both Maryland and Virginia. The people of the District of Columbia have the full responsibilities of citizens—they pay federal taxes, are subject to the draft, and so on—and are entitled to vote for electors for President. The subcommittee reported favorably this proposed constitutional amendment to give these people the full rights of citizenship as well as the responsibilities.

The proposed constitutional amendment was first reported favorably by the Committee on the Judiciary in 1967 in the 90th Congress, H.R Rept. No. 819 (90th Cong., 1st Sess. 1967), but was never reported from the Rules Committee. The amendment was again favorably reported in 1972, H. Rept. 92–889 (92 Cong., 2d Sess., 1972), but again never progressed past the Rules Committee.

In the first session of this Congress, the subcommittee held three days of hearings on the joint resolution. The subcommittee heard from the resolution's congressional sponsors, the Mayor of the District of Columbia, the Bureau of the Census, and representatives of organizations concerned with voting representation for the District of Columbia. One hearing day was called upon request of the minority, under Rule XI(j)(1) of the Rules of the House.

On September 29, 1975, H.J. Res. 280 was ordered favorably reported to the full Committee on the Judiciary by the subcommittee, and on December 11, 1975, the committee ordered the bill, with a technical amendment, favorably reported to the full House, accompanied by H. Rept. 94–714. The legislation now awaits action by the Rules Committee and the full House.

ARREST RECORDS AND COMPUTERIZED CRIMINAL DATA SYSTEMS

On January 14, 1975, H.R. 61 and H.R. 62 were introduced by the chairman of the subcommittee. H.R. 61 is a bill drafted by the Department of Justice, which was received in an executive communication at the close of the second session of the 93d Congress; and H.R. 62 is identical to a bill introduced by Senator Sam Ervin in the 93d Congress. This legislation continues a three-year study of arrest records and computerized criminal data systems. The bills, though different in certain respects, would protect the constitutional rights and privacy of individuals upon whom criminal justice information has been collected and to control the collection and dissemination of this information.

On June 25, 1975, Representative Edwards and Senator Tunney introduced H.R. 8227 and S. 2008, respectively, which is comprehensive legislation to facilitate the exchange of criminal records and to insure the privacy of persons who come into contact with the criminal justice system. H.R. 8227 was designed to incorporate the best features of H.R. 61 and H.R. 62. The subcommittee has held three days of hearings on this bill, one day which was called at the request of the minority pursuant to Rule XI(j)(1). Testimony was received from the Department of Justice, Project SEARCH, the Department of Defense and a representative of the Virginia Division of Justice and Crime Prevention, who is also Chairman of the National Conference of State Criminal Justice Planning Administrators.

During the remainder of the first session, meetings with the Department of Justice, the Federal Bureau of Investigation, State representatives, individuals from the private sector in computer technology and representatives of the printed media took place with respect to the provisions of the bill. With information based upon these meetings, as well as testimony received in the hearings, the subcommittee began work on revising and redrafting portions of the criminal justice information bill. The subcommittee will continue to confer with interested parties as well as monitor reactions to the Department of Justice regulations issued on May 20, 1975 and since modified. Further experience under these regulations by all criminal justice agencies will enable them to provide us a more precise understanding of what specific legislation is needed and which areas of their activities need be covered by Federal legislation.

VOTING RIGHTS ACT EXTENSION

The special provisions of the Voting Rights Act of 1965, legislation which many have termed the most effective civil rights law ever passed, were scheduled to expire on August 6, 1975, unless extended by the Congress.

On the first day of the first session of the 94th Congress, legislation was introduced which proposed to extend those special provisions for an additional ten years and to make permanent the nationwide temporary ban on literacy tests, enacted in 1970. Subsequent legislative proposals were also introduced which would not only extend the Voting Rights Act's special provisions, in the areas already subject to their special coverage, but which would also expand the coverage of those special provisions to new geographic areas. It was urged that the coverage of the Act's special provisions should be expanded to new geographic areas in order to insure the voting rights of language minority citizens.

Each of these legislative proposals was referred to the Subcommittee on Civil and Constitutional Rights; and in February and March of 1975 the subcommittee conducted 13 days of hearings to examine extensively each of the issues involved in those proposals. Did the Act's special provisions need to be continued in those areas which were already subject to their special coverage? Should the temporary nationwide ban on literacy tests be made permanent? Were there barriers to voting and registration being experienced by language minority citizens in certain areas of the country, warranting the expansion of the coverage of the special provisions to those areas?

During the subcommittee's 13 days of hearings, two of which were held at the request of the minority pursuant to Rule XI(j)(1), testimony was received from congressional sponsors of the subject legislation, other Members of the Congress, the Assistant Attorney General of the United States in charge of the Civil Rights Division, the United States Commission on Civil Rights, state and local officials, private citizens and members of various civic organizations with special interest in the Voting Rights Act. Those who did not appear personally were given an opportunity to submit relevant material for the record.

After compiling a two volume hearing record and carefully reviewing the materials contained therein, the subcommittee, on April 17th,

18th, and 22nd, conducted open mark-up sessions on the various extension measures. As a result of those sessions, the subcommittee ultimately adopted a clean bill (H.R. 6219) which extended the Voting Rights Act's special provisions for 10 additional years in already covered areas, expanded the application of those special provisions to new geographic areas for the protection of language minority voting rights; made permanent the temporary nationwide literacy test ban; and required bilingual elections in certain areas of the country. The adoption of this clean proposal by the subcommittee took place on April 23, 1975.

Due to the then fast-approaching August 6th expiration date, the subcommittee-reported measure was brought before the full committee. After extensive debate and the offering of numerous amendments, the full committee, on May 1, 1975, reported the subcommittee-approved measure, with one amendment, for favorable action by the House (H. Rept. 94–196).

Later, in May, 1975, members of the subcommittee and the chairman of the full committee appeared before the Rules Committee, requesting a rule for H.R. 6219. That rule was granted (H. Res. 469), and during the first week of June, the House considered H.R. 6219, as amended by the full committee for three days. On June 4, 1975 H.R. 6219 passed the House, as amended, with additional floor amendments.

Throughout this period of House consideration of the Voting Rights Act Amendments, members and staff of the subcommittee maintained constant communication with the United States Department of Justice, the United States Commission on Civil Rights, the Director of the Bureau of the Census and all others who could offer data and technical assistance in developing an appropriate extension measure. Volumes of data on language minority populations and illiteracy rates were developed at the request of the subcommittee, and continual meetings were held with representatives of the Census Bureau and the Congressional Research Service.

Subsequent to House passage of H.R. 6219 on June 4, 1975, the subcommittee staff closely monitored the Senate deliberations on H.R. 6219, as amended. It was now approximately two months before the Act's scheduled expiration date, and it was of course imperative that the Senate act expeditiously in order to avoid the lapsing of the Act's special provisions. On July 24, 1975, H.R. 6219, as amended, passed the Senate in amended form.

On the following day, July 25, 1975, members of the subcommittee and the chairman of the full committee appeared before the House Committee on Rules requesting a resolution for agreement to the Senate amendments to H.R. 6219. The Senate had essentially left H.R. 6219 intact. However, it had amended its measures so that the coverage of the Act's special provisions would not be continued for 10 additional years in those areas already covered. Instead, under the Senate-approved measure, coverage in the already-covered areas would continue for an additional seven years. After discussions with various leaders in the civil rights community and with others who had monitored action on the extension measure, it was determined that, with less than two weeks remaining before the Act's expiration, the most advisable course of action was to agree to the Senate modification in order that the provision could be quickly signed.

On July 25, 1975, the chairman of the House Committee on Rules favorably reported H. Res. 640 for agreement to the Senate amendments to H.R. 6219, and on July 28, 1975 the House agreed to the Senate amendments by passing H. Res. 640. The legislation was approved by the President on August 6, 1975 as Public Law 94–73.

BILINGUAL COURTS ACT

Bills have been referred to the subcommittee which would require the appointment of an interpreter if the court determined that a party in Federal civil, or criminal proceedings did not understand English with reasonable facility. (S. 565, H.R. 2255, H.R. 8314). Preliminary research on the major issues raised by this legislation indicate the need for a more rigorous approach to the problems of non-English-speaking parties in criminal and civil proceedings.

Presently, there are two Federal rules under which an interpreter may be provided in court proceedings. Rule 43(f) of the Federal Rules of Civil Procedure, and Rule 28 of the Federal Rules of Criminal Procedure, both allow the court discretionary authority to appoint interpreters to aid parties and witnesses. The subcommittee is studying whether existing law is adequate, and, if not, what legislative action should be taken. In addition, the subcommittee is also investigating whether any mandate for interpretation should also be made applicable to state and municipal courts.

Three days of hearings were held on this legislation. Testimony was received from congressional sponsors, the Department of Justice, the United States Civil Rights Commission, the Administrative Office of United States Courts, representatives of several legal services organizations, an elected official from the New York City government, and a Federal District Judge from the Central District of California.

In addition, the subcommittee has solicited comments from all legal services projects and public defender offices on both the adequqcy of the present law and the need for strengthened legislation relative to the appointment of interpreters.

Based upon the hearing testimony, as well as the comments received from interested organizations, the subcommittee staff is redrafting legislation to present to the subcommittee members in the second session.

Authorization for Appropriations for the U.S. Commission on Civil Rights

The U.S. Commission on Civil Rights is a temporary, independent, bipartisan agency established by Congress in the Civil Rights Act of 1957 to study and collect information on the denial of equal protection of the laws under the Constitution because of race, color, religion, sex or national origin, or in the administration of justice. The Commission was originally established in 1957 for a period of two years, but that expiration date and each of five others that followed was extended by Congress. The most recent one in 1972 (Public Law 92–496), on the President's recommendation, keeps the Commission in existence until the end of fiscal year 1978.

The Commission's appropriation authorization is currently limited to $7 million through June 30, 1978. The President's budget request for fiscal year 1976 included an appropriation of $7,843,000 for the Commission. H.R. 8957, introduced on July 28, 1975, would amend section 106 of the Civil Rights Act of 1957 to raise the authorization for appropriations for the Commission from the current level of $7 million to $7,843,000 for the fiscal year ending June 30, 1976, and to $1,975,000 for the transition interval from June 30, 1976, to September 30, 1975. The bill further authorizes appropriations up to $10,276,000 for fiscal years 1977 and 1978 when the current commission extension is scheduled to expire. In addition, the bill provides for additional amounts for such fiscal years as may be necessary for increases in salary, pay, retirement and other employee benefits authorized by law which arise subsequent to the date of enactment of this bill.

In raising the authorization limit, H.R. 8957 does not specify any level of appropriations for the Commission. The legislation only establishes the ceiling for those appropriations to preclude the necessity for further legislative action in the next three years to increase the authorizations.

On July 30, 1976, the chairman of the subcommittee ordered H.R. 8957 favorably reported to the full committee, and action by the committee is anticipated sometime in the second session of the 94th Congress.

Oversight of the Federal Bureau of Investigation

As part of the committee's responsibility to oversee the operations of the Department of Justice, the subcommittee continued its review of the Federal Bureau of Investigation.

The subcommittee commenced its hearings on February 27, 1975, at which time the new Attorney General, Edward H. Levi, testified. Accompanying the Attorney General was the Director of the FBI, Clarence M. Kelley. This hearing was a continuation from the 93d Congress of the subcommittee's study of the information gathering and recordkeeping activities of the FBI.

The hearing focused on the following areas in particular: (1) current procedures for handling derogatory personal information volunteered to the FBI about public officials; (2) specific allegations regarding FBI misuse of derogatory information on Members of Congress; (3) FBI policies for handling derogatory personal information volunteered to the Bureau about private citizens; and (4) FBI information practices in dealing with the White House. These past incidents suggest the requirement of safeguards and revealed for the first time where the resources of the FBI were misused by the Executive Branch.

On May 22, 1975, a meeting of the subcommittee took place on FBI oversight. Pursuant to Rule XI 2(g)(1) and (2), a motion was made to close the meeting and meet in executive session. All present voted in the affirmative on the motion. An executive session then followed relating to information supplied to the subcommittee through its chairman which was classified secret for national security reasons.

The next hearing on FBI oversight was held on September 24, 1975, and began a series of hearings to review the FBI's domestic intelligence operations. This review began with a letter request on June 3, 1974,

to the Comptroller General from the chairman of the full committee asking the General Accounting Office to review the FBI's domestic intelligence operations. The review will also cover the FBI's maintenance, use, and dissemination of related information.

The Comptroller General of the United States was the witness at the September 24, 1975, hearing, and he presented the GAO's preliminary report on the current domestic intelligence operations of the FBI. This preliminary report was presented before the subcommittee in two parts: 1) how the GAO did their review; the problems encountered; the nature of the FBI's domestic intelligence operations and resources applied; and the legal basis for the FBI's domestic intelligence operation; and 2) FBI domestic intelligence policies; how those polices were implemented in specific cases; what information was disseminated and to whom; and the results of FBI investigations.

Another hearing will be held early in the second session at which time the GAO will present its final report on its review of the domestic intelligence operations of the FBI.

The FBI was asked to report to the subcommittee in a hearing on October 21, 1975, on the following areas of interest: 1) allegations concerning a letter written by Lee Harvey Oswald several days before the assassination of President John F. Kennedy containing threats which was received by the Dallas office of the FBI and subsequently destroyed; 2) allegations indicating that Jack Ruby was a paid informant of the FBI; 3) allegation by William Walter regarding a telex received by the New Orleans field office warning the Bureau's southern field offices that there would be an assassination attempt; and 4) allegations that all information available to the FBI was not fully disclosed to the Warren Commission.

Testifying before the subcommittee at the October 21, 1975, hearing was James B. Adams, Deputy Associate Director of the FBI.

The final hearings on FBI oversight during the first session were held on December 11 and 12, 1975. These two hearing days completed the hearings begun on October 21, 1975, inquiring into the facts and circumstances surrounding the letter written by Lee Harvey Oswald. Testimony was received from J. Gordon Shanklin, a retired FBI employee who was the Special Agent in charge of the Dallas field office in November, 1963, and from James P. Hosty, Jr., Kenneth C. Howe, and Nanny Lee Fenner, all presently employed with the FBI and who were with the Dallas field office in November, 1963.

In December, 1975, the Attorney General released a set of proposed guidelines for FBI domestic security investigations. These guidelines have prompted the subcommittee to schedule hearings early in the second session to determine what areas of FBI activity require legislative authority. The subcommittee staff is in the process of compiling information leading to the drafting of appropriate legislation.

Civil Rights Oversight

Accompanying the legislative jurisdiction of the subcommittee is oversight jurisdiction in the civil rights area. Specifically granted to the Subcommittee on February 23, 1971, civil rights oversight jurisdiction includes major responsibility for review of the administration and enforcement of Federal civil rights laws. Increasingly, it has become

apparent that equal access by all citizens to America's resources depends heavily upon the enforcement of the law. Therefore, as in the past, the subcommittee placed a high priority on civil rights oversight activities during the first session of the 94th Congress.

General Revenue Sharing

Extensive study and hearings continued in the first session of the 94th Congress on the enforcement of the civil rights provisions of the State and Local Fiscal Assistance Act of 1972. The Act, commonly known as the General Revenue Sharing Act, provides for a total of 30.2 billion dollars to be distributed to state and local governments over a period of five years. Despite its "no strings" thrust, the Revenue Sharing Act does prohibit discrimination on the basis of race, color, national origin, or sex in any program funded in whole or in part by general reveune sharing funds; and it is the enforcement of this program requirement which has been the focus of the subcommittee's oversight activities in the area.

Because appropriations under the current terms of the general revenue sharing program extend only through the period ending December 31, 1976, whether the program should be continued and if so, in what form, are matters currently under consideration by the 94th Congress. In fact, numerous hearing sessions on various legislative proposals to extend revenue sharing were conducted during the first session of the 94th Congress by the House Government Operations' Subcommittee on Intergovernmental Relations and Human Resources.

In view of the fact that extension proposals are now being closely reviewed, the subcommittee found that it was necessary to move expeditiously toward its findings and recommendations on the civil rights aspects of the program. Several reports, levelling strong criticism at civil rights enforcement under general revenue sharing, had been released by civil rights and public interest groups during the first half of 1975, and it was necessary that the subcommittee not only carefully assess the data contained in those reports, but that it also receive the input of other interested parties as well as those charged with enforcing the Revenue Sharing Act's anti-bias provisions.

Toward this end, the monitoring efforts of the subcommittee staff continued, and ongoing contacts were maintained with persons and organizations involved in monitoring the civil rights enforcement effort under the program. Additionally, two full days of hearings on the civil rights aspects of general revenue sharing were held on October 8 and 9, 1975, with the subcommittee receiving testimony from the Department of the Treasury's Office of Revenue Sharing and from the United States Department of Justice, regarding their civil rights enforcement programs under general revenue sharing. Testimony was also received from the General Accounting Office on the preliminary findings of its study, undertaken at the request of the full committee, on the civil rights enforcement efforts of the Office of Revenue Sharing. Other organizations appearing at the subcommittee's hearings included the United States Commission on Civil Rights, the Lawyers' Committee for Civil Rights Under Law, the NAACP, the Southern Regional Council, Inc., the Center for Community

Change, the League of Women Voters, the Center for National Policy Review, and the National Urban Coalition.

Based upon the testimony of these witnesses and various publicly-released reports and studies, the subcommittee arrived at certain findings and recommendations. Because the subcommittee had undertaken its oversight responsibilities with a view toward ascertaining any weaknesses in the statutory language of the Act's anti-bias provisions, those findings and recommendations reflected the subcommittee's views on needed statutory modifications, in the area of civil rights, if the revenue sharing program is to be continued. The report, "The Civil Rights Aspects of General Revenue Sharing," containing the subcommittee's findings and recommendations, was released in November, 1975.

On November 4, 1975, the chairman of the subcommittee testified before the Subcommittee on Intergovernmental Relations and Human Resources of the House Government Operations Committee, presenting the report's findings and recommendations. Because it is the Government Operations Committee which has legislative jurisdiction over the revenue sharing program and which is now reviewing various proposals for extension and modification, the focus of the chairman's testimony was upon this subcommittee's recommendations for legislative modifications.

Subsequent to the release of the subcommittee's report in November, there have been updates of information provided to the chairman and staff of the Subcommittee on Intergovernmental Relations and Human Resources. This type of continual communication is required in order that the Subcommittee on Intergovernmental Relations and Human Resources have access to all pertinent data with which to assess the subcommittee's recommendations for legislative changes.

Additionally, the staff of the subcommittee has met and is working closely with staff members in both the Senate and the House, reviewing legislative modifications in the area of civil rights.

Additional Activities

In addition to holding civil rights oversight hearings and issuing formal oversight reports, the subcommittee maintains close liaison with the Departments in the Executive Branch which have jurisdiction over civil rights matters. During the first session of the 94th Congress, the subcommittee has directed numerous inquiries to various Executive Departments requesting that they investigate and/or report upon certain matters that have been brought to the attention of the subcommittee.

For example, in October, 1975, the subcommittee received information which indicated that the Department of Agriculture planned to reorganize its Office of Equal Opportunity. Numerous individuals and civil rights organizations expressed to the subcommittee their concern that the format of the reorganization would severely undercut Agriculture's civil rights program. A subcommittee inquiry, expressing these concerns, was immediately directed to the Secretary of Agriculture. In response, the Department has now altered the format of its proposed reorganization to address the concerns expressed by the subcommittee.

Similarly, during the first session, the subcommittee has directed inquiries to the National Aeronautics and Space Administration's Ames Research Center regarding reports of discrimination against women in its employment practices. The subcommittee now has outstanding a request that it receive quarterly employment reports with male and female breakdowns, in order that it may make a continuing review of that installation's employment practices.

The subcommittee has also requested, during 1975, that the Department of Justice investigate allegations of police harassment of blacks made by the Republic of New Africa in Jackson, Mississippi; and allegations of harassment of certain Federal employees who provide information to congressional oversight committees.

In February, 1975, the chairman of the full committee received correspondence from the Meridian, Mississippi branch of the National Association for the Advancement of Colored People, which related the suspicious and horrifying details surrounding the deaths of a Meridian resident and his three children. The correspondence urged that a Justice Department investigation of the matter be reopened. In March, the subcommittee contacted the Department of Justice and, in that same month, the Department's investigation was reopened.

Throughout the first session, other civil rights inquiries were also directed to the Departments of Labor and Interior.

On June 4, 1975, the Office for Civil Rights of the Department of Health, Education and Welfare issued proposed procedural regulations which would no longer provide for the investigation of individual discrimination complaints. Instead, complaints would be used for informational purposes as part of the Department's compliance review process. Large numbers of civil rights organizations contacted the subcommittee, expressing the view that such regulations, if adopted, would severly undercut the right of individual redress in areas of civil rights enforcement engaged in by the Department of Health, Education and Welfare. The staff of the subcommittee monitored hearings conducted by other committees on this matter and attended numerous meetings with other staff members regarding the impact of the proposed regulations. In November, 1975, the subcommittee contacted the Director of HEW's Office for Civil Rights expressing its view that the proposed procedural regulations must be modified so as to insure that each complaint of discrimination will be promptly investigated. In December, HEW informed the subcommittee that certain changes regarding complaint investigation were being considered before any redraft of the proposed regulation would be published.

The subcommittee has also recently been in contact with the Department of Health, Education and Welfare regarding its recently instituted policy, in the Department's Dallas, Texas Regional Office, of holding in abeyance the investigation of discrimination complaints based on sex and national origin. The subcommittee has expressed the view that HEW cannot, under Federal civil rights law, indefinitely abdicate its responsibility to investigate such complaints. The subcommittee is still currently engaged in correspondence and exchanges with the Department regarding this matter.

In response to concerns raised by several Spanish speaking groups, the subcommittee initiated a staff investigation of the operation of equal employment opportunity programs in all Federal installations in the San Francisco Bay Area. Data on the workforce and affirmative action programs of each of these agencies was requested from the Civil Service Commission. The subcommittee staff is currently analyzing the material with assistance of the Library of Congress. Upon conclusion of this study, findings and recommendations will be developed to address any areas of deficiency in enforcement of the Federal civil rights laws. Systematic monitoring of the equal employment opportunity practices at these agencies will continue.

In September 1975, the subcommittee received correspondence from the Mexican American Legal Defense and Educational Fund alleging discriminatory hiring and promotion policies by the Federal Communications Commission. The subcommittee directed inquiries to the agency and received in December 1975, detailed data on the agency's affirmative action program. The subcommittee plans to review this data carefully to determine whether the FCC has been adequately discharging its responsibility to utilize equal employment opportunity at all levels of its operation.

A complaint filed by the American G.I. Forum and the Nevada Association of Latin Americans reflected the possibility of an overall pattern of discrimination by the U.S. Energy Research and Development Administration. The subcommittee, therefore, requested data on the agency's workforce and promotion policies. Preliminary review of materials provided by ERDA indicated that 60 percent of all the agency's minority and female employees are concentrated in the lower paying categories of GS–6 and below. Furthermore, these employees represent only 4 percent of those positions above GS–12. While not necessarily establishing the existence of discrimination in ERDA's placement and promotion policies, the statistical pattern does indicate that minorities and women are not represented in the numbers that would normally be expected. The subcommittee plans to continue an affirmative review of ERDA's employment operation.

Summary of Activities of the Subcommittee on Monopolies and Commercial Law

Tabulation of bills referred to monopolies and commercial law subcommittee and disposition

Bills referred to subcommittee	210
Bills on which hearings were held	27
Bills reported favorably to full committee	2
Bills reported adversely to full committee	0
Bills pending in subcommittee	183
Bills reported to House	2
Bills passed the House	1
Bills pending in House	1
Bills pending in Senate	0
Bills which became law	1

Under its former designation as Subcommittee No. 5 of the Judiciary Committee, jurisdiction over a variety of subjects including the Federal judicial system, antitrust, and matters as assigned was traditionally exercised. In the 93d Congress, Judiciary Committee action resulted in a change from a numbered designation of the subcommittee to a titled designation as the Subcommittee on Monopolies and Commercial Law. Much of its traditional and historical jurisdiction was retained, including antitrust oversight or legislative review jurisdiction.

During the first session of the 94th Congress, the subcommittee had referred to it 210 bills. Hearings were held on 27 of these measures, of which 2 were favorably reported to the full Judiciary Committee.

Committee reports on two measures were filed with the House of Representatives and one, subsequently, became public law.

A summary of the principal subcommittee activities follows:

U.S. Courts

The Monopolies Subcommittee received testimony on H.R. 4422 on November 12, 1975. The bill would create additional federal district and circuit court judgeships. Further hearings on this measure are contemplated for the second session of the 94th Congress.

Antitrust Jurisdiction

LEGISLATIVE

On March 25, 1975, and April 10, 1975, two days of hearings were held on three bills, H.R. 2384, H.R. 2390, and H.R. 3411, to repeal the federal enabling legislation that granted a federal antitrust exemption for State "fair trade" laws. The Miller-Tydings Act of 1937 conferred on States the authority to enact "fair trade" laws, and the McGuire Act of 1952 authorized States to enact legislation whereby nonsigners of "fair trade" contracts were equally bound

legally to adhere to intrastate "fair trade" contract terms. "Fair trade" laws allowed manufacturers to require retailers to sell at a price stipulated by the manufacturer. "Fair trade" laws were, in fact, legalized vertical price fixing, permitting competing retailers to set identical prices that were estimated as costing consumers at least $2 billion annually in higher prices.

THE JUSTIFICATIONS FOR "FAIR TRADE" LAWS

The principal traditional justification for "fair trade" laws has been that they protect small family-owned retail outlets—the "Mom and Pop" stores—from price-gouging by the discount chains. Proponents of this view argue that these independent retailers frequently provide ongoing service of the product and individual attention to the customer's needs, which add to their overhead and prohibit them from competing effectively in price with the chain stores.

The first difficulty with this argument is that it finds no real support in the facts. A well-known 1965 study of small-business failure rates between 1933 and 1958 did not show that such firms fared any better in "fair trade" States. To the contrary, the study by Dr. Stewart Lee of Geneva College found a higher rate of small business failures in "fair trade" States than in States without such laws. Other studies by the Department of Justice and the Library of Congress, the latter in 1972, confirm that "fair trade" States actually show higher small business failure rates. The growth rate of small businesses between 1956 and 1972 was 32 percent higher in non-"fair trade" States. Moreover, studies conducted in places which have abandoned resale price maintenance show no adverse effect on small businesses. Experience in Rhode Island, which repealed "fair trade" in 1964, Canada, which repealed it in 1957, and Great Britain, which stopped "fair trading" in 1965, indicates generally lower prices, more vigorous competition and no adverse effects on small businesses.

Second, to the extent that the "Mom and Pop" retailer charges a higher price because he is providing more services to his customers, consumers should have the freedom to choose between paying more for those services and buying nothing but the unadorned product at a lower price from a competitor. And testimony before the subcommittee indicated that many consumers are in fact willing to pay a somewhat higher price for the convenience, courtesy and service which small retailers are uniquely situated to provide.

Moreover, there is some indication that "fair trade" laws can actually work to stifle market entry by new small retail businesses. The most obvious device for such businesses to use to obtain a toehold in the market is price competition. Yet "fair trade" can take away this important competitive tool from a new business and help freeze it out of the market.

Another justification for "fair trade" laws advanced by the manufacturers is that it protects their "good will" investment in their trademarks—namely, their advertising budgets. It is contended that the manufacturer's investment in promotion and advertising represents an asset—the "market image" of the product—which would be destroyed if the price premium which was part of that "image" could be eliminated by intrabrand price competition at the retail level.

Chairman Lewis Engman of the Federal Trade Commission responded to this argument in his testimony before the subcommittee:

> This argument reveals the anticompetitive essence of the fair trade laws. Simply put, the argument assumes an identity between cost and value and thereby begs the question of the competitive marketplace by denying the consumer the right to assign his own value to the intangible asset of trademark or image.

H.R. 2384, the Consumer Goods Pricing Act of 1975, was marked up by the Monopolies Subcommittee on May 7, 1975. A clean bill, H.R. 6971, was introduced on May 14, 1975 that, on July 9, 1975, was ordered reported favorably by the Judiciary Committee to the House (H. Rept. No. 94–341). On July 21, 1975, by a recorded vote of 387–11, the House passed H.R. 6971. Subsequently, the Senate passed H.R. 6971 on December 2, 1975. It was then signed into law on December 12, 1975 (Public Law 94–145).

ANTITRUST PARENS PATRIAE

Under the well established doctrine of parens patriae, States have successfully sued to halt continuing wrongs which injure or threaten to injure their citizens. The Clayton Act has been interpreted by the Supreme Court as authorizing States to maintain parens patriae law suits to enjoin violations of the antitrust laws when those violations are injuring the State's citizens. In *Georgia* v. *Pennsylvania R.R.*, 324 U.S. 439, 451 (1945), the Court said that the State "as a representative of the public is complaining of a wrong which, if proven, limits the opportunities of her people, shackles her industries, retards her development, and relgates her to an inferior economic position among her sister States. These are matters of grave public concern in which Georgia has an interest apart from that of particular individuals who may be affected."

However, when the State of California recently tried to sue to recover monetary damages on behalf of persons who had allegedly been injured by the price-fixing of snack foods, the Ninth Circuit Court of Appeals held that parens patriae damage actions were not authorized by the Clayton Act. In large part, this bill is a response to that case and a recognition that the consuming public currently has no effective means of obtaining compensation for its injuries.

An extremely important benefit which would flow from parens patriae legislation is the promotion of cooperation in antitrust enforcement between the States and the Federal Government. As Federal Trade Commission, Bureau of Competition Director James Halverson put it during the subcommittee's hearings this year:

> There are certain violations of the federal antitrust laws which would be handled more efficiently by a parens patriae suit for damages than by a federal criminal proceeding or action for injunctive relief. An example of such a situation might be where a regional seller of consumer goods has recently discontinued anticompetitive practices that directly injured his customers. The best deterrent to a resumption of the illegal conduct might be a suit by the state which deprives the violator of the profits gained from his bad conduct and provides relief which compensates the injured consumers.

A State attorney general is an effective and ideal spokesman for the public in antitrust cases, because a primary duty of the State is to protect the health and welfare of its citizens. He is normally an

elected and accountable and responsible public officer whose duty is to promote the public interest.

On February 20, 1975 and March 6, 1975, hearings were held on H.R. 38 and H.R. 2850, antitrust parens patriae legislation. In public session on May 7, 1975, after 4 days of mark-up, the Subcommittee on Monopolies and Commercial Law ordered an amended version, H.R. 6786, to be introduced and reported favorably to the full Committee on the Judiciary. On July 10, 1975, in public session, the subcommittee agreed by unanimous consent to reconsider H.R. 6786. Thereafter, an amended bill, H.R. 8532, was ordered favorably reported to the full Committee on the Judiciary.

In public sessions on July 22 and 24, 1975, the committee considered and amended H.R. 8532, and on July 24, the committee by voice vote ordered that H.R. 8532, as amended, be reported favorably to the House (H. Rept. No. 94–499). H.R. 8532 would: (1) Authorize States attorneys general to sue for damages under Section 4 of the Clayton Act on behalf of natural persons injured by antitrust violations; (2) Authorize federal district courts to convert parens patriae actions into class actions under certain circumstances; (3) Require notification to individuals on whose behalf parens patriae actions were filed; (4) Provide opportunities for individuals notified to exclude their claims from parens patriae suits; (5) Require federal district court approval of proposed settlements in parens patriae actions; (6) Allow damages in parens patriae and other antitrust class suits to be proved and assessed in the aggregate by reasonable methods of estimation; (7) Allow individuals to secure their appropriate share of damages recovered with unclaimed amounts remaining thereafter to be distributed as directed by the federal district court; (8) Require the Attorney General of the United States to notify appropriate State attorneys general of their entitlement to bring parens patriae cases; (9) Require the Attorney General of the United States to make investigative materials available to State attorneys general in parens patriae cases; and (10) Require the award of reasonable attorney's fees to prevailing plaintiffs in federal antitrust injunction cases.

On November 5, 1975, the Rules Committee voted to postpone indefinitely the Judiciary Committee's request for a rule on H.R. 8532, as amended. Subsequently, a rule was granted and the bill ordered reported to the Floor.

ANTITRUST CIVIL PROCESS ACT

The Justice Department's Antitrust Division has the duty to investigate and prosecute both civil and criminal violations of the federal antitrust laws. However, of the many different kinds of antitrust violations, only a few—bid-rigging and willful, flagrant horizontal price-fixing—are criminal in nature and ever result in criminal prosecutions. In these cases, Division investigations are carried out by using the grand jury and its extraordinarily sweeping compulsory process.

But, if the Division has no real intention of attacking anticompetitive conduct by commencing a criminal prosecution, then it has absolutely no legal right to use the grand jury as an investigative tool. For the broad realm of civil antitrust violations, like "non-

flagrant" horizontal price-fixing by attorneys, vertical price-fixing, group boycotts, tie-ins, monopolies and mergers, the Division has ever since 1962 used its powers under the Antitrust Civil Process Act, 15 U.S.C. § 1311–1314. Briefly, the Act authorizes the Division to investigate and prepare its complaint and its case by issuing a Civil Investigative Demand (CID), which is simply a civil subpena.

Under the present ACPA, the Division may serve a CID on any corporation or other business entity, and thereby compel that CID recipient to produce documents relevant to the investigation. CID's may currently be served only upon suspected violators—the companies that are the "targets" of an investigation.

On May 8 and 9, 1975; and on July 17 and 25, 1975; four days of hearings were conducted on H.R. 39, a bill to amend the Antitrust Civil Process Act of 1962 ("ACPA") to: (1) Clarify judicial decisions concerning the ACPA's availability to investigate mergers, joint ventures, and similar transactions; (2) Extend ACPA coverage from corporations only to all persons; (3) Permit the service of written interrogatories and the taking of oral testimony during antitrust investigations; (4) Authorize the application of ACPA investigative powers to all persons who may have information relevant to a particular antitrust investigation; (5) Make privileges, particularly the privilege against self-incrimination, available in the course of antitrust investigative proceedings; and (6) Permit Antitrust Division attorneys to use investigative powers and materials in appearances before Federal administrative or regulatory agencies under certain conditions. A subcommittee mark up of H.R. 39 during the second session of the 94th Congress is under consideration.

On July 9, 1975, the Monopolies Subcommittee received testimony from witnesses, including three assistant attorneys general, at a hearing on H.R. 5246, a bill to prohibit economically coerced anticompetitive conduct, particularly international boycotts of American industrial enterprises, based on religion, race, national origin or sex.

The legislation essentially makes illegal—and punishes by criminal sanctions—a course of conduct best generally described as economic coercion based on religion, race, national origin or sex.

For nearly 30 years, the Arab Nations have engaged in an announced, orchestrated and loosely formalized boycott against companies and businesses supportive of Israel. A business may become a victim of the boycott for any number of reasons, most frequently either for doing business with Israel, for supporting Israeli causes, or for having Jewish ownership, employees or officers.

The Arab Boycott Office, opened in Damascus in 1948, actually maintains a "blacklist" of boycotted companies, businesses that because of their Jewish ties or their direct or indirect or suspected support for Israel are ineligible for consideration by Arab investment interests.

It is thought that each Arab nation has a slightly varied "blacklist" depending on its own individual perspective.

Senator Frank Church, chairman of a Senate Subcommittee on Multinational Corporations, last March released a copy of a 1971 edition of the Saudi Arabian "blacklist" which he had obtained from the State Department.

According to national news sources, the Saudi list was almost identical to that of the official Arab League.

The list released contains the names of 1,500 "blacklisted" American companies, trade marks, and individuals. It is an odd assortment, variously described as "baffling", "a hodgepodge", and "haphazard".

Those "blacklisted" by the Saudis range from small businesses like the American Bird Seed Co., and Famous Authors School to such industrial giants as Ford Motor Co., Coca Cola, RCA, and Xerox.

The single most common reason for a company's entry on the list is having business dealings with Israel; however, some businesses are entered merely because of so-called "Jewish ties". Many are entered because they are partially financed by Jews, and Xerox, for example, was included for having once sponsored a television documentary about the founding of Israel.

In addition, the list of 1,500 names is partially swelled by a good deal of duplication (Coca Cola, for example, is listed separately as Coke and Helena Rubenstein is listed twice—misspelled both times), and some listings are actually subsidiaries of larger companies, such as Ford and RCA.

Paradoxically, some companies that actually do considerable business with Israel are not on the list. A leading example is Chase Manhattan Bank, which acts as fiscal agent in the United States for Israeli Government Bonds. (Newsday and the Washington Post, however, have reported that the Chase Manhattan Bank—currently one of the world's largest depositories of Arab wealth and the largest single bank in the United States—is now facing boycott proceedings by the 20 member Arab League. Agencies dealing with Chase have been summoned to explain their dealings with the bank to local boycott offices, generally considered a first step in boycott proceedings against a company thought to be assisting Israel).

Also paradoxically, some companies actually on the "blacklist" still do considerable business in Arab countries. Major multinationals such as IBM, and hotel chains such as Hilton, openly operate in both Israel and in the Arab world. Also, some companies not on the "blacklist" manage to operate within Israel through disguised subsidiaries.

The boycott has actually been a known economic reality for nearly 30 years, but has only recently become a political issue in the United States. In February, President Ford issued the strongest public denunciation of the boycott by a western head of state since it was first imposed in 1946.

The President stated:

> There have been reports in recent weeks of attempts in the international banking community to discriminate against certain institutions or individuals on religious or ethnic grounds.
>
> There should be no doubt about the position of this Administration and the United States. Such discrimination is totally contrary to the American tradition and repugnant to American principles.
>
> It has no place in the free practice of commerce as it has flourished in this country. Foreign businessmen and investors are most welcome in the United States when they are willing to conform to the principles of our society. However, any allegations of discrimination will be fully investigated and appropriate action taken under the laws of the United States.

H.R. 5246 is captioned "a bill to amend title 18 of the U.S. Code to prohibit certain forms of econom,c coercion based on religion, race, national origin, sex, or certain other factors".

It defines two new Federal crimes.

The best way to conceptualize the prohibitions created by the bill is to assume the following hypothetical course of conduct:

Business enterprise A coerces B by economic means, where an object of the coercion is to cause B to fail to do business with, fail to employ, economically injure or otherwise discriminate against C, because C is Jewish, has Jewish ties or has supported or done business with Israel.

The Holtzman bill makes criminal the behavior of both A and B; A may be fined up to $100,000 and imprisoned for up to 3 years (or fined up to $1,000,000 if a person other than an individual), and B may be fined up to $50,000 (or $500,000 if other than an individual). (B, incidentally, is engaging in unlawful conduct if his action is either by reason of A's coercion, or done in order to avoid that coercion).

In addition, C may bring a civil action in the U.S. District Court to recover treble damages against A and actual damages against B.

Finally, the Attorney General may institute an action on behalf of the United States to collect a civil penalty against A of up to $50,000.

At the July 9 hearing the subcommittee heard from three Assistant Attorneys General; the heads of the Antitrust Division, the Civil Rights Division and the Office of Legal Counsel. Additional hearings are planned for 1976.

On October 7, 1975, the Monopolies Subcommittee conducted a 1-day legislative hearing on H.R. 2355, a bill to protect the civil and constitutional rights of professional athletes. Central to the subcommittee's inquiry was the fact that the monopoly status of the professional leagues has permitted contractual arrangements between players and team owners by which the owners control a player's right, upon the expiration of his contract, to enter into a subsequent contract with another team in his league. Combined with the common draft method of player selection these binding arrangements restrict an athlete's economic freedom of choice.

Presumably, these arrangements—essentially horizontal agreements between league teams restricting the mobility and competitive position of players, and eliminating intraleague bidding for player services—might under ordinary circumstances constitute classic restraints of trade cognizable under the Sherman Act. Largely because of organized professional baseball's long-standing judicial exemption from the antitrust laws, however, these so-called "reserve clause" and "option clause" arrangements, as well as the common draft, have become standard operating procedure in every major professional sports league.

Opponents of these practices cite their essentially anticompetitive nature and argue that the restrictive agreements reduce players salaries below the competitive price that might more nearly reflect a players' economic value to his team.

At the same time, however, the subcommittee weighed the counter-argument that these agreements are necessary to the preservation of competitive balance between teams, which is directly related to the entertainment value of the sport and ultimately to the continued viability of the league.

At the conclusion of the first session, the subcommittee had not acted on any legislation, but further hearings in the larger area of professional sports were at least contemplated.

INVESTIGATIVE

Commencing in July 1975, the subcommittee launched investigative hearings into the competitive structure, problems, and practices of the United States energy industry. These hearings are expected to continue in the second session. The hearings were preceded by five informal briefing sessions presented by members of academic and governmental communities in June, 1975. The economic and legal experts described the structure of the petroleum industry, and its competitive problems. Some experts discussed joint ventures and ownership of alternative fuels in detail, while others spoke in more general terms.

On July 30, 1975, the subcommittee received testimony from Assistant Attorney General Thomas E. Kauper and Mr. Robert E. Liedquist, Acting Director of the Bureau of Competition, Federal Trade Commission. The witnesses discussed past and present investigations of the energy industry by their respective agencies.

On July 31, 1975, the subcommittee heard from an independent refiner and marketer, and a professor in marketing familiar with the independent sector of the industry. Their testimony concerned the July gasoline price increases and the competitive problems in the independent sector of the petroleum industry.

In August, the subcommittee issued a questionnaire to the twenty leading oil companies. The questionnaire requests information concerning joint venture activity, pipelines, and ownership of alternative fuels. The questionnaire is designed to assist in assessment of the competitive consequences of industry structure and conduct.

The subcommittee conducted three hearings in September with industry representatives as witnesses to explain and answer questions concerning industry structure and conduct. On September 4, 1971, the subcommittee examined the claimed necessaity for joint ventures between major oil companies in the operation and ownership of crude oil and product pipelines.

On September 11, 1975, the subcommittee heard testimony on the ownership of alternative fuels by oil companies. The hearing focused on the ownership of coal reserves by major energy producers.

The subcommittee is preparing for more extensive hearings concerning joint ventures between major crude oil producers. Data from the subcommittee questionnaire will be used to test the competitive significance and frequency of such ventures.

Summary of Activities of the Subcommittee on Crime

Tabulation of bills referred to the Subcommittee on Crime and disposition

Bills referred to subcommittee	197
Bills on which hearings were held	101
Bills reported favorably to full committee	1
Bills reported adversely to full committee	0
Bills pending in subcommittee	95
Bills reported to House	0
Bills passed by House	0
Bills pending in House	0
Bills pending in Senate	0
Bills which became law	0

During the first session of the 94th Congress, 197 bills were referred to the Subcommittee on Crime. They include legislation to amend the Gun Control Act of 1968; the Crime Control Act of 1973; and miscellaneous amendments to title 18 of the United States Code concerning robbery of controlled substances from pharmacies; interstate shipment of switchblade knives; racketeering in the sale of cigarettes; law enforcement officers' bill of rights; transportation or use of stolen transportation tickets; and interstate shipment of dogs and other animals for sport.

In addition to its legislative jurisdiction, the subcommittee also has oversight jurisdiction over the Law Enforcement Assistance Administration. In this regard, the subcommittee began laying a foundation for oversight hearings by obtaining specific information from LEAA through written and verbal communications.

With respect to its jurisdiction over amendments to the Gun Control Act of 1968, the subcommittee conducted hearings in Washington and in six major cities and heard testimony on more than 100 bills. On November 20, the subcommittee voted to recommend to the committee a comprehensive firearms proposal.

Gun Control

On February 6, 1975, the subcommittee conducted an organizational meeting to discuss an agenda for the first session of the 94th Congress. The agenda included hearings on gun control and oversight of the Law Enforcement Assistance Administration. The subcommittee decided to conduct hearings on gun control as its first order of business. From February 18 through October 9, the subcommittee conducted 24 hearings on legislative proposals to amend the Gun Control Act of 1968. A total of 16 hearings were held in Washington and 8 hearings were held in the following cities: Chicago, Detroit, Cleveland, Denver, Atlanta, and New York City.

Firearms bills pending before the subcommittee can be divided into five categories: prohibition on the manufacture, sale and possession of handguns; prohibition on the manufacture and sale of "Saturday night specials"; licensing and registration; mandatory penalties for use of a firearm during the commission of a felony; and repeal of the Gun Control Act of 1968.

Rather than focusing its inquiry into the gun-crime problem on any particular bill, the subcommittee sought to determine the effectiveness of the Gun Control Act during the years since 1968 in reducing the illicit traffic in firearms. While the subcommittee did not consider specific legislative proposals, it did seek testimony from public witnesses and the congressional sponsors of each of the five categories of bills in order to broadly examine the extent to which these proposals could improve Federal firearms enforcement and control. In addition, sponsors of legislation to repeal the Gun Control Act also appeared as witnesses before the subcommittee. The subcommittee's purpose in proceeding in this manner was to develop a complete record from which facts essential to an understanding of the gun-crime problem could be used to draft a subcommittee bill.

The subcommittee's hearings were conducted in eight phases: Phase I includes hearings conducted in Washington from February 18 through April 9; phases II through VII include hearings held in various parts of the United States; and phase VIII includes hearings held in Washington from May 14 through October 9. Following its hearings phase, the subcommittee conducted ten markup sessions beginning on October 29 and ending November 20, when it voted to report the "Federal Firearms Act of 1975," H.R. 11193, to the committee.

During its Washington hearings, the subcommittee heard testimony from Members of Congress; police chiefs; David R. Macdonald, Assistant Secretary of the Treasury; Rex D. Davis, Director of the Bureau of Alcohol, Tobacco and Firearms; Ronald L. Gainer, Acting Director, Office of Policy and Planning, Department of Justice; the National Rifle Association; gun dealers and manufacturers; citizens' organizations for and against gun control; and the Director of the Office of Civilian Marksmanship, Department of the Army.

As part of his efforts to develop a legislative proposal to address the firearms problem, Representative John Conyers, Jr., chairman of the subcommittee, sought to involve Attorney General Edward H. Levi in the hearing process and deliberations of the subcommittee in early February. Shortly after discussing the gun-crime problem with Attorney General Levi at the time of his swearing-in ceremony, Chairman Conyers invited him to testify before the subcommittee on either February 18 or 20. This invitation was declined. On May 12, Chairman Conyers invited the Attorney General to testify on June 2 and also encouraged him to draft a gun control bill, as he had urged in earlier verbal communications. This invitation was declined. On July 14, Chairman Conyers invited the Attorney General to testify on July 24. This invitation was declined also.

During the interim period, the Attorney General testified on the gun control issue before the Senate Subcommittee on Juvenile Delinquency on July 21. On September 25, Chairman Conyers again invited the Attorney General to testify, specifying that he could designate a Department spokesman for the task. This invitation was accepted, and the Acting Director of the Office of Policy and Planning presented testimony before the subcommittee on October 1. In addition to letters, the staff made numerous attempts through verbal communications with officials of the Department of Justice to secure the testimony of the Attorney General. Obviously, none of these attempts was successful.

REGIONAL HEARINGS

In order to determine the extent of the firearms problems in major cities and the effectiveness of Federal, State and local laws in reducing firearms violence and the illicit traffic in firearms, the subcommittee undertook a series of regional hearings. The purpose of the hearings was to examine local conditions and the role which firearms play as a cause of urban violence. In addition, the hearings served as a means of determining the legitimate uses of firearms in different regions of the country.

A total of eight regional hearings were conducted during the spring and summer on the following dates: Chicago, April 14 and 15; Detroit, June 9 and 10; Cleveland, June 16; Denver, June 23; Atlanta, July 21; and New York City, July 25. With the exception of New York City, each hearing was televised gavel-to-gavel by local public television stations as a means of providing thousands of interested citizens with an opportunity to view the subcommittee's efforts to study local firearms problems and determine methods to address this highly emotional issue. Each regional hearing is being printed under a separate cover by the Government Printing Office. The first three hearings are now in print; the remaining volumes will be available during the early part of the second session.

During the regional hearings, the subcommittee attempted to review the following issues: the percentage of homicides and other crimes committed with firearms, particularly handguns; the effectiveness of State and local gun laws in controlling firearms abuse and their unlawful possession and sale; the effectiveness of the Gun Control Act in aiding State and local law enforcement agencies in their efforts to stop the illicit traffic in firearms; the lawful purposes for which firearms are used in the various regions; and the level of citizen support for stricter firearms control.

The subcommittee heard testimony from 200 witnesses during the course of its hearings; a total of 167 witnesses testified as part of the regional hearings. Because of the large number of persons wishing to testify and the diversity of opinions, the subcommittee scheduled panels of experts and citizens' groups in each city. The most significant panels consisted of medical doctors, judges, state rifle and pistol associations, gun collectors, criminal justice researchers, marksmen, handgun hunters, police chiefs, and citizens' groups supporting and opposing gun control legislation. In addition, all seven of the regional offices of the Bureau of Alcohol, Tobacco and Firearms presented testimony on firearms problems plaguing their jurisdictions.

The subcommittee was honored to have received testimony from the following mayors: Richard J. Daley, Chicago; Coleman Young, Detroit; Robert Blackwell, Highland Park; Ralph J. Perk, Cleveland; Maynard Jackson, Atlanta; and Abraham D. Beame, New York City. Testimony was received also from various state legislators and city council persons.

LEGISLATIVE PROPOSALS OF SUBCOMMITTEE MEMBERS

In order to stimulate discussion on a legislative solution to the gun-crime problem and narrow the focus of the hearings, Chairman

Conyers, on July 17, circulated a draft gun control bill to members of the subcommittee. The bill would establish a National Handgun Tracing Center within the Bureau of Alcohol, Tobacco and Firearms; require persons who own, possess or purchase handguns to report such fact to the Tracing Center and obtain a Federal license; prohibit the manufacture and sale of concealable handguns; and plug numerous loopholes in the Gun Control Act revealed by the subcommittee's hearings.

On July 29, Representative Robert McClory, the ranking minority member of the subcommittee, introduced a gun control proposal on behalf of the Administration. The bill was welcomed by the subcommittee as a positive signal that the Administration supported measures to reduce the gun-crime problem and increase the effectiveness of the Gun Control Act of 1968.

The bill, H.R. 9022, contains provisions which would plug several glaring loopholes in the 1968 Act. In addition, it would, among other things, increase fees and qualifications for firearms licenses; increase the time allotted to the Secretary to approve license applications; prohibit the manufacture and transfer of "Saturday night specials"; require a 14-day waiting period prior to the sale of handguns by licensees to non-licensees; and prohibit the sale of more than one handgun to a non-licensee during any 30-day period.

On September 22, Representative McClory introduced a bill modeled after legislation he has advocated since 1968 to require the registration of handguns. The bill, H.R. 9763, provides for a national registration system to be administered by the States; the licensing of persons owning, possessing and purchasing handguns; bans the manufacture and sale of "Saturday night specials"; and prohibits the multiple sale of handguns by dealers to non-licensees. In addition, the bill contains provisions, similar to the Administration's bill and the subcommittee draft bill, to plug loopholes in the Gun Control Act of 1968.

On September 23, Chairman Conyers, declaring that "short of an outright ban on the possession of handguns, there appears to be no way legally to prevent the acquisition of these weapons by criminals and by the generally law-abiding person who may at some time be driven to use them in assault," introduced H.R. 9780, which would ban the manufacture, sale, and possession of handguns. The bill would exempt from its provisions police, the Armed Forces, private security guards and licensed pistol clubs. Persons surrendering their handguns to the Federal government would be eligible to receive a tax credit equal to the fair market value of the weapon.

On October 30, Representative William Hughes, a member of the subcommittee, introduced a bill similar to H.R. 9763. The bill, H.R. 10442, would require a 21-day waiting period and a police criminal record check prior to the transfer of any handgun sold by a licensed dealer to a private ctizen. In addition, the bill would establish a National Handgun Tracing Center to serve as a repository of registration records compiled by State registration systems funded by the Federal government. The Center would assist Federal, State and local law enforcement agencies in tracing handguns and other firearms used in the commission of crimes.

On November 20, the subcommittee at its concluding markup session voted to report the legislative alternatives contained in a subcommittee print of November 19, as amended, subject to technical, conforming and clerical changes by the staff.

On December 16, Chairman Conyers on behalf of the subcommittee introduced H.R. 11193 which was referred to the full committee for its consideration. The bill closes acknowledged loopholes in the Gun Control Act of 1968 by increasing license fees to make the Federal regulatory system cost-effective; imposing additional qualifications upon prospective licensees; prohibiting the transfer by a dealer of any handgun within 21 days unless the prospective purchaser has been subjected to a criminal record check by State and local law enforcement authorities; prescribing mandatory penalties for the use or carrying of a firearm in the commission of a Federal felony; and establishing a National Handgun Tracing Center within ATF to ascertain patterns of commerce in an effort to curb the illicit trafficking of firearms.

ATF HEARINGS AND INVESTIGATIONS

In order to gauge the effectiveness of the Gun Control Act, Chairman Conyers directed a letter dated March 10, 1975, to the Director of the Bureau of Alcohol, Tobacco and Firearms. The letter sought to obtain current information concerning the administration and enforcement of the 1968 gun law, including the following: forms, publications, annual reports, a description of the functions and responsibilities of key ATF personnel, the number of ATF employees stationed in Washington and in each regional and district office, the total manpower assigned to firearms, the estimated costs of registration, copies of surveys concerning guns used in crime, computer printouts of firearms licensees for each State; and the names and addresses of firearms manufacturers.

The Director of ATF testified before the subcommittee on March 20 and 26; April 9; and July 17. In addition, he accompanied the Assistant Secretary of the Treasury in his two appearances before the subcommittee on July 24 and September 24. During the course of these hearings, the subcommittee attempted to determine the loopholes in the Gun Control Act; the quality of the Treasury Department's commitment to enforcing the Act; the level of resources committed to regulatory and criminal enforcement; and the potential alternatives for increasing the ability of the Federal Government to aid State and local governments in their efforts to control the illicit traffic in firearms.

The ATF hearings generated hundreds of requests for information. The subcommittee staff categorized and summarized this information in memorandum form and transmitted it to the Director of ATF on May 9 and August 28. The Bureau was extremely cooperative with the staff and provided most of the information requested.

In addition to correspondence and testimony before the subcommittee, visits were made to ATF offices by members of the subcommittee and staff. The staff interviewed regional ATF personnel in the Washington area and in the various cities in which regional hearings were conducted.

MANUFACTURERS INQUIRY

As a result of information provided by ATF concerning the location of firearms manufacturers, Chairman Conyers directed letters to 34 federally licensed firearms manufacturers identified as producing handguns. The letters, which were sent on April 3 and 28, requested detailed information concerning the production, distribution, and sale of handguns; the location of production facilities; the length of time in business; the number and kinds of handguns produced since 1968; the names and addresses of distributors; the number of handgun thefts from production facilities and interstate carriers; and the types of security procedures employed to prevent thefts. A total of 24 manufacturers responded to the inquiry. Eleven manufacturers, representing approximately 60 percent of the handgun business, responded satisfactorily to the inquiry.

Based upon the information received as a result of the letter to manufacturers, the staff was able to compile statistics and a map showing the locations of handgun manufacturers and their distributors. This information reveals the concentration of firearms sales in various parts of the United States. In addition, ATF inspections of the records of a sampling of manufacturers who failed to adequately respond to the subcommittee's letter revealed that at least two manufacturers were in violation of the record-keeping requirements of the Gun Control Act. One of the manufacturers was in the process of being prosecuted for his violations, and the other was found to be technically in violation of the regulations issued under the Act. The latter's violations were not of such serious nature to justify criminal prosecution. The failure to maintain adequate records by gun manufacturers makes it impossible for ATF to trace firearms used in crime. Such violations, therefore, could have a detrimental impact on the enforcement of the gun laws of State and local governments.

In order to determine the extent to which firearms are stolen in interstate commerce, Chairman Conyers directed a letter dated June 30 to the Chairman of the Interstate Commerce Commission. The Commission's response stated that firearms thefts are not required to be reported, with minor exceptions, and that security precautions are not prescribed for the transportation of firearms.

INQUIRY INTO THE ADMINISTRATION AND COSTS OF STATE AND LOCAL GUN LAWS

In a letter dated April 21, Chairman Conyers requested the Comptroller General of the United States to review the various gun control systems contained in the bills pending before the subcommittee. These systems include licensing, registration, and permits for the sale of firearms. As a result of this request, a review was conducted of the gun control laws of Massachusetts, New York, Illinois and New Jersey. On November 7, GAO provided the subcommittee with a detailed document outlining the procedures, costs and manpower necessary to administer the various systems.

In a letter of July 30 to the Chief of Police of the District of Columbia, Chairman Conyers requested detailed information concerning the District's firearms registration program. The request sought, among other things, the number of handguns registered by year; the number of "Saturday night specials" registered; and the number of

handguns seized yearly by District of Columbia police. Most of the information requested was received on September 3. In order to evaluate the information provided, on September 17, the staff interviewed representatives of the Gun Control Section and of the Operations Planning and Data Processing Division of the Metropolitan Police Department.

Law Enforcement Assistance Administration

Because of the complexity and controversial nature of the gun control issue, the subcommittee concentrated its efforts during the first session on developing a legislative remedy for the increasing use of handguns in crime. Notwithstanding comprehensive gun control hearings, Chairman Conyers and the staff, through correspondence and verbal communications, began laying a foundation for LEAA oversight hearings, which are planned for the second session.

On January 30, 1975, Chairman Conyers met with representatives of the National Center for State Courts for the purpose of exploring the extent of LEAA's involvement in the area of state court improvement. This meeting was attended also by representatives of the General Accounting Office, who had assisted in the research and writing of a GAO report released on May 8, 1974, entitled "Federally Supported Attempts to Solve State and Local Court Problems: More Needs to be Done."

During the course of the meeting, Chairman Conyers requested the National Center to draft proposed legislation which would increase the level of LEAA's assistance to State courts in order to place them on a par with other segments of the criminal justice system. In order to determine the level of assistance LEAA is allocating for court improvement programs, Chairman Conyers, in a May 6 letter to the Administrator of LEAA, requested information concerning the number of State planning agencies which have reported data concerning the dollar amount of block grant money allocated by LEAA and the States for court improvement programs; comments concerning LEAA's response to a February, 1975, report compiled by the American University Special Study Team entitled "Report of the Special Study Team on LEAA Funding of the State Courts." On July 3, LEAA provided a detailed response to this request but indicated that it needed additional time to provide more accurate information.

On June 19, the committee chairman, Representative Peter W. Rodino, Jr., and Chairman Conyers met with a group of State Court Chief Justices representing the National Center for State Courts for the purpose of discussing a draft legislative proposal to earmark a specific amount of LEAA funds for state court improvement programs. This proposal was the product of the subcommittee chairman's original request to the National Center for State Courts for legislative language to require greater LEAA funding for State courts.

At the request of the National Center for State Courts, the committee chairman introduced the States Courts Improvement Act of 1975, H.R. 8967. The bill was referred to the subcommittee and is expected to be considered during the second session.

In addition to written communications with LEAA, Chairman Conyers has met personally on three occasions with the Administrator of LEAA for the purpose of developing information for oversight and legislative hearings.

Summary of Activities of the Subcommittee on Criminal Justice

Tabulation of bills referred to the Subcommittee on Criminal Justice and disposition

Bills referred to subcommittee	75
Bills on which hearings were held	16
Bills reported favorably to full committee	3
Bills reported adversely to full committee	0
Bills pending in subcommittee	72
Bills reported to House	3
Bills pending in Rules Committee	0
Bills pending in House	0
Bills passed House	3
Bills which became law	3

During the first session of the 94th Congress, the subcommittee held 10 days of hearings and 15 meetings.

Federal Rules of Criminal Procedure

The United States Supreme Court promulgated certain amendments to the Federal Rules of Criminal Procedure on April 22, 1974. The subcommittee began its review of them during the second session of the 93rd Congress. This review was continued in the first session of the 94th Congress. The subcommittee held three days of hearings and six mark-up meetings, during which H.R. 6799 was drafted. This bill approved certain of the proposed amendments, disapproved certain of them, and made certain additional amendments to them.

H.R. 6799 was approved by the subcommittee on May 12, 1975. The full committee, on May 29, 1975, voted to recommend it favorably, with amendments.

The bill, with further amendments on the floor, passed the House on June 23, 1975, by a vote of 372–1. The Senate then passed its version of the bill on July 17, 1975. Members of the subcommittee served as the House Conference Committee and met with Senate Conferees twice in order to resolve the differences between the two bills. The differences were worked out, and on July 28, 1975, both the House and the Senate agreed to the Conference Report.

The President signed the bill into law on July 31, 1975, and it became Public Law 94–64.

Federal Rules of Evidence

S. 1549, a bill to amend section 801(d)(1) of the Federal Rules of Evidence, passed the Senate on June 19, 1975, and was referred to the subcommittee on June 20, 1975.

During the 93rd Congress, when the Federal Rules of Evidence were enacted into law, the House-passed version of those rules contained a provision (Rule 801(d)(1)(C)) that made statements of identification of a person made after perceiving him admissible in evidence. The Senate struck this provision from the Rules of Evidence, and the

House-Senate Conference Committee, at the strenuous insistence of the Senate members, went along with the Senate's action. S. 1549 intended to reverse this action and restore the deleted provision.

The subcommittee recommended approval of S. 1549, and on June 24, 1975, the full committee reported it favorably. The House passed the bill on October 6, 1975, and the President signed it into law on October 16, 1975 (Public Law 94–113).

TECHNICAL AMENDMENTS

At the direction of the chairman of the subcommittee, the staff reviewed the recently-enacted Federal Rules of Evidence and recently-amended Federal Rules of Criminal Procedure to determine whether any technical amendments were necessary. As a result of this review, the subcommittee chairman introduced H.R. 9915 on September 30, 1975. The bill made technical amendments to the Federal Rules of Evidence, to the Federal Rules of Criminal Procedure, and to related provisions of titles 18 and 28 of the United States Code.

The subcommittee recommended approval of the bill on October 1, 1975, and on October 28, 1975, the full committee reported it favorably, with amendments. The House passed the bill on November 3, 1975, by a vote of 360–1.

The Senate passed an amended version of the bill on November 13, 1975, and the House agreed to the Senate version on December 1, 1975. The President signed the bill into law on December 12, 1975 (Public Law 94–149).

Oversight Activities

The subcommittee is responsible for oversight of the activities of the Office of Watergate Special Prosecution Force and of the Justice Department's Criminal Division.

From January to September, the subcommittee held several meetings and hearings relating to the dissolution of the Office of Watergate Special Prosecution Force (WSPF). The subcommittee considered the following matters in connection with its oversight of the WSPF: First, the thoroughness with which the Watergate investigation was conducted. Second, the form, content and extent of the Special Prosecutor's final report. Third, the disposition of the WSPF files. Fourth, access to the WSPF files.

The subcommittee received testimony from then-Special Prosecutor Henry Ruth and from former Special Prosecutor Leon Jaworski. In addition, the subcommittee met informally with Attorney General Levi to discuss matters related to the WSPF.

The subcommittee also met informally with the top officials of the Criminal Division. This meeting was followed by a hearing at which these officials discussed the organization and operations of the Criminal Division. The subcommittee has chosen to look into some of the methods and tactics utilized by the Organized Crime Strike Forces. In this connection, staff has been conducting background investigations, the results of which will be considered during the second session.

H.R. 2920

H.R. 2920 is a bill to amend sections 600 and 601 of title 18, United States Code. Sections 600 and 601 relate so the granting or depriving of certain benefits on account of political activity.

The subcommittee held a hearing on the legislation on October 21, 1975, receiving testimony from Representative Roush, the sponsor of the bill, and from the Department of Justice, among others. An initial mark-up meeting was held on December 11, 1975. Additional action on the bill is scheduled for the second session.

Crime Victim Compensation Legislation

There are 11 bills pending before the subcommittee that provide for programs to compensate victims of crime. The subcommittee has held four days of hearings on these bills, and during the course of these hearings, has received testimony from Judiciary Committee Chairman Peter W. Rodino, Jr., Assistant Attorney General Richard M. Thornburgh, and the American Bar Association, as well as from officials who administer crime victim compensation programs in the States of Maryland, Minnesota, North Dakota, and Illinois. Further action on the bills is scheduled for the second session.

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