

By Mr. FEIGHAN:

H.R. 17224. A bill for the relief of Ryszard Stanislaw Obacz; to the Committee on the Judiciary.

H.R. 17225. A bill for the relief of Martin H. Loeffler; to the Committee on the Judiciary.

By Mr. LONG of Maryland:

H.R. 17226. A bill for the relief of Zenaida S. Evangelista, Flordeliz R. Rodriguez, and

Cynthia Z. Beltran; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts:

H.R. 17227. A bill for the relief of Joana Malheiras Galopim; to the Committee on the Judiciary.

H.R. 17228. A bill for the relief of Antonino Azzaro; to the Committee on the Judiciary.

By Mr. PUCINSKI:

H.R. 17229. A bill for the relief of Miss

Gaetana Buttitta; to the Committee on the Judiciary.

H.R. 17230. A bill for the relief of Miss Jelena Hnajtuk; to the Committee on the Judiciary.

By Mr. RODINO:

H.R. 17231. A bill for the relief of Enzo Piombetti; to the Committee on the Judiciary.

SENATE—Friday, May 10, 1968

The Senate met at 12 noon, and was called to order by Hon. THOMAS J. DODD, a Senator from the State of Connecticut.

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

O Thou Lord of life and light, who art the center and soul of every sphere.

Turning aside, for this hallowed moment, from the violence of these embittered days, we would hush the words of the wise and the prattle of the foolish.

Thou hast ordained that in the leadership of the Nation the care of the many must ever rest upon the few. We beseech Thee, give understanding, humility, and charity to them who, in Thy name and for the Nation's sake, are entrusted here with the power of governance.

In these hallowed Halls may Thy servants in the ministry of public affairs serve with integrity and fidelity the cause of our country, and of our common humanity and so help to build the City of God on the ruined wastes of this divided and disordered world.

We ask it through riches of grace in Christ Jesus our Lord. Amen.

DESIGNATION OF ACTING PRESIDENT PRO TEMPORE

The bill clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 10, 1968.

To the Senate:

Being temporarily absent from the Senate, I appoint Hon. THOMAS J. DODD, a Senator from the State of Connecticut, to perform the duties of the Chair during my absence.

CARL HAYDEN,
President pro tempore.

Mr. DODD thereupon took the chair as Acting President pro tempore.

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, May 9, 1968, be dispensed with.

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Bartlett, one of its reading clerks, announced that the House had passed the bill (S. 2178) for the relief of Dennis W. Radtke, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the report of the

committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14940) to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 15951. An act to provide for uniform annual observances of certain legal public holidays on Mondays, and for other purposes;

H.R. 16729. An act to extend for 2 years certain programs providing assistance to students at institutions of higher education, to modify such programs, and to provide for planning, evaluation, and adequate leadtime in such programs; and

H.R. 17023. An act making appropriations for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1969, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bill and joint resolutions:

H.R. 14681. An act to declare a portion of Boston Inner Harbor and Fort Point Channel nonnavigable;

S.J. Res. 129. Joint resolution to authorize the Secretary of Transportation to conduct a comprehensive study and investigation of the existing compensation system for motor vehicle accident losses, and for other purposes; and

H.J. Res. 1234. Joint resolution to provide for the issuance of a gold medal to the widow of the late Walt Disney and for the issuance of bronze medals to the California Institute of the Arts in recognition of the distinguished public service and the outstanding contributions of Walt Disney to the United States and to the world.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred, as indicated:

H.R. 15951. An act to provide for uniform annual observances of certain legal public holidays on Mondays, and for other purposes; to the Committee on the Judiciary.

H.R. 16729. An act to extend for 2 years certain programs providing assistance to students at institutions of higher education, to modify such programs, and to provide for planning, evaluation, and adequate leadtime in such programs; to the Committee on Labor and Public Welfare.

H.R. 17023. An act making appropriations

for sundry independent executive bureaus, boards, commissions, corporations, agencies, offices, and the Department of Housing and Urban Development for the fiscal year ending June 30, 1969, and for other purposes; to the Committee on Appropriations.

LIMITATION ON STATEMENTS DURING TRANSACTION OF ROUTINE MORNING BUSINESS

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

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

GRANT OF MINERALS ON CERTAIN LANDS IN THE CROW INDIAN RESERVATION, MONT., TO CERTAIN INDIANS

Mr. METCALF. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1119, a bill to grant minerals, including oil and gas, on certain lands in the Crow Indian Reservation, Mont., to certain Indians and for other purposes.

The ACTING PRESIDENT pro tempore laid before the Senate the amendment of the House of Representatives to the bill (S. 1119) to grant minerals, including oil and gas, on certain lands in the Crow Indian Reservation, Mont., to certain Indians, and for other purposes, which was, on page 2, line 10, after "be" insert "renegotiated".

Mr. METCALF. Mr. President, the purpose of the bill is to provide for the reservation of minerals in the Crow Reservation to the tribe in perpetuity. In 1959, Congress amended the existing law regarding mineral developments on the reservation to provide that all future mineral leases would be for a term of 10 years and as long thereafter as minerals were produced in paying quantities. Prior to 1959 all leases extended only to the year 1970. The bill permits pre-1959 leases to be amended, in the discretion of the tribe and the Secretary of the Interior, to change the terms to conform to the terms of leases executed after 1959. The amendment adopted by the House, which was requested by the tribe, would permit the other provisions of the leases to be renegotiated at the time the terms are extended.

Mr. President, I move that the Senate concur in the amendment of the House to S. 1119.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from Montana.

The motion was agreed to.

ARMS CONTROL AND DISARMAMENTS—CONFERENCE REPORT

Mr. MANSFIELD. Mr. President, I submit a report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 14940) to amend the Arms Control and Disarmament Act, as amended, in order to extend the authorization for appropriations. I ask unanimous consent for the present consideration of the report.

The bill clerk read the report.

(For conference report, see House proceedings of May 9, 1968, pp. 12529-12530, CONGRESSIONAL RECORD.)

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the report?

There being no objection, the Senate proceeded to consider the report.

Mr. MANSFIELD. Mr. President, there is not much to explain about this very simple conference agreement; the differences between the House and the Senate were simple. The House authorized an appropriation of \$20 million for the fiscal years 1969 and 1970 without any limitations; the Senate authorized \$17 million for those years with a ceiling of \$7 million on external research expenditures, from which, however, the field test program is exempted. The conferees agreed to authorize an appropriation of \$18,500,000 for the 2 fiscal years and accepted the Senate's ceiling on research, subject to the field test proviso.

I believe that this is an eminently satisfactory compromise and that the Senate can vote for it in good conscience. I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

EXECUTIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the treaties on the Executive Calendar.

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

CONVENTION ON THE INTERNATIONAL HYDROGRAPHIC ORGANIZATION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive O, 90th Congress, first session.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the convention (Ex. O, 90th Cong., first sess.), a Convention on the International Hydrographic Organization, done at Monaco on May 3, 1967, and signed for the United States on September 13, 1967, which was read the second time, as follows:

CONVENTION ON INTERNATIONAL HYDROGRAPHIC ORGANIZATION

The Governments Parties to this Convention,

Considering that the International Hydrographic Bureau was established in June 1921

to contribute to making navigation easier and safer throughout the world by improving nautical charts and documents;

Desiring to pursue on an intergovernmental basis their cooperation in hydrography;

Have agreed as follows:

ARTICLE I

There is hereby established an International Hydrographic Organisation, hereinafter referred to as the Organisation, the seat of which shall be in Monaco.

ARTICLE II

The Organisation shall have a consultative and purely technical nature. It shall be the object of the Organisation to bring about:

- (a) The coordination of the activities of national hydrographic offices;
- (b) The greatest possible uniformity in nautical charts and documents;
- (c) The adoption of reliable and efficient methods of carrying out and exploiting hydrographic surveys;
- (d) The development of the sciences in the field of hydrography and the techniques employed in descriptive oceanography.

ARTICLE III

The Members of the Organisation are the Governments Parties to this Convention.

ARTICLE IV

The Organisation comprise:

The International Hydrographic Conference, hereinafter referred to as the Conference;

The International Hydrographic Bureau, hereinafter referred to as the Bureau, administered by the Directing Committee.

ARTICLE V

The functions of the Conference shall be:

- (a) To give general directives on the functioning and work of the Organisation;
- (b) To elect the members of the Directing Committee and its President;
- (c) To examine the reports submitted to it by the Bureau;
- (d) To make decisions in respect of all proposals of a technical or administrative nature submitted by the Member Governments or by the Bureau;
- (e) To approve the budget by a majority of two thirds of the Member Governments represented at the Conference;
- (f) To adopt, by a two thirds majority of the Member Governments, amendments to the General Regulations and Financial Regulations;
- (g) To adopt, by the majority prescribed in the preceding paragraph, any other particular regulations that may prove to be necessary, notably on the status of the directors and staff of the Bureau.

ARTICLE VI

1. The Conference shall be composed of representatives of the Member Governments. It shall meet in ordinary session every five years. An extraordinary session of the Conference may be held at the request of a Member Government or the Bureau, subject to approval by the majority of the Member Governments.

2. The Conference shall be convened by the Bureau on at least six months notice. A provisional agenda shall be submitted with the notice.

3. The Conference shall elect its President and Vice-President.

4. Each Member Government shall have one vote. However, for the voting on the questions referred to in Article V(b), each Member Government shall have a number of votes determined by a scale established in relation to the tonnage of its fleets.

5. Conference decisions shall be taken by a simple majority of the Member Governments represented at the Conference, except where this Convention provides otherwise. When voting for or against is evenly divided, the President of the Conference shall

be empowered to make a decision. In the case of resolutions to be inserted in the Repertory of Technical Resolutions, the majority shall in any event include the affirmative votes of not less than one third of the Member Governments.

6. Between sessions of the Conference the Bureau may consult the Member Governments by correspondence on questions concerning the technical functioning of the Organisation. The voting procedure shall conform to that provided for in paragraph 5 of this Article, the majority being calculated in this case on the basis of the total membership of the Organisation.

7. The Conference shall constitute its own Committees, including the Finance Committee referred to in Article VII.

ARTICLE VII

1. The supervision of the financial administration of the Organisation shall be exercised by a Finance Committee on which each Member Government may be represented by one delegate.

2. The Committee shall meet during sessions of the Conference. It may meet in extraordinary session.

ARTICLE VIII

For the fulfillment of the objects defined in Article II it shall be the responsibility of the Bureau, in particular:

- (a) To bring about a close and permanent association between national hydrographic offices;
- (b) To study any matters relating to hydrography and the allied sciences and techniques, and to collect the necessary papers;
- (c) To further the exchange of nautical charts and documents between hydrographic offices of Member Governments;
- (d) To circulate the appropriate documents;
- (e) To tender guidance and advice upon request, in particular to countries engaged in setting up or expanding their hydrographic service;
- (f) To encourage coordination of hydrographic surveys with relevant oceanographic activities;
- (g) To extend and facilitate the application of oceanographic knowledge for the benefit of navigators;
- (h) To cooperate with international organisations and scientific institutions which have related objectives.

ARTICLE IX

The Bureau shall be composed of the Directing Committee and the technical and administrative staff required by the Organisation.

ARTICLE X

1. The Directing Committee shall administer the Bureau in accordance with the provisions of this Convention and the Regulations and with directives given by the Conference.

2. The Directing Committee shall be composed of three members of different nationality elected by the Conference, which shall further elect one of them to fill the office of President of the Committee. The term of office of the Directing Committee shall be five years. If a post of director falls vacant during the period between two Conferences, a by-election may be held by correspondence as provided for in the General Regulations.

3. The President of the Directing Committee shall represent the Organisation.

ARTICLE XI

The functioning of the Organisation shall be set forth in detail in the General Regulations and Financial Regulations, which are annexed to this Convention but do not form an integral part thereof.

ARTICLE XII

The official languages of the Organisation shall be English and French.

ARTICLE XIII

The Organisation shall have juridical personality. In the territory of each of its Members it shall enjoy, subject to agreement with the Member Government concerned, such privileges and immunities as may be necessary for the exercise of its functions and the fulfillment of its object.

ARTICLE XIV

The expenses necessary for the functioning of the Organisation shall be met:

(a) From the ordinary annual contributions of Member Governments in accordance with a scale based on the tonnage of their fleets;

(b) From donations, requests, subventions and other sources, with the approval of the Finance Committee.

ARTICLE XV

Any Member Government which is two years in arrears in its contributions shall be denied all rights and benefits conferred on Member Governments by the Convention and Regulations until such time as the outstanding contributions have been paid.

ARTICLE XVI

The budget of the Organisation shall be drafted by the Directing Committee, studied by the Finance Committee and approved by the Conference.

ARTICLE XVII

Any dispute concerning the interpretation or application of this Convention which is not settled by negotiation or by the good offices of the Directing Committee shall, at the request of one of the parties to the dispute, be referred to an arbitrator designated by the President of the International Court of Justice.

ARTICLE XVIII

1. This Convention shall be open in Monaco on 3 May 1967, and subsequently at the Legation of the Principality of Monaco in Paris from 1 June until 31 December 1967, for signature by any Government which participates in the work of the Bureau on 3 May 1967.

2. The Governments referred to in paragraph 1 above may become Parties to the present Convention:

(a) By signature without reservation as to ratification or approval, or

(b) By signature subject to ratification or approval and the subsequent deposit of an instrument of ratification or approval.

3. Instruments of ratification or approval shall be handled to the Legation of the Principality of Monaco in Paris to be deposited in the Archives of the Government of the Principality of Monaco.

4. The Government of the Principality of Monaco shall inform the Governments referred to in paragraph 1 above, and the President of the Directing Committee, of each signature and of each deposit of an instrument of ratification or approval.

ARTICLE XIX

1. This Convention shall enter into force three months after the date on which twenty-eight Governments have become Parties in accordance with the provisions of Article XVIII, paragraph 2.

2. The Government of the Principality of Monaco shall notify this date to all signatory Governments and the President of the Directing Committee.

ARTICLE XX

After it has entered into force this Convention shall be open for accession by the Government of any maritime state which applies to the Government of the Principality of Monaco specifying the tonnage of its fleets, and whose admission is approved by two thirds of the Member Governments. Such approval shall be notified by the Government of the Principality of Monaco to the Government concerned. The Convention

shall enter into force for that Government on the date on which it has deposited its instrument of accession with the Government of the Principality of Monaco which shall inform the Member Governments and the President of the Directing Committee.

ARTICLE XXI

1. Any Contracting Party may propose amendments to this Convention.

2. Proposals of amendment shall be considered by the Conference and decided upon by a majority of two thirds of the Member Governments represented at the Conference. When a proposed amendment has been approved by the Conference, the President of the Directing Committee shall request the Government of the Principality of Monaco to submit it to all Contracting Parties.

3. The amendment shall enter into force for all Contracting Parties three months after notification of approval by two thirds of the Contracting Parties have been received by the Government of the Principality of Monaco. The latter shall inform the Contracting Parties and the President of the Directing Committee of the fact, specifying the date of entry into force of the amendment.

ARTICLE XXII

1. Upon expiration of a period of five years after its entry into force, this Convention may be denounced by any Contracting Party by giving at least one year's notice, in a notification addressed to the Government of the Principality of Monaco. The denunciation shall take effect upon 1 January next following the expiration of the notice and shall involve the abandonment by the Government concerned of all rights and benefits of membership in the Organisation.

2. The Government of the Principality of Monaco shall inform the Contracting Parties and the President of the Directing Committee of any notification of denunciation it receives.

ARTICLE XXIII

After the present Convention enters into force it shall be registered by the Government of the Principality of Monaco with the Secretariat of the United Nations in accordance with Article 102 of its Charter.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Convention.

DONE at Monaco on the third day of May nineteen hundred and sixty-seven, in a single copy in the English and French languages, each text being equally authentic, which shall be deposited in the Archives of the Government of the Principality of Monaco, which shall transmit certified copies thereof to all signatory and acceding Governments and to the President of the Directing Committee.

For the Government of the Federal Republic of Germany:

For the Government of the United States of America:

For the Government of the United Arab Republic:

For the Government of the Argentine Republic (ad referendum):

For the Government of the Commonwealth of Australia (subject to ratification):

A. H. COOPER.

D. W. HASLAM.

For the Government of the Union of Burma:

For the Government of Brazil:

For the Government of Canada (subject to ratification):

NORMAN G. GRAY.

For the Government of the Republic of Chile (subject to ratification):

For the Government of the Republic of Korea (subject to ratification):

For the Government of the Republic of China:

For the Government of the Republic of Cuba:

For the Government of the Kingdom of Denmark (subject to ratification):

For the Government of the Dominican Republic:

For the Government of Spain:

For the Government of Finland (subject to ratification):

For the Government of the French Republic:

For the Government of the United Kingdom of Great Britain and Northern Ireland:

D. RUCHE.

For the Government of the Kingdom of Greece:

For the Government of the Republic of Guatemala:

For the Government of India:

For the Government of Indonesia:

For the Government of Iran:

For the Government of Iceland (subject to approval):

For the Government of the Republic of Italy (subject to ratification):

LUIGI H. PABLE.

For the Government of Japan:

For the Government of the Principality of Monaco:

For the Government of the Kingdom of Norway:

For the Government of New Zealand:

For the Government of Pakistan:

For the Government of the Republic of Paraguay:

For the Government of the Kingdom of the Netherlands (subject to ratification):

For the Government of the Republic of the Philippines (with full power subject to ratification):

For the Government of the Polish Peoples Republic:

For the Government of Portugal (subject to ratification):

For the Government of the Republic of South Africa (subject to ratification):

For the Government of Sweden:

For the Government of Thailand:

For the Government of the Republic of Turkey:

For the Government of the Republic of Venezuela (ad referendum):

For the Government of the Peoples Republic of Yugoslavia:

GENERAL REGULATIONS

Article 1

The Organisation is a consultative agency. It has no authority over the hydrographic offices of the Government Parties to the Convention.

Article 2

The activities of the Organisation are of a scientific or technical nature and shall not include matters involving questions of international policy.

INTERNATIONAL HYDROGRAPHIC CONFERENCE

Article 3

The International Hydrographic Conference shall meet in ordinary session every five years at the seat of the Organisation at a date fixed at the close of the previous session.

Article 4

The International Hydrographic Conference shall be prepared and organised by the Bureau.

Article 5

Each Member Government may be represented at the Conference by one or more delegates, one of whom should preferably be the head of the national hydrographic office. Travelling and hotel expenses of delegates shall be defrayed by their respective Governments.

Article 6

The Directing Committee shall be authorized to invite observers from:

(a) Governments that are not Parties to the Convention: one or two observers each, if proposed by a Member Government or the Directing Committee and subject to approval by two thirds of the Member Governments.

(b) International organisations whose activities are connected with those of the Bureau: one or exceptionally two observers each. A list of such organisations shall be notified by the Directing Committee to Member Governments in advance, so that they may have opportunity to raise objections or suggest additions.

(c) National organisations of Member Governments which have had or are likely to have occasion to collaborate with the Bureau, under the conditions prescribed in the preceding paragraph.

Article 7

The working languages of the Conference shall be English, French and Spanish.

Article 8

(a) The Conference shall examine the reports of the Bureau on its work since the previous Conference. These reports shall be submitted to Member Governments by the Bureau at least two months before the Conference.

(b) Committees shall be designated to study the reports. The committees' conclusions shall be submitted to the appropriate plenary session of the conference.

Article 9

(a) Twelve months before the opening of the Conference, the Bureau shall invite representatives of Member Governments to submit the proposals that they wish to discuss at the Conference. At least eight months before the Conference these proposals, as well as those submitted by the Bureau, shall be circulated to all Member Governments.

(b) Proposals submitted after that date shall be accepted only if they are signed by representatives of at least three Member Governments.

(c) Proposals may also be submitted during the Conference. They must be signed by three delegations and submitted to the President of the Conference; they may not be discussed less than twenty-four hours after being officially announced.

Article 10

(a) Unless the ordinary International Hydrographic Conference has specifically decided otherwise, the foregoing rules of procedure shall apply to extraordinary sessions.

(b) Government delegates to extraordinary sessions shall be chosen as far as possible in the light of the questions submitted for consideration.

FINANCE COMMITTEE**Article 11**

(a) Between conferences, the Finance Committee may meet in extraordinary session on the request of three Governments or of the Directing Committee. The Directing Committee may also consult the Finance Committee by correspondence.

(b) Dates of meetings of the Finance Committee shall be fixed by its Chairman in arrangement with the Directing Committee.

(c) The Chairman of the Finance Committee shall be elected for five years by the Conference.

Article 12

During its ordinary session, the Committee shall:

Examine and approve the administrative accounts for the preceding financial period, Examine the budget for the coming financial period and submit it to the Conference.

Article 13

The Committee shall take decisions by a majority of two thirds of the Members present. Each delegate shall have one vote.

Article 14

The accounts shall be audited annually by an external auditor designated by the Committee.

INTERNATIONAL HYDROGRAPHIC BUREAU**Article 15**

In accordance with the provisions of article VIII of the Convention, the Bureau shall undertake the scientific and technical activities necessary for the attainment of the objectives of the Organisation.

Article 16

For its relations with the Bureau, each Member Government shall designate an official representative, preferably the head of its hydrographic office.

Article 17

The Bureau shall keep in close communication with the hydrographic offices of Member Governments. It may also correspond with related scientific organisations of Member Governments, provided that it informs the official representative of the Government concerned (article 16 above). Furthermore it may correspond with similar bodies of other Governments and with international organisations.

Article 18

The Bureau shall bring to the notice of the hydrographic or other competent offices of the Member Governments any hydrographic work of an international character and problems of general interest that it might be useful to study or to undertake. It shall strive for the solution of such problems or the undertaking of such work by seeking the necessary collaboration between Member Governments.

Article 19

To enable the Bureau to achieve its purpose, the hydrographic offices of Member Governments shall forward copies of their new publications and new editions of their charts, as well as works or documents published by them or by other offices in their countries which may be of interest.

Article 20

The Bureau shall satisfy as far as possible all requests from representatives of Member Governments for information or advice related to its work. Matters which can be dealt with directly between two national hydrographic offices should not normally be referred to the Bureau.

Article 21

The Bureau shall issue and distribute the publications referred to in articles 32 to 35 and any other documents requested by the Conference.

Article 22

In their communications with the Bureau, representatives of Member Governments may use languages other than the official languages of the Organization, but the Bureau shall not be held responsible for any delay or misinterpretation which may ensue.

DIRECTING COMMITTEE**Article 23**

(a) The Directing Committee shall administer the Bureau in accordance with the provisions of the Convention and the Regulations and with directives given by the Conference.

(b) It shall be responsible for the carrying out by the Bureau of the scientific and technical assignments entrusted to it.

Article 24

In the period between two Conferences, should no appropriate provision be made in the Convention or the Regulations, the Committee shall make any administrative or technical decisions which may be necessary, with the reservation that they be referred to the next Conference.

Article 25

(a) If the Committee considers that any question should be referred to the Member Governments for solution, it shall send a circular letter to their representatives, in accordance with article VI(6) of the Convention, requesting them to notify the Bureau of the opinion of their respective Governments.

(b) When voting for or against is evenly divided, the question shall be deferred to the next Conference.

Article 26

If circumstances preclude observation of the procedure prescribed in the Regulations, the Committee shall make the necessary decisions and give Member Governments an immediate account of the fact.

Article 27

(a) The directors shall be elected for a period of five years, in accordance with articles 36 to 47.

(b) The directors shall be eligible for re-election for a second five-year period.

(c) A candidate must be less than sixty-six years old in the year of his election or re-election.

(d) When a director is elected to fill a vacancy occurring between Conferences, his term of office shall end at the same time as his predecessor's would have done had he retained the post.

Article 28

The duties of the Directing Committee shall terminate on the last day of the third month following that in which the new Directing Committee has been elected.

Article 29

A director who has been incapacitated for duty for six consecutive months, or otherwise for an aggregate of twelve months, during his term of office shall automatically cease to be a director.

Article 30

Each director shall have particular responsibility for one or more branches of the work of the Bureau, but the Committee shall deliberate on all important questions. If only two directors attend a meeting of the Committee and a decision cannot be postponed until a full meeting, the view of the President or the acting President shall prevail.

Article 31

The staff of the Bureau shall be under the control of the Directing Committee. It shall consist of technical and administrative assistants and employees. The staff shall be appointed by the Committee as necessary.

PUBLICATIONS**Article 32**

At the beginning of each year the Bureau shall publish a report on its activities.

Article 33

(a) The Bureau shall issue a Yearbook giving all necessary information on the hydrographic offices of the Member Governments and, insofar as such information can be obtained, on those of other Governments.

(b) The Yearbook shall include the addresses of the official representatives designated in accordance with Article 16, and the following information:

- (i) A list of Governments which have participated in the work of the Bureau between the date of its creation and the date of entry into force of the Convention.
- (ii) A list of Member Governments.
- (iii) A list of Governments which have denounced the Convention pursuant to Article XXII.
- (iv) A table of tonnages of Member Governments' fleets.
- (v) A table showing the shares, contributions and number of votes of the Member Governments.

Article 34

(a) The Bureau shall issue two periodical publications: the International Hydrographic Review and the International Hydrographic Bulletin.

(b) The International Hydrographic Review shall contain articles of hydrography and allied sciences and techniques, and on any other subjects of general interest to the Organisation and to the various hydrographic offices.

(c) The International Hydrographic Bulletin shall appear more frequently than the Review, and shall contain matters of the moment and information of a temporary or urgent nature. This publication shall also contain information on work carried out and projected by Members.

Article 35

The Bureau shall issue special publications on technical subjects of interest to hydrographic offices.

ELECTIONS

Article 36

The directors shall be elected by the Conference in accordance with the provisions of Articles V(b), VI(4) and X(2) of the Convention. The election shall be held by secret ballot at the end of the Conference.

Article 37

(a) For the election of the directors, each Member Government shall have two votes; those Governments which have 100,000 tons of shipping or more shall have supplementary votes in accordance with the following scale:

Gross tonnage:	Supplementary votes
100,000-499,999	1
500,000-1,999,999	2
2,000,000-7,999,999	3
8,000,000 and above	4

(b) The estimates of tonnage shall be made in accordance with article 5 of the Financial Regulations.

Article 38

Each Member Government may nominate one or more candidates who may be of the nationality of any Contracting Party. If possible, nominations should reach the Bureau at least three months before the Conference. The list of candidates shall be closed ten days prior to the opening of the Conference.

Article 39

Every candidate should have had considerable sea experience and have extensive knowledge of practical hydrography and navigation. In the elections, the technical and administrative ability only of the candidates should be taken into consideration. No particular rank or other standing is required of them.

Article 40

Every nomination shall be accompanied by a note giving the candidate's qualifications for the position. To facilitate comparison of the candidate's qualifications the statements of service shall be compiled in a uniform manner as follows:

General

- 1. Name.
- 2 Nationality.
- 3. Date of birth.
- 4. Titles and decorations.

Education and Promotions

- 5. Education (periods, including special-ised or special qualifications).
- 6. Languages (speaking and reading knowledge).
- 7. Promotions.

Service

- 8. Hydrographic service.
 - (a) Sea service (periods and posts).
 - (b) Shore service (periods and posts).
- 9. Non-hydrographic service.
 - (a) Sea service (periods and posts).
 - (b) Shore service (periods and posts).

Scientific Activities

- 10. Publications.
- 11. Research work and awards.
- 12. Scientific societies (member of, past and present).

Additional Information

(Signatures of candidate and of forwarding authority.)

Article 41

(a) The names of the candidates, with the statements of service, shall be published by the Directing Committee as soon as they are received.

(b) The Bureau shall collate the lists of names submitted and present them, together with the statements of service, to each delegation at the opening of the Conference.

Article 42

(a) To register their votes for electing the members of the Directing Committee, the delegations shall inscribe on a number of voting papers equal to the number of votes to which each is entitled the names of only those three candidates whom they wish to elect.

(b) The three candidates inscribed on each of the voting papers must be of different nationality.

(c) Any voting paper not completed in strict accordance with paragraphs (a) and (b) shall be nullified.

Article 43

(a) The three candidates of different nationality receiving the largest number of votes shall be considered elected.

(b) In the event of two or more candidates receiving an equal number of votes making it impossible to fill the three posts under the conditions prescribed in the preceding paragraph, a new ballot shall be held to determine the relative positions only of those candidates who obtained the same number of votes.

Article 44

(a) When the three directors have been elected, a separate ballot shall be held to elect one of them as President of the Directing Committee. For this purpose, delegations shall inscribe on their allotted number of voting papers the name of the director they wish to make President.

(b) The number of votes actually received by each director shall determine the order in which they may be called upon to replace the President elected.

(c) In the case of a tie, a second ballot shall be held to determine the relative positions of the directors who obtained the same number of votes.

Article 45

When voting has been completed, the President of the Conference shall invite the newly-elected directors to take up their duties on the first day of the fourth month following the month of their election.

Article 46

(a) If a post of director falls vacant during the period between two Conferences and more than two years before the next Conference is due to meet, the Directing Committee shall conduct a bye-election by correspondence to fill the vacancy.

(b) In such a case, the Bureau shall invite Member Governments to send lists of candidates in accordance with articles 38 to

40. On receipt of these lists the election shall be held observing a procedure closely modelled on that described in articles 41 to 43.

(c) On completion of the above-mentioned procedure, the Committee shall immediately notify Member Governments of the result of the ballot and invite the director elected to take up his duties.

Article 47

A director elected to fill a vacancy shall take third place among the directors.

FINANCIAL REGULATIONS

Article 1

The financial administration of the Bureau shall be effected in accordance with the provisions of articles V, VII, XIV and XVI of the Convention and Articles 11 to 14 of the General Regulations.

ORDINARY BUDGET

Article 2

(a) The budget shall be established for five years and calculated on the basis of the gold franc adopted by the International Monetary Convention of 1885; namely 1 gold franc = 0.290 322 58 gr. or 0.009 334 086 5 ounces troy of fine gold.

(b) The financial year of the Bureau shall coincide with the Gregorian calendar year.

Article 3

Any balancing of income and expenditure shall be prohibited in the presenting of the budget.

Article 4

The annual contributions of Governments Parties to the Convention shall be based on the standard of the gold franc as defined in article 2 and shall be paid into the Bureau's bank accounts. Such contributions shall be fixed by the following rules:

(a) Each Government shall subscribe two shares of 2 000 gold francs each;

(b) Those Governments which have 100 000 gross tons of shipping or more shall contribute supplementary shares of the same value in accordance with the following scale:

Gross tonnage:	Supplementary shares (2,000 gold francs each)
100,000-249,999	1
250,000-499,999	2
455,000-719,999	3
720,000-1,049,999	4
1,050,000-1,449,999	5
1,450,000-1,924,999	6
1,925,000-2,479,999	7
2,480,000-3,119,999	8
3,120,000-3,849,999	9
3,850,000-4,674,999	10
4,675,000-5,599,999	11
5,600,000-6,629,999	12
6,630,000-7,769,000	13
7,770,000-9,024,999	14
9,025,000-10,399,999	15
10,400,000-11,899,999	16
11,900,000-13,529,999	17
13,530,000-15,294,999	18
15,295,000-17,199,999	19
17,200,000-19,249,999	20
19,250,000-21,449,999	21
21,450,000-23,804,999	22
23,805,000-26,319,999	23
26,320,000-28,999,999	24
29,000,000 and above (maximum)	25

Article 5

In application of the Convention and its Regulations, the tonnage figures of the Member Governments shall be obtained by adding to 6/7 of the displacement tonnage of ships of war the gross tonnage of all other vessels exceeding 100 tons.

Article 6

(a) The table of tonnages determining the contributions of Governments shall be brought up to date by the Directing Committee before each ordinary Conference. Twelve months before the Conference, the

Bureau shall ask Governments to supply their tonnage figures as of 1 January of the year preceding that of the Conference. Six months before the Conference the Bureau shall distribute to Governments a revised table of tonnages.

(b) The table of tonnages and that of shares, contributions and votes shall be submitted to the Conference for approval, and shall enter into force on 1 January of the year following that of the Conference. Except as provided for in paragraphs (c) and (d) below, these tables shall remain in force until 31 December of the year of the subsequent Conference.

(c) When a Government desires to accede to the Convention, it shall declare the amount of tonnage of its fleets. The Directing Committee shall enter this amount in the table of tonnages as soon as accession becomes effective.

(d) A Government wishing to amend its tonnage figure as it appears in the table of tonnages must give notice of the amended tonnage at least 6 months before the start of the next financial year.

Article 7

The Principality of Monaco shall enjoy special treatment. In consideration of the fact that it provides the Bureau with premises free of charge, it shall not pay any contribution but shall retain its right of vote.

Article 8

The Directing Committee shall draw up the estimated budget and forward it to the Member Governments for examination by the Finance Committee at least three months in advance of the Finance Committee's Session.

Article 9

The Directing Committee shall carry the budget into effect. Subject to the provisions of article 11, the Directing Committee shall ensure that expenditure and commitments conform with the budgetary provisions.

Article 10

Transfers of credit from one chapter to another shall require authorization by the Finance Committee.

Article 11

After the close of the financial period corresponding to a budget, no further financial obligations under it may be incurred. Outstanding obligations may be met for a further period of three months.

TREASURY—WORKING CAPITAL

Article 12

All Bureau funds shall be under the control of the Directing Committee. No expenditure exceeding 1 000 gold francs may be incurred without the prior approval of one of the members of the Directing Committee. Payments exceeding 10 000 gold francs require the prior approval of the full Committee.

Article 13

(a) Governments' annual contributions to the ordinary budget as specified in Article 4 shall be due on 1 January of the corresponding financial year. Payment must be punctual.

(b) The rate of exchange to be applied is that on the date of dispatch of the contribution; notice of such date must be promptly given to the Bureau.

Article 14

A Government acceding to the Convention shall be liable to pay its contribution for that year only if its accession takes effect before 1 July. If its accession takes effect on or after that date it shall be liable only for half that contribution.

Article 15

Outstanding contributions shall be shown in a table annexed to the report on financial administration which is submitted to the

Finance Committee by the Directing Committee.

Article 16

The suspension of the rights of a Member Government pursuant to the provisions of Article XV of the Convention shall be notified by the Directing Committee to the Government concerned on or shortly after 1 July of the year in which a third annual contribution would be due. Any Member Government thus deprived of its rights of membership shall remain obligated to the Bureau for the two years contributions outstanding at the time of suspension.

Article 17

(a) Any Member Government which pays only part of its contribution shall be given two years in which to make good the deficit starting from the first notice given by the Bureau. At the end of this period its rights and benefits of membership shall be suspended until the balance due is paid.

(b) The suspension of rights under the terms of paragraph (a) above shall become effective as of 1 July of the year in which the two-year period expires.

Article 18

To ensure the financial stability of the Bureau, and to avoid any treasury difficulties, the Bureau shall have at its disposal a working capital, the amount of which shall correspond, at the beginning of each year, to not less than half the total annual contributions of Member Governments.

RESERVE FUND

Article 19

The Bureau shall have at its disposal a reserve fund, the amount of which shall be fixed by the Conference. This fund is exclusively designed to enable the Organization to meet extraordinary expenditure. It shall only be used in exceptional circumstances.

CONTROL

Article 20

Every year the Directing Committee shall submit to the Member Governments a report on the financial administration over the past financial year. At the same time, the Directing Committee shall give information on the value of the movable and immovable property of the Organization.

Article 21

The external auditor designated under the terms of article 14 of the General Regulations shall ensure that expenditures are appropriate and conform to the directives given by the Conference and that they are correctly entered into the books. Such auditing may be carried out at any time.

DISSOLUTION

Article 22

In the event of dissolution, the balance of the accounts of the Organization shall be divided amongst the Governments which are still Parties to the Convention on the day when the latter ceases to have effect. Any credit balance shall be divided amongst these Governments in proportion to the total amount of their contributions since 1921. Any debit balance shall be divided amongst these Governments in proportion to their last annual contribution.

Mr. MANSFIELD. Mr. President, the Convention on the International Hydrographic Organization can be described simply as a "status" treaty. It will give international legal status to a bureau organized in 1921 on the basis of statutes.

The United States has been a member of it, pursuant to a provision in an appropriation bill, since 1922. The statutes under which the International Hydrographic Bureau has operated have now been redrafted as a treaty, but our ob-

ligations under it—financial included—are in no way changed. Since 1958, we have designated the Bureau as a public international organization for the purposes of the Privileges and Immunities Act. It was to give similar status to the Bureau in other countries, which felt they could not do so unless the organization was based on a treaty, that this treaty was agreed to. Briefly, the work of the Bureau consists of improving nautical charts and maps to make navigation easier and safer. In essence the Bureau serves as a clearing house for such material for the 41 maritime powers which constitute its membership. Having the legal status of an international organization will make the clearance through customs, for example, of this material easier.

The Departments of State, Commerce, and Defense believe that continued U.S. membership in this organization is worthwhile. For this reason, the Committee on Foreign Relations recommends that the Senate give its advice and consent to the ratification of the Convention on the International Hydrographic Organization.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD, an excerpt from the report.

There being no objection, the excerpt from the report (Ex. Rept. No. 3) was ordered to be printed in the RECORD, as follows:

PROVISIONS

The convention gives treaty status to an existing international organization of 41 members known as the International Hydrographic Bureau. The convention confers on the Bureau the legal attributes of an international organization: juridical personality and the right to enjoy privileges and immunities of an international organization in the territory of each member government.

The purpose of the Bureau is to make navigation easier and safer throughout the world by improving nautical charts and documents. The objectives of the Organization, which is consultative and technical in nature, are the coordination of national hydrographic offices activities, the achievement of the greatest possible uniformity in nautical charts and documents, the adoption of reliable and efficient methods of carrying out and exploiting hydrographic surveys, and the development of the sciences in the field of hydrography and the techniques employed in descriptive oceanography.

The 41 members are Argentina, Australia, Burma, Brazil, Canada, Chile, China (Taiwan), Cuba, Denmark, Dominican Republic, Finland, France, West Germany, Great Britain, Greece, Guatemala, India, Indonesia, Iran, Iceland, Italy, Japan, Korea, Monaco, Netherlands, New Zealand, Norway, Pakistan, Paraguay, Philippines, Poland, Portugal, South Africa, Spain, Sweden, Thailand, Turkey, United Arab Republic, United States, Venezuela, and Yugoslavia.

The policymaking body of the International Hydrographic Bureau is the Conference, which is composed of all members. The Conference meets every 5 years, e.g., 1967, 1972, and is attended by delegates from each State member, one delegate usually being the head of the State's hydrographic office. Resolutions are passed by a majority vote, each State having one vote, and are advisory in nature.

The Conference elects a Directing Committee, composed of three members, each of a different nationality, to act for it between conferences. The United States is now, and

has normally been, represented on the Directing Committee.

BACKGROUND AND COMMITTEE RECOMMENDATION

The United States has been a member of the Bureau since 1922 pursuant to a provision in the Diplomatic and Consular Service Appropriation Act of March 2, 1921.

In recasting in convention form the statutes under which the Bureau has heretofore operated, the State Department has assured the committee that "approval of this convention by the Senate would not extend greater authority to the International Hydrographic Bureau nor increase the cost to the United States of its continued membership in the Organization." The 1968 budget of the organization is less than \$200,000 of which the U.S. share, based on tonnage, is less than \$15,000, or in the neighborhood of 8 percent.

At the public hearing on May 7, 1968, moreover, the State Department representative, Mrs. Eleanor McDowell (whose prepared statement is appended), stated that the United States had been perfectly satisfied with the situation as it was and had designated the Bureau as a public international organization under the Privileges and Immunities Act. Some other nations, however, were not able to treat the Bureau as a public international organization as long as its existence was based on statutes instead of a treaty. Thus, the convention will correct the primarily administrative difficulties encountered by the Bureau. As a practical matter, this action will serve to alleviate problems with customs clearances and excise levies on the maps and charts handled by the Bureau, and matters of that nature.

After the testimony on May 7, the committee voted to report the convention favorably to the Senate, having been assured that "the Bureau has provided a worthwhile forum for international cooperation in the sciences of hydrography" and that continued U.S. participation in it is in the U.S. interest. For this reason the committee recommends that the Senate give its advice and consent to ratification of the Convention on the International Hydrographic Organization.

STATEMENT ON THE CONVENTION ON THE INTERNATIONAL HYDROGRAPHIC ORGANIZATION BY MRS. ELEANOR MCDOWELL, ATTORNEY-ADVISED, DEPARTMENT OF STATE

The Convention on the International Hydrographic Organization was formulated at the Ninth International Hydrographic Conference at Monaco in April-May 1967.

The need to create an International Hydrographic Organization arises from the juridical status of the present International Hydrographic Bureau, not from a question of the effectiveness of the organization or of the benefits to the United States of membership in the International Hydrographic Bureau.

The convention is designed to provide a treaty basis for the Organization whereby it can apply to member states for the granting of privileges and immunities to it as a recognized international organization, a status denied to it now. The approval of this convention by the Senate would not extend greater authority to the International Hydrographic Bureau nor increase the cost to the United States of its continued membership in the Organization.

The International Hydrographic Bureau, which will remain the executive body of the proposed new International Organization, was established by statute June 21, 1921. The United States was a founding member of the Hydrographic Bureau in 1919 and officially joined the IHB on June 20, 1922, pursuant to Public Law 357, 66th Congress. We have been continuously associated with the organization since that time and today one of the three Directors of the Bureau is a retired American officer and former deputy

commander of our U.S. Naval Oceanographic Office.

On May 29, 1958, we accorded the IHB the privileges and immunities of an international organization under Executive Order 10769. As most other nations had joined the Bureau by less formal means than our own, they do not regard it as an organization qualifying for the privileges and immunities accorded international organizations established by treaty. Consequently, the operations of the Bureau have been impeded by problems involving customs clearances and excise levies on their charts and maps, difficulties over entry of the personal effects of Bureau employees, and equality of relations with other international organizations.

This convention is, therefore, designed to provide an assured legal status to the International Hydrographic Organization under recognized international law practices. It will provide the new Organization, when constituted, the juridical status required to request from member states the privileges and immunities normally granted to international organizations.

The purpose of the new Organization is the same as the present Bureau—to encourage coordination of hydrographic work of the member states with a view to rendering navigation easier and safer throughout the world, to endeavor to obtain uniformity, as far as possible, in charts and hydrographic documents, to encourage the adoption of reliable methods of carrying out hydrographic surveys, and to encourage the development of the theory and improvement in the practice of the science of hydrography. The Organization will remain a technical consultative body for its members and subscribers.

Under the new convention the Bureau will continue its current operations. While a small organization of 18 persons, it provides important and needed services to maritime powers. Its budget, \$195,782 for 1968, is assessed on member states according to the registered tonnage of shipping. The U.S. assessed share in 1968 is \$14,102—7.94 percent of the budget.

It is our belief that Senate approval of this convention will assist the International Hydrographic Bureau, as the executing agent for the new Organization, to carry out its programs more effectively. In these days when interest in the oceans and its properties is becoming a greater concern to all of us, a more effective international organization in the hydrography field will be of benefit to us as a maritime nation. Passage of this convention will maintain the longstanding interest of the United States in this area of international cooperation.

The ACTING PRESIDENT pro tempore. Without objection, the convention will be considered as having passed through all its parliamentary stages up to and including the presentation of the resolution of ratification.

The resolution of ratification of Executive O will now be read.

The resolution of ratification of Executive O was read, as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to accession by the United States of America to the Convention on the International Hydrographic Organization, done at Monaco on May 3, 1967, and signed for the United States on September 13, 1967 (Ex. O, 90th Congress, first sess.).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on the pending convention—and it will be a yea-and-nay vote—take place at 12:30 p.m. Monday next.

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

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Chair lay before the Senate Executive C, 90th Congress, second session.

The ACTING PRESIDENT pro tempore. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the treaty (Ex. C, 90th Cong., second session), Amendments to the International Convention for the Safety of Life at Sea, which was read the second time, as follows:

AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1960—RESOLUTION A.122(V)

(Adopted on October 25, 1967)

THE ASSEMBLY,

RECOGNIZING the need to improve safety of life at sea,

NOTING Article 16(1) of the Convention on the Inter-Governmental Maritime Consultative Organization, concerning the functions of the Assembly with regard to regulations relating to maritime safety,

NOTING FURTHER that Article IX of the International Convention for the Safety of Life at Sea, 1960 in paragraphs (b), (d), (e), (g) and (h), provides for procedures of amendment involving participation of the Organization,

HAVING CONSIDERED certain amendments to the International Convention for the Safety of Life at Sea, 1960, forming the subject of a recommendation adopted by the Maritime Safety Committee at its fourteenth and fifteenth sessions, and directed toward improvement of fire safety measures for ships, of arrangements for life-saving appliances on certain tanker and cargo vessels and of VHF radio-telephony in areas of high traffic density, and also directed toward improvement of requirements in relation to exemption of novel types of craft and in relation to repair, modification and outfitting ships.

ADOPTS the following six amendments to the Regulations annexed to the International Convention for the Safety of Life at Sea, 1960, each of which amendments shall be communicated for acceptance to Contracting Governments in accordance with Article IX (d) of the Convention:

(a) The addition of a new paragraph (b) to Regulation 4 of Chapter I and the designation of existing Regulation 4 as paragraph (a). The text of this amendment is at Annex I to this Resolution;

(b) The addition of a new sub-paragraph (iii) to paragraph (a) of Regulation 1 of Chapter II, the text of which is at Annex II to this Resolution;

(c) The addition of a Part H of Chapter II (Regulations 92-123 inclusive), entitled "Fire Protection, Fire Detection and Fire Extinguishment in Passenger Ships", the text of which is at Annex III to this Resolution;

(d) The replacement of sub-paragraph (ii) of paragraph (a) of Regulation 64 of Chapter II by new sub-paragraphs (ii) and (iii), and the replacement of Regulations 64(j) and 70 of Chapter II and Regulations 25 and 26(a)(iv) of Chapter III by new Regulations. The text of this amendment appears at Annex IV to this Resolution;

(e) The replacement of paragraphs (a) and (c) of Regulation 35 of Chapter III by new paragraphs. The text of this amendment is at Annex V to this Resolution;

(f) The addition of a new paragraph (g) to Regulation 2 of Chapter IV, new Regulation 7 bis and new Regulation 15 bis of Chapter IV and new Regulation 18 of Chapter V, the text of which is at Annex VI to this Resolution.

EXPRESSED the view, that after Part H of

Chapter II comes into force, passenger ships carrying not more than 36 passengers shall continue to comply with the appropriate provisions of Parts D, E and F of Chapter II of the International Convention for the Safety of Life at Sea, 1960.

REQUESTS the Secretary-General of the Organization, in conformity with Article IX(b) (1), to communicate, for purposes of acceptance, certified copies of this Resolution and its Annexes, to all Contracting Governments of the International Convention for the Safety of Life at Sea, 1960, together with copies to all Members of the Organization, and

INVITES all Governments concerned to accept each of the amendments at the earliest possible date.

ANNEX I

REGULATION 4(B)

The Administration may exempt any ship which embodies features of a novel kind from any of the provisions of Chapters II, III and IV of these Regulations the application of which might seriously impede research into the development of such features and their incorporation in ships engaged on international voyages. Any such ship shall, however, comply with safety requirements which, in the opinion of that Administration, are adequate for the service for which it is intended and are such as to ensure the overall safety of the ship and which are acceptable to the Governments of the States to be visited by the ship. The Administration which allows any such exemption shall communicate to the Organization particulars of same and the reasons therefor, which the Organization shall circulate to the Contracting Governments for their information.

ANNEX II

REGULATION 1 (A) (III)

A ship which undergoes repairs, alterations, modifications and outfitting related thereto shall continue to comply with at least the requirements previously applicable to the ship. An existing ship in such a case shall not, as a rule, comply to a lesser extent with the requirements for a new ship than it did before. Repairs, alterations and modifications of a major character and outfitting related thereto should meet the requirements for a new ship in so far as the Administration deems reasonable and practicable.

ANNEX III

PART H—FIRE PROTECTION, FIRE DETECTION AND FIRE EXTINCTION IN PASSENGER SHIPS

REGULATION 92

Application

The Regulations in this Part of the Chapter shall apply to passenger ships, carrying more than 36 passengers, the keels of which are laid on or after the date on which such Regulations come into force, and replace in relation to such ships the provisions of Regulation 31 of Part C and the provisions of Parts D, E, F and G of this Chapter applicable to passenger ships the keels of which are laid on or after 26 May 1965.

REGULATION 93

General

The purpose of this Part is to require the fullest practicable degree of fire protection, fire detection and fire extinction in passenger ships. The basic principles underlying the Regulations in this Part are:

- (a) division of ship into main vertical zones by thermal and structural boundaries;
- (b) separation of accommodation spaces from the remainder of the ship by thermal and structural boundaries;
- (c) restricted use of combustible materials;

(d) detection of any fire in the zone of origin;

(e) containment and extinction of any fire in the space of origin;

(f) protection of means of escape or access for fire-fighting;

(g) ready availability of fire extinguishing appliances.

REGULATION 94

Definitions

Whenever the phrases defined below occur throughout this Part of this Chapter, they shall be interpreted in accordance with the following definitions:

(a) *Incombustible Material* means a material which neither burns nor gives off inflammable vapours in sufficient quantity to ignite at a pilot flame or other ignition source when heated to approximately 750° C (1,382° F). Any other material is a "Combustible Material."

(b) *A Standard Fire Test* is one in which specimens of the relevant bulkheads or decks are exposed in a test furnace to temperatures corresponding approximately to the standard time-temperature curve. The specimen shall have an exposed surface of not less than 4.65 square metres (50 square feet) and height (or length of deck) of 2.44 metres (8 feet) resembling as closely as possible the intended construction and including where appropriate at least one joint. The standard time-temperature curve is defined by a smooth curve drawn through the following points:

At the end of the first 5 minutes	538° C (1,000° F)
At the end of the first 10 minutes	704° C (1,300° F)
At the end of the first 30 minutes	843° C (1,550° F)
At the end of the first 60 minutes	927° C (1,700° F)

(c) *"A", "B" and "C" Class Divisions*

(1) *"A" Class Divisions* are those divisions formed by bulkheads and decks which comply with the following:

- (1) they shall be constructed of steel or other equivalent material;
- (2) they shall be suitably stiffened;
- (3) they shall be so constructed as to be capable of preventing the passage of smoke and flame to the end of the one-hour standard fire test;

(4) they shall be insulated with approved incombustible materials such that the average temperature of the unexposed side will not rise more than 139° C (250° F) above the original temperature, nor will the temperature, at any one point, including any joint, rise more than 180° C (325° F) above the original temperature, within the time listed below:

Class A—60	60 minutes
Class A—30	30 minutes
Class A—15	15 minutes
Class A—0	0 minutes

(5) the Administration may require a test of a prototype bulkhead or deck to ensure that it meets the above requirements for integrity and temperature rise.

(ii) *"B" Class Divisions* are those divisions formed by bulkheads, decks, ceilings or linings which comply with the following:

(1) they shall be so constructed as to be capable of preventing the passage of flame to the end of the first one half-hour of the standard fire test;

(2) they shall have an insulation value such that the average temperature of the unexposed side will not rise more than 139° C (250° F) above the original temperature, nor will the temperature at any one point, including any joint, rise more than 225° C (405° F) above the original temperature, within the time listed below:

Class B—15	15 minutes
Class B—0	0 minutes

(3) they shall be constructed of approved

incombustible materials and all materials entering into the construction and erection of "B" Class divisions shall be incombustible.

(4) the Administration may require a test of a prototype division to ensure that it meets the above requirements for integrity and temperature rise.

(iii) *"C" Class Divisions* shall be constructed of approved incombustible materials. They need meet no requirements relative to the passage of smoke and flame nor the limiting of temperature rise.

(d) *Continuous "B" Class Ceilings or Linings* are those "B" Class ceilings or linings which terminate only at an "A" or "B" Class division.

(e) *Steel or Other Equivalent Material*. Where the words "steel or other equivalent material" occur, "equivalent material" means any material which, by itself or due to insulation provided, has structural and integrity properties equivalent to steel at the end of the applicable fire exposure to the standard fire test (e.g. aluminum alloy with appropriate insulation).

(f) *Low flame spread* means that the surface thus described will adequately restrict the spread of flame, this being determined to the satisfaction of the Administration by an established test procedure.

(g) *Main Vertical Zones* are those sections into which the hull, superstructure, and deckhouses are divided by "A" Class divisions, the mean length of which on any one deck does not in general exceed 40 metres (131 feet).

(h) *Accommodation Spaces* are those used for public spaces, corridors, lavatories, cabins, offices, crew quarters, barber shops, isolated pantries and lockers and similar spaces.

(i) *Public Spaces* are those portions of the accommodation which are used for halls, dining rooms, lounges and similar permanently enclosed spaces.

(j) *Service Spaces* are those used for galleys, main pantries, stores (except isolated pantries and lockers), mail and specie rooms, workshops other than those forming part of machinery spaces, and similar spaces and trunks to such spaces.

(k) *Cargo Spaces* are all spaces used for cargo (including cargo oil tanks) and trunks to such spaces.

(l) *Special Category Spaces* are those enclosed spaces above or below the bulkhead deck intended for the carriage of motor vehicles with fuel in their tanks for their own propulsion, into and from which such vehicles can be driven and to which passengers have access.

(m) *Machinery Spaces* are all machinery spaces of Category A and all other spaces containing propelling machinery, boilers, oil fuel units, steam and internal combustion engines, generators and major electrical machinery, oil filling stations, refrigerating, stabilizing, ventilation and air conditioning machinery, and similar spaces; and trunks to such spaces.

(n) *Machinery Spaces of Category A* are all spaces which contain internal combustion type machinery used either

(1) for main propulsion, or

(2) for other purposes where such machinery has in the aggregate a total power of not less than 500 b.h.p.,

or which contain any oil-fired boiler or oil fuel unit; and trunks to such spaces.

(o) *Oil Fuel Unit* means the equipment used for the preparation of oil fuel for delivery to an oil fired boiler, or equipment used for the preparation for delivery of heated oil to an internal combustion engine, and includes any oil pressure pumps, filters and heaters dealing with oil at a pressure more than 1.8 kilogrammes per square centimetre (25 pounds per square inch) gauge.

(p) *Control Stations* are those spaces in which ship's radio or main navigating equipment or the emergency source of power is located or where the fire recording or fire control equipment is centralized.

(q) *Rooms Containing Furniture and Furnishings of Restricted Fire Risk.* For the purpose of Regulation 98 of this Chapter, rooms containing furniture and furnishings of restricted fire risk (whether cabins, public spaces, offices or other types of accommodation) are those in which:

(i) all case furniture such as desks, wardrobes, dressing tables, bureaux, dressers, is constructed entirely of approved incombustible materials, except that a combustible veneer not exceeding 2.0 millimetres (one twelfth inch) may be used on the working surface of such articles;

(ii) all free standing furniture such as chairs, sofas, tables, is constructed with frames of incombustible materials;

(iii) all draperies, curtains and other suspended textile materials have, to the satisfaction of the Administration, qualities of resistance to the propagation of flame not inferior to those of wool weighing 0.8 kilogrammes per square metre (24 ounces per square yard);

(iv) all floor coverings have, to the satisfaction of the Administration, qualities of resistance to the propagation of flame not inferior to those of an equivalent woolen material used for the same purpose; and

(v) all exposed surfaces of bulkheads, linings and ceilings have low flame spread characteristics.

REGULATION 95

Structure

The hull, superstructure, structural bulkheads, decks and deckhouses shall be constructed of steel or other equivalent material. For the purpose of applying the definition of steel or other equivalent material as given in Regulation 94(e) of this Chapter, the "applicable fire exposure" shall be according to the integrity and insulation standards given in the tables of Regulation 98 of this Chapter. As an example, where divisions such as decks or sides and ends of deckhouses are permitted to have B-O fire integrity, the "applicable fire exposure" shall be one half-hour.

Provided that in cases where any part of the structure is of aluminium alloy, the following requirements shall apply:

(a) The insulation of aluminium alloy components of "A" or "B" Class divisions, except structure which in the opinion of the Administration is non-load-bearing, shall be such that the temperature of the structural core does not rise more than 200° C (360° F) above the ambient temperature at any time during the applicable fire exposure to the standard fire test.

(b) Special attention shall be given to the insulation of aluminium alloy components of columns, stanchions and other structural members required to support lifeboat and liferaft stowage, launching and embarkation areas, and "A" and "B" Class divisions to ensure:

(i) that for such members supporting lifeboat and liferaft areas and "A" Class divisions the temperature rise limitation specified in paragraph (a) of this Regulation shall apply at the end of one hour; and

(ii) that for such members required to support "B" Class divisions, the temperature rise limitation specified in paragraph (a) of this Regulation shall apply at the end of one half-hour.

(c) Crowns and casings of machinery spaces of Category A shall be of steel construction adequately insulated and openings therein, if any, shall be suitably arranged and protected to prevent the spread of fire.

REGULATION 96

Main vertical zones and horizontal zones

(a) The hull, superstructure and deckhouses shall be subdivided into main vertical zones by "A" Class divisions. Steps and recesses shall be kept to a minimum, but where

they are necessary, they shall also be "A" Class divisions. These divisions shall have insulation values in accordance with the applicable tables in Regulation 98 of this Chapter.

(b) As far as practicable, the bulkheads forming the boundaries of the main vertical zones above the bulkhead deck shall be in line with watertight subdivision bulkheads situated immediately below the bulkhead deck.

(c) Such bulkheads shall extend from deck to deck and to the shell or other boundaries.

(d) Where a main vertical zone is subdivided by horizontal "A" Class divisions into horizontal zones, for the purpose of providing an appropriate barrier between sprinklered and non-sprinklered zones of the ship the divisions shall extend between adjacent main vertical zone bulkheads and to the shell or exterior boundaries of the ship and shall be insulated in accordance with the fire insulation and integrity values given in Table 3 of Regulation 98 of this Chapter.

(e) On ships designed for special purposes, such as automobile or railroad car ferries, where the provision of main vertical zone bulkheads would defeat the purpose for which the ship is intended, equivalent means for controlling and limiting a fire shall be substituted and specifically approved by the Administration.

Provided that in a ship with special category spaces, any such space shall comply with the applicable provisions of Regulation 108 of this Chapter, and in so far as such compliance would be inconsistent with compliance with other requirements of this Part of this Chapter, the requirements of Regulation 108 shall prevail.

REGULATION 97

Bulkheads within a main vertical zone

(a) All bulkheads which are not required to be "A" Class divisions shall be at least "B" Class or "C" Class divisions as prescribed in the tables in Regulation 98 of this Chapter. All such divisions may be faced with combustible materials in accordance with the provisions of Regulation 105 of this Chapter.

(b) All corridor bulkheads where not required to be "A" Class shall be "B" Class divisions which shall extend from deck to deck except:

(i) when continuous "B" Class ceilings and/or linings are fitted on both sides of the bulkhead, the portion of the bulkhead behind the continuous ceiling or lining shall be of material which in thickness and composition is acceptable in the construction of "B" Class divisions but which shall be required to meet "B" Class integrity standards only in so far as is reasonable and practicable in the opinion of the Administration.

(ii) in the case of a ship protected by an automatic sprinkler system complying with the provisions of Regulation 120 of this Chapter, the corridor bulkheads of "B" Class materials may terminate at a ceiling in the corridor provided such a ceiling is of material which in thickness and composition is acceptable in the construction of "B" Class divisions. Notwithstanding the requirements of Regulation 98 of this Chapter, such bulkheads and ceilings shall be required to meet "B" Class integrity standards only in so far as is reasonable and practicable in the opinion of the Administration. All doors and frames in such bulkheads shall be of incombustible materials and shall be constructed and erected so as to provide substantial fire resistance to the satisfaction of the Administration.

(c) All bulkheads required to be "B" Class divisions, except corridor bulkheads, shall extend from deck to deck and to the shell or other boundaries unless continuous "B" Class ceilings and/or linings are fitted on both sides of the bulkhead in which case the bulkhead may terminate at the continuous ceiling or lining.

REGULATION 98

Fire integrity of bulkheads and decks

(a) In addition to complying with the specific provisions for fire integrity of bulkheads and decks mentioned elsewhere in the Regulations of this Part, the minimum fire integrity of all bulkheads and decks shall be as prescribed in Tables 1 to 4 in this Regulation. Where, due to any particular structural arrangements in the ship, difficulty is experienced in determining from the tables the minimum fire integrity value of any divisions, such values shall be determined to the satisfaction of the Administration.

(b) The following requirements shall govern application of the tables:

(i) *Table 1* shall apply to bulkheads bounding main vertical zones or horizontal zones.

Table 2 shall apply to bulkheads not bounding main vertical zones nor horizontal zones.

Table 3 shall apply to decks forming steps in main vertical zones or bounding horizontal zones.

Table 4 shall apply to decks not forming steps in main vertical zones nor bounding horizontal zones.

(ii) For the purpose of determining the appropriate fire integrity standards to be applied to boundaries between adjacent spaces, such spaces are classified according to their fire risk as shown in Categories (1) to (14) below. Where the contents and use of a space are such that there is a doubt as to its classification for the purpose of this Regulation, it shall be treated as a space within the relevant category having the most stringent boundary requirements. The title of each category is intended to be typical rather than restrictive. The number in parentheses preceding each category refers to the applicable column or row number in the tables.

(1) *Control stations:*

Spaces containing emergency sources of power and lighting

Wheelhouse and chartroom

Spaces containing the ship's radio equipment

Fire control and recording stations

Control room for propelling machinery when located outside the propelling machinery space

Spaces containing centralized fire alarm equipment

Spaces containing centralized emergency public address system stations and equipment

(2) *Stairways:*

Interior stairways, lifts and escalators (other than those wholly contained within the machinery spaces) for passengers and crew and enclosures thereto

In this connection, a stairway which is enclosed at only one level shall be regarded as part of the space from which it is not separated by a fire door

(3) *Corridors:*

Passenger and crew corridors

(4) *Lifeboat and liferaft handling and embarkation stations:*

Open deck spaces and enclosed promenades forming lifeboat and liferaft embarkation and lowering stations

(5) *Open deck spaces:*

Open deck spaces and enclosed promenades clear of lifeboat and liferaft embarkation and lowering stations

Air space (the space outside superstructures and deckhouses)

(6) *Accommodation spaces of minor fire risk:*

Cabins containing furniture and furnishings of restricted fire risk

Public spaces containing furniture and furnishings of restricted fire risk and having a deck area of less than 50 square metres (540 square feet)

Offices and dispensaries containing furniture and furnishings of restricted fire risk

(7) *Accommodation spaces of moderate fire risk:*

Same as (6) above but containing furniture and furnishings of other than restricted fire risk

Public spaces containing furniture and furnishings of restricted fire risk and having a deck area of 50 square metres (540 square feet) and greater

Isolated lockers and small storerooms in accommodation spaces

Sales shops
Motion picture projection and film stowage rooms

Diet kitchens (containing no open flame)
Cleaning gear lockers (in which inflammable liquids are not stowed)

Laboratories (in which inflammable liquids are not stowed)

Pharmacies
Small drying rooms (having a deck area of 4 square metres (43 square feet) or less)

Specie rooms

(8) *Accommodation spaces of greater fire risk:*

Public spaces containing furniture and furnishings of other than restricted fire risk and having a deck area of 50 square metres (540 square feet) and greater

Barber shops and beauty parlors

(9) *Sanitary and similar spaces:*
Communal sanitary facilities, showers, baths, water closets, etc.

Small laundry rooms
Indoor swimming pool area

Operating rooms
Isolated serving pantries in accommodation spaces

Private sanitary facilities shall be considered a portion of the space in which they are located

(10) *Tanks, voids and auxiliary machinery spaces having little or no fire risk:*

Water tanks forming part of the ship's structure

Void and cofferdams

Auxiliary machinery spaces which do not contain machinery having a pressure lubrication system and where storage of combustibles is prohibited, such as: ventilation and air conditioning rooms; windlass room, steering gear room; stabilizer equipment room; electrical propulsion motor room; rooms containing section switchboards and purely electrical equipment other than oil-filled electrical transformers (above 10kVA); shaft alleys and pipe tunnels; spaces for pumps and refrigeration machinery (not handling or using inflammable liquids)

Closed trunks serving the spaces listed above

Other closed trunks such as pipe and cable trunks

(11) *Auxiliary machinery spaces, cargo spaces, special category spaces, cargo and other oil tanks and other similar spaces of moderate fire risk:*

Cargo oil tanks

Cargo holds, trunkways and hatchways

Refrigerated chambers

Oil fuel tanks (where installed in a separate space with no machinery)

Shaft alleys and pipe tunnels allowing storage of combustibles

Auxiliary machinery spaces as in Category (10) which contain machinery having a pressure lubrication system or where storage of combustibles is permitted

Oil fuel filling stations

Spaces containing oil-filled electrical transformers (above 10kVA)

Spaces containing turbine and reciprocating steam engine driven auxiliary generators and small internal combustion engines up to 150 h.p. driving emergency generators, sprinkler, drencher or fire pumps, bilge pumps, etc.

Special category spaces (Tables 1 and 3 only apply)

Closed trunks serving the spaces listed above

(12) *Machinery spaces and main galleys:*

Main propelling machinery rooms (other than electric propulsion motor rooms) and boiler rooms

Auxiliary machinery spaces other than those in Categories (10) and (11) which contain internal combustion machinery or other oil-burning, heating or pumping units

Main galleys and annexes

Trunks and casings to the spaces listed above

(13) *Storerooms, workshops, pantries, etc.:*

Main pantries not annexed to galleys
Main laundry
Large drying rooms (having a deck area of more than 4 square metres (43 square feet))

Miscellaneous stores
Mail and baggage rooms
Garbage rooms
Workshops (not part of machinery spaces, galleys, etc.)

(14) *Other spaces in which inflammable liquids are stowed:*

Lamp rooms
Paint rooms
Storerooms containing inflammable liquids (including dyes, medicines, etc.)
Laboratories (in which inflammable liquids are stowed)

zontal zone which is not protected by an automatic sprinkler system complying with the provisions of Regulation 120 of this Chapter or between such zones neither of which is so protected, the higher of the two values given in the tables shall apply.

(v) In determining the applicable fire integrity standard of a boundary between two spaces within a main vertical zone or horizontal zone which is protected by an automatic sprinkler system complying with the provisions of Regulation 120 of this Chapter or between such zones both of which are so protected, the lesser of the two values given in the tables shall apply. In instances where a sprinklered zone and a non-sprinklered zone meet within accommodation and service spaces, the higher of the two values given in the table shall apply to the division between the zones.

(vi) Where adjacent spaces are in the same numerical category and the superscript 1 appears in the tables, a bulkhead or deck between such spaces need not be fitted if deemed unnecessary by the Administration. For example, in Category (12) a bulkhead need not be required between a galley and its annexed pantries provided the pantry bulkheads and decks maintain the integrity of the galley boundaries. A bulkhead is, however, required between a galley and a machinery space even though both spaces are in Category (12).

(vii) Where the superscript 2 appears in the tables, the lesser insulation value may be permitted only if at least one of the adjoining spaces is protected by an automatic sprinkler system complying with the provisions of Regulation 120 of this Chapter.

(viii) Notwithstanding the provisions of Regulation 97 of this Chapter, there are no special requirements for material or integrity of boundaries where only a dash appears in the tables.

(ix) The Administration shall determine in respect of Category (5) spaces whether the insulation values in Table 1 or 2 shall apply to ends of deckhouses and superstructures, and whether the insulation values in Table 3 or 4 shall apply to weather decks. In no case shall the requirements of Category (5) of Tables 1 to 4 necessitate enclosure of spaces which in the opinion of the Administration need not be enclosed.

(c) Continuous "B" Class ceilings or lining, wholly or in part, to the required insulation bulkheads, may be accepted as contributing wholly or in part, to the required insulation and integrity of a division.

(d) In approving structural fire protection details, the Administration shall have regard to the risk of heat transmission at intersections and terminal points of required thermal barriers.

TABLE 1.—BULKHEADS BOUNDING MAIN VERTICAL ZONES OR HORIZONTAL ZONES

Spaces	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
(1) Control stations	A-60	A-30	A-30	A-0	A-0	A-60	A-60	A-60	A-0	A-0	A-60	A-60	A-60	A-60
(2) Stairways		A-0	A-0	A-0	A-0	A-15	A-30	A-60	A-0	A-0	A-30	A-60	A-15	A-60
(3) Corridors			A-0	A-0	A-0	A-0	A-30	A-30	A-0	A-0	A-30	A-60	A-15	A-60
(4) Lifeboat and liferaft handling and embarkation stations						A-0	A-0	A-0	A-0	A-0	A-0	A-60	A-0	A-60
(5) Open deck spaces						A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(6) Accommodation spaces of minor fire risk						A-15	A-30	A-30	A-0	A-0	A-15	A-30	A-15	A-30
(7) Accommodation spaces of moderate fire risk						A-0	A-30	A-60	A-0	A-0	A-30	A-60	A-30	A-60
(8) Accommodation spaces of greater fire risk						A-0	A-0	A-15	A-0	A-0	A-15	A-60	A-30	A-60
(9) Sanitary and similar spaces								A-15	A-0	A-0	A-0	A-0	A-0	A-0
(10) Tanks, voids, and auxiliary machinery spaces having little or no fire risk									A-0	A-0	A-0	A-0	A-0	A-0
(11) Auxiliary machinery spaces, cargo spaces, special category spaces, cargo and other oil tanks and other similar spaces of moderate fire risk										A-0	A-0	A-0	A-0	A-0
(12) Machinery spaces and main galleys											A-0	A-60	A-0	A-60
(13) Storerooms, workshops, pantries, etc.												A-60	A-30	A-60
(14) Other spaces in which inflammable liquids are stowed													A-15	A-30
													A-0	A-60

TABLE 2.—BULKHEADS NOT BOUNDING MAIN VERTICAL ZONES NOR HORIZONTAL ZONES

Spaces	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
(1) Control stations.....	B-0	A-0	A-0	A-0	A-0	A-60	A-60	A-60	A-0	A-0	A-60	A-60	A-60	A-60
(2) Stairways.....		A-0	A-0	A-0	A-0	A-0	A-15	A-30	A-0	A-0	A-15	A-30	A-15	A-30
(3) Corridors.....			C	A-0	A-0	B-0	B-15	B-15	B-0	A-0	A-15	A-30	A-0	A-30
(4) Lifeboat and liferaft handling and embarkation stations.....						A-0	A-0	A-0	A-0	A-0	A-0	A-15	A-0	A-15
(5) Open deck space.....						A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(6) Accommodation spaces of minor fire risk.....						B-0	B-15	B-15	B-0	A-0	A-15	A-30	A-0	B-0
(7) Accommodation spaces of moderate fire risk.....						C	C	C	C	A-0	A-15	A-60	A-15	A-60
(8) Accommodation spaces of greater fire risk.....							B-15	B-15	B-0	A-0	A-15	A-60	A-15	A-60
(9) Sanitary and similar spaces.....							C	C	C	A-0	A-30	A-60	A-15	A-60
(10) Tanks, voids, and auxiliary machinery spaces having little or no fire risk.....									C	A-0	A-0	A-0	A-0	A-0
(11) Auxiliary machinery spaces, cargo spaces, cargo and other oil tanks and other similar spaces of moderate fire risk.....										A-0	A-0	A-0	A-0	A-0
(12) Machinery spaces and main galleys.....												A-0	A-0	A-60
(13) Storerooms, workshops, pantries, etc.....													A-0	A-0
(14) Other spaces in which inflammable liquids are stowed.....														A-30

TABLE 3.—DECKS FORMING STEPS IN MAIN VERTICAL ZONES OR BOUNDING HORIZONTAL ZONES

Space below	Space above													
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
(1) Control stations.....	A-60	A-60	A-30	A-0	A-0	A-15	A-30	A-60	A-0	A-0	A-30	A-60	A-15	A-60
(2) Stairways.....	A-15	A-0	A-0	A-0	A-0	A-0	A-15	A-15	A-0	A-0	A-0	A-60	A-0	A-60
(3) Corridors.....	A-30	A-0	A-0	A-0	A-0	A-0	A-15	A-15	A-0	A-0	A-0	A-60	A-0	A-60
(4) Lifeboat and liferaft handling and embarkation stations.....	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(5) Open deck spaces.....	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(6) Accommodation spaces of minor fire risk.....	A-60	A-30	A-15	A-0	A-0	A-0	A-15	A-30	A-0	A-0	A-15	A-15	A-0	A-15
(7) Accommodation spaces of moderate fire risk.....	A-60	A-60	A-30	A-15	A-0	A-15	A-30	A-60	A-0	A-0	A-30	A-30	A-0	A-30
(8) Accommodation spaces of greater fire risk.....	A-60	A-60	A-60	A-60	A-0	A-30	A-60	A-60	A-0	A-0	A-30	A-60	A-15	A-60
(9) Sanitary and similar spaces.....	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(10) Tanks, voids, and auxiliary machinery spaces having little or no fire risk.....	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(11) Auxiliary machinery spaces, cargo spaces, special category spaces, cargo and other oil tanks and other similar spaces of moderate fire risk.....	A-60	A-60	A-60	A-60	A-0	A-30	A-60	A-60	A-0	A-0	A-0	A-30	A-30	A-30
(12) Machinery spaces and main galleys.....	A-60	A-60	A-60	A-60	A-0	A-60	A-60	A-60	A-0	A-0	A-60	A-60	A-60	A-60
(13) Storerooms, workshops, pantries, etc.....	A-60	A-60	A-30	A-15	A-0	A-15	A-30	A-60	A-0	A-0	A-0	A-30	A-0	A-30
(14) Other spaces in which inflammables are stowed.....	A-60	A-60	A-60	A-60	A-0	A-60	A-60	A-60	A-0	A-0	A-60	A-60	A-60	A-60

TABLE 4.—DECKS NOT FORMING STEPS IN MAIN VERTICAL ZONES NOR BOUNDING HORIZONTAL ZONES

Space below	Space above													
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)
(1) Control stations.....	A-30	A-30	A-15	A-0	A-0	A-	A-15	A-30	A-0	A-0	A-0	A-60	A-0	A-60
(2) Stairways.....	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-30	A-0	A-30
(3) Corridors.....	A-15	A-0	A-0	A-0	A-0	A-0	A-15	A-15	A-0	A-0	A-0	A-30	A-0	A-30
(4) Lifeboat and liferaft handling and embarkation stations.....	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(5) Open deck spaces.....	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(6) Accommodation spaces of minor fire risk.....	A-60	A-15	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-15
(7) Accommodation spaces of moderate fire risk.....	A-60	A-30	A-15	A-15	A-0	A-0	A-15	A-30	A-0	A-0	A-15	A-30	A-0	A-30
(8) Accommodation spaces of greater fire risk.....	A-60	A-60	A-60	A-30	A-0	A-15	A-30	A-60	A-0	A-0	A-0	A-30	A-0	A-30
(9) Sanitary spaces and similar spaces.....	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(10) Tanks, voids, and auxiliary machinery spaces having little or no fire risk.....	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0	A-0
(11) Auxiliary machinery spaces, cargo spaces, cargo and other oil tanks and other similar spaces of moderate fire risk.....	A-60	A-60	A-60	A-30	A-0	A-0	A-15	A-30	A-0	A-0	A-0	A-0	A-0	A-30
(12) Machinery spaces and main galleys.....	A-60	A-60	A-60	A-60	A-0	A-60	A-60	A-60	A-0	A-0	A-30	A-30	A-0	A-60
(13) Storerooms, workshops, pantries, etc.....	A-60	A-60	A-15	A-15	A-0	A-15	A-30	A-30	A-0	A-0	A-0	A-0	A-0	A-15
(14) Other spaces in which inflammable liquids are stowed.....	A-60	A-60	A-60	A-60	A-0	A-30	A-60	A-60	A-0	A-0	A-30	A-30	A-0	A-30

REGULATION 99
Means of escape

(a) In and from all passenger and crew spaces and in spaces in which the crew is normally employed, other than machinery spaces, stairways and ladders shall be arranged to provide ready means of escape to the lifeboats and liferaft embarkation deck.

In particular, the following provisions shall be complied with:

(1) Below the bulkhead deck, two means of escape, at least one of which shall be independent of watertight doors, shall be provided from each watertight compartment or similarly restricted space or group of spaces. Exceptionally, the Administration may

dispense with one of the means of escape, due regard being paid to the nature and location of spaces and to the number of persons who normally might be quartered or employed there.

(11) Above the bulkhead deck, there shall be at least two means of escape from each main vertical zone or similarly restricted

space or group of spaces at least one of which shall give access to a stairway forming a vertical escape.

(iii) At least one of the means of escape required by subparagraphs (a) (1) and (ii) of this Regulation shall be by means of a readily accessible enclosed stairway, which shall provide continuous fire shelter from the level of its origin to the appropriate lifeboat and liferaft embarkation decks or the highest level served by the stairway, whichever level is the highest. However, where an Administration has granted dispensation under the provisions of sub-paragraph (a) (1) of this Regulation the sole means of escape shall provide safe escape to the satisfaction of the Administration. The width, number and continuity of the stairways shall be to the satisfaction of the Administration.

(iv) Protection of access from the stairway enclosures to the lifeboat and liferaft embarkation areas shall be to the satisfaction of the Administration.

(v) Lifts shall not be considered as forming one of the required means of escape.

(vi) Stairways serving only a space and a balcony in that space shall not be considered as forming one of the required means of escape.

(vii) If a radiotelegraph station has no direct access to the weather deck, two means of escape shall be provided from such station.

(viii) Dead-end corridors exceeding 13 metres (43 feet) shall not be permitted.

(b) (i) In special category spaces the number and disposition of the means of escape both below and above the bulkhead deck shall be to the satisfaction of the Administration, and in general the safety of access to the embarkation deck shall be at least equivalent to that provided for under subparagraphs (a) (1), (ii), (iii), (iv) and (v) of this Regulation.

(ii) One of the escape routes from the machinery spaces where the crew is normally employed shall avoid direct access to any special category space.

(c) Two means of escape shall be provided from each machinery space. In particular, the following provisions shall be complied with:

(i) Where the space is below the bulkhead deck the two means of escape shall consist of either:

(1) two sets of steel ladders as widely separated as possible leading to doors in the upper part of the space similarly separated and from which access is provided to the appropriate lifeboat and liferaft embarkation decks. One of these ladders shall provide continuous fire shelter from the lower part of the space to a safe position outside the space; or

(2) one steel ladder leading to a door in the upper part of the space from which access is provided to the embarkation deck and a steel door capable of being operated from each side and which provides a safe escape route to the embarkation deck.

(ii) Where the space is above the bulkhead deck, two means of escape shall be as widely separated as possible and the doors leading from such means of escape shall be in a position from which access is provided to the appropriate lifeboat and liferaft embarkation decks. Where such escapes require the use of ladders these shall be of steel.

Provided that (1) in a ship of less than 1,000 tons gross tonnage, the Administration may dispense with one of the means of escape due regard being paid to the width and disposition of the upper part of the space; and (2) in a ship of 1,000 tons gross tonnage and above, the Administration may dispense with one means of escape from any such space so long as either a door or a steel ladder provides a safe escape route to the embarkation deck due regard being paid to the nature and location of the space and whether persons are normally employed in that space.

REGULATION 100

Protection of stairways and lifts (in accommodation and service spaces)

(a) All stairways shall be of steel frame construction except where the Administration sanctions the use of other equivalent material, and shall be within enclosures formed of "A" Class divisions, with positive means of closure at all openings, except that:

(i) a stairway connecting only two decks need not be enclosed, provided the integrity of the deck is maintained by proper bulkheads or doors at one between deck space. When a stairway is closed at one between deck space, the stairway enclosure shall be protected in accordance with the tables for decks in Regulation 98 of this Chapter;

(ii) stairways may be fitted in the open in a public space, provided they lie wholly within such public space.

(b) Stairway enclosures shall have direct communication with the corridors and be of sufficient area to prevent congestion, having in view the number of persons likely to use them in an emergency. In so far as practicable, stairway enclosure shall not give direct access to cabins, service lockers, or other enclosed spaces containing combustibles in which a fire is likely to originate.

(c) Lift trunks shall be so fitted as to prevent the passage of smoke and flame from one between deck to another and shall be provided with means of closing so as to permit of draught and smoke control.

REGULATION 101

Openings in "A" class divisions

(a) Where "A" Class divisions are pierced for the passage of electric cables, pipes, trunks, ducts, etc. for girders, beams or other structures, arrangements shall be made to ensure that the fire resistance is not impaired, subject to the provisions of paragraph (g) of this Regulation.

(b) Where of necessity, a ventilation duct passes through a main vertical zone bulkhead, a fall-safe automatic closing fire damper shall be fitted adjacent to the bulkhead. The damper shall also be capable of being manually closed from each side of the bulkhead. The operating position shall be readily accessible and be marked in red light reflecting colour. The duct between the bulkhead and the damper shall be of steel or other equivalent material and, if necessary, to an insulating standard such as to comply with paragraph (a) of this Regulation. The damper shall be fitted on at least one side of the bulkhead with a visible indicator showing if the damper is in the open position.

(c) Except for hatches between cargo, special category, store, and baggage spaces, and between such spaces and the weather decks, all openings shall be provided with permanently attached means of closing which shall be at least as effective for resisting fires as the divisions in which they are fitted.

(d) The construction of all doors and door frames in "A" Class divisions, with the means of securing them when closed, shall provide resistance to fire as well as to the passage of smoke and flame, as far as practicable, equivalent to that of the bulkheads in which the doors are situated. Such doors and door frames shall be constructed of steel or other equivalent material. Watertight doors need not be insulated.

(e) It shall be possible for each door to be opened and closed from each side of the bulkhead by one person only.

(f) Fire doors in main vertical zone bulkheads and stairway enclosures, other than power operated watertight doors and those which are normally locked, shall be of the self-closing type capable of closing against an inclination of $3\frac{1}{2}$ degrees opposing closure.

The speed of door closure shall, if necessary, be controlled so as to prevent undue danger to personnel. All such doors, except those that are normally closed, shall be ca-

pable of release from a control station, either simultaneously or in groups, and also individually from a position at the door. The release mechanism shall be so designed that the door will automatically close in the event of disruption of the control system; however, approved power operated watertight doors will be considered acceptable for this purpose. Hold-back hooks, not subject to control station release, will not be permitted. When double swing doors are permitted, they shall have a latch arrangement which is automatically engaged by the operation of the door release system.

(g) Where a space is protected by an automatic sprinkler system complying with the provisions of Regulation 120 of this Chapter or fitted with a continuous "B" Class ceiling, openings in decks not forming steps in main vertical zones nor bounding horizontal zones shall be closed reasonably tight and such decks shall meet the "A" Class integrity requirements in so far as is reasonable and practicable in the opinion of the Administration.

(h) The requirements for "A" Class integrity of the outer boundaries of a ship shall not apply to glass partitions, windows and sidescuttles. Similarly, the requirements for "A" Class integrity shall not apply to exterior doors in superstructures and deckhouses.

REGULATION 102

Openings in "B" class divisions

(a) Where "B" Class divisions are penetrated for the passage of electrical cables, pipes, trunks, ducts, etc., or for the fitting of ventilation terminals, lighting fixtures and similar devices, arrangements shall be made to assure that the fire resistance is not impaired.

(b) Doors and door frames in "B" Class divisions and means of securing them shall provide a method of closure which shall have resistance to fire as far as practicable equivalent to the divisions except that ventilation openings may be permitted in the lower portion of such doors. Where such opening is in or under a door the total net area of any such opening or openings shall not exceed 0.05 square metres (78 square inches). When such opening is cut in a door it shall be fitted with a grill made of incombustible material. Doors shall be incombustible.

(c) The requirements for "B" Class integrity of the outer boundaries of a ship shall not apply to glass partitions, windows and sidescuttles. Similarly, the requirements for "B" Class integrity shall not apply to exterior doors in superstructures and deckhouses.

(d) Where an automatic sprinkler system complying with the provisions of Regulation 120 of this Chapter is fitted:

(i) openings in decks not forming steps in main vertical zones nor bounding horizontal zones shall be closed reasonably tight and such decks shall meet the "B" Class integrity requirements in so far as is reasonable and practicable in the opinion of the Administration, and

(ii) openings in corridor bulkheads of "B" Class materials shall be protected in accordance with the provisions of Regulation 97 of this Chapter.

REGULATION 103

Ventilation systems

(a) In general, the ventilation fans shall be so disposed that the ducts reaching the various spaces remain within the main vertical zone.

(b) Where ventilation systems penetrate decks, precautions shall be taken, in addition to those relating to the fire integrity of the deck required by Regulation 101 of this Chapter, to reduce the likelihood of smoke and hot gases passing from one between deck space to another through the system. In addition to insulation requirements contained in this Regulation, vertical ducts shall, if necessary be insulated as required by the

appropriate tables in Regulation 98 of this Chapter.

(c) The main inlets and outlets of all ventilation systems shall be capable of being closed from outside the space being ventilated.

(d) Except in cargo spaces, ventilation ducts shall be constructed of the following materials:

(i) Ducts not less than 750 square centimetres (116 square inches) in sectional area and all vertical ducts serving more than a single deck space shall be constructed of steel or other equivalent material.

(ii) Ducts less than 750 square centimetres (116 square inches) in sectional area shall be constructed of incombustible materials. Where such ducts penetrate "A" or "B" Class divisions due regard shall be given to ensuring the fire integrity of the division.

(iii) Short lengths of duct, not in general exceeding 200 square centimetres (31 square inches) in length, need not be incombustible provided that all of the following conditions are met:

(1) the duct is constructed of a material of restricted fire risk to the satisfaction of the Administration;

(2) the duct is used only at the terminal end of the ventilation system; and

(3) the duct is not located closer than 60 centimetres (24 inches) measured along its length to a penetration of an "A" or "B" Class division, including continuous "B" Class ceilings.

(e) Where a stairway enclosure is ventilated, the duct or ducts (if any) shall be taken from the fan room independently of other ducts in the ventilation system, and shall not serve any other space.

(f) All power ventilation, except machinery and cargo space ventilation and any alternative system which may be required under paragraph (h) of this Regulation, shall be fitted with controls so grouped that all fans may be stopped from either of two separate positions which shall be situated as far apart as practicable. Controls provided for the power ventilation serving machinery spaces shall also be grouped so as to be operable from two positions, one of which shall be outside such spaces. Fans serving power ventilation systems to cargo spaces shall be capable of being stopped from a safe position outside such spaces.

(g) Where they pass through accommodation spaces or spaces containing combustible materials, the exhaust ducts from galley ranges shall be constructed of "A" Class divisions. Each exhaust duct shall be fitted with:

(i) a grease trap readily removable for cleaning;

(ii) a fire damper located in the lower end of the duct;

(iii) arrangements, operable from within the galley, for shutting off the exhaust fan; and

(iv) fixed means for extinguishing a fire within the duct.

(h) Such measures as are practicable shall be taken in respect of control stations outside machinery spaces in order to ensure that ventilation, visibility and freedom from smoke are maintained, so that in the event of fire the machinery and equipment contained therein may be supervised and continue to function effectively. Alternative and separate means of air supply shall be provided; air inlets of the two sources of supply shall be so disposed that the risk of both inlets drawing in smoke simultaneously is minimized. At the discretion of the Administration, such requirements need not apply to control stations situated on, and opening on to, an open deck, or where local closing arrangements would be equally effective.

(i) Ducts provided for ventilation of machinery spaces of Category A shall not in general pass through accommodation, service spaces or control stations, except that the

Administration may permit relaxation from this requirement, provided that:

(1) the ducts are constructed of steel, and are insulated to A-60 standard, or

(2) the ducts are constructed of steel and are fitted with an automatic fire damper close to the boundary penetrated and are insulated to A-60 standard from the machinery space to a point at least 5 metres (16 feet) beyond the fire damper.

(j) Ducts provided for ventilation of accommodation, service spaces, or control stations shall not in general pass through machinery spaces of Category A, except that the Administration may permit relaxation from this requirement provided that the ducts are constructed of steel and automatic fire dampers are fitted close to the boundaries penetrated.

REGULATION 104

Windows and sidescuttles

(a) All windows and sidescuttles in bulkheads within accommodation and service spaces and control stations, other than those to which the provisions of Regulations 101 (h) and 102(c) of this Chapter apply, shall be constructed so as to preserve the integrity requirements of the type of bulkhead in which they are fitted.

(b) Notwithstanding the requirements of the tables in Regulation 98 of this Chapter:

(1) All windows and sidescuttles in bulkheads separating accommodation and service spaces and control stations from weather shall be constructed with frames of steel or other suitable material. The glass shall be retained by a metal glazing bead or angle.

(2) Special attention shall be given to the fire integrity of windows facing open or enclosed lifeboat and liferaft embarkation areas and to windows situated below such areas in such a position that their failure during a fire would impede the launching of, or embarkation into, lifeboats or liferafts.

REGULATION 105

Restriction of combustible materials

(a) Except in cargo spaces, mall rooms, baggage rooms, or refrigerated compartments of service spaces, all linings, grounds, ceilings and insulations shall be of incombustible materials. Partial bulkheads or decks used to subdivide a space for utility or artistic treatment shall also be of incombustible materials.

(b) Vapour barriers and adhesives used in conjunction with insulation, as well as insulation of pipe fittings, for cold service systems need not be incombustible, but they shall be kept to the minimum quantity practicable and their exposed surfaces shall have qualities of resistance to the propagation of flame to the satisfaction of the Administration.

(c) Bulkheads, linings and ceilings in all accommodation and service spaces may have combustible veneer, provided that such veneer shall not exceed 2.0 millimetres (one twelfth inch) within any such spaces except corridors, stairway enclosures and control stations where it shall not exceed 1.5 millimetres (one seventeenth inch).

(d) The total volume of combustible facings, mouldings, decorations and veneers in any accommodation and service space shall not exceed a volume equivalent to 2.5 millimetres (one tenth inch) veneer on the combined area of the walls and ceilings. In the case of ships fitted with an automatic sprinkler system complying with the provisions of Regulation 120 of this Chapter, the above volume may include some combustible material used for erection of "C" Class divisions.

(e) All exposed surfaces in corridors or stairway enclosures and surfaces in concealed or inaccessible spaces in accommodation and service spaces and control stations shall have low flame spread characteristics.

(f) Furniture in the passages and stairway enclosures shall be kept to a minimum.

(g) Paints, varnishes and other finishes used on exposed interior surfaces shall not

be of a nature to offer an undue fire hazard in the judgment of the Administration and shall not be capable of producing excessive quantities of smoke or other toxic properties.

(h) Primary deck coverings, if applied, within accommodation and service spaces and control stations, shall be of approved material which will not readily ignite, or give rise to toxic or explosive hazards at elevated temperatures.

(i) Waste paper receptacles shall be constructed of incombustible materials and with solid sides and bottoms.

REGULATION 106

Miscellaneous items

Requirements Applicable to all Portions of the Ship

(a) Pipes penetrating "A" or "B" Class divisions shall be of a material approved by the Administration having regard to the temperature such divisions are required to withstand. Pipes conveying oil or combustible liquids shall be of a material approved by the Administration having regard to the fire risk. Materials readily rendered ineffective by heat shall not be used for overboard scuppers, sanitary discharges, and other outlets which are close to the waterline and where the failure of the material in the event of fire would give rise to danger of flooding.

Requirements Applicable to Accommodation and Service Spaces, Control Stations, Corridors and Stairways

(b) (1) Air spaces enclosed behind ceilings, panelling or linings shall be suitably divided by close-fitting draught stops not more than 14 metres (46 feet) apart.

(2) In the vertical direction, such spaces, including those behind linings of stairways, trunks, etc., shall be closed at each deck.

(c) The construction of ceiling and bulkheading shall be such that it will be possible, without impairing the efficiency of the fire protection, for the fire patrols to detect any smoke originating in concealed and inaccessible places, except where in the opinion of the Administration there is no risk of fire originating in such places.

(d) Electric radiators, if used, shall be fixed in position and so constructed as to reduce fire risks to a minimum. No such radiators shall be fitted with an element so exposed that clothing, curtains, or other similar materials can be scorched or set on fire by heat from the element.

(e) Cellulose-nitrate-based films shall not be used for cinematograph installations.

REGULATION 107

Provision of an automatic sprinkler and fire alarm and fire detection system or an automatic fire alarm and fire detection system

In any ship to which the Regulations in this Part of this Chapter apply, there shall be installed throughout each separate zone, whether vertical or horizontal, in all accommodation and service spaces and, where it is considered necessary by the Administration, in control stations, except spaces which afford no substantial fire risk (such as void spaces, sanitary spaces, etc.) either:

(1) an automatic sprinkler and fire alarm and fire detection system of an approved type, complying with the provisions of Regulation 120 of this Chapter and installed and so arranged as to protect such spaces, or

(2) an automatic fire alarm and fire detection system of an approved type, complying with the provisions of Regulation 121 of this Chapter, and installed and so arranged as to detect the presence of fire in such spaces.

REGULATION 108

Protection of special category spaces

Provisions Applicable to Special Category Spaces Whether Above or Below the Bulkhead Deck

(a) General:

(1) The basic principle underlying the provisions in this Regulation is that as normal main vertical zoning may not be prac-

tlicable in special category spaces, equivalent protection must be obtained in such spaces on the basis of a horizontal zone concept and the provision of an efficient fixed fire extinguishing system. Under this concept a horizontal zone for the purpose of this Regulation may include special category spaces on more than one deck provided that the overall height of the zone does not exceed 10 metres (33 feet).

(ii) All requirements laid down in Regulations 101 and 103 of this Chapter for maintaining the integrity of vertical zones shall be applied equally to decks and bulkheads forming the boundaries separating the horizontal zones from each other and from the remainder of the ship.

(b) *Structural protection:*

(i) Boundary bulkheads of special category spaces shall be insulated as required for Category (11) spaces in Table 1 of Regulation 98 of this Chapter and the horizontal boundaries as required for Category (11) spaces in Table 3 of that Regulation.

(ii) Indicators shall be provided on the navigating bridge which shall indicate when any fire door leading to or from the special category spaces is closed.

(c) *Fixed fire extinguishing system:*

Each special category space shall be fitted with an approved fixed pressure water-spraying system for manual operation which shall protect all parts of any deck and vehicle platform, if any, in such space, provided that the Administration may permit the use of any other fixed fire extinguishing system that has been shown by full scale test in conditions simulating a flowing petrol fire in a special category space to be not less effective in controlling fires likely to occur in such a space.

(d) *Patrols and detection:*

(i) An efficient patrol system shall be maintained in special category spaces. In any such space in which the patrol is not maintained by a continuous fire watch at all times during the voyage there shall be provided in that space an automatic fire detection system of an approved type.

(ii) Manual fire alarms shall be provided as necessary throughout the special category spaces and one shall be placed close to each exit from such spaces.

(e) *Fire extinguishing equipment:*

There shall be provided in each special category space:

(i) a number of hydrants with hoses and dual purpose nozzles of an approved type so arranged that at least two jets of water each from a single length of hose not emanating from the same hydrant may reach any part of such space;

(ii) at least three water fog applicators;

(iii) one portable applicator unit complying with the provisions of Regulation 115(d) of this Chapter, provided that at least two such units are available in the ship for use in such spaces; and

(iv) such number of portable fire extinguishers of an approved type as the Administration may deem sufficient.

(f) *Ventilation system:*

(i) There shall be provided an effective power ventilation system for the special category spaces sufficient to give at least 10 air changes per hour. The system for such spaces shall be entirely separated from other ventilation systems and shall be operating at all times when vehicles are in such spaces. The Administration may require an increased number of air changes when vehicles are being loaded and unloaded.

(ii) The ventilation shall be such as to prevent air stratification and the formation of air pockets.

(iii) Means shall be provided to indicate on the navigating bridge any loss or reduction of the required ventilating capacity.

Additional Provisions Applicable Only to Special Category Spaces Above the Bulkhead Deck

(g) *Scupperns:*

In view of the serious loss of stability which could arise due to large quantities of water accumulating on the deck or decks consequent on the operation of the fixed pressure water-spraying system, scupperns shall be fitted so as to ensure that such water is rapidly discharged directly overboard.

(h) *Precautions against ignition of inflammable vapours:*

(i) Equipment which may constitute a source of ignition of inflammable vapours and in particular electrical equipment and wiring, shall be installed at least 45 centimetres (18 inches) above the deck, provided that if the Administration is satisfied that the installation of such electrical equipment and wiring below this level is necessary for the safe operation of the ship, such electrical equipment and wiring shall be of a type approved for use in an explosive petrol and air mixture. Electrical equipment installed at more than 45 centimetres (18 inches) above the deck shall be of a type so enclosed and protected as to prevent the escape of sparks. The reference to a level of 45 centimetres (18 inches) above the deck shall be construed to mean each deck on which vehicles are carried and on which explosive vapours might be expected to accumulate.

(ii) Electrical equipment and wiring, if installed in an exhaust ventilation duct, shall be of a type approved for use in explosive petrol and air mixtures and the outlet from any exhaust duct shall be sited in a safe position, having regard to other possible sources of ignition.

Additional Provisions Applicable Only to Special Category Spaces Below the Bulkhead Deck

(i) *Bilge pumping and drainage:*

In view of the serious loss of stability which could arise due to large quantities of water accumulating on the deck or tank top consequent on the operation of the fixed pressure water-spraying system, the Administration may require pumping and drainage facilities to be provided additional to the requirements of Regulation 18 of this Chapter.

(j) *Precautions against ignition of inflammable vapours:*

(i) Electrical equipment and wiring, if fitted, shall be of a type suitable for use in explosive petrol and air mixtures. Other equipment which may constitute a source of ignition of inflammable vapours shall not be permitted.

(ii) Electrical equipment and wiring, if installed in an exhaust ventilation duct, shall be of a type approved for use in explosive petrol and air mixtures and the outlet from any exhaust duct shall be sited in a safe position, having regard to other possible sources of ignition.

REGULATION 109

Protection of cargo spaces (other than special category spaces) containing motor vehicles with fuel in their tanks for their own propulsion

In any cargo space (other than special category spaces) containing motor vehicles with fuel in their tanks for their own propulsion, the following provisions shall be complied with:

(a) *Fire detection:*

There shall be provided an approved fire detection and fire alarm system.

(b) *Fire extinguishing arrangements:*

(i) There shall be fitted a fixed gas fire extinguishing system which shall comply with the provisions of Regulation 116 of this Chapter, except that if a carbon dioxide system is fitted, the quantity of gas available shall be at least sufficient to give a minimum volume of free gas equal to 45 per cent of the gross volume of the largest such cargo space which is capable of being sealed, and the arrangements shall be such as to ensure that the gas is introduced rapidly and effectively into the space. Any other fixed gas fire extinguishing system or fixed high expansion

froth fire extinguishing system may be fitted provided it gives equivalent protection.

(ii) There shall be provided for use in any such space such number of portable fire extinguishers of an approved type as the Administration may deem sufficient.

(c) *Ventilation system:*

(i) In any such cargo space there shall be provided an effective power ventilation system sufficient to give at least 10 air changes per hour. The system for such cargo spaces shall be entirely separated from other ventilation systems and shall be operating at all times when vehicles are in such spaces.

(ii) The ventilation shall be such as to prevent air stratification and the formation of air pockets.

(iii) Means shall be provided to indicate on the navigating bridge any loss or reduction of the required ventilating capacity.

(d) *Precautions against ignition of inflammable vapours:*

(i) Electrical equipment and wiring, if fitted, shall be of a type suitable for use in explosive petrol and air mixtures. Other equipment which may constitute a source of ignition of inflammable vapours shall not be permitted.

(ii) Electrical equipment and wiring, if installed in an exhaust ventilation duct, shall be of a type approved for use in explosive petrol and air mixture and the outlet from any exhaust duct shall be sited in a safe position, having regard to other possible sources of ignition.

REGULATION 110

Arrangements for oil fuel, lubricating oil and other inflammable oils

(a) *Oil fuel arrangements:*

In a ship in which oil fuel is used, the arrangements for the storage, distribution and utilization of the oil fuel shall be such as to ensure the safety of the ship and persons on board and shall at least comply with the following provisions:

(i) No oil fuel which has a flashpoint of less than 61°C (141°F) (closed cup test) as determined by an approved flashpoint apparatus shall be used as fuel, except in emergency generators, in which case the flashpoint shall be not less than 43°C (110°F).

Provided that the Administration may permit the general use of fuel oil having a flashpoint of not less than 43°C (110°F) subject to such additional precautions as it may consider necessary and on condition that the temperature of the space in which such fuel is stored or used shall not be allowed to rise to within 10°C (18°F) below the flashpoint of the fuel.

(ii) As far as practicable, no part of the oil fuel system containing heated oil under pressure exceeding 1.8 kilogrammes per square centimetre (25 pounds per square inch) gauge shall be so concealed that defects and leakage cannot readily be observed. In way of such parts of the oil fuel system the machinery space shall be adequately illuminated.

(iii) The ventilation of machinery spaces shall be sufficient under all normal conditions to prevent accumulation of oil vapour.

(iv) (1) As far as practicable, oil fuel tanks shall be part of the ship's structure and shall be located outside machinery spaces of Category A. When oil fuel tanks, except double bottom tanks, are necessarily located adjacent to machinery spaces of Category A, they shall preferably have a common boundary with the double bottom tanks, and the area of the tank boundary common with the machinery space shall be kept to a minimum. In general, the use of free-standing oil fuel tanks shall be avoided but when such tanks are employed they shall not be situated in machinery spaces of Category A.

(2) No oil tanks shall be situated where spillage or leakage therefrom can constitute a hazard by falling on heated surfaces. Precautions shall be taken to prevent any oil that may escape under pressure from any

pump, filter or heater from coming into contact with heated surfaces.

(v) Every oil fuel pipe which if damaged, would allow oil to escape from a storage, settling or daily service tank situated above the double bottom shall be fitted with a cock or valve on the tank capable of being closed from a safe position outside the space concerned in the event of a fire arising in the space in which such tanks are situated. In the special case of deep tanks situated in any shaft or pipe tunnel or similar space, valves on the tanks shall be fitted but control in event of fire may be effected by means of an additional valve on the pipe or pipes outside the tunnel or similar space.

(vi) Safe and efficient means of ascertaining the amount of oil fuel contained in any oil tank shall be provided. Sounding pipes with suitable means of closure may be permitted if their upper ends terminate in safe positions. Other means of ascertaining the amount of oil fuel contained in any oil fuel tank may be permitted if they do not require penetration below the top of the tank, and providing their failure or overflowing of the tanks will not permit release of fuel thereby.

(vii) Provision shall be made to prevent over-pressure in any oil tank or in any part of the oil fuel system, including the filling pipes. Any relief valves and air or overflow pipes shall discharge to a position which, in the opinion of the Administration, is safe.

(viii) Oil fuel pipes shall be of steel or other approved material, provided that restricted use of flexible pipes shall be permissible in positions where the Administration is satisfied that they are necessary. Such flexible pipes and end attachments shall be of approved fire resisting materials of adequate strength and shall be constructed to the satisfaction of the Administration.

(b) *Lubricating oil arrangements:*

The arrangements for the storage, distribution and utilization of oil used in pressure lubrication systems shall be such as to ensure the safety of the ships and persons on board, and such arrangements in machinery spaces of Category A and, whenever practicable, in other machinery spaces, shall at least comply with the provisions of subparagraphs (ii), (iv) (2), (v), (vi) and (vii) of paragraph (a) of this Regulation.

(c) *Arrangements for other inflammable oils:*

The arrangements for the storage, distribution and utilization of other inflammable oils employed under pressure and heating systems shall be such as to ensure the safety of the ship and persons on board. In locations where means of ignition are present such arrangements shall at least comply with the provisions of subparagraphs (iv) (2) and (vi), and with the provisions of subparagraph (viii) in respect of strength and construction, of paragraph (a) of this Regulation.

REGULATION 111

Openings in machinery spaces and means for closing such openings, for stopping machinery and for shutting off oil fuel suction pipes

(a) The provisions of this Regulation shall apply to machinery spaces of Category A and, where the Administration considers it desirable, to other machinery spaces.

(b) (i) The number of skylights, doors, ventilators, openings in funnels to permit exhaust ventilation and other openings to machinery spaces shall be reduced to a minimum consistent with the needs of ventilation and the proper and safe working of the ship.

(ii) The flaps of such skylights where fitted shall be of steel. Suitable arrangements shall be made to permit the release of smoke in the event of fire, from the space to be protected.

(iii) Such doors other than power-operated watertight doors shall be arranged so that positive closure is assured in case of fire in

the space, by power-operated closing arrangements or by the provision of self-closing doors capable of closing against an inclination of 3½ degrees opposing closure and having a fail-safe hook-back facility, provided with a remotely operated release device.

(c) Windows shall not be fitted in machinery space casings.

(d) Means of control shall be provided for:

(i) opening and closure of skylights, closure of openings in funnels which normally allow exhaust ventilation, and closure of ventilator dampers;

(ii) permitting the release of smoke;

(iii) closure of power-operated doors or release mechanism on doors other than power-operated watertight doors;

(iv) stopping ventilating fans; and

(v) stopping forced and induced draught fans, oil fuel transfer pumps, oil fuel unit pumps and other similar fuel pumps.

(e) The controls required for ventilating fans shall comply with the provisions of Regulation 103(f) of this Chapter. The controls for any required fixed fire extinguishing system and those required by subparagraphs (d) (i), (ii), (iii) and (v) of this Regulation and of Regulation 110(a) (v) of this Chapter shall be situated at one control position, or grouped in as few positions as possible to the satisfaction of the Administration. Such position or positions shall be located where they will not be cut off in the event of fire in the space they serve, and shall have a safe access from the open deck.

REGULATION 112

Maintenance of fire patrols, etc., and provision of fire extinguishing equipment

(a) *Fire patrols and detection, alarms and public address systems:*

(i) An efficient patrol system shall be maintained so that an outbreak of fire may be promptly detected. Each member of the fire patrol shall be trained to be familiar with the arrangements of the ship as well as the location and operation of any equipment he may be called upon to use.

(ii) Manual alarms shall be fitted throughout the accommodation and service spaces to enable the fire patrol to give an alarm immediately to the bridge or main fire control station.

(iii) An approved fire alarm of fire detecting system shall be provided which will automatically indicate at one or more suitable points or stations the presence or indication of fire and its location in any cargo space which, in the opinion of the Administration, is not accessible to the patrol system, except where it is shown to the satisfaction of the Administration that the ship is engaged on voyages of such short duration that it would be unreasonable to apply this requirement.

(iv) The ship shall at all times when at sea, or in port (except when out of service), be so manned or equipped as to ensure that any initial fire alarm is immediately received by a responsible member of the crew.

(v) A special alarm, operated from the bridge or control station, shall be fitted to summon the crew. This alarm may be part of the ship's general alarm system but it shall be capable of being sounded independently of the alarm to the passenger spaces.

(vi) A public address system or other effective means of communication shall be available throughout the accommodation and service spaces and control stations.

(b) *Fire pumps and fire main system:*

The ship shall be provided with fire pumps, fire main system, hydrants and hoses complying with the provisions of Regulation 113 of this Chapter and shall comply with the following requirements:

(i) In a ship of 4,000 tons gross tonnage and upwards, there shall be provided at least three independently driven fire pumps and, in a ship of less than 4,000 tons gross tonnage, at least two such fire pumps.

(ii) In a ship of 1,000 tons gross tonnage

and upwards, the arrangement of sea connections, fire pumps and sources of power for operating them shall be such as to ensure that a fire in any one compartment will not put all the fire pumps out of action.

(iii) In a ship of 1,000 tons gross tonnage and upwards, the arrangement of fire pumps, fire mains and hydrants shall be such that at least one effective jet of water as stipulated in Regulation 113(c) of this Chapter is immediately available from any one hydrant in an interior location. Arrangements shall also be made to ensure the continuation of the output of water by the automatic starting of a required fire pump.

(iv) In a ship of less than 1,000 tons gross tonnage the arrangements shall be to the satisfaction of the Administration.

(c) *Fire hydrants, hose and nozzles:*

(i) The ship shall be provided with fire hoses the number and diameter of which shall be to the satisfaction of the Administration. There shall be at least one fire hose for each of the hydrants required by Regulation 113(d) of this Chapter and these hoses shall be used only for the purposes of extinguishing fires or testing the fire extinguishing apparatus at fire drills and surveys.

(ii) In accommodation and service spaces and in machinery spaces, the number and position of hydrants shall be such that the requirements of Regulation 113(d) of this Chapter may be complied with when all watertight doors and all doors in main vertical zone bulkheads are closed.

(iii) The arrangements shall be such that at least two jets of water can reach any part of any cargo space when empty.

(iv) All required hydrants in machinery spaces shall be fitted with hoses having in addition to the nozzles required in Regulation 113(g) of this Chapter suitable for spraying water on oil, or alternatively dual purpose nozzles. Additionally, each machinery space of Category A shall be provided with at least two suitable water fog applicators.*

(v) Water spray nozzles or dual purpose nozzles shall be provided for at least one quarter of the number of hoses required in parts of the ship other than machinery spaces.

(vi) For each pair of breathing apparatus there shall be provided one water fog applicator which shall be stored adjacent to such apparatus.

(vii) Where, in any machinery space of Category A, access is provided at a low level from an adjacent shaft tunnel, two hydrants fitted with hoses with dual purpose nozzles shall be provided external to, but near the entrance to that machinery space. Where such access is not provided from a tunnel but is provided from other space or spaces there shall be provided in one of those spaces two hydrants fitted with hoses with dual purpose nozzles near the entrance to the machinery space of Category A. Such provision need not be made when the tunnel or adjacent spaces are not part of an escape route.

(d) *International shore connection:*

(i) A ship of 1,000 tons gross tonnage and upwards shall be provided with at least one international shore connection, complying with the provisions of Regulation 56(h) of this Chapter.

(ii) Facilities shall be available enabling such a connection to be used on either side of the ship.

(e) *Portable fire extinguishers in accom-*

*A water fog applicator might consist of a metal "L" shaped pipe, the long limb being about 2 metres (6 feet) in length capable of being fitted to a fire hose and the short limb being about ¼ metre (10 inches) in length fitted with a fixed water fog nozzle or capable of being fitted with a water spray nozzle.

modation and service spaces and control stations:

The ship shall be provided in accommodation and service spaces and control stations with such approved portable fire extinguishers as the Administration may deem to be appropriate and sufficient.

(f) Fixed fire extinguishing arrangements in cargo spaces:

(i) The cargo spaces of ships of 1,000 tons gross tonnage and upwards shall be protected by a fixed gas fire extinguishing system complying with the provisions of Regulation 116 of this Chapter, or by a fixed high expansion froth fire extinguishing system which gives equivalent protection.

(ii) Where it is shown to the satisfaction of the Administration that a ship is engaged on voyages of such short duration that it would be unreasonable to apply the requirements of sub-paragraph (i) of this paragraph and also in ships of less than 1,000 tons gross tonnage, the arrangements in cargo spaces shall be to the satisfaction of the Administration.

(g) Fire extinguishing appliances in boiler rooms, etc.:

Spaces containing oil-fired boilers or oil fuel units shall be provided with the following arrangements:

(1) There shall be any one of the following fixed fire extinguishing systems:

(1) A pressure water-spraying system complying with the provisions of Regulation 119 of this Chapter;

(2) A gas system complying with the provisions of Regulation 116 of this Chapter;

(3) A froth system complying with the provisions of Regulation 117 of this Chapter;

(4) A high expansion froth system complying with the provisions of Regulation 118 of this Chapter.

In each case if the engine and boiler rooms are not entirely separate, or if fuel oil can drain from the boiler room into the engine room, the combined engine and boiler rooms shall be considered as one compartment.

(ii) There shall be in each boiler room at least one set of portable air-froth equipment complying with the provisions of Regulation 115(d) of this Chapter.

(iii) There shall be at least two approved portable extinguishers discharging froth or equivalent in each firing space in each boiler room and each space in which a part of the oil fuel installation is situated. There shall be not less than one approved froth type extinguisher of at least 136 litres (30 gallons) capacity or equivalent in each boiler room. These extinguishers shall be provided with hoses on reels suitable for reaching any part of the boiler room.

(iv) In each firing space there shall be a receptacle containing sand, sawdust impregnated with soda or other approved dry material, in such quantity as may be required by the Administration. Alternatively an approved portable extinguisher may be substituted therefor.

(h) Fire extinguishing appliances in spaces containing internal combustion type machinery:

Spaces containing internal combustion machinery used either (1) for main propulsion, or (2) for other purposes when such machinery has in the aggregate a total power not less than 500 b.h.p., shall be provided with the following arrangements:

(i) There shall be one of the fire extinguishing systems required by sub-paragraph (g) (1) of this Regulation.

(ii) There shall be at least one set of portable air-froth equipment complying with the provisions of Regulation 115(d) of this Chapter.

(iii) There shall be in each such space approved froth type fire extinguishers each of at least 45 litres (10 gallons) capacity or equivalent sufficient in number to enable froth or its equivalent to be directed on to any part of the fuel and lubricating oil pressure systems, gearing and other fire hazards.

In addition, there shall be provided a sufficient number of portable froth extinguishers or equivalent which shall be so located that an extinguisher is not more than 10 metres (33 feet) walking distance from any point in the space; provided that there shall be at least two such extinguishers in each such space.

(i) Fire extinguishing arrangements in spaces containing steam turbines or enclosed steam engines:

In spaces containing steam turbines or enclosed steam engines used either (1) for main propulsion or (2) for other purposes when such machinery has in the aggregate a total of not less than 500 b.h.p., there shall be provided:

(1) froth fire extinguishers each of at least 45 litres (10 gallons) capacity or equivalent sufficient in number to enable froth or its equivalent to be directed on to any part of the pressure lubrication system, on to any part of the casings enclosing pressure lubricated parts of the turbines, engines or associated gearing, and any other fire hazards. Provided that such extinguishers shall not be required if protection at least equivalent to this sub-paragraph is provided in such spaces by a fixed fire extinguishing system fitted in compliance with sub-paragraph (g) (1) of this Regulation.

(ii) There shall be provided a sufficient number of portable froth extinguishers or equivalent which shall be so located that an extinguisher is not more than 10 metres (33 feet) walking distance from any point in the space; provided that (1) there shall be at least two such extinguishers in each such space, and (2) such extinguishers shall not be required in addition to any provided in compliance with sub-paragraph (h) (iii) of this Regulation.

(j) Fire extinguishing appliances in other machinery spaces:

Where, in the opinion of the Administration, a fire hazard exists in any machinery space for which no specific provisions for fire extinguishing appliances are prescribed in paragraphs (g), (h) and (i) of this Regulation there shall be provided in, or adjacent to, that space such number of approved portable fire extinguishers or other means of fire extinction as the Administration may deem sufficient.

(k) Fixed extinguishing appliances not required by this part:

Where a fixed fire extinguishing system not required by this Part of this Chapter is installed, such a system shall be to the satisfaction of the Administration.

(l) Special requirements for machinery spaces:

(1) For any machinery space a Category A to which access is provided at a low level from an adjacent shaft tunnel there shall be provided in addition to any watertight door and on the side remote from that machinery space a light steel fire-screen door which shall be operable from each side.

(ii) An automatic fire detection and alarm system shall be fitted when the Administration considers such special precautions warranted in any machinery space in which the installation of automatic and remote control systems and equipment have been approved in lieu of continuous manning of the space.

(m) Fireman's outfits and personal equipment:

Fireman's outfits and sets of personal equipment shall be provided in accordance with the provisions of Regulation 64(j) of this Chapter.

REGULATION 113

Detailed requirements applicable to fire pumps, fire main, hydrants and hoses

(a) Total capacity of fire pumps:

The required fire pumps shall be capable of delivering for fire-fighting purposes a quantity of water, at the appropriate pressure prescribed below, not less than two-thirds of the quantity required to be dealt

with by the bilge pumps when employed for bilge pumping.

(b) Fire pumps:

(1) The fire pumps shall be independently driven. Sanitary, ballast, bilge or general service pumps may be accepted as fire pumps, provided that they are not normally used for pumping oil and that if they are subject to occasional duty for the transfer of pumping of fuel oil, suitable changeover arrangements are fitted.

(ii) Each of the required fire pumps shall have a capacity not less than 80 percent of the total required capacity divided by the minimum number of required fire pumps and each such pump shall in any event be capable of delivering at least the two required jets of water. These fire pumps shall be capable of supplying the fire main system under the required conditions.

(iii) Where more pumps than the minimum number of required pumps are installed the capacity of such additional pumps shall be to the satisfaction of the Administration.

(iv) Relief valves shall be provided in conjunction with all fire pumps if the pumps are capable of developing a pressure exceeding the design pressure of the water service pipes, hydrants and hoses. These valves shall be so placed and adjusted as to prevent excessive pressure in any part of the fire main system.

(c) Pressure in the fire main system:

(1) The diameter of the fire main shall be sufficient for the effective distribution of the maximum required discharge from two fire pumps operating simultaneously.

(ii) With the two pumps simultaneously delivering through nozzles specified in paragraph (g) of this Regulation, the quantity of water specified in sub-paragraph (1) of this paragraph, through any adjacent hydrants, the following minimum pressures shall be maintained at all hydrants.

In ships of 4,000 tons gross tonnage and upwards	3.2 kilogrammes per square centimetre (45 pounds per square inch)
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In ships of 1,000 tons gross tonnage and upwards, but under 4,000 tons gross tonnage	2.8 kilogrammes per square centimetre (40 pounds per square inch)
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In ships of under 1,000 tons gross tonnage	To the satisfaction of the Administration
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(d) Number and position of hydrants:

The number and position of the hydrants shall be such that at least two jets of water not emanating from the same hydrant, one of which shall be from a single length of hose, may reach any part of the ship normally accessible to the passengers or crew while the ship is being navigated.

(e) Pipes and hydrants:

(1) Materials readily rendered ineffective by heat shall not be used for fire mains and hydrants unless adequately protected. The pipes and hydrants shall be so placed that the fire hoses may be easily coupled to them. In ships where deck cargo may be carried, the positions of the hydrants shall be such that they are always readily accessible and the pipes shall be arranged as far as practicable to avoid risk of damage by such cargo. Unless there is provided one hose and nozzle for each hydrant in the ship, there shall be complete interchangeability of hose couplings and nozzles.

(ii) A cock or valve shall be fitted to serve each fire hose so that any fire hose may be removed while the fire pumps are at work.

(f) Fire hoses:

Fire hoses shall be of material approved by the Administration and sufficient in length to project a jet of water to any of the spaces in which they may be required to be used. Their maximum length shall be to the satisfaction of the Administration. Each hose shall be provided with a nozzle and the necessary couplings. Hoses specified in these Regulations as "fire hoses" shall together with any necessary fittings and tools be kept ready for use in conspicuous positions near the fire hydrants or connections.

Additionally, in interior locations, fire hoses shall be connected to the hydrants at all times.

(g) *Nozzles:*

(i) For the purposes of this part, standard nozzle sizes shall be 12 millimetres ($\frac{1}{2}$ inch), 16 millimetres ($\frac{3}{8}$ inch) and 19 millimetres ($\frac{3}{4}$ inch), or as near thereto as possible. Larger diameter nozzles may be permitted at the discretion of the Administration.

(ii) For accommodation and service spaces, a nozzle size greater than 12 millimetres ($\frac{1}{2}$ inch) need not be used.

(iii) For machinery spaces and exterior locations, the nozzle size shall be such as to obtain the maximum discharge possible from two jets at the pressure mentioned in paragraph (c) of this Regulation from the smallest pump, provided that a nozzle size greater than 19 millimetres ($\frac{3}{4}$ inch) need not be used.

REGULATION 114

Ready availability of fire extinguishing appliances

Fire extinguishing appliances shall be kept in good order and available for immediate use at all times during the voyage.

REGULATION 115

Fire extinguishers

(a) All fire extinguishers shall be of approved types and designs.

(i) The capacity of required portable fluid extinguishers shall be not more than 13½ litres (3 gallons) and not less than 9 litres (2 gallons). Other extinguishers shall not be in excess of the equivalent portability of the 13½ litre (3 gallon) fluid extinguisher and shall not be less than the fire extinguishing equivalent of a 9 litre (2 gallon) fluid extinguisher.

(ii) The Administration shall determine the equivalents of fire extinguishers.

(b) Spare charges shall be provided in accordance with requirements to be specified by the Administration.

(c) Fire extinguishers containing an extinguishing medium which, in the opinion of the Administration, either by itself or under expected conditions of use gives off toxic gases in such quantities as to endanger persons shall not be permitted.

(d) A portable froth applicator unit shall consist of an inductor type of air-froth nozzle capable of being connected to the fire main by a fire hose, together with a portable tank containing at least 20 litres (4½ gallons) of froth-making liquid and one spare tank.

The nozzle shall be capable of producing effective froth suitable for extinguishing an oil fire, at the rate of at least 1.5 cubic metres (53 cubic feet) per minute.

(e) Fire extinguishers shall be periodically examined and subjected to such tests as the Administration may require.

(f) One of the portable fire extinguishers intended for use in any space shall be stowed near the entrance to that space.

REGULATION 116

Fixed gas fire extinguishing system

(a) The use of a fire extinguishing medium which, in the opinion of the Administration, either by itself or under expected conditions of use gives off toxic gases in such quantities as to endanger persons shall not be permitted.

(b) Where provision is made for the injection of gas for fire extinguishing purposes, the necessary pipes for conveying the gas shall be provided with control valves or cocks so marked as to indicate clearly the compartments to which the pipes are led. Suitable provision shall be made to prevent inadvertent admission of the gas to any compartment. Where cargo spaces fitted with such a system for fire protection are used as passenger spaces the gas connection shall be blanked during such use.

(c) The piping shall be arranged so as to

provide effective distribution of fire extinguishing gas.

(d) (i) When carbon dioxide is used as the extinguishing medium in cargo spaces, the quantity of gas available shall be sufficient to give a minimum volume of free gas equal to 30 per cent of the gross volume of the largest cargo compartment in the ship which is capable of being sealed.

(ii) When carbon dioxide is used as an extinguishing medium for machinery spaces of Category A the quantity of gas carried shall be sufficient to give a minimum quantity of free gas equal to the larger of the following quantities, either:

(1) 40 per cent of the gross volume of the largest space, the volume to include the casing up to the level at which the horizontal area of the casing is 40 per cent or less of the horizontal area of the space concerned taken midway between the tank top and the lowest part of the casings; or

(2) 35 per cent of the entire volume of the largest space including the casing;

provided that if two or more machinery spaces of Category A are not entirely separate they shall be considered as forming one compartment.

(iii) Where the volume of free air contained in air receivers in any machinery space of Category A is such that, if released in such space in the event of fire, such release of air within that space would seriously affect the efficiency of the fixed fire extinguishing installation, the Administration shall require the provision of an additional quantity of carbon dioxide.

(iv) When carbon dioxide is used as an extinguishing medium both for cargo spaces and for machinery spaces of Category A the quantity of gas need not be more than the maximum required either for the largest cargo compartment or machinery space.

(v) For the purpose of this paragraph the volume of carbon dioxide shall be calculated at 0.56 cubic metres to the kilogramme (9 cubic feet to the pound).

(vi) When carbon dioxide is used as the extinguishing medium for machinery spaces of Category A the fixed piping system shall be such that 85 per cent of the gas can be discharged into the space within 2 minutes.

(vii) Carbon dioxide bottle storage rooms shall be situated at a safe and readily accessible position and shall be effectively ventilated to the satisfaction of the Administration. Any entrance to such storage rooms shall preferably be from the open deck, and in any case shall be independent of the protected space. Access doors shall be gas tight and bulkheads and decks which form the boundaries of such rooms shall be gas tight and adequately insulated.

(e) (i) Where gas other than carbon dioxide is produced on the ship and is used as an extinguishing medium, it shall be a gaseous product of fuel combustion in which the oxygen content, the carbon monoxide content, the corrosive elements and any solid combustible elements have been reduced to a permissible minimum.

(ii) Where such gas is used as the extinguishing medium in a fixed fire extinguishing system for the protection of machinery spaces of Category A it shall afford protection equivalent to that provided by a fixed carbon dioxide system.

(iii) Where such gas is used as the extinguishing medium in a fixed fire extinguishing system for the protection of cargo spaces a sufficient quantity of such gas shall be available to supply hourly a volume of free gas at least equal to 25 per cent of the gross volume of the largest compartment protected in this way for a period of 72 hours.

(f) Means shall be provided for automatically giving audible warning of the release of fire extinguishing gas into any space to which personnel normally have access. The alarm shall operate for a suitable period before the gas is released.

(g) The means of control of any such fixed gas fire extinguishing system shall be readily accessible and simple to operate and shall be grouped together in as few locations as possible at positions not likely to be cut off by a fire in the protected space.

REGULATION 117

Fixed froth fire extinguishing system

(a) A fixed froth fire extinguishing system shall be capable of discharging through fixed discharge outlets in not more than five minutes, a quantity of froth sufficient to cover to a depth of 15 centimetres (6 inches) the largest single area over which oil fuel is liable to spread. The system shall be capable of generating froth suitable for extinguishing oil fires. Means shall be provided for effective distribution of the froth through a permanent system of piping and control valves or cocks to suitable discharge outlets, and for the froth to be effectively directed by fixed sprayers on other main fire hazards in the protected space. The expansion ratio of the froth shall not exceed 12 to 1.

(b) The means of control of any such system shall be readily accessible and simple to operate and shall be grouped together in as few locations as possible at positions not likely to be cut off by a fire in the protected space.

REGULATION 118

Fixed high expansion froth fire extinguishing system

(a) (i) A fixed high expansion froth system shall be capable of rapidly discharging through fixed discharge outlets a quantity of froth sufficient to fill the greatest space to be protected at a rate of at least 1 metre (3.3 feet) depth per minute. The quantity of froth-forming liquid available shall be sufficient to produce a volume of froth equal to five times the volume of the largest space to be protected. The expansion ratio of the froth shall not exceed 1,000 to 1.

(ii) The Administrative may permit alternative arrangements and discharge rates provided that it is satisfied that equivalent protection is achieved.

(b) Supply ducts for delivering froth, air intakes to the froth generator and the number of froth-producing units shall be in the opinion of the Administration be such as will provide effective froth production and distribution.

(c) The arrangement of the froth generator delivery ducting shall be such that a fire in the protected space will not affect the froth generating equipment.

(d) The froth generator, its sources of power supply, froth-forming liquid and means of controlling the system shall be readily accessible and simple to operate and shall be grouped in as few locations as possible at positions not likely to be cut off by fire in the protected space.

REGULATION 119

Fixed pressure water-spraying fire extinguishing system

(a) A fixed pressure water-spraying fire extinguishing system provided for protection of machinery spaces of Category A shall be provided with spraying nozzles of an approved type.

(b) The number and arrangement of the nozzles shall be to the satisfaction of the Administration and be such as to ensure an effective average distribution of water of at least 5 litres per square metre (0.1 gallon per square foot) per minute in the spaces to be protected. Where increased application rates are considered necessary, these shall be to the satisfaction of the Administration. Nozzles shall be fitted above bilges, tank tops and other areas over which oil fuel is liable to spread and also above other specific fire hazards in the machinery spaces of Category A.

(c) The system may be divided into sections, the distribution valves of which shall

be operated from easily accessible positions outside the spaces to be protected and which will not be readily cut off by an outbreak of fire.

(d) The system shall be kept charged at the necessary pressure and the pump supplying the water for the system shall be put automatically into action by a pressure drop in the system.

(e) The pump shall be capable of simultaneously supplying at the necessary pressure all sections of the system in any one compartment to be protected. The pump and its controls shall be installed outside the space or spaces to be protected. It shall not be possible for a fire in the space or spaces protected by the water-spraying system to put the system out of action.

(f) The pump may be driven by independent internal combustion type machinery but if it is dependent upon power being supplied from the emergency generator fitted in compliance with the provisions of Regulation 25 of this Chapter that generator shall be arranged to start automatically in case of main power failure so that power for the pump required by paragraph (e) of this Regulation is immediately available. When the pump is driven by independent internal combustion type machinery it shall be so situated that a fire in the protected space will not affect the air supply to the machinery.

(g) Precautions shall be taken to prevent the nozzles from becoming clogged by impurities in the water or corrosion of piping, nozzles, valves and pump.

REGULATION 120

Automatic sprinkler and fire alarm and fire detection system

Where an automatic sprinkler and fire alarm and fire detection system is provided in compliance with the provisions of Regulation 107 of this Chapter, it shall be to the satisfaction of the Administration and shall comply with the following requirements:

(a) *General:*

(1) It shall be capable of immediate operation at all times and no action by the crew shall be necessary to set it in operation. It shall be of the wet pipe type but small exposed sections may be of the dry pipe type where in the opinion of the Administration this is a necessary precaution. Any parts of the system which may be subjected to freezing temperatures in service shall be suitably protected against freezing. It shall be kept charged at the necessary pressure and shall have provision for a continuous supply of water as required by this Regulation.

(2) Each section of sprinklers shall include means for giving a visual and audible alarm signal automatically at one or more indicating units whenever any sprinkler comes into operation. Such units shall give an indication of any fire and its location in any space served by the system and shall be centralized on the navigating bridge or in the main fire control station, which shall be so manned or equipped as to ensure that any alarm from the system is immediately received by a responsible member of the crew. Such alarm system shall be constructed so as to indicate if any fault occurs in the system.

(b) *Sprinkler arrangements:*

(1) Sprinklers shall be grouped into separate sections, each of which shall contain not more than 200 sprinklers. Any section of sprinklers shall not serve more than two decks and shall not be situated in more than one main vertical zone, except that an Administration may, if it is satisfied that the protection of the ship against fire will not thereby be reduced, permit such a section of sprinklers to serve more than two decks or to be situated in more than one main vertical zone.

(2) Each section of sprinklers shall be capable of being isolated by one stop valve only. The stop valve in each section shall be

readily accessible and its location shall be clearly and permanently indicated. Means shall be provided to prevent the operation of the stop valves by any unauthorized person.

(3) A gauge indicating the pressure in the system shall be provided at each section stop valve and at a central station.

(4) The sprinklers shall be resistant to corrosion by marine atmospheres. In accommodation and service spaces the sprinklers shall come into operation within the temperature range of 68°C (155°F) and 79°C (175°F), except that in locations such as drying rooms, where high ambient temperatures might be expected, the operating temperature may be increased to not more than 30°C (54°F) above the maximum deck head temperature.

(5) A list or plan shall be displayed at each indicating unit showing the spaces covered and the location of the zone in respect of each section. Suitable instructions for testing and maintenance shall be available.

(c) *Positioning of sprinklers:*

Sprinklers shall be placed in an overhead position and spaced in a suitable pattern to maintain an average application rate of not less than 5 litres per square metre per minute (0.1 gallon per square foot per minute) over the nominal area covered by the sprinklers. Alternatively, the Administration may permit the use of sprinklers providing such other amount of water suitably distributed as has been shown to the satisfaction of the Administration to be not less effective.

(d) *Pressure tank:*

(1) A pressure tank having a volume equal to at least twice that of the charge of water specified in this sub-paragraph shall be provided. The tank shall contain a standing charge of fresh water equivalent to the amount of water which would be discharged in one minute by the pump referred to in sub-paragraph (e)(1) of this Regulation, and the arrangements shall provide for maintaining such air pressure in the tank to ensure that where the standing charge of fresh water in the tank has been used the pressure will be not less than the working pressure of the sprinkler, plus the pressure due to a head of water measured from the bottom of the tank to the highest sprinkler in the system. Suitable means of replenishing the air under pressure and of replenishing the fresh water charge in the tank shall be provided. A glass gauge shall be provided to indicate the correct level of the water in the tank.

(2) Means shall be provided to prevent the passage of sea water into the tank.

(e) *Pump:*

(1) An independent power pump shall be provided solely for the purpose of continuing automatically the discharge of water from the sprinklers. The pump shall be brought into action automatically by the pressure drop in the system before the standing fresh water charge in the pressure tank is completely exhausted.

(2) The pump and the piping system shall be capable of maintaining the necessary pressure at the level of the highest sprinkler to ensure a continuous output of water sufficient for the simultaneous coverage of a minimum area of 280 square meters (3,000 square feet) at the application rate specified in paragraph (c) of this Regulation.

(3) The pump shall have fitted on the delivery side a test valve with a short open-ended discharge pipe. The effective area through the valve and pipe shall be adequate to permit the release of the required pump output while maintaining the pressure in the system specified in subparagraph (d)(1) of this Regulation.

(4) The sea inlet to the pump shall wherever possible be in the space containing the pump and shall be so arranged that when the ship is afloat it will not be necessary to shut off the supply of sea water to the pump

for any purpose other than the inspection or repair of the pump.

(f) *Location of sprinkler pump and tank:*

The sprinkler pump and tank shall be situated in a position reasonably remote from any machinery space of Category A and shall not be situated in any space required to be protected by the sprinkler system.

(g) *Power supply:*

There shall be not less than two sources of power supply for the sea water pump and automatic alarm and detection system. Where the sources of power for the pump are electrical these shall be a main generator and an emergency source of power. One supply for the pump shall be taken from the main switchboard, and one from the emergency switchboard by separate feeders reserved solely for that purpose.

The feeders shall be arranged so as to avoid galleys, machinery spaces and other enclosed spaces of high fire risk except in so far as it is necessary to reach the appropriate switchboards, and shall be run to an automatic change-over switch situated near the sprinkler pump. This switch shall permit the supply of power from the main switchboard so long as a supply is available therefrom, and be so designed that upon failure of that supply it will automatically change over to the supply from the emergency switchboard. The switches on the main switchboard and the emergency switchboard shall be clearly labelled and normally kept closed. No other switch shall be permitted in the feeders concerned. One of the sources of power supply for the alarm and detection system shall be an emergency source. Where one of the sources of power for the pump is an internal combustion type engine it shall, in addition to complying with the provisions of paragraph (f) of this Regulation, be so situated that a fire in any protected space will not affect the air supply to the machinery.

(h) *External connections:*

The sprinkler system shall have a connection from the ship's fire main by way of a lockable screw-down nonreturn valve at the connection which will prevent a backflow from the sprinkler system to the fire main.

(i) *Provision for testing:*

(1) A test valve be provided for testing the automatic alarm for each section of sprinklers by a discharge of water equivalent to the operation of one sprinkler. The test valve for each section shall be situated near the stop valve for that section.

(2) Means shall be provided for testing the automatic operation of the pump, on reduction of pressure in the system.

(3) Switches shall be provided at one of the indicating positions referred to in subparagraph (a)(1) of this Regulation which will enable the alarm and the indicators for each section of sprinklers to be tested.

(j) *Provision of spare sprinkler heads:*

Spare sprinkler heads shall be provided for each section of sprinklers to the satisfaction of the Administration.

REGULATION 121

Automatic fire alarm and fire detection system

Where an automatic fire alarm and fire detection system is provided in compliance with the provisions of Regulation 107 of this Chapter, it shall be to the satisfaction of the Administration and shall comply with the following requirements:

(a) *General:*

(1) It shall be capable of immediate operation at all times and no action of the crew shall be necessary to set it in operation.

(2) Each section of detectors shall include means for giving a visual and audible alarm signal automatically at one or more indicating units whenever any detector comes into operation. Such units shall give an indication of any fire and its location in any space served by the system and shall be centralized on the navigating bridge or in the main fire control station which shall be so

manned or equipped as to ensure that any alarm from the system is immediately received by a responsible member of the crew. Such alarm system shall be constructed so as to indicate if any fault occurs in the system.

(b) *Detector arrangements:*

Detectors shall be grouped into separate sections each covering not more than 50 rooms served by such a system and containing not more than 100 detectors. A section of detectors shall not serve spaces on both the port and starboard sides of the ship nor on more than one deck and neither shall it be situated in more than one main vertical zone except that the Administration may if it is satisfied that the protection of the ship against fire will not thereby be reduced, permit such a section of detectors to serve both the port and starboard sides of the ship and more than one deck.

(c) *Type of system:*

The system shall be operated by an abnormal air temperature, by an abnormal concentration of smoke or by other factors indicative of incipient fire in any one of the spaces to be protected. Systems which are sensitive to air temperature shall not operate at less than 57° C (135° F) and shall operate at a temperature not greater than 74° C (165° F) when the temperature increase to those levels is not more than 1° C (1.8° F) per minute. At the discretion of the Administration the permissible temperature of operation may be increased to 30° C (84° F) above the maximum deckhead temperature in drying rooms and similar places of a normally high ambient temperature. Systems which are sensitive to smoke concentration shall operate on the reduction of the intensity of a transmitted light beam by an amount to be determined by the Administration. Other equally effective methods of operation may be accepted at the discretion of the Administration. The detection system shall not be used for any purpose other than fire detection.

(d) *Operation of detectors:*

The detectors may be arranged to operate the alarm by the opening or closing of contacts or by other appropriate methods. They shall be fitted in an overhead position and shall be suitably protected against impact and physical damage. They shall be suitable for use in a marine atmosphere. They shall be placed in an open position clear of beams and other objects likely to obstruct the flow of hot gases or smoke to the sensitive element. Detectors operated by the closing of contacts shall be of the sealed contact type and the circuit shall be continuously monitored to indicate fault conditions.

(e) *Detector grouping:*

At least one detector shall be installed in each space where detection facilities are required and there shall be not less than one detector for each 37 square metres (400 square feet) of deck area. In large spaces the detectors shall be arranged in a regular pattern so that no detector is more than 9 metres (30 feet) from another detector or more than 4.5 metres (15 feet) from a bulkhead.

(f) *Power supply:*

There shall be not less than two sources of power supply for the electrical equipment used in the operation of the fire alarm and fire detection system, one of which shall be an emergency source. The supply shall be provided by separate feeders reserved solely for that purpose. Such feeders shall run to a changeover switch situated in the control station for the fire detection system. The wiring system shall be so arranged as to avoid galleys, machinery spaces and other enclosed spaces having a high fire risk except in so far as it is necessary to provide for fire detection in such spaces or to reach the appropriate switchboard.

(g) *Provision for testing, etc.:*

(1) A list or plan shall be displayed adjacent to each indicating unit showing the

spaces covered and the location of the zone in respect of each section. Suitable instructions for testing and maintenance shall be available.

(ii) Provision shall be made for testing the correct operation of the detectors and the indicating units by supplying means for applying hot air or smoke at detector positions.

(h) *Provision of spare detector heads:*

Spare detector heads shall be provided for each section of detectors to the satisfaction of the Administration.

REGULATION 122

Fire control plans

There shall be permanently exhibited for the guidance of the ship's officers general arrangement plans showing clearly for each deck the control stations, the various fire sections enclosed by "A" Class divisions, the sections enclosed by "B" Class divisions (if any), together with particulars of the fire alarms, detecting systems, the sprinkler installation (if any), the fire extinguishing appliances, means of access to different compartments, decks, etc., and the ventilating system including particulars of the fan control positions, the positions of dampers and identification numbers of the ventilating fans serving each section. Alternatively, at the discretion of the Administration, the aforementioned details may be set out in a booklet, a copy of which shall be supplied to each officer, and one copy at all times shall be available on board in an accessible position. Plans and booklets shall be kept up-to-date, any alterations being recorded thereon as soon as practicable. In addition, instructions concerning the maintenance and operation of all the equipment and installations on board for the fighting and containment of fire shall be kept under one cover, readily available in an accessible position.

REGULATION 123

Acceptance of substitutes

Where in this Part of this Chapter any special type of appliance, apparatus, extinguishing medium or arrangement is specified, any other type of appliance, etc., may be allowed, provided the Administration is satisfied that it is not less effective.

ANNEX IV

REGULATION 64(a) (ii)

An approved fire alarm or fire detecting system shall be provided which will automatically indicate at one or more suitable points or stations the presence or indication of fire and its location in any part of the ship which, in the opinion of the Administration, is not accessible to the patrol system, except where it is shown to the satisfaction of the Administration that the ship is engaged on voyages of such short duration that it would be unreasonable to apply this requirement.

REGULATION 64(a) (iii)

The ship, whether new or existing, shall at all times when at sea, or in port (except when out of service) be so manned or equipped as to ensure that any initial fire alarm is immediately received by a responsible member of the crew.

REGULATION 64(j)

Fireman's outfits and personal equipment

(i) The minimum number of fireman's outfits complying with the requirements of Regulation 63 of this Chapter, and of additional sets of personal equipment, each such set comprising the items stipulated in subparagraphs (a)(1), (ii), and (iii) of that Regulation, to be carried in all passenger ships, shall be as follows:

- (1) two fireman's outfits; and in addition
- (2) for every 262 feet (or 80 metres) or part thereof, of the aggregate of the lengths of all passenger spaces and service spaces on the deck which carries such spaces or, if there is more than one such deck, on the deck

which has the largest aggregate of such lengths, two fireman's outfits and two sets of personal equipment, each such set comprising the items stipulated in subparagraphs (a)(1), (ii) and (iii) of Regulation 63 of this Chapter.

(ii) For each fireman's outfit which includes a self-contained breathing apparatus as provided in Regulation 63(b) of this Chapter, spare charges shall be carried on a scale approved by the Administration.

(iii) Fireman's outfits and sets of personal equipment shall be stored in widely separated positions ready for use. At least two fireman's outfits and one set of personal equipment shall be available at any one position.

REGULATION 70

Fire control plans

There shall be permanently exhibited in all ships for the guidance of the ship's officers general arrangement plans showing clearly for each deck the control stations, the various fire sections enclosed by fire-resisting bulkheads, the sections enclosed by fire-retarding bulkheads (if any), together with particulars of the fire alarms, detecting systems, the sprinkler installation (if any), the fire extinguisher appliances, means of access to different compartments, decks, etc., and the ventilating system including particulars of the master fan controls, the position of dampers and identification numbers of the ventilating fans serving each section. Alternatively, at the discretion of the Administration, the aforementioned details may be set out in a booklet, a copy of which shall be supplied to each officer, and one copy at all times shall be available on board in an accessible position. Plans and booklets shall be kept up-to-date, any alterations being recorded thereon as soon as practicable. In addition, instructions concerning the maintenance and operation of all the equipment and installations on board for the fighting and containment of fire shall be kept under one cover, readily available in an accessible position.

REGULATION 25

Muster list and emergency procedure

(a) Special duties to be undertaken in the event of an emergency shall be allotted to each member of the crew.

(b) The muster list shall show all the special duties and shall indicate, in particular, the station to which each member must go, and the duties that he has to perform.

(c) The muster list for each passenger ship shall be in a form approved by the Administration.

(d) Before the vessel sails, the muster list shall be completed. Copies shall be posted in several parts of the ship, and in particular in the crew's quarters.

(e) The muster list shall show the duties assigned to the different members of the crew in connection with:

(i) the closing of the watertight doors, valves and closing mechanisms of scuppers, ash-shoots and fire doors;

(ii) the equipping of the lifeboats (including the portable radio apparatus for survival craft) and the other life-saving appliances;

(iii) the launching of the lifeboats;

(iv) the general preparation of the other life-saving appliances;

(v) the muster of the passengers; and

(vi) the extinction of fire, having regard to the ship's fire control plans.

(f) The muster list shall show the several duties assigned to the members of the stewards' department in relation to the passengers in case of emergency. These duties shall include:

(i) warning the passengers;

(ii) seeing that they are suitably clad and have put on their lifejackets in a proper manner;

(iii) assembling the passengers at muster stations;

(iv) keeping order in the passages and on the stairways, and, generally, controlling the movements of the passengers; and

(v) ensuring that a supply of blankets is taken to the lifeboats.

(g) The duties shown by the muster list in relation to the extinction of fire pursuant to sub-paragraph (e)(vi) of this Regulation shall include particulars of:

(1) the manning of the fire parties assigned to deal with fires;

(11) the special duties assigned in respect of the operation of fire-fighting equipment and installations.

(h) The muster list shall specify definite signals for calling all the crew to their boat, liferaft and fire stations, and shall give full particulars of these signals. These signals shall be made on the whistle or siren and, except on passenger ships on short international voyages and on cargo ships of less than 150 feet (or 45.7 metres) in length, they shall be supplemented by other signals which shall be electrically operated. All these signals shall be operable from the bridge.

REGULATION 26 (A) (IV)

The date upon which musters are held, and details of any training and drills in fire-fighting which are carried out on board shall be recorded in such log book as may be prescribed by the Administration; and, if in any week (for passenger ships) or month (cargo ships) no muster or a part muster only is held, an entry shall be made stating the circumstances and extent of the muster held. A report of the examination of the boat's equipment on cargo ships shall be entered in the log book, which shall also record the occasions on which the lifeboats are swung out and lowered in compliance with paragraph (c) of this Regulation.

ANNEX V

REGULATION 35 (A)

(1) Every cargo ship, except ships employed as whale factory ships, fish processing or canning factory ships, and ships engaged in the carriage of persons employed in the whaling, fish processing or canning industries, shall carry lifeboats on each side of the ship of such aggregate capacity as will accommodate all persons on board, and in addition shall carry liferafts sufficient to accommodate half that number.

Provided that, in the case of such cargo ships engaged on international voyages between near neighbouring countries, the Administration, if it is satisfied that the conditions of the voyage are such as to render the compulsory carriage of liferafts unreasonable or unnecessary, may to that extent exempt individual ships or classes of ships from this requirement.

(11) (1) Subject to the provisions of sub-paragraph (2), every tanker of 3,000 tons gross tonnage and upwards shall carry not less than four lifeboats, two of which shall be carried aft and two amidships, except that in tankers which have no amidships superstructure all lifeboats shall be carried aft.

(2) A tanker of 3,000 tons gross tonnage and upwards which has no amidships superstructure may be permitted by the Administration to carry two lifeboats only, provided that:

(aa) one lifeboat is carried aft on each side of the ship;

(bb) each such lifeboat shall not exceed 23 feet (or 8.5 metres) in length;

(cc) each such lifeboat shall be stowed as far forward as practicable, but at least so far forward that the after end of the lifeboat is one-and-a-half times the length of the lifeboat forward of the propeller; and

(dd) each such lifeboat shall be stowed as near sea-level as is safe and practicable.

REGULATION 35 (C)

Every cargo ship with no amidships superstructure having a registered length of 492

feet (or 150 metres) and upwards shall carry, in addition to the liferafts required under paragraph (a)(1) of this Regulation, a liferaft capable of accommodating at least six persons which shall be stowed as far forward as is reasonable and practicable.

ANNEX VI

REGULATION 2 (g)

"Radiotelephone station", "Radiotelephone installation" and "Watches—radiotelephone" shall be considered as relating to the Medium Frequency Band, unless expressly provided otherwise.

REGULATION 7 BIS

Watches—VHF radiotelephone

Each ship provided with a VHF radiotelephone station, in accordance with Regulation 18 of Chapter V, shall maintain a listening watch on the bridge for such periods and on such channels as may be required by the Contracting Government referred to in that Regulation.

REGULATION 15 BIS

VHF Radiotelephone Stations

(a) When a Very High Frequency radiotelephone station is provided in accordance with Regulation 18 of Chapter V, it shall be in the upper part of the ship and include a VHF radiotelephone installation complying with the provisions of this Regulation and comprising a transmitter and receiver, a source of power capable of actuating them at their rated power levels, and an antenna suitable for efficient radiating and receiving signals at the operating frequencies.

(b) Such a VHF installation shall conform to the requirements laid down in the Radio Regulations for equipment used in the VHF International Maritime Mobile Radiotelephone Service and shall be capable of operation on those channels specified by the Radio Regulations and as may be required by the Contracting Government referred to in Regulation 18 of Chapter V.

(c) The Contracting Government shall not require the transmitter R.F. carrier power output to be greater than 10 watts.

The antenna shall, in so far as is practicable, have an unobstructed view in all directions.*

(d) Control of the VHF channels required for navigational safety shall be immediately available on the bridge convenient to the conning position and, where necessary, facilities should also be available to permit radiocommunications from the wings of the bridge.

REGULATION 18

VHF Radiotelephone Stations

When a Contracting Government requires ships navigating in an area under its sovereignty to be provided with a Very High Frequency radiotelephone station to be used in conjunction with a system which it has established in order to promote safety of navigation, such station shall comply with the provisions of Regulation 15 bis of Chapter IV and shall be operated in accordance with Regulation 7 bis of Chapter IV.

Mr. MANSFIELD. Mr. President, the objectives of these amendments, while highly technical, are quite simple—namely, improving the ship safety standard features of the 1960 Safety of Life at Sea Convention. The spur to the most important of these amendments—annexes III and IV—was the tragic fire aboard the *Yarmouth Castle* over 2 years ago. The new fire safety standards set out

*For guidance purposes, it is assumed that each ship would be fitted with a vertically polarized unity gain antenna at a nominal height of 30 feet (9.15 metres) above water, a transmitter R.F. power output of 10 watts, and a receiver sensitivity of 2 microvolts across the input terminals for 20 db signal-to-noise ratio.

in these annexes for new passenger ships were, in fact, proposed by the United States. Chiefly they involve the minimum use of combustible materials in new ships and improved standards for fire detection apparatus and firemen's outfits.

The other amendments, which do not concern fire protection but other aspects of safety of life at sea, were also either sponsored or supported by the United States. They are explained in the committee's report and I see no need to go into them at this point, other than to mention that to the committee's best knowledge, there is no opposition to any of them.

Compliance with these regulations will be obtained by refusing to allow the pick-up of passengers by any ship which does not conform to these standards as evidenced in a valid certificate.

The United States has always been a leading proponent of ship safety, and the approval of these amendments is entirely fitting to this role.

Mr. President, on behalf of the Committee on Foreign Relations I recommend that the Senate give its advice and consent to the ratification of the Amendments to the Safety of Life at Sea Convention contained in Executive C, 90th Congress, second session.

Mr. President, I ask unanimous consent that certain excerpts from the report (Ex. Rept. No. 4) pertinent to the convention be printed in the RECORD.

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

MAIN PROVISIONS

These amendments to the 1960 Safety of Life at Sea Convention (SOLAS) are all designed to improve ship safety standards. They are largely technical and are set forth in the numbered annexes to the resolution by which the Assembly of the Intergovernmental Maritime Consultative Organization (IMCO) adopted them.

Annex I (p. 7 of Ex. C) will exempt from certain SOLAS requirements novel types of craft, such as hydrofoil and hovercraft, so as to promote their development. This amendment makes clear what is understood to be the case anyway.

Annex II (p. 7) imposes three new requirements on ships undergoing modification to insure that they are at least as safe after modification as before. This amendment closes a loophole that theoretically existed under the present convention.

The amendment in annex III (pp. 7-49) is the most important of this group and relates to fire safety. It complements the SOLAS amendment approved by the Senate last year, which removed the "grandfather" clause from existing ships, by tightening fire safety standards for future passenger ships. In general this is accomplished by requiring the maximum use of noncombustible materials in ship construction and outfitting, as the United States has required by law since 1936.

Annex IV (pp. 50-52) also relates to fire safety and concerns higher standards for fire control plans and emergency procedures in both passenger and cargo vessels.

Annex V (pp. 52-53) adds new regulations concerning liferaft standards for tankers and other cargo ships and annex VI (pp. 53-54) establishes certain conditions relative to the use of VHF radio-telephones.

While IMCO which drew up these standards is a purely consultative and technical organization and has no enforcement powers compliance with these regulations is obtained by maritime nations by refusing to permit

any ship, which does not carry a valid certification to pickup passengers in their ports. Thus, a foreign ship entering a U.S. port after these amendments have entered into force which does not comply with them can be prevented from taking on passengers in that port.

COMMITTEE ACTION AND RECOMMENDATION

The fire safety amendments contained in Executive C round out the work begun by IMCO after the disastrous *Yarmouth Castle* fire and were proposed by the United States as were the amendments contained in annexes I and II. Annexes V and VI were proposed by other IMCO members but had the support of the U.S. delegation.

The Committee on Foreign Relations held a public hearing on the amendments on May 7, 1968, at which time William K. Miller, Director of the Office of Maritime Affairs of the Department of State, testified in favor of the treaty. He was accompanied by Capt. W. F. Rea and Capt. Robert I. Price of the U.S. Coast Guard, who supported this position. The Department of State assured the committee that the amendments were drawn up in full consultation with the American maritime industry and other interested parties and that it knows of no objection or opposition to them. Neither does the committee. For the information of the Senate, the principal witness statement is appended to this report.

Upon completion of the hearing, the committee ordered the amendments favorably reported to the Senate. The United States will be the first to ratify these amendments but as the first in promoting ship safety standards, this seems only appropriate.

The Committee on Foreign Relations recommends that the Senate give its advice and consent to the ratification of Executive C.

STATEMENT OF WILLIAM K. MILLER, DIRECTOR, OFFICE OF MARITIME AFFAIRS, DEPARTMENT OF STATE, TO THE SENATE COMMITTEE ON FOREIGN RELATIONS, MAY 7, 1968

AMENDMENTS TO THE CONVENTION FOR THE SAFETY OF LIFE AT SEA

The amendments to the International Convention for the Safety of Life at Sea of 1960 which the President sent to the Senate on February 28, are the third major step in the administration's program to make necessary improvements in passenger-ship safety.

In November 1965, the *Yarmouth Castle* burned on a cruise from Florida with a loss of 90 lives, mostly Americans. This followed by less than 2 years the tragic burning of the *Lakonia*. These two disasters made it evident that the international passenger-ship safety standards established by the Convention for the Safety of Life at Sea of 1960 were not adequate.

The United States moved promptly to amend the convention through the Intergovernmental Maritime Consultative Organization. Giving attention to the most urgent need first, IMCO dealt first with the rules for existing vessels. The organization's Maritime Safety Committee agreed in May 1966 to recommend a series of amendments to the convention applicable to existing passenger ships, including the old ships which did not meet any kind of modern standards and were the greatest danger. These amendments were approved by an Extraordinary Assembly of IMCO in November 1966. The Senate gave its advice and consent to acceptance on March 21, 1967, and these amendments have been accepted by the United States.

In the meantime the Congress passed and the President signed on November 6, 1966, Public Law 89-777, which makes certain provisions in domestic law complementary to the international convention. This law provides, among other things, for the financial responsibility of passenger-ship operators and for public notice of safety standards of passenger ships. To the extent that it pertains to safety standards, these standards are

those that were agreed in IMCO in the form of amendments to the SOLAS Convention.

Also in the same period of time IMCO was proceeding with work on a further set of amendments to the convention to upgrade the standards for new ships. By "new ships" we mean ships to be built in the future, those ships for which the keel is laid after the new standards come into effect. The first group of amendments related to existing ships. The second group of amendments, which are being considered now, relate to new ships.

When the IMCO Maritime Safety Committee recommended a new set of rules for old ships in May 1966, it also instructed its Fire Protection Subcommittee to proceed on an urgent basis with a thorough review of the rules for new ships and to propose appropriate amendments to the convention to cover this aspect of the problem. The subcommittee held several meetings during 1966 and completed its work in December of that year. Its recommendations, with minor modifications, were then approved by the Maritime Safety Committee in March 1967 and by the IMCO Assembly at its regular biennial session in October 1967.

These new rules, which are found in annex III to the IMCO Assembly resolution, are by far the biggest part and also the most important of the amendments which the President has submitted.

The principle on which they are based is the maximum use of incombustible materials, and, conversely, the minimum use of combustibles. This is a principle which the U.S. Coast Guard has advocated and which has been incorporated in U.S. law and required for U.S.-flag passenger ships since 1936. However, the International Conventions for Safety of Life at Sea, both the convention of 1960 and the earlier convention of 1948, permitted a choice of methods. Incombustibles could be used, as in the U.S. method, but a sprinkler system method in conjunction with wood or other combustible construction also was permitted.

The new rules also permit a choice, but only a very limited choice. The two variants may be described broadly as follows:

(a) Within main zone fire-resisting divisions, accommodation and service spaces will be subdivided by incombustible fire-retarding divisions and an automatic fire detection and fire alarm system will be provided.

(b) Within main zone fire-resisting divisions, such spaces will be subdivided by incombustible divisions which may have a lesser degree of fire integrity than is required for variant (a) if an automatic sprinkler system is provided as well as a fire detection and alarm system.

In both cases, incombustible materials will be required for all structure and divisions. There are also other important improvements, for example, in the fire safety provisions for ventilation systems.

I don't want to go into a lot of technical detail. It would be appropriate to say, however, that the leading role in developing these amendments was played by the U.S. Coast Guard, and there was also strong support from the safety experts of other maritime countries.

Another amendment (annex IV) also related to fire safety. Specifically, it provides higher standards for passenger-ship fire detection apparatus and firemen's outfits, and for fire control plans and emergency procedures in both passenger and cargo vessels.

The other four amendments do the following:

The first (annex I) provides for exemption from certain requirements of the convention for novel types of craft, such as hydrofoils and hovercraft, so as to avoid impeding the development of such craft. This amendment is essentially a clarification, since the convention was already being construed in this manner.

The second amendment (annex II) re-

quires ships undergoing modification to maintain at least the previous standards, thus avoiding the possibility, theoretically at least, that an older ship might be modified to a lower standard than it met before.

These two amendments, like the passenger-ship fire safety amendments, were proposed by the United States.

The last two amendments (annexes V and VI) will mean improved liferaft standards for tankers and other cargo ships and establish certain conditions relative to the use of VHF radiotelephones. Specifically, tankers as well as dry cargo ships will carry liferafts as well as lifeboats, and all cargo ships 150 meters or more in length with no amidships superstructure will have to carry a liferaft forward. The new regulations relating to use of VHF radiotelephones do not require the use of these instruments, but essentially provide orderly conditions for use when they are required by contracting governments. These two amendments were proposed by other members of IMCO, but were supported by the United States.

The IMCO Assembly adopted all of these amendments either unanimously or by overwhelming majorities. A few countries considered the new passenger-ship fire safety standards too severe in the extent to which they require the use of incombustible materials. They wanted to permit more use of wood when accompanied by sprinklers. However, the amendments were supported by a great majority and, in fact, there were 42 votes in favor, no opposing votes, and only five abstentions in the final rollcall.

For the record, there are 66 members of the Intergovernmental Maritime Consultative Organization, and 69 contracting governments to the Convention for Safety of Life at Sea. Pursuant to article IX of the SOLAS Convention, acceptance by two-thirds of the contracting governments is needed for these amendments to come into force.

As the Secretary of State indicated in his report to the President, we consulted with the American maritime industry and other interested parties concerning these amendments in preparation for all stages of IMCO consideration. We are not aware of any domestic objections to any of the amendments.

In conclusion, these amendments represent a significant improvement in ship safety standards. The United States was responsible for putting forward most of them, and prompt acceptance by the United States would encourage others to accept them. Accordingly, we hope the Senate will give its advice and consent to acceptance at a very early date.

The ACTING PRESIDENT pro tempore. If there be no objection, Executive C, 90th Congress, second session, will be considered as having passed through its parliamentary stages up to and including the presentation of the resolution of ratification.

The resolution of ratification of Executive C, 90th Congress, second session, the Amendments to the International Convention for the Safety of Life at Sea, will now be read.

The resolution of ratification to Executive C was read, as follows:

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to accession by the United States of America to the Six Amendments to the International Convention for the Safety of Life at Sea, 1960, which were adopted on October 25, 1967, by the Assembly of the Intergovernmental Maritime Consultative Organization (IMCO) at its Fifth Regular Session, held in London October 17-26, 1967 (Ex. C, 90th Cong., second sess.).

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the vote on this

treaty, Executive C, 90th Congress, second session—and it will be a ye-and-nay vote—take place on Monday, May 13, 1968, immediately after the vote on the Convention on the International Hydrographic Organization.

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

NOMINATIONS

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 302 and 303 on the Executive Calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The nominations will be stated.

MISSISSIPPI RIVER COMMISSION

The bill clerk read the nomination of Maj. Gen. Clarence C. Haug, U.S. Army, to be a member of the Mississippi River Commission.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

COMMUNICATIONS SATELLITE CORP.

The bill clerk read the nomination of Frederic G. Donner, of New York, to be a member of the Board of Directors of the Communications Satellite Corp.

The ACTING PRESIDENT pro tempore. Without objection, the nomination is considered and confirmed.

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

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

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of legislative business.

There being no objection, the Senate resumed the consideration of legislative business.

COMMITTEE MEETING DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Subcommittee on Separation of Powers of the Committee on the Judiciary, be authorized to meet during the session of the Senate today.

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

EXECUTIVE COMMUNICATIONS, ETC.

The ACTING PRESIDENT pro tempore laid before the Senate the following letters, which were referred as indicated:

PROPOSED AMENDMENT OF THE DISTRICT OF COLUMBIA TEACHERS' SALARY ACT OF 1955, AS AMENDED

A letter from the Assistant to the Commissioner, Government of the District of Columbia, transmitting a draft of proposed legis-

lation to authorize the reduction of the salaries of teachers and school officers in the public schools of the District of Columbia for the purpose of purchasing annuities pursuant to the provisions of section 403(b) of the Internal Revenue Code, and for other purposes (with an accompanying paper); to the Committee on the District of Columbia.

REPORTS OF THE COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of activities of the Office of the Inspector General, Department of Agriculture, dated May 8, 1968 (with an accompanying report); to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report on the review of the peanut price-support programs, Commodity Credit Corporation, Department of Agriculture dated May 9, 1968 (with an accompanying report); to the Committee on Government Operations.

REPORT OF THE PROCEEDINGS OF THE JUDICIAL CONFERENCE OF THE UNITED STATES

A letter from the Chief Justice, Supreme Court of the United States, transmitting, pursuant to law, the report of the proceedings of a special meeting of the Judiciary Conference of the United States, held at Washington, D.C., February 27 to 28, 1968 (with an accompanying report); to the Committee on the Judiciary.

PROSPECTS FOR PROPOSED ALTERATION PROJECT

A letter from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which provides for the alteration of the General Services Administration Regional Office Building in Washington, D.C. (with an accompanying paper); to the Committee on Public Works.

PETITIONS AND MEMORIALS

Petitions, etc., were laid before the Senate, or presented, and referred as indicated:

By the ACTING PRESIDENT pro tempore:

A resolution adopted by the American College Personnel Association, of Washington, D.C., praying for the enactment of legislation to amend the draft law; to the Committee on Armed Services.

A resolution adopted by the Minnesota League of Credit Unions, of St. Paul, Minnesota, praying for the enactment of legislation to remove the power of the Federal Reserve Board to regulate the interest rate on loans; to the Committee on Banking and Currency.

REPORT OF A COMMITTEE

The following report of a committee was submitted:

By Mr. SPONG, from the Committee on the District of Columbia, with amendments:

H.R. 16409. An act to amend the District of Columbia Teachers' Salary Act of 1955 to provide salary increases for teachers and school officers in the District of Columbia public schools, and for other purposes (Rept. No. 1115).

BILLS INTRODUCED

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

By Mr. MANSFIELD:

S. 3471. A bill for the relief of William A. Gallagher; to the Committee on the Judiciary.

By Mr. DODD:

S. 3472. A bill for the relief of Marie Rose

Abdul Massih Denha; to the Committee on the Judiciary.

By Mr. MONDALE:

S. 3473. A bill for the relief of Ng Chung Ki; and

S. 3474. A bill for the relief of Chan Cheuk Tong; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS OF BILLS, JOINT RESOLUTION AND CONCURRENT RESOLUTION

Mr. BROOKE. Mr. President, I ask unanimous consent that, at its next printing, the names of the Senator from Indiana [Mr. HARTKE], the Senator from Pennsylvania [Mr. SCOTT], the Senator from Minnesota [Mr. MONDALE], and the senior Senator from Massachusetts [Mr. KENNEDY], be added as cosponsors of the bill (S. 3334) to amend title VII of the Civil Rights Act of 1964 to provide for the application of such title to State and Federal employees.

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

Mr. BROOKE. Mr. President, I also ask unanimous consent that the names of the Senator from Indiana [Mr. HARTKE], the junior Senator from Pennsylvania [Mr. SCOTT], the senior Senator from Pennsylvania [Mr. CLARK], and the senior Senator from Massachusetts [Mr. KENNEDY], be added as cosponsors of the bill (S. 3335) to amend the Small Business Act to apply an acceptable credit risk standard for loans to small business concerns in certain high-risk areas.

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

Mr. BROOKE. Mr. President, I further ask unanimous consent that, at its next printing, the name of the Senator from Minnesota [Mr. MONDALE], be added as a cosponsor of the bill (S. 3336) to amend the Civil Rights Act of 1964 in order to more effectively protect and secure certain constitutional rights.

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

Mr. BROOKE. Mr. President, I also ask unanimous consent that, at its next printing, the name of the junior Senator from Pennsylvania [Mr. SCOTT] be added as a cosponsor of the bill (S. 3337) to alter the method of distribution of funds under title I of the Elementary and Secondary Education Act of 1965, and for other purposes.

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

Mr. BROOKE. Mr. President, I further ask unanimous consent that, at its next printing, the name of the junior Senator from Pennsylvania [Mr. SCOTT] be added as a cosponsor of the joint resolution (S.J. Res. 159) to designate January 15 of each year as "Martin Luther King Day."

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

Mr. BROOKE. Mr. President, I also ask unanimous consent that, at its next printing, the name of the junior Senator from Pennsylvania [Mr. SCOTT] be added as a cosponsor of the concurrent resolution (S. Con. Res. 70) establishing a Joint Committee on Social Welfare.

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

Mr. BYRD of West Virginia, Mr. President, on behalf of the Senator from Tex-

as [Mr. YARBOROUGH] I ask unanimous consent that, at its next printing, the names of the Senator from Alaska [Mr. GRUENING], the Senator from Rhode Island [Mr. PELL], the Senator from Pennsylvania [Mr. CLARK], and the Senator from Vermont [Mr. PROUTY] be added as cosponsors of the bills (S. 3349 and S. 3350) the amendments to the cold war GI bill.

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

Mr. BYRD of West Virginia. Mr. President, on behalf of the Senator from Texas [Mr. YARBOROUGH], I also ask unanimous consent that, at its next printing, the name of the Senator from New York [Mr. KENNEDY] be added as a cosponsor of the bill (S. 2910) to provide special encouragement to veterans to pursue a public service career in deprived areas.

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

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967—AMENDMENTS

AMENDMENT NO. 769

Mr. BROOKE submitted amendments, intended to be proposed by him, to the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes, which were ordered to lie on the table and to be printed.

AMENDMENTS NOS. 770 AND 771

Mr. HRUSKA submitted two amendments, intended to be proposed by him, to Senate bill 917, supra, which were ordered to lie on the table and to be printed.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll. Mr. AIKEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

SURVEY OF REPUBLICAN HOUSING PROPOSALS BY SENATE REPUBLICAN POLICY COMMITTEE

Mr. AIKEN. Mr. President, the staff of the Senate Republican policy committee has prepared a highly informative survey of some of the Republican housing proposals. The paper is entitled "Homes: Not Just Housing." While it is a Republican analysis, nevertheless it is of considerable interest to the other political party which might want to borrow the ideas. It will be noted, for example, that one proposal recognizes the value of self-help, or "sweat equity," and this would be recognized as contributing to the downpayment on homes for low-income families.

I ask unanimous consent, Mr. President, that the survey be printed in the RECORD.

There being no objection, the survey

was ordered to be printed in the RECORD, as follows:

HOMES: NOT JUST HOUSING—A REPUBLICAN PROGRAM FOR AMERICANS

Presidential messages continue to fall on Congress like the snows in Antarctica. Whatever else their result, they are creating one more Johnson-Humphrey deficit. This one involves "borrowing" programs and ideas from Republicans with no repayment intended.

Thus, four major Republican-sponsored programs—of which three had already been enacted into law during the past 2 years—were proposed by President Johnson in his education message (see Senate Republican Memo No. 7, February 29, 1968).

The same is true of Mr. Johnson's 20-page message on the Crisis of the Cities, February 22, 1968. Again major Republican ideas or programs now have the Johnson-Humphrey brand on them. Here, however, the distinguishing mark is that they were opposed, often in the strongest terms, by the Johnson Administration in previous years when advocated by Republicans.

HOMEOWNERSHIP

Consider a Republican criticism of past years with respect to Federal housing-urban renewal programs: as carried out, such programs tended to displace the poor, whether white or Negro, with little regard for where they were to go. The real beneficiaries were middle and upper income families.

Senator John G. Tower (R., Tex.), ranking minority member of the Banking and Currency Committee's Housing Subcommittee, has made this point for the past several years in the annual hearings on amendments to the Housing Act.

In an effort to provide homeownership opportunities for low-income families, Senator Tower, in February 1965, introduced a bill to authorize the purchase of detached and semi-detached units in public housing projects by tenant families.

It was opposed by the Johnson Administration. HUD Secretary Weaver reported in his best bureaucratese that "a sales program woven into the existing low-rent housing program would be difficult to justify in the light of many competing considerations."

Nevertheless, the Tower proposal was included in the Housing Act amendments of 1965, and enacted into law as Sec. 15(9), United States Housing Act of 1937. This was the beginning of the Republican push for low-income homeownership.

The Johnson Administration, however, continued to emphasize public-housing rental units for low-income families and made no effort to implement the Tower amendment.

Because of this stubborn, bureaucratic defense of the status quo, the National Home Ownership Foundation Act (S. 1592) was introduced by Senator Charles H. Percy (R., Ill.), April 20, 1967. It was cosponsored by Senator John G. Tower, Wallace F. Bennett, and Bourke B. Hickenlooper, all members of the Housing Subcommittee, as well as by every other Republican Senator. A companion bill was introduced in the House by Rep. William B. Widnall (R., N.J.) and 111 other Republican Representatives.

It was specifically aimed at providing means for low-income families to purchase homes through a private, nonprofit housing foundation. A mortgage interest rate subsidy was to be provided to hold the monthly payments at levels which for the most part low-income families could afford. Private industry and local governments were to cooperate in the work of the foundation and its program.

In addition, the value of self-labor, so-called sweat equity, would be recognized in contributing to the down payment.

The Johnson Administration response was to strongly oppose such proposals, labelling

them "a snare and a delusion," "a cruel hoax" on the poor.

The Senate Housing Subcommittee did not share the Johnson Administration's distaste as evidenced by the bill (S. 2700) it finally reported out, November 28, 1967. The bill did provide, with modifications, a new program for home ownership among "lower" income families. The section was so labelled. It did recognize the value of self-labor on the part of the participating family.

Eligibility for this new homeownership program in terms of income was fixed by a Percy amendment at 70 percent of the maximum allowed under the below-market interest rate moderate-income rental and cooperative housing program (the so-called 221(d)(3) program). Such income levels are calculated in accordance with construction costs and income levels in each locality. Thus, 70 percent of the 221(d)(3) maximum income limits for a family of four would range from \$2,870 in the lowest cost area to \$6,615 in the highest cost area. Higher maximum income levels would be permitted for larger families.

A special insurance fund was established to cover the higher risk element in the program, as well as strong directives to FHA to issue mortgage insurance on residential properties in older depressed urban areas (more on this later).

Other provisions in the bill included the establishment of a national advisory commission on low-income housing to bring together the best thinking of private industry and local government in meeting this need (Senator Tower) and an expanded college housing program (initiated by Senator Javits in 1966). These were basically Republican proposals. Incidentally, none of these is included in the 1968 Johnson program.

The late date at which the bill was reported out precluded its consideration during the last session. There is no question but that the Johnson Administration's opposition contributed to the delay, just as there is no question but that active backing by the White House would have expedited consideration of the bill.

ELECTION YEAR 1968

This year, in his message on urban ills, Mr. Johnson calls for "new" housing programs. The only really new one is home ownership for "needy families," a concept which his officials, only a few months ago were labelling as "economically impossible," and "terribly dangerous."

This year, Mr. Johnson proposes guaranteed bonds for new towns and for FNMA. Last year, the guaranteed bonds proposed by Senator Percy for the National Home Ownership Foundation were opposed by Mr. Johnson's Administration as "dangerous."

Last year, the Johnson Administration opposed the Percy proposal for a private National Home Ownership Foundation. The powers and duties which would have been exercised by the Foundation were described by HUD officials as "too important" to hand over to a nongovernmental group. This year, the Johnson Administration proposes a National Housing Partnership. It brings together and expands tax-writeoff provisions for private enterprise in housing programs. Republicans support such a proposal. But they reserve the right to point out that it is no substitute for the innovations possible under the National Home Ownership Foundation.

The bill accompanying the message, S. 3029, however, shows the same flaw that has plagued so many Johnson proposals to help the poor. It forgets that the fundamental purpose is to help house low-income families.

Thus, the Johnson proposal in title I of S. 3028 is to provide "home ownership for low and moderate income families." Given that directive, the results are predictable. The low-income families will not be the primary

beneficiaries. They will at best receive little more than a trickle of the assistance proposed.

The reason is quite clear, for the Johnson bill raises the maximum income level under which families are eligible to participate in the home ownership program, including the mortgage subsidy provisions. In many metropolitan areas this means families of 5 or 6 with incomes of \$9,000 to \$10,000 would become eligible for the subsidized home ownership program.

The President's Commission on Civil Disorders reported that in the cities where riots occurred, average incomes were approximately \$5,000 for white and \$4,500 for Negro families.

It would seem clear that any subsidized home ownership program should first concentrate on these families.

WHO WILL BE HELPED

By including "moderate income families," however, the Johnson Administration will encourage the flow of housing funds away from those most in need. Obviously, the moderate income families are a more attractive risk. But from the Johnson viewpoint, this will promote a greater volume of home construction and this is more important in an election year.

In the March 5-6, 1968 hearings before the Housing Subcommittee on the Administration bill, this point was made by Republicans and Democrats as well. Senator Tower proposed that in view of the crisis in the cities and the limited financial resources available to HUD, it would be far wiser to limit initial eligibility for home ownership to actual low-income families. This was the goal of the original Percy proposal, and of the program proposed on the committee bill of last year.

HUD Secretary Weaver rejected this idea, explaining that "by having the more liberal upper limits, you have the possibility of getting a greater volume quicker." What he was referring to was the Johnson overall goal in his message of an enormous upsurge in housing construction—a typical election year promise. Mr. Johnson and his officials are more interested in propagandizing than in guaranteeing Federal housing subsidies which will actually be available for those most in need, the low-income families.

Parenthetically, it might be noted that while Mr. Johnson advocates 300,000 housing starts in fiscal year 1969, his Administration is also beginning a credit squeeze policy which will run directly contrary to the needs of the housing industry in terms of new housing starts.

What stands out, and at this late date it may have tragic consequences, is once more a failure to assert priorities, to husband resources, and concentrate them on areas of intense need.

MOBILIZING PRIVATE ENTERPRISE

This is another "discovery" by the Johnson Administration. It was basic to the Percy bill last year and Republicans have been urging this approach, in party platform and legislative proposals for a long time.

Thus, the 1964 Republican platform proposed "emphasis upon channeling more private capital into sound urban development projects and private housing."

After the destructive rioting in Watts in 1965, rebuilding was stymied by the inability to obtain mortgage loans from lenders unwilling to assume risks in such areas, where insurance was unobtainable.

In 1966, Senator Thomas H. Kuchel (R. Calif.) introduced legislation to empower the Secretary of Housing and Urban Development to insure mortgages on one-to-four-family units in so-called riot-prone areas. Johnson Administration officials vigorously opposed the proposal. It was enacted into law despite this opposition.

Yet, FHA officials refused to utilize such

legislation until after 1967 riots in Newark, Detroit, and elsewhere had left hundreds homeless. A month later, FHA was testifying to the usefulness of this Republican proposal by providing mortgage insurance to more than 1,000 families, making commitments at a rate of 150 a week.

The concept proved out, and because of this experience last year's committee bill (S. 2700) expanded the program in older or declining areas, whether riot prone or not.

In addition, at Senator Percy's request, an insurance industry task force in 1967 made a study of the feasibility of a private-public system of insurance of lower income mortgagors against foreclosure due to curtailment of income beyond their control.

These Republican initiatives helped prepare the way for President Johnson to announce, in September 1967, that life insurance companies would begin a joint effort to make available \$1 billion toward the rehabilitation of depressed city areas.

A COMPARISON OF PROGRAMS

Perhaps, as Representative Widnall has commented, Republicans should be philosophical about this Johnson propensity to "borrow" from us.

Mr. Widnall first proposed the "concentrated code enforcement" program as a practical means of home rehabilitation in declining urban areas. Naturally, it became a part of the Majority Party's program. But the overall aim is to improve housing and Republicans can take satisfaction in the results of this program: more homes targeted for rehabilitation through code enforcement in one and one-half years than the entire total under a title I rehabilitation program enacted 13 years ago. The only opposition to this comes from the big-city Democratic slumlords.

Republican Widnall also first introduced the rent-certificate programs in 1964. It was enacted into law in 1965, along with the widely touted Johnson Administration rent-supplement program.

The Widnall rent-certificate program authorized low-rent housing for low-income families in units leased in existing privately owned structures. The efficacy of the two programs makes an interesting comparison: Under the Republican program, 10,000 families have been housed in decent, safe, and sanitary homes; under the Democratic program of rent supplements, only 1,663 families have been placed in the same kind of housing within the same period.

THE OTHER TASK

There is no question but that the conglomerate of Federal housing laws contains programs which only nourish an entrenched bureaucracy, while conflicting with and draining off funds from programs of actual merit.

Thus, the corollary to the advocacy of successful programs to improve opportunities for low-income housing is the winnowing out of programs which have no real benefit.

Despite its lack of political appeal, such corrective surgery may well become essential if the new goals of public housing programs are to be attained.

ORDER OF BUSINESS

Mr. MUNDT. Mr. President, I ask unanimous consent that I may proceed in the morning hour for an additional 3 minutes.

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

GET THE BUGS OUT OF THE F-111A

Mr. MUNDT. Mr. President, the press wires and this morning's newspapers reporting on the crash Wednesday of an

F-111A jet aircraft while on a training flight from Nellis Air Force Base state that the Air Force has "restricted all F-111A flights in the United States and in Southeast Asia" of the plane pending investigation of this latest crash.

The Associated Press account in this morning's Washington Post reports:

A Defense Department spokesman said the planes are not grounded in a technical sense because grounding refers to halting all flights to make a specific modification or fix to all planes.

Mr. President, I would hope that this investigation is such that the next step which will eventuate is the actual "grounding" of the F-111A, as defined in the foregoing statement by the Defense Department spokesman, because that would mean whatever is wrong with this aircraft is going to be corrected through "a specific modification or fix."

In connection with this plane, on March 29 of this year, after we received reports of the second loss of an F-111A in Southeast Asia, I suggested that two steps be taken to insure against further losses of this costly aircraft to mechanical failure or for other reasons not directly attributable to combat engagements in which the losses resulted from enemy actions and not to any deficiencies of the aircraft itself.

One recommendation was that the remaining F-111A airplanes in Southeast Asia be returned for complete testing. Subsequently, another F-111A was downed in the Vietnam conflict, others were sent as replacements.

The other recommendation I made, called for a holdup of the production line of the F-111A until the design of the airplane number 160 configuration is completed and tested and can be incorporated into the next plane the Air Force buys.

On April 26, Mr. President, I wrote to the Secretary of Defense repeating the recommendations which I made in my Senate remarks of March 29. I said in my letter to Mr. Clifford:

I submit these recommendations, along with the attached comments of my March 29th remarks, for your earnest consideration, Mr. Secretary, and sincerely urge you to take these steps in order that whatever corrections, adjustments and testing required can be accomplished in order that it will be possible to make maximum and safe usage of this aircraft.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the complete text of the letter which I addressed to Secretary Clifford.

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

APRIL 26, 1968.

HON. CLARK CLIFFORD,
Secretary of Defense,
Washington, D.C.

DEAR MR. CLIFFORD: On March 29th, in remarks delivered in the Senate, I discussed the problem of the F-111 as I view it from my position as a member of two Senate committees which have spent considerable time reviewing the developments on this aircraft over the past half dozen or so years. These are the Subcommittee of the Committee on Appropriations and the Subcommittee on Permanent Investigations of the Government Operations Committee.

In the event you have not had an opportunity to review those remarks I enclose a reprint from the Record for that date.

In concluding my remarks in connection with the loss of the second F-111A in combat operations, I made two recommendations. One, the remaining "Harvest Reaper" airplanes be brought back immediately from Vietnam and not returned to combat until they are fully tested and ready. Two, that the production line be held up until the design of the airplane number 160 configuration is completed and tested and can be incorporated into the very next plane the Air Force buys.

With the subsequent loss of still another F-111A I think it is even more imperative that the two above recommendations be incorporated into Defense planning and activities with respect to this aircraft.

I submit these recommendations, along with the attached comments of my March 29th remarks, for your earnest consideration, Mr. Secretary, and sincerely urge you to take these steps in order that whatever corrections, adjustments and testing required can be accomplished in order that it will be possible to make maximum and safe usage of this aircraft.

I would appreciate very much hearing from you on this matter.

With all good wishes and my kindest regards, I am,

Cordially yours,

KARL E. MUNDT,
U.S. Senator.

Mr. MUNDT. Mr. President, I mention this letter not because I believe the particular recommendations which I have submitted may provide the only solution to resolving what I believe is a most unhappy episode in the development of our military air capability.

I do so with one purpose in mind: To afford our pilots safe usage to the best extent possible in situations in which they risk their lives against enemy fire, and maximum usage in which this plane will function at 100 percent of the capability Defense officials claim it is to have.

Nor do I mention this letter in any sense as a criticism of the Secretary because I have not had an answer to my communication, for his office advised me yesterday that an answer is being prepared.

I raised these points again to urge that the new Secretary leave no stone unturned to achieve the goal we all share; namely, production and utilization of an aircraft that is the best American ingenuity and industry can produce, produced and utilized in combat and training flights after, not before, the bugs are eliminated from the F-111A if in fact those serious bugs can even be satisfactorily eliminated.

Perhaps there is an element of pride involved in the immediate utilization of this aircraft. Perhaps there are those who believe they are so right in their contention that this aircraft is ready—that many do not believe it is ready—that the effort will continue to be made to press this plane into combat operations prematurely with the risk that more planes will be lost before final determination is made of what has gone wrong.

Perhaps among those of us who have long been critical of the TFX program, there is an element of stubbornness, also an unwillingness, perhaps, ever to accept the F-111A as a useful, suitable combat aircraft.

But if that pride and that stubborn-

ness do exist, I think it is long past the time when we can permit these particular emotional responses to dictate the determination of the use of the F-111A.

I believe that the Secretary of Defense, Clark Clifford, is in a rather unique position to provide an objective determination of what should be done about the F-111A aircraft.

With Secretary McNamara gone, I think that the concept of commonality left with him; but that does not mean it is not technologically possible to develop use of the original design—from the \$6 billion spent in research and development—of a plane that could serve one or another of our services satisfactorily and adequately.

Mr. President, I do not believe that the F-111A aircraft should be summarily scrapped and totally abandoned as "McNamara's folly" and a \$6 billion misadventure. That is what happens when we overrule the findings of all the boards which are set up in order to determine the efficacy and the desirability of the new airplane design. I have said so publicly, but I also am convinced that it is not ready for combat. Others say that it is ready and should be sent over as quickly as possible and in as large numbers as possible.

Perhaps there is a middle ground, an equitable solution somewhere between the recommendations to bring the planes back from Southeast Asia and to test them, examine them, and discover what is wrong as an alternative to continuing to send them over in combat where losses already have ranged higher than 50 percent because of mechanical failure.

Perhaps, Mr. President, the announcement today from the Department of Defense, to which I referred earlier, is an indication that an equitable solution is being sought. I hope so.

I think that the Secretary of Defense has the opportunity now at hand to make the judicious decision, to find that middle ground, which will lead to writing a final chapter of success or failure to the F-111A and bring an end to the, thus far, continuing tragedy of crashes which have marked the story of the plane since it first took to the air.

DEDICATION OF NEW SPACE CENTER AT MIT

Mr. BROOKE. Mr. President, on April 25, the new Center for Space Research at the Massachusetts Institute of Technology was formally dedicated. Massachusetts has long been in the forefront of the research activity of our national space program, and this center is both a fitting tribute to her efforts thus far and a suitable environment for future breakthroughs.

In his remarks on this occasion, Governor Volpe portrays our space program as a new frontier of knowledge to be harnessed for peaceful purposes.

I ask unanimous consent that the Governor's thoughtful statement be printed in the RECORD.

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

REMARKS OF GOV. JOHN A. VOLPE, OF MASSACHUSETTS, AT THE PRE-DEDICATION CEREMONIES AT THE CENTER FOR SPACE RESEARCH, KRESGE AUDITORIUM, MASSACHUSETTS INSTITUTE OF TECHNOLOGY, CAMBRIDGE, MASS., APRIL 25, 1968

On behalf of the Commonwealth of Massachusetts . . . it is indeed an honor and a pleasure to be with you this morning on this truly auspicious day.

I regret that I will not be here this noon for the formal dedication ceremonies . . . especially to hear Jim Webb of NASA . . . truly a great gentleman and an outstanding American.

However, in recognition of his many contributions to American progress in space research and exploration . . . we are delighted to present to him this citation which reads: "To James E. Webb, Administrator of NASA, on the occasion of the dedication of the Center for Space Research at Massachusetts Institute of Technology". (present citation)

The Center for Space Research will prove to be a great asset not only to MIT but to the Commonwealth and Nation as well.

Our state has always taken great pride in the heritage of excellence that has been handed down from generation to generation, and the dedication of this new multi-million dollar Research Center surely will be another milestone in our quest for expanded knowledge.

The MIT Center for Space Research will be further testimony in this amazing technological age that in Massachusetts "Brainpower" is our most important product.

And in this day and age, just ten short years since the dawn of the Space Age when Russia and the United States launched Sputnik One and Explorer One, respectively . . . the world has certainly placed a premium on the talents that will be employed in this new Research Center.

I need not remind anyone here today of the rapid and amazing progress of Space Technology, nor of the tremendous potential that exists in this field. In fact, future accomplishments and benefits of our Space Program are almost as unlimited as the solar system in which we live.

The Space Program in America provides us with technology on a scale so vast and varied, that even the professional is hard-put to keep up with it, never mind the layman!

In those ten short years since man-made satellites were first sent into orbit . . . there was hardly a single field of scientific endeavor that has not been touched by the Space Program.

Just as World War One gave impetus to the development of the airplane . . . and World War Two greatly accelerated nuclear technology, the Space Age is providing similar impetus—only in a peaceful manner, I might add thankfully, in such areas as data processing, micro-miniaturization of electronic components, communications, weather forecasting, and a host of others.

Every known discipline, scientific or otherwise, is potentially affected, and we are seeing an integration of human and material resources on an unprecedented scale.

Even more important is the stimulation that our ambitious goals in space bring to the young people of our nation . . . and to our educational system. This stimulation is hard to measure, but I am convinced that as a result of the attainments of the many highly skilled people in the Space Program and our astronauts, the American people, have set higher goals for their own accomplishments.

We could, of course, continue to sit solidly on the surface of the earth and look at the stars and the planets through telescopes and wonder. But it is inconceivable to me that this Nation, with its long history and heritage of ingenuity, freedom, and bold spirit

of adventure . . . would have the resources and the ability to find out what the rest of the Universe is like and yet be so disinterested that we fail to do it.

Either we are a Nation that is alive, alert and aware—and one which is eager and anxious to explore and learn—or we are not.

It is as simple as that. And I am delighted that here in Massachusetts, the men at MIT are laying it on the line—are saying, "Yes, we want to know" . . . "Yes, we want the answers" . . . "Yes, we're ready to break through the barriers."

We are delighted that MIT is again in the forefront in the breakthrough toward a new frontier of knowledge.

This Institute has again demonstrated its excellence as a force for imaginative and creative thinking.

This new building, 100,000 square feet devoted to research into a field that was unheard of when most of us were of college age, will take its place proudly in a community and a state that are fast becoming space-oriented . . . a community and state that are paving the way, to a brighter future for all mankind.

Goethe once wrote that there are three tests of a building: . . . "That it stands on the right spot . . . that it be securely founded . . . and that it be successfully executed."

I would add one more test—that the building serve a great purpose. I am confident that the people here at MIT will give this magnificent new structure, the Center for Space Research, a great human purpose as mankind seeks new passages through the barriers of the unknown.

From the New Space Center, I am sure, will come the ideas and concepts that will stir men's hearts and fire their imaginations.

Mankind is well served through the exploration of the unknown. I can think of no better place for such research than here at MIT.

My congratulations to everyone involved in this important undertaking, and I am confident that the new Center will be the home of many breakthroughs in the future.

Thank you.

RUMANIAN INDEPENDENCE DAY

Mr. LAUSCHE. Mr. President, for Americans of Rumanian origin, May 10 is a day of tragic irony.

On May 10, 1866, Prince Carol of Hohenzollern-Sigmaringen of the Prussian royal family ascended the throne and thus ended internal strife in the nation among competing candidates.

On May 10, 1877, Rumania declared her independence from Turkish domination, which eventually led to formal recognition by the great powers a year later.

On May 10, 1881, Charles I was crowned King of Rumania, and nationalism flourished for over half a century until the Russians acquired domination after the Second World War.

This triple anniversary should mark a day of glory in Rumania, as a tribute to the aspirations of a people determined to be an independent nation and a celebration of victory over colonialism. The tragic irony is that in Rumania May 10 is not a national holiday.

However, in 1966 the Rumanian Government honored the centennial of her independence on May 9, which was also the anniversary of Russian victory over the German soldiers in Rumania. Aside from this, the Communist leaders in Rumania have tried to forget this important anniversary. But though the gov-

ernment ignores it, the people do not. Consequently, Rumanians everywhere still celebrate today as Rumanian independence.

I am proud to join in that celebration and await with them the day when freedom shall be restored in Rumania and flourish throughout the world.

Mr. CURTIS. Mr. President, in the long, tortured and bloody history of the Rumanian people, one date—the 10th of May—stands out as holding a glimmer of hope for a pride-filled future.

Battered and mauled by outside forces over a 1,500-year history, Rumanians still are the victims of powerful neighbors who will not allow the people to live in peace and prosper in freedom.

From the earliest times Rumanians have been victimized by power-hungry empires because of the circumstances of geography and the greed of others for their quiet and rich land. Roman legions stormed across their plains strewing their path with death and destruction. As the Roman Empire decayed the brutal forces of the Goths and other barbarians were unleashed to plunder and burn.

The vicious forces of the Mongols fought over the Danube Valley, to be followed by the Turks whose armies smashed this outpost of Christendom leaving appalling debris in their wake.

But 102 years ago, on May 10, 1866, the peoples of the principalities of Walachia and Moldavia joined forces to light the fires of freedom for the Rumanian peoples. Almost unanimously the people of the two principalities elected Carol as their prince and promulgated a constitution that provided almost unheard-of freedoms for peasants and townspeople alike.

Rumania rose as a nation from the ruins of war. It emerged as an independent country after the Crimean war and earned its total independence during the turmoil of the war between Russia and the Ottoman Empire in 1877.

But convulsive forces beyond its borders were not content to allow this small but prospering country to remain too long a free entity in the society of nations.

In World War I the great armies of the German-Austrian alliance crushed the Rumanians who were swept up once more by forces beyond their control into the vortex of war. Again, however, resurgent Rumanian nationalism exerted itself after the First World War and the country emerged from the conflict as a small but strong independent nation.

Their peace and their prosperity were short-lived. The mighty jugernaut released by Hitler crashed down the Danube Valley during the early days of World War II and the free people were again crushed, although not defeated in spirit. Some of the brightest pages in the long struggle of mankind to be free were written by the partisans of Rumania who fought with equal vigor and fierceness against the forces of Nazi Germany and the Soviet Union.

Once more, however, geography betrayed the Rumanian people and, with the close of the Second World War they found themselves powerless against the awesome might of the Communist armies. With Soviet bayonets at their throats and the heavy heel of commu-

nism pressing down on their necks the Rumanian people have been for the past 23 years the unwilling, restless servitors of the Soviet empire.

But the spirit of the 10th of May still shines in the hearts of the Rumanian people. And, through quiet, steady perseverance, this spirit of freedom has from time to time broken through and may yet shine out in full strength.

The Rumanian people, although still dominated by the Communists, are forcing the first major cracks in the monolith of the Soviet empire. Their long history of quiet, steadfast struggle for freedom has provided the key to the Rumanian people's current battle to shake off domination from abroad. There has been no spectacular revolt, no massing of armies and waving of banners; instead, the Rumanians are exerting economic pressures to widen the gulf between the Soviets and their satellites and have stubbornly refused to fall in line as the Soviet ringmaster cracks the whip.

These new evidences of Rumania's deep and burning desire for a free and independent existence are heartening to all men everywhere. The faint glimmer of hope for freedom that burns there today may well be fanned once again into a bright beacon giving light to all men.

Today, the 10th of May, is not celebrated openly in Rumania itself. But covertly, deep within their hearts, the Rumanian people do celebrate—looking to the future when the song of a free people will no longer be muted but will burst forth in full swell.

Mr. PROXMIER. Mr. President, May 10 commemorates the original independence of the Rumanian nation. Actually, it serves to commemorate the anniversary of not one, but three, great events. On May 10, 1866, the Rumanian people gained the right to elect their own sovereign. On May 10, 1877, the Rumanian nation proclaimed its total independence from its former Turkish rulers. And on May 10, 1881, Charles I was crowned the first king of Rumania.

After 1877, Rumania enjoyed several decades of independence. In World War I, she stood in the front ranks of the Allied powers and was overrun by German, Austrian, and Bulgarian forces. Today, some 20 million Rumanians live under a Communist system. May 10 cannot be openly celebrated. The Rumanian people will have to remember their national holiday quietly, in their hearts.

We in the United States can join the Rumanian people in remembering this day. Americans of Rumanian descent have contributed richly to our American heritage. On this occasion, I should like to join with the thousands of Americans who are of Rumanian ancestry in expressing a fervent hope that Rumania will again live under freedom.

Mr. GRIFFIN. Mr. President, May 10 marks the 91st anniversary of the proclamation of independence of Rumania. It was on May 10, 1877, that the proclamation was issued by the Rumanian nation. A year later, 1878, Rumania was recognized by the Congress of Berlin and, on May 10, 1881, Charles I was crowned as King of Rumania.

The American citizens of Rumanian descent are among the finest citizens of the United States. Their constructive contributions to the United States have helped to build this country. From the time that the first immigrant of Rumanian descent landed on our shores, the Americans of Rumanian descent have enriched our American culture as they have preserved their own heritage.

Although Rumania, along with her Balkan neighbors, lost her independence as a result of World War II, the spirit of independence is very much alive among the Rumanian people. That independent spirit and the industriousness of the Rumanian people are well demonstrated even under most difficult conditions as Rumania has become a leading industrial nation of Europe.

I join with Americans of Rumanian descent who are commemorating the Rumanian Independence Day in the firm belief that the day will come when the forces of freedom will triumph and Rumania will join again the family of free nations.

Mr. PERCY. Mr. President, on the occasion of the 10th of May celebration, men of good will throughout the world recall the history of the Rumanian people and the unhappy events which have tested their faith and courage and perseverance. The people of Rumania should know that their well-being is of concern to us all and that they are not forgotten by their friends in other countries.

WILBUR COHEN: THE RIGHT MAN FOR THE JOB

Mr. YARBOROUGH. Mr. President, it is with great pleasure that I support the confirmation of the nomination of Wilbur J. Cohen as Secretary of the Department of Health, Education, and Welfare.

Mr. Cohen has been intimately involved in work for social progress since he was 21 years old. As research assistant for the Committee on Economic Security he made a major contribution to the original Social Security Act in 1935. He stayed with the new Social Security Administration for 20 years serving well under both Democratic and Republican administrations.

In 1956, Mr. Cohen returned to private life to become professor of public welfare administration at the University of Michigan, but his brilliant capability in Government service had brought him to the attention of President John F. Kennedy, and in 1961 he was appointed Special Secretary for Legislation in HEW.

In 1965, President Johnson promoted him to Under Secretary under John Gardner, then to Acting Secretary, and now to Secretary. President Johnson has had the commendable policy of elevating public servants by choosing from within Government to replace top officials. This appointment would have been wise even without that policy for probably no one in America knows more about the administration of HEW than does Wilbur Cohen.

He played a valuable role in establishing social security. He handled, as As-

sistant Secretary for Legislation, 65 major legislative proposals which became law, including child welfare, aid to education, consumer protection, and liberalization of social security. One of those measures, of which history has denoted him the "father," is medicare.

Secretary Cohen has an immense task before him, but he has a distinguished career behind him, and I know that our entire country will benefit from the continued service of this man.

CIVIL DISOBEDIENCE ENDORSED

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD an Associated Press news story of last week entitled "Civil Disobedience Endorsed by United Methodists."

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

CIVIL DISOBEDIENCE ENDORSED BY UNITED METHODISTS

DALLAS, TEX.—The United Methodist Church asserted Friday that when citizens can't get justice by legal means, they have a right to disobey the law and take the consequences.

Citing "stresses in our society" over the Vietnam war and continuance of racial discrimination, the governing representatives of the 11-million-member church declared:

"We believe that in our time the interests of our common life may, in certain specific instances, be served best by those who dissent from the policies and actions of the government . . .

"We affirm the right of nonviolent civil disobedience in extreme cases as a viable option in a democracy and as a sometime requirement for Christians who are to have no other God than the God of Jesus Christ."

Heavy debate boiled for an hour over the issue but it passed by a strong majority.

MARCH ON WASHINGTON

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD the following news stories which appeared in today's Washington Evening Star: "Accord on 'Shanty Town' Site for March Expected Today," "District of Columbia Acts To Prevent Diseases in March," and "March of Poor Gathers Momentum."

I also ask unanimous consent to insert in the RECORD a news story which appeared in today's Washington Post, entitled "Accord Near on Marchers' Campsite."

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

[From the Washington (D.C.) Evening Star, May 10, 1968]

ACCORD ON "SHANTY TOWN" SITE FOR MARCH EXPECTED TODAY

Agreement on a site and camping conditions for the Poor People's March was expected today as contingents of demonstrators continued toward Washington from the South, Midwest and Northeast.

Meanwhile, the Pentagon said yesterday the Army was taking certain "prudent actions" in preparation for the campaign but declined to give details, the Associated Press reported.

Thousands of troops in this area reportedly will go on alert Saturday, and sources said they would be set to move, if necessary, in as

little as one hour. One of the first military contingents to arrive here during last month's rioting was the 6th Armored Cavalry from Ft. Meade, Md.

PROJECT RENAMED

Six sites are under consideration for the "shanty town"—now being called "The Resurrection City" instead of "The City of Hope" because a hospital in California named "City of Hope" became concerned.

Talks have been under way since Tuesday. Nash Castro, regional director of the National Capital Parks, handling the discussions with the Southern Christian Leadership Conference for the federal government, said today, "We're nearer to agreement on all aspects of the permit."

Castro said final agreement had not yet been reached on a specific site. It is known, however, that two sections of West Potomac Park are among the six. One of these is south of Independence Avenue, bordering the Potomac; the other is just north of Independence, in a rectangular area parallel to and south of the Reflecting Pool.

DEBATE CONTINUES

A federal official yesterday said each of the sites being discussed would accommodate about 3,000 persons.

Castro said the discussions included, in addition to a site, specific dates, conditions for installing structures, health and safety standards and provisions of bathing and toilet facilities.

Debate continued in Congress, meanwhile, where the House Public Works Committee has passed, but is holding in abeyance, a bill that would prohibit the demonstrators from camping near the Capitol or along the Mall.

Assurances from federal officials earlier in the week that a satisfactory agreement could be worked out with SCLC has kept the committee so far from sending the measure to the House floor.

Sen. Carl T. Curtis, R-Nebr., said yesterday officials have failed to protect the poor of Washington in planning to meet any violence that might occur. The Nebraskan called for troops to be stationed in low-income areas.

"There are plans to protect the Capitol, the White House, the foreign embassies, but they have no immediate plans to protect the poor people of Washington," Curtis said.

LEADERS PRAISED

And Rep. John D. Conyers, D-Mich., praised march leaders for what he called their restraint and good will.

Conyers challenged charges by Sen. John L. McClellan, D-Ark., that militants are plotting to take over the Poor People's Campaign and incite violence.

McClellan's statements, Conyers said, "sound to me like some more rumors that are calculated to disturb the citizens . . . rather than to be constructive," and said there was a "complete lack of specifics" in McClellan's charges.

New York's Republican senator, Jacob K. Javits, yesterday said, "I believe it is unfortunate . . . to await this event with an apprehension which in some quarters borders on hysteria. Surely let us give thoughtful consideration to the fears which are rational—fears, for example, that extremists committed to violence for its own sake will make an effort to take over the march—and let us take steps to see that this does not happen."

WARNS AGAINST VIOLENCE

Javits added that ". . . we will brook no violence, no anarchy and no immobilization of the federal or district government or of the community."

"But let us remember that the leaders of this march are committed to nonviolence and let us do all we can to reinforce their positions as leaders and help them channel

this great outpouring of the poor into creative and constructive petition for redress of grievances," he said.

The Pentagon, sources said, would use military units if necessary in three stages.

The first would be calling the D.C. National Guard, 1,800 of whose members—mostly military policemen—were activated last month. Some of these units will be undergoing normal weekend training Saturday and Sunday at the Armory.

The second phase would involve bringing in about 8,000 troops stationed in the Washington area at Maryland and Virginia bases.

FORT BRAGG UNITS

And, if further reinforcements for the District's police were necessary, two brigades totaling some 4,000 men would be flown in from Ft. Bragg, N.C., the AP reported. Elements of the crack 82nd Airborne Division from Ft. Bragg were on duty here during the civil disorders.

Maryland Atty. Gen. Francis Burch, in a statement yesterday, said, "We wish to make it clear that we expect no disorders nor do we anticipate any disturbances in any part of Maryland.

"We all agree that the marchers have every right to peacefully proceed through Maryland to Washington," Burch said, adding that "coordinated and organized plans are well under way for all civil, military and police authorities to meet every eventuality."

Several suburban groups, meanwhile are preparing to make their facilities available to march contingents coming in from the north.

These include several Prince Georges churches and Xaverian College in Silver Spring—where construction of plywood shelters has been under way.

[From the Washington (D.C.) Evening Star, May 10, 1968]

DISTRICT OF COLUMBIA ACTS TO PREVENT DISEASES IN MARCH

(By Betty James and Sheridan Fahnestock)

District health officials, worried about possible outbreaks of disease among participants in the Poor People's Campaign, are mapping a stern program of inoculations and monitoring of health problems.

Meanwhile, an effort is well under way to provide food for the thousands of demonstrators expected to camp here.

Dr. Murray Grant, director of public health, said yesterday that failure to provide medical services for the marchers "would be placing ourselves and the residents of the District in an intolerable position."

He outlined an extensive program to prevent disease among the marchers and to locate those who are sick and get them treated.

Grant said leaders of the march had been told that participants should be inoculated before they leave home.

EXPRESSES FEARS

But the District plans to provide immunization shots for the many who are expected to show up without them. Grant said inoculation should be given against diphtheria, tetanus, whooping cough, smallpox, polio and measles.

Grant said he fears that some of the campaign participants "will be harboring a number of diseases," and pointed specifically to respiratory diseases and gastro-intestinal parasites and other ailments.

He said a health trailer will be provided at the marcher's camp, "manned 24 hours a day, 7 days a week," starting Saturday. There also will be an X-ray trailer, he said, and facilities to provide skin-tests for possible tuberculosis.

Grant said that, when a group of Mississippi sharecroppers camped in Lafayette Park a year or so ago, 12 cases of dysentery appeared in one day alone.

OTHER PROBLEMS CITED

He said the much larger Poor People's Campaign encampment will be "screened every morning" for disease.

The health director said the impending arrival of march participants from around the country will pose big problems in sanitation, water supply and the preparation, transportation and storage of food.

Grant also noted that, besides the usual diseases feared in a large group, "it is the beginning of the meningitis season."

On hospitalization, Grant said "we will transport patients only to D.C. General Hospital" because there is no provision for the handling of such cases by private hospitals under their contracts with the District government. He said he thinks D.C. General will be able to handle the load.

He said the Army might be called on to provide extra ambulances, and the area's medical and dental societies and Medical Committee for Human Rights are volunteering much time and assistance to handle the expected health problems.

He said he thinks existing health funds will be sufficient to handle the requirements of the Poor People's Campaign.

Hotels in Washington have contributed \$5,000 to provide food for the campaign.

The gift was made through the Hotel Association of Washington. It was in response to what has become a community-wide and area-wide appeal by a special ad hoc citizens group for as much as possible of the \$120,000 it is estimated will be needed to feed 4,000 marchers for four weeks at \$1 a day.

TO DONATE BREAD

In addition, the independent bakers of Washington have pledged 805 loaves of bread a day, valued at about \$5,500, a spokesman for the food subcommittee said.

The group is a subcommittee of an ad hoc committee of citizens from a broad section of the community, called together last week by the Urban Coalition to explore the needs of the marchers.

The ad hoc committee has taken no position on the march as such, and its assistance is conditional on the march being nonviolent, a spokesman said.

Joseph P. Danzansky, president of the Giant Food Co., is chairman of the food subcommittee.

The committee's initial appeal has been to the food industry and related industries, among them the chain food stores, bakers, dairies, restaurants, hotels, grocery manufacturers, and unions.

However, churches and other businesses throughout the metropolitan area also will be contacted. Representatives of the three major religious faiths are on the food subcommittee.

The committee is stressing gifts of cash, rather than food, since this is more practical in feeding masses of people, a spokesman said.

The money will be handled by the Health and Welfare Council of the National Capital Area.

[From the Washington (D.C.) Evening Star, May 10, 1968]

MARCH OF POOR GATHERS MOMENTUM

The Poor People's Campaign continued collecting followers across the nation today, as separate groups in the massive march gathered strength and moved on toward Washington.

The swollen Southern wave of the campaign planned to spend tonight in Macon, Ga., following a day-long pilgrimage yesterday in the native city of its assassinated leader, Dr. Martin Luther King Jr.

Other march activities continued in Indiana, Tennessee, Kentucky, Massachusetts and Mississippi.

PLAQUE DEDICATED

Campaigners from Mississippi, Alabama and Georgia visited King's college, church and home in Atlanta yesterday and dedicated a plaque at the house where he was born.

The day ended with a musical benefit show to raise money for the campaign. An audience of about 9,000 persons heard a white civil rights worker vow, "We'll convince Congress if it takes all summer in shanty town."

Father James Groppi, the white Catholic priest who led successful open housing demonstrations in Milwaukee, said, "The man is going to listen—we are preaching the gospel of Jesus Christ. We've got to teach white America that black is beautiful."

King's widow, Mrs. Coretta King, told the assemblage, "I'm sure my late husband is smiling on the enthusiastic and overwhelming welcome and support for the Poor People's Campaign."

ANOTHER BENEFIT SLATED

Another benefit was planned tonight in Macon as the city prepared facilities to house and feed the campaigners.

About 1,000 marchers from Chicago, Milwaukee, Minneapolis and Indianapolis converged on Louisville, Ky., where they were joined by about 400 persons at a rally. They heard King's brother, the Rev. A. D. Williams King, say the poor must press Congress for equal justice and opportunity for all the poor, both black and white.

Eight busloads of campaigners were to leave Boston today for Providence, R.I. They planned to go from there to New York to be joined tomorrow by the Rev. Ralph D. Abernathy, King's successor as president of the Southern Christian Leadership Conference.

Abernathy spoke at a fund-raising luncheon in Boston yesterday before flying to Atlanta for the benefit. The luncheon netted the campaign \$15,000.

Leaders of the Tennessee segment of the campaign said their bus caravan would go from Knoxville to Raleigh, N.C., today, to Danville, Va., tomorrow, and on to Washington on Sunday.

An estimated 500 persons are in the Tennessee contingent.

The rear guard of the march is made up of a few campaigners who were delayed in Marks, Miss., by mules that needed shoeing.

[From the Washington (D.C.) Post, May 10, 1968]

ACCORD NEAR ON MARCHERS' CAMP SITE

(By Peter Milius and Carl Bernstein)

Interior Department and Poor People's Campaign negotiators were close to agreement yesterday on a Campaign camp site. The principal site under consideration is a rectangular tract just south of the Reflecting Pool, in West Potomac Park.

The agreement would be for a camp-in by up to 3,000 persons and no more.

The negotiators broke up last night without reaching a final settlement.

Meanwhile, city officials concluded that marchers who come here in the Campaign will not be eligible for either emergency or regular District welfare payments or food stamps, because they will not qualify as District residents.

The West Potomac Park site apparently would be acceptable to the House Public Works Committee, which approved a bill Tuesday to keep the camp-in south of the Anacostia River if no suitable alternative could be worked out.

Some Campaign leaders have said that they intended to pitch their camp on the Mall, and several bills had been introduced in Congress to outlaw camp-ins anywhere on Federal parkland here.

Rep. Kenneth J. Gray (D-Ill.), chairman of the Public Works subcommittee that dealt

with the bills, said yesterday he was confident a satisfactory settlement would be reached and announced within 24 hours.

Others close to the affair were hopeful, but said it might take longer. The Campaign's leaders had not finally ratified the agreement late yesterday afternoon, and had not yet formally applied for a permit.

Neither Interior nor Campaign officials would discuss the matter.

There are two lines of trees parallel to and south of the Reflecting Pool. The principal camp site under discussion would be between them.

This would put it off the Mall, which officially runs only from the Capitol to the Washington Monument, but would leave it within sight of the Monument and close to the Lincoln Memorial.

Interior Department and Campaign representatives met yesterday afternoon for at least the fourth time this week.

Their first meeting began Monday afternoon and lasted until after midnight.

The first site discussed was also in West Potomac Park, but south of Independence Avenue, beside the Potomac River.

There was some disagreement among Campaign officials over this location, but they finally rejected it.

Details of the present, tentative agreement—how long the permit might run, what it may say about sanitation and security—were not available yesterday. Some may still have to be worked out. Presumably the permit would be good at least until the end of May, when Campaign leaders have scheduled a mass march, as the climax of their demonstration.

It was also learned that Poor People's Campaign organizers plan to use churches in communities outside the District as staging areas to assemble the demonstrators before they enter Washington.

The Greenbelt (Md.) Community Church and St. Hugh's Catholic Church in Greenbelt have agreed to lend their facilities to the demonstrators.

Several hundred demonstrators are expected to arrive in Greenbelt over a period of several days later this month.

Yesterday, Federal, state and county officials met in closed sessions in Baltimore to discuss preparations and law enforcement procedures in regard to the demonstrators.

Twenty-one Maryland officials attended the two-hour conference called by State Attorney General Francis B. Burch.

"We wish to make it clear that we expect no disorders," Burch said in the only statement given after the meeting.

However, he said, "co-ordinated and organized plans are well under way for all civil, military and police authorities to meet every eventuality."

In Washington, the executive director of the United Planning Organization, Wiley A. Branton, met with members of the poverty agency's staff to discuss their work with Washington neighborhood groups who wish to participate in the Campaign.

Robert Secundy, UPO's director of administration, was named by Branton as liaison between UPO and the Campaign organizers.

City officials ruled out welfare payments for the marchers mainly because they will not be residents intending to stay here permanently.

But the District Welfare Department will be responsible for temporary care and custody of marchers' children if their parents do not or cannot provide adequate care and supervision, it was decided. In that case, the youngsters would go to Department facilities such as Junior Village.

The decisions were re-ordered yesterday at a meeting attended by Welfare Director Winifred G. Thompson, Corporation Counsel

Charles T. Duncan and members of their staffs.

It was decided then that news of the ruling would be withheld until the corporation counsel's office has drawn up a written legal opinion on the issue. The formal opinion is expected before Monday.

The marchers will not be eligible for either short-term or emergency assistance payments, regular welfare programs like Aid to Families with Dependent Children or food stamps, the officials decided.

The U.S. District Court here threw out the Welfare Department's former one-year residency requirement for aid as unconstitutional last year. But other conventional tests of residence, like the intent to stay permanently or maintaining a fixed home, apparently exclude the marchers from city welfare aid.

BPW MAGAZINE TELLS STORY OF HUMAN RIGHTS TREATIES

Mr. PROXMIRE. Mr. President, as this week brings to close the International Year for Human Rights Conference at Tehran, Iran, a factual account of the current status of the human rights conventions came to my attention through an article in the monthly, *National Business Woman*, the official publication of the National Federation of Business and Professional Women's Clubs, Inc.

The article, entitled "The Case for Human Rights," is a factual summation of the treaty dealing with the political rights of women. It emphasizes that the failure of the Senate to vote ratification of this convention is diplomatically embarrassing to this Government.

The article is an excellent appraisal of the human rights question, and I recommend it to Senators. I ask unanimous consent that it be printed in the RECORD.

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

THE CASE FOR HUMAN RIGHTS TRIGGERED BY NAZI ATROCITIES

The International Year for Human Rights is a flip of the calendar away.

For 1968 commemorates the twentieth anniversary of the adoption and proclamation of the Universal Declaration of Human Rights by the General Assembly of the United Nations, December 10, 1948.

It is an appropriate time for the National Federation of Business and Professional Women's Clubs to review what has happened to United States Senate ratification of the United Nations convention on the specific human right of Political Rights for Women, an area in which the organization has expressed a particular interest.

And, even more importantly, why it has happened.

To begin with, world reaction to Nazi atrocities before and during the second World War, triggered the human rights movement, and motivated the provisions of the Charter of the United Nations guaranteeing promotion of "universal respect for, and observance of, human rights and fundamental freedoms for all . . ." with which principles of the United States was in full agreement.

The American Bar Association at its September meeting in Honolulu pointed out that difficulties have only arisen in the United States out of persistent efforts, since the 1948 General Assembly action, to translate the provisions on human rights in the domestic sphere, of the Universal Declaration, into a series of treaties having binding effect in international law subject to international adjudication.

The treaty or convention on the political rights for women is one of these areas.

EQUAL TERMS WITH MEN

It provides that women shall be entitled to vote in all elections on equal terms with men, without any discrimination, as already approved in the United Nations Charter, the Universal Declaration of Human Rights and the Nineteenth Amendment to our own Constitution.

It also provides that women shall be eligible for election to all publicly elected bodies, to hold public office and to exercise all public functions established by national law, on equal terms with men, without any discrimination.

CONVENTIONS TABLED

On December 17, 1952, the General Assembly of the United Nations adopted the convention, and on July 22, 1963, President John F. Kennedy transmitted it to the Senate for its advice and consent. Early in 1967 hearings were held concerning it and for other conventions by a subcommittee of the Senate Committee on Foreign Relations. As of October 1, 1967, 53 countries had ratified it and 11 more signed it as a preliminary to ratification. The United States, Spain and the Union of South Africa were among those that had not ratified or signed.

On October 11, 1967, the Senate Foreign Relations Committee met in executive session to consider whether the three human rights treaties or conventions, including that on the political rights for women, should be brought to the Senate floor for a vote. The committee favorably reported the convention on abolition of slavery, but voted to table those on forced labor and the political rights for women.

MEANWHILE ON THE SENATE FLOOR

Meanwhile on the floor of the Senate, the treaty-ratifying body of the Congress, certain members were eager to get the human rights treaties or conventions approved by the United States. During this session of the Congress, Senator William Proxmire (D-Wis.) led the group with more than 125 speeches urging their ratification.

On September 18, he spoke specifically on the political rights of women:

" . . . an argument against the Senate giving its advice and consent to the Human Rights Convention on Political Rights of Women is roughly stated thus: the political rights of women are not the proper subject matter of a treaty, because these rights are solely a question between a government and its citizens.

"I am amazed that this argument is advanced, let alone accepted by some people, in 1967.

"This argument ignores the great human rights heritage and record of the United States. It regards our own human rights and liberties as some sort of heirloom which we should keep selfishly on a private, national self.

SENATE AT GRAVE CROSSROADS

"I believe sincerely that the Senate and the United States are at a grave crossroads on the question of human rights.

"We must answer the question of whether we believe human rights and freedom are the rightful heritage of all men and all women or simply of American men and American women.

"The Declaration of Independence spoke of the human rights of all human beings—not merely of Americans. We must decide whether we are still committed to these precepts.

"We must further determine, both the Senate and our people, whether we intend to fulfill the commitment we made when joining the United Nations to cooperate with other nations 'in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.'

"If we do not intend to carry out this commitment to the United Nations Charter by ratifying the Human Rights conventions, then let us admit it honestly and openly instead of hypocritically paying lip service to the U.N. and its purposes.

"All the flights of rhetoric about the U.N. and the rule of law mean very, very little when the greatest and most powerful democracy in the world stands apart from international efforts to promote and secure human rights.

"I once again urge the Senate to recognize our commitment as a Nation to human rights for all people by ratifying the Human Rights conventions. . . ."

Senator Proxmire had on another day also brought to the attention of the Senate a letter which U.N. Ambassador Arthur Goldberg wrote on May 11, 1967 to Orison Marden, president of the American Bar Association:

" . . . Our failure to ratify United States conventions on such fundamental human rights as slavery, forced labor and the political rights of women has become, quite frankly, a major diplomatic embarrassment. Our ratification of these conventions, on the other hand, would encourage other countries which have not yet ratified to reconsider their stand and put us in a position, as a party, to exert our influence most effectively on behalf of the international observance of these basic standards.

NO BASIS IN CONSTITUTION

" . . . I understand that some have challenged the constitutionality of our adherence to these treaties on the grounds that they deal with 'the relations between a state and its own citizens and therefore involve domestic questions' which are not proper subjects for the exercise of the treaty power. This challenge, in my view has no basis in the U.S. Constitution as interpreted by the Supreme Court or in U.S. treaty practice. . . ."

On September 13 this year, prior to the tabling of the treaties or conventions by the Senate Foreign Relations Committee on October 11, Eberhard Deutsch of the New Orleans Bar, speaking as chairman of the American Bar Association standing committee on peace and law through the United Nations, pointed out to the Senate Foreign Relations Committee, that there were, generally speaking, three points of view on the three treaties being considered on slavery, forced labor and political right for women.

THREE VIEWPOINTS ON TREATIES

1. That all three of the treaties should be disapproved by the Senate of the United States.

This position is based on various grounds, principal among them being that the treaties do not deal with matters of genuine international concern, but invade the domestic jurisdiction of the United States, and disturb the constitutional relationship of the state and federal governments to each other.

2. That all of the treaties be approved as carrying out an assertedly modern concept of bringing all matters of human rights properly into the international domain.

3. That one or two of the treaties be approved as falling generally within international jurisdiction, while disapproving the other or others on the ground that their subject-matters belong exclusively within the domestic area.

Regarding the political rights of women convention, Mr. Deutsch told the Senate Foreign Relations Committee that it is difficult to conceive of any area more closely confined within the domestic jurisdiction of a country than the right to determine the qualifications of its voters, and those of persons who may hold public office within its own borders.

GET THEIR FIRST FOOTING

The American Bar Association spokesman also asked the Senate Foreign Relations Com-

mittee if we would not impair our constitutional philosophy by taking our treatment of human rights in the domestic field out of the hands of our own legislative bodies and courts and transplanting them into the international forum for legislation by treaty and adjudication by international tribunals.

He pointed out that many of the human rights treaties—like that on the political rights of women—seem harmless, perhaps, to our constitutional structures, since we are, by constitution, already in compliance with the treaties' requirements. At worst, such a treaty is asserted to be only a mild incursion into our domestic jurisdiction.

But he then quoted Justice Bradley in 1885 in *Boyd vs United States*: "It may be that it is the obnoxious thing in its mildest and least repulsive form; but illegitimate and unconstitutional practices get their first footing in that way."

He added it is felt by many that entry of the United States into international covenants on human rights in the domestic arena may lead to ultimate elimination of the domestic jurisdiction and even erosion of the constitutional structure of the United States.

In a paper read at the American Bar Association convention earlier in the month, Max Chopnick, an attorney of New York City, also pointed out that the political rights for women treaty permits reservations and provides that any dispute concerning the interpretation or application of this convention, not settled by negotiation, shall be referred for decision to the International Court of Justice.

He said that some 23 of the states (nations) which have acceded to this convention have filed reservations. This is almost 50 per cent of the participating states. The nature of these reservations points up the doubts and questions that exist as to the application of the provisions that women may hold public office and exercise all public functions on equal terms with men without discrimination. The status of women in the armed forces of a nation has been a frequent subject for reservation. Many countries, he said, including India, Finland and the United Kingdom, have filed reservations to exclude any right of women to hold military appointments. Some reservations are directed to exclusion of women from services charged with maintenance of public order or unsuited to women because of the hazards involved. Included in the United Kingdom's long list of reservations are exclusion of women from holding certain offices primarily of a ceremonial nature, from serving on juries in certain territories, from being employed, if married, in certain diplomatic and civil service areas. In the light of the many reservations to this treaty, the value of our participation would be quite limited.

WHERE FROM HERE?

And where do the treaties or conventions go from here?

What course of action is available to Senator William Proxmire (D-Wis.) and other members of the upper body of Congress—like Senator Jacob Javits (R-N.Y.), Senator Claiborne Pell (D-R.I.) and Senator Wayne Morse (D-Oreg.), who want the forced labor and political rights for women conventions ratified—to get the treaties on the Senate floor for a vote?

A member of the Senate Foreign Relations Committee may untable the treaties or conventions and submit them again to a committee vote.

Or the Senate as a body could vote to take the treaties or conventions away from the Senate Foreign Relations Committee, and then bring them to a vote on the Senate floor for ratification or non-ratification.

Here is a vast area for human concern in which careful study alone should lead to acceptance of a point of view.

MIGRANT HEALTH SERVICES

Mr. YARBOROUGH. Mr. President, it was my pleasure to support the passage, Tuesday, of S. 2688, the Migrant Health Services Act of 1968. Clearly this is an important piece of legislation that directly affects the lives of thousands of our fellow citizens—the migrant farm families who move back and forth across the land to pick the crops.

In past years there has been little attempt to meet even the basic health needs of these people. It was not until 1962, under the Kennedy administration, that the first national law was enacted specifically to provide health care for migrants.

It is reported that prior to the enactment of that law, only two clinics in the entire United States provided systematic health care for migrants—one in California and one in Florida. It is estimated that less than 10 clinics provided health services to these people, even on a sporadic basis. As the very capable Senator from New Jersey [Mr. WILLIAMS] has stated:

Before this program was launched, there simply was no medical care available for migrant farmworkers, except for grave emergencies and frequently not even then.

As a result of the commitment undertaken in the Migrant Health Act of 1962—a commitment reaffirmed and expanded in 1965—the migrants of America finally have begun to receive the health services which the rest of us have long considered routine. I am informed that there are now some 200 clinics across America offering essential health services for migrants, at least during the seasons when these farmworkers move into the area served by the clinic.

Prior to 1962, it was rare that a migrant family ever saw a doctor's office, even in an emergency. Today, we are beginning to reach these people and bring them the health services they need. It is estimated, for example, that 300,000 migrants lived in areas served by migrant health projects in calendar year 1967—projects funded and developed by the act passed in 1962 and amended in 1965. An estimated 141,000 of these migrants had need of and received medical and dental care offered by these projects.

In Texas, where more than half of the home-based migrant families live, an estimated 124,000 migrants are within migrant health project areas. It is reported that 26,300 of them required and received medical treatment in 1967. Prior to 1962, when Congress enacted the Migrant Health Act of that year, the migrants would have been without hope of getting the health care they so badly needed.

We are making progress. The passage, Tuesday, of S. 2688 assures that we will continue to make progress. While I was disappointed that the extension of the act was for 3 rather than 5 years, I am pleased that at least that extension was made, and that the authorization for funding was increased beyond the amounts proposed in the bill as introduced. As passed by the Senate, S. 2688 provides \$9,000,000 for migrant health services, in fiscal year 1969; \$15,000,000

for fiscal year 1970; and \$20,000,000 for fiscal year 1971.

These increases are needed. In fiscal year 1967, the migrant health service projects were funded at \$7.2 million. In the hearings held on S. 2688 by the Senate Subcommittee on Migratory Labor, there was a great deal of testimony on the need to increase our dollar commitment to health services for these citizens. Dr. James Peavy, State commissioner of health in Texas and the president-elect of the Association of State and Territorial Health Officers, testified as follows on December 7, 1968:

We do have a great need to extend the type of program that we have. We feel quite sure that if we had double the present amount of funds, we could use them in a very effective manner.

*** we hope you will see fit and find the means of at least doubling the program and we feel that the whole Nation will benefit by this extension of the migrant health bill.

Mr. President, this is a most worthy bill, and I have been pleased to give to it my full support. I congratulate the distinguished Senator from New Jersey [Mr. WILLIAMS] for his great concern for the needs of migrant families, and for his very able leadership on this particular bill.

HEART TRANSPLANT OPERATIONS

Mr. MONDALE. Mr. President, the Nation marvels this week at the rapid-fire succession of heart transplant operations. Indeed, each day seems to bring us closer to the time when such operations will become a part of medicine's common repertoire for prolonging life.

But this week also brings reminders of the grave questions heart transplants raise for our society, particularly in the area of law.

An article published in the New York Times of May 8, 1968, quotes John W. Miner, Los Angeles deputy district attorney, as saying, "the law is a complete muddle" on the legal definition of death, and points out that a heart transplant could constitute murder under present laws. "Therefore, as the law now stands, it theoretically could be murder if a doctor took a vital organ from a body not dead by all three criteria used to measure death," he said.

An article published in the Washington Post of May 8 cites legal problems which could have blocked a Houston heart transplant operation conducted last Monday. Apparently, under the law, the medical examiner could have refused to permit the transplant until he conducted an autopsy. Both the donor and the recipient would have died. In this situation, the examiner made a fast decision, and the transplant proceeded. But the point is that our present laws—those defining death and dealing with the corpse—are not geared to the realities of the transplant age.

Mr. President, these sorts of issues were raised during the recent hearings on Senate Joint Resolution 145 to create a Commission on Health Science and Society. Physicians and lawyers alike testified that the present definition of death was obsolete, and that this was one

of the issues the Commission should address.

We may think that the many issues heart transplants raise can be put off. But they cannot. They confront us today.

Mr. President, I ask unanimous consent that the two articles be printed in the RECORD, for they give renewed evidence of the urgent need for the creation of a Commission on Health Science and Society.

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

[From the New York Times, May 8, 1968]

A LEGAL COMPLICATION

SAN DIEGO, May 7.—Technically, murder may be committed in the transplanting of organs from one human to another, Deputy District Attorney John W. Miner of Los Angeles said yesterday.

"This untenable situation exists because the law is not at all clear on what constitutes legal death," he said in an address at the annual meeting of the California Association of Medical Record Librarians at the Hilton Inn.

"There are three recognized definitions of death—cardiac arrest, nonfunction of the brain and an end to respiration," Mr. Miner said. "The law is a complete muddle as to whether just one of these is sufficient to produce death.

"Therefore, as the law now stands, it theoretically would be murder if a doctor took a vital organ from a body not dead by all three criteria. Any intentional shortening of life is illegal no matter how good the motive or how inevitable the death of the donor."

[From the Washington (D.C.) Post, May 8, 1968]

THIRD HOUSTON TRANSPLANT DOING WELL

HOUSTON, TEX., May 7.—A surgical team at St. Luke's Episcopal Hospital successfully completed a third heart transplant operation today although a hospital official said the 62-year-old recipient was "either dead or dying" during the procedure.

The third operation also posed the question regarding when a person is legally and medically dead since the county medical examiner and hospital listed different times of death for the donor.

The third recipient is J. J. Stuckwisch, 62, administrator of the Brewster County Memorial Hospital at Alpine, Tex.

Both the other transplant patients at the hospital remained in satisfactory condition.

The donor was Clarence A. Nicks, 36, who died of injuries received in a beating outside a Houston lounge April 23.

Harris County medical examiner Joseph Jachimczyk said Nicks was pronounced dead at 10:30 a.m. when an electroencephalograph showed an absence of any brain waves.

A hospital spokesman said a respirator was used to keep the donor's heart viable and the heart ceased to function at 1:58 p.m.

The transplant to Stuckwisch was begun six minutes later.

Jachimczyk said Dr. Denton A. Cooley, head of the surgical team, called him about noon and asked for permission to proceed with the transplant.

"I couldn't give legal approval, but I told him I would neither file nor press charges," Jachimczyk said. He said he could not give his legal approval because he had not performed an autopsy. He said Dr. Pedro Caram, on the Staff at St. Luke's, had pronounced Nicks dead.

Newell E. France, St. Luke's hospital administrator, said Stuckwisch was taken to surgery in an "absolute emergency situation."

"Actually the brain waves were not recordable during this procedure," France said. "So, in fact, he was either dead or dying."

France said following the operation normal blood pressure returned and brain waves were recorded. France credited the fast work of the surgical team for the successful operation, saying it "worked faster than it would have under normal circumstances."

Stuckwisch has had a serious heart condition for several years, but he has been considered a critical patient only for the past few months, according to Mrs. Bonita Green, chief of nurses at the Alpine Hospital.

(Meanwhile, the world's other two surviving heart transplant recipients, Dr. Philip Blaiberg of Capetown, South Africa, and Frederick West of London, England, were in good condition, UPI reported. West was visited in his hospital by Dr. Christian Barnard, who performed the operation on Blaiberg more than five months ago.)

PUTTING OUT THE FIRES

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD an article by Donald Smith, entitled "35 Percent of Counties' Fire Forces Sent Into District of Columbia During Riots." The item appears in today's Washington Evening Star.

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

THIRTY-FIVE PERCENT OF COUNTIES' FIRE FORCES SENT INTO DISTRICT OF COLUMBIA DURING RIOTS

(By Donald Smith)

As much as 35 percent of Montgomery County firefighting forces were active in the District at the height of last month's eruption of looting and arson according to the Metropolitan Washington Council of Governments.

In the latest statistic concerning the civil disturbances, Public Safety Director Richard C. Wertz of the council said yesterday that other suburban jurisdictions had committed similar percentages under a reciprocal agreement reached before the outbreak.

Council member John Ingram, who is Deputy Mayor Thomas E. Fletcher's executive assistant, told the council the response by suburban firemen was a "great show of help," and that "without it, we obviously would have been in bad trouble."

Ingram expressed the "personal appreciation and gratitude of (Mayor Walter E.) Washington, (City Council Chairman John) Hechinger and all the citizens of the District of Columbia for the help rendered us."

He added that the District "also stands ready to reciprocate" if called on by suburban officials.

Wertz reported that Alexandria and Arlington provided aid from public fire departments, and other jurisdictions offered both public and volunteer forces. The quality of the services, he said, was the "highest possible."

During the period between 10:50 p.m. April 5 and midnight April 7, suburban forces responded to 268 fires, Wertz said.

Montgomery County answered the highest number of calls—106. Prince Georges County followed with 102; Arlington County, 34; Fairfax County, 22, and Alexandria, four.

A total of 47 companies sent engines: 17 from Prince Georges, 14 from Montgomery, 12 from Fairfax, three from Arlington and one from Alexandria.

Communications between jurisdictions was handled by the council's civil defense committee through a "hot-line" telephone system established by the Department of Defense for use in case of civil emergencies, Wertz said.

Also during the meeting Wertz announced the completion of about 80 percent of a computerized regional police communications system.

Installations are in place in Fairfax, Ar-

lington and Montgomery Counties, and three others are due to be installed within the next month. The three already installed are in various stages of operation, he said.

When completed, the Washington Area Law Enforcement System (WALEs) will enable local police to gather information on stolen cars and other matters almost instantaneously.

Of 28 terminals planned for the District, 17 are ready to start operating, Wertz said. These are expected to be put into use by next week.

The council yesterday also approved a request for a \$15,000 grant from the Department of Transportation to study the feasibility of using helicopters as ambulances in Washington's urban areas.

HIGH COST OF RESTRAINT

Mr. BYRD of West Virginia, Mr. President, the high cost of restraint in dealing with riots is further illustrated by at least three news articles appearing in the Washington Post today.

I refer to the articles that reveal that Washington merchants and other businessmen lost an estimated \$14 million in business in April as a result of the riots, that a group of merchants is preparing to sue the District of Columbia government for their losses—which they attribute to the lack of protection afforded them—and to the article reporting the continuing menace of arson which I believe to have been encouraged by the leniency shown rioters here in early April.

The loss of \$14 million in sales and services is said to be a conservative calculation, for sales were badly depressed, convention and tourist activity was seriously retarded, and tax receipts coming into the District government were decreased by more than \$400,000. Figures showing these facts were released yesterday by the District finance office.

I do not profess to know whether or not business people can recover on their losses from the government of their city—the government which is supposed to protect them in their personal lives and in their businesses—but I can certainly understand the feelings that prompt them to seek remuneration for the damage they have suffered.

It is good news to learn that the police patrols in the riot-prone areas are being increased. But, Mr. President, this is somewhat like locking the barn door after the horse has been stolen. The hoodlums have done much of their dirty work, I am convinced—both during the rioting and afterward—because they have been led to believe that leniency would be shown them, and that they would be unlikely to suffer any serious consequences for their crimes.

That this attitude, in fact, is the attitude of those who continue to burn and pillage is indicated to me by the number of serious fires believed to be arson that occur each night in the District of Columbia. Only last night, as the article to which I have referred indicates, there were nine more fires of suspicious origin. Thus far, Mr. President, there have been some 400 fires believed to have been deliberately set in the city of Washington since the rioting began in April.

I ask unanimous consent that the

three articles which I have cited, be printed in the RECORD.

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

MERCHANTS TO SUE CITY FOR RIOT LOSSES: ENFORCEMENT IS CALLED LAX (By Paul W. Valentine)

A group of ghetto businessmen say they will sue the District government, demanding compensation for their riot-damaged stores on the claim that law enforcement during last month's disorders was inadequate.

Abe Liss, 50, head of the new "We The People" organization said at a press conference yesterday that the law-suit, which may be filed next week, will be engineered by a "nationally known lawyer." He refused to identify the attorney or specify details of the court action.

He said the suit may be filed against the Federal Government as well as the District.

Three weeks ago, in Baltimore, a store owner and his wife sued that city for \$75,000, claiming authorities had failed to "use all reasonable diligence" to contain or prevent rioting there. The suit named the mayor and City Council as defendants. No action has been taken in that case.

Liss, whose Beacon TV Rental Co. was burned to the ground on 7th Street n.w., said "We The People" was formed among concerned businessmen to "demand the domestic tranquillity guaranteed in the preamble to the Constitution."

He said rioting in Washington could have been averted if Federal troops had appeared on the street early April 5, the first day of heavy looting and burning, instead of waiting until the afternoon.

Liss said he did not favor shooting looters and arsonists on the spot or organizing "vigilante" groups to support police efforts. To improve law enforcement, he urged that the D.C. Police Reserve Corps be increased tenfold and that women and students be employed to perform administrative office work, and even traffic patrol, so that more uniformed policemen would be free for street duty.

Liss, who is also president of the 100-member Midtown Business Association, said claims that unscrupulous ghetto businessmen cause riots is as "wrong as can be."

Liss said an Association survey showed that 1034 employees, most of them Negroes, lost their jobs because of the rioting on 7th Street alone.

He said he hopes "We The People" will become a nationwide organization. It will hold a "mass meeting" May 22, at the Shoreham Hotel, he said.

SUSPICIOUS FIRES CONTINUE

(By Alfred E. Lewis)

Four teen-agers, including a girl, were arrested last night in connection with a \$100,000 fire and looting in the Standard Drug Co., Inc., 1115 H st. n.w., April 18.

A 16-year-old Northeast youth was charged with arson, and two brothers, 14 and 16, and their 17-year-old sister were charged with burglary.

Police said that when they chased the suspect charged with arson into his home they found merchandise stolen from the drug store and a clothing store during the arson and looting here last month. Included in the loot were three bicycles, they said.

The youth, who was being questioned by Ninth Precinct Capt. Robert S. Shuttleworth and Sgt. Charles Hershey, fled suddenly into his house, with the police close behind.

The other three were arrested later in their Northeast home by Ninth Precinct detectives.

The suspects were placed in the Receiving Home pending juvenile court action.

Police said the case marked the sixth teenager arrested and charged with arson since the Arson Squad, headed by Lt. Sam Wallace, was formed after the riots here. The squad works with the Fire Marshal's Office and Assistant U.S. Attorney Harold Sullivan. Thus far, it has a caseload of about 400 fires believed to have been of incendiary origin. Police said information on various fires is being presented to a grand jury.

There were nine more fires of suspicious origin late Wednesday and yesterday, police reported. These included a fire which heavily damaged the Salve Regina Building, an old arts building at Catholic University. The fire was reported at 11:54 p.m. Wednesday.

This building, a long, split-level structure, was being used for art studios and classes. Hundreds of students' paintings and sketches and much art equipment were lost in the fire that destroyed or badly damaged half the structure.

It was the third incident at CU this week. Early last Monday, someone threw a gasoline-filled bottle into the University's new Law School building, but the gasoline didn't ignite.

In the other incident, fire broke out in a University warehouse at 9th and Kearney Streets n.e., where clothing was being stored for the Poor People's Campaign. Some of the clothing was destroyed.

The other fires of suspicious origin late Wednesday and yesterday included:

One at 5:03 p.m. Wednesday in the debris of an already-burned-out variety store at 2008 14th st. n.w.; another at 5:08 p.m. in a trash pile in a vacant house at 1941 16th st. se.; a 9 p.m. fire in a furniture warehouse door at the rear of 919 9th st. n.w. caused about \$100 damage; a trash fire behind a house at 1006 Massachusetts ave. n.w. at about 9:15 p.m.; a trash fire at 12:59 a.m. yesterday in a market basement at 3005 14th st. n.w.; a 1:11 a.m. fire in two empty garages behind 1326 Irving st. n.w.; a 1:48 a.m. fire in trash cans in the basement of an apartment house at 80 New York ave. n.w., and a minor fire involving shipping crates and two abandoned autos in the rear of a furniture warehouse at 918 M st. n.w.

RIOT CUT APRIL SALES—HOTELS REPORT CONVENTION TRADE OFF

The riot in early April cost Washington merchants and others an estimated \$14 million in lost sales for the month.

This is a conservative calculation, based on sales tax figures released yesterday by the District Finance Office. Collections of the 3 per cent tax were down \$430,000 for the month from those in April, 1967, according to Clifford C. Barnes, acting District finance officer.

Had it not been for the civil disturbances, April sales and tax receipts would have been sharply higher than a year ago, retailers agree. Easter came on April 14, this year and March 26 last year.

Collection of the local sales tax amounted to \$3,341,000 in April, indicating volume of \$111 million. This compared with \$3,771,000, or volume of about \$125 million in April last year.

For the first 10 months of the District's fiscal year, sales tax receipts amounted to \$38,264,000 against \$35,643,000 in the same period last year.

In releasing the April report, Barnes noted there was an increase in number of requests for extension of time for filing tax returns. This may bolster the May tax receipts total.

Meanwhile, the Washington hotel industry is bracing itself for a lean spring and summer season as tour groups and conventions continue canceling their plans to come here.

At the present rate of decline in business, the 43 members of the Hotel Association of Washington project more than \$1.5 million loss in revenue for the month of May alone. More than \$2 million lost in April.

One of the hardest hit hotels is the Shoreham, where the 700-man convention of the Middle Atlantic Wholesalers Association has cancelled its reservations.

The Association said the 500 rooms and suites it had reserved for May 12-24 were being cancelled because "The date coincides with the arrival of the first group of participants of the Poverty March on Washington, D.C."

The Washington Board of Realtors, Inc., has also called off its Home Buyers Clinic scheduled May 23 at the Statler Hilton. The march was given as the reason.

In addition to the Washington Convention Bureau reports four other groups with 3500 participants have cancelled their May meetings.

Industry sources report, however, that the convention dollar loss is small compared to the losses caused by tour group cancellations. These constitute the hotel industry's bread and butter trade on which it depends to get through the bleak winter months, said Hotel Association vice president Leonard Hickman.

"Some of the smaller hotels are really hurting," he reported. Many of them have had most of their traditional spring school tours cancelled, he said.

Neither the Convention Bureau nor the Hotel Association have yet compiled a list of the cancelled tours, but in the Shoreham it amounted to several thousand room nights.

One of the reasons tours are being cancelled is because Congressmen are writing their constituents to stay home, industry sources said. Both the Association and Convention Bureau scored the practice.

Some hotelmen are equally concerned with the bleak summer they are already tasting. Shoreham manager Phillip Hollywood said the mail he used to have asking whether the hotel would offer family summer rates "has trickled to a standstill."

Hollywood said the Shoreham's plight was similar to that of small independent hotels. "We're one of the few large independent hotels in the country today, and we have to stand on our own earnings whereas a chain hotel does have the advantage of the chain to sustain it," he said.

THE SCENIC WONDERS OF UTAH

Mr. MOSS. Mr. President, during the past 4 years, under the direction of Gov. Calvin L. Rampton, the State of Utah has spent large amounts of money to promote the scenic wonders of our State and to encourage tourists to visit what we call the different world of Utah.

I was, therefore, delighted to read in the May 7 issue of the Christian Science Monitor an article written by Tom H. Inkster, which points out some of the interesting places he visited recently while traveling through Utah.

Mr. Inkster does such an excellent job of describing these tourist attractions in just a few words that I ask unanimous consent to have his article printed in the RECORD.

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

[From the Christian Science Monitor, May 7, 1968]

BACK ROADS REWARDING IN U.S. WEST (By Tom H. Inkster)

When you drive through upper Utah and Colorado you will be rewarded beyond price for taking time to see some of the scenic and interesting sights a little off the main highway.

The world's largest open-cut copper mine

at Bingham Canyon, is 27 miles southeast of Salt Lake City. Terraced like an amphitheater, this pit is half a mile deep and two miles wide. Ore is hauled to the bottom and then through a long tunnel to the smelter. From the observation platform, the numerous ore trains look like toys.

Timpanogos Cave National Monument is reached by a 1½ mile nature trail up the mountain slope. At the top there is a magnificent view through American Fork Canyon to Utah Valley. Entering the cave, the path is downward through a maze of exquisite and weird formations.

Arches National Monument near Moab contains 88 types of natural arches. Spectacular towers, shapes resembling figures of men and animals, balanced rocks and other striking formations result from the combined action of running water, wind, rain, frost, and sun.

A paved road leads to the numerous areas where exciting views of Three Gossips, Tower of Babel, the Organ, Windows, Double Arch, Parade of Elephants, and numerous other creations may be enjoyed from the roomy parking areas.

From Moab a good road leads to Dead Horse Point for a spectacular view of the Colorado River winding through fantastic rock formations 2,000 feet below. At sunrise and sunset the coloring gives it added magic.

Canyonland National Park and numerous other places in the Moab area offer unusual rock formations, but a jeep, camping equipment, and supplies are necessary to get to them.

An interesting drive of 18 miles on a fine highway follows a bank of the Colorado River to a potash mine. There is one immense rock that resembles a teapot and free viewing glasses at the roadside permit observation of centuries-old Indian hieroglyphics.

Dinosaur National Monument in both Utah and Colorado is reached by a six-mile highway from Jensen. The 325-square-mile area, which contains the most remarkable fossil remains ever found, is an awesome wilderness with deep canyons.

At the Dinosaur Quarry Visitor Center scientists are constantly chipping, chiseling, and brushing to show actual skeletons of extinct creatures.

Colorful mountainous Colorado has no end of scenic, historical, and entertaining attractions. The Denver area is unforgettable.

WHITE HOUSE CONFERENCE ON AGING

Mr. YARBOROUGH. Mr. President, Senate Joint Resolution 117, stating the sense of the Congress that the President call a White House Conference on Aging in January 1970, is an important measure. I am glad that this body so readily passed this resolution and I hope that it will soon be ready for the President's signature.

We are often told that our Nation is getting younger; that half of our citizens are under 25. Even with this emphasis on youth we cannot ignore either the problems or the potential of our senior citizens. They are a minority of our citizens, but it is a minority to which we all hope to belong.

And at a time when congressional as well as national attention is directed toward segments of our society who actively call attention to themselves through increasingly vocal means, we cannot turn our backs on the segment of our society that is in many ways the most helpless and the most hopeless, but

which characteristically refuses to call attention to its plight.

The concept of the role of the elderly in our society has been one of declining years in which well-deserved relaxation is enjoyed. This stereotype ignores many facts: it suggests that we do not feel the aging can be of continuing use or service. It ignores the fact that a ruptured family structure may leave the elderly to lonely years with no continuing contact with society, and over half of those over 65 now live alone or with nonrelatives. It ignores the waste caused when those forced to retire still want to be productive. And it ignores the hardship faced by the poor who are forced to supplement their inadequate incomes in whatever ways they can find rather than relaxing. A White House Conference as proposed by this resolution could share with the Nation a new concept of the status and role of the older American.

Our new concept must admit some unpleasant facts. We have 19 million citizens over 65 and each day an additional 3,835 persons reach that age. At least one-third of this group is poor. This 9 percent of the population comprises 16 percent of those in poverty in our country. And the aging poor affect more than just their own numbers. Nearly one-half of them live with relatives. If they are not helped, their burden is added to the burdens of other poor persons. We must break the cycle of poverty not just by investing in the young, but by relieving the old.

The proposed White House Conference could explore several dimensions of the problem of the aging poor—including housing, health, consumer interests, and income maintenance.

HOUSING NEEDS

The full extent of housing needs of the elderly are not known—but we do know that it is a critical problem. What could be more degrading to the spirit of one's later years than the realization that an inadequate unsafe and unsanitary house would be your fate for the remainder of your life. Low-cost public housing for the elderly is needed. In the meantime we must expand programs such as rent supplements and model cities. Where the elderly are able to secure decent housing they must often pay 40 or 50 or even 60 percent of their monthly income for it. So securing decent housing means they will not have enough money for food, clothing, and medical care. Rent supplements make an immediate contribution by bringing decent housing—which should be the right of every American—within the budget of our older Americans.

HEALTH NEEDS

Health problems affect older citizens more than any other segment of our society. They are often in poor health. Four out of five persons over 65 suffer from chronic ailments. Proper medical care has not been within the limits of their income and endless years of medical inattention have resulted in deterioration of both body and spirit. Health maintenance services must be established to salvage the aged poor from crippling physical and mental deficiencies.

The threat of illness used to frighten

the elderly constantly because prolonged illness could wipe out their resources for the rest of their lives. This fear has now been somewhat lessened by medicare. We must add to this program a system of insurance that will cover the costs of preventive medicine. The practice of health maintenance is just as vital to productive elderly years as is treatment for a serious illness.

When we make available the payment for a full-scale health program for our elderly, we must make sure that needed services are available and that they will be available at a reasonable cost. The delivery of health services is often fragmented and sometimes nonexistent in the cases of the aged poor trapped in the urban centers. The Office of Economic Opportunity has demonstrated that neighborhood health centers are a realistic way to provide a comprehensive delivery of health services where they are needed. In addition, the studies leading to this White House Conference should examine other models which would bring care closer to the elderly, such as group practice of medicine and home health services.

CONSUMER ABUSES

The aging are peculiarly susceptible to problems of consumer abuses. With fixed incomes for the remainder of their lives they are attracted by schemes which promise additions to their incomes, or seem to permit purchasing of products which they would not otherwise think their incomes would allow. Any heavy obligation on their incomes as a result of fraud or malpractices can cripple them and make our other types of assistance ineffective. Legal remedies are virtually unexplored because the legal understanding of this group is as limited as any other segment of the poor. A White House Conference is an invaluable way to catalog these abuses and direct attention toward their solution.

When we find a group that is easy prey for unethical sales schemes, we must have the courage to contradict those who call for unbridled free enterprise and we must call for new remedies. The very young are protected from being trapped into contracts; why should not the very old? A White House study could yield concrete proposals for workable legislation in this area.

ADEQUATE INCOME

Adequate income during retired years continues to be the major problem of the elderly. Not all the elderly are on social security or any other type of retirement income, and even those on social security are not too secure. The average payment last year was less than \$84 a month, and over a million of those on social security are also on the welfare rolls. For these poor, the declining years of retirement can be years of hopelessness.

The most effective way to combat these multiple problems is to establish a solid program of income maintenance for the elderly. At no level do social security benefits come near to meeting the requirements of the elderly. Last year's average yearly benefit of \$1,008 is a sum shockingly incompatible with our most basic antipoverty goals. We raised the

social security benefits recently and we must raise them even higher.

But some State systems thwart our efforts to aid the elderly by reducing old-age assistance grants when there is a social security increase. In 1965 our amendments included permission to States to disregard increases in social security benefits so that they could avoid reductions of social security-linked retirement benefits. Few States have availed themselves of that privilege. Future amendments must prohibit such reductions unless the State's program already meets minimum needs.

In addition to public retirement income, we have responsibilities in regard to private pensions to assure that those programs will be secure for their participants. But it is unlikely that private pension plans will be an immediate solution to the income needs of our elderly. The imbalance in distribution of their coverage is such that 26 percent of employees earning \$3,000 to \$6,000 yearly have pension coverage while 52 percent of those earning more than \$10,000 yearly are covered. Those elderly who need retirement income most are least likely to receive it from private pensions.

Our social security system is the main instrument for income maintenance but in addition to it we must study guaranteed annual income proposals, and develop income supplements through other programs. Our social welfare programs desperately need more workers, the elderly need more services, and they need more income. We can attack these three problems at once in programs employing the elderly to provide services for the elderly. The proposed Senior Citizens Community Service Corps is one such program. In this way, today's inadequate income can be made to go farther while the older Americans are aided in improving the quality of their lives.

Mr. President, I stated earlier that the White House Conference could give us a new concept of the elderly. Our new concept must also reflect a new type of senior citizen, for the group of aging increasingly represents a vast reservoir of talent and skills. Compulsory early retirement has created a new type of senior citizen—healthy, skilled, and eager to continue giving. Since many are retired in regard only to chronological age, each year tens of thousands are added to the retired group who the year before held responsible and productive positions. The Age Discrimination in Employment Act of 1962, which I am proud to have introduced, will now assure that productive citizens will not be forced into unemployment in their forties or fifties because of arbitrary distinctions solely based on age. But many around the age of 65 will normally retire.

This group wants to remain in the mainstream or life and needs society to indicate that it has further use for its services. Usefulness is the difference between life having meaning and no meaning. The White House Conference on the Aging held in 1961 listed as one of the rights of the aging citizen—the right to be useful. And we need these citizens to be useful. Even the richest nation in the world cannot afford to

squander the talents, skills, and know-how of its older citizens. A conference could explore practical possibilities for participation in needed service activities.

Mr. President, I strongly support this joint resolution, for our aging require and deserve the attention and study that only a White House Conference can bring to bear. I have supported the joint resolution since it was introduced and had the honor of testifying in favor of it. I salute the leadership of the distinguished Senator from New Jersey [Mr. WILLIAMS]. He is the author of the joint resolution and continues to demonstrate that our elderly have no better friend.

THE M-16 RIFLE

Mr. MCGOVERN. Mr. President, I am pleased indeed to note that the House Armed Services Committee's Special Subcommittee on the M-16 rifle program intends to reopen its investigations of the Army's procurement of this weapon and to look into the questions that I raised in a Senate speech on May 3d. I am also gratified by the investigations that are currently being conducted by the Armed Services Preparedness Investigating Subcommittee.

The difference of some \$50 per unit between the costs of acquiring 280,000 of these weapons from General Motors and the same number from Harrington & Richardson certainly demands Congressional scrutiny. The rejection of a bid of some \$19 million less than that of General Motors and \$6 million less than that of Harrington Richardson is even more suspicious.

I also find it astounding that we are going to the great expense of developing new sources of supply, at first year costs of some \$316 per unit in the case of General Motors, when it would unquestionably be quicker and much cheaper to acquire the additional weapons from Colt, the previous sole source supplier that has been receiving only \$104 per weapon on recent contracts.

Mr. President, these revelations might be comprehensible if we were dealing with only one instance of mismanagement. The Army's rifle procurement program, however, has been riddled with questionable dealings and mistaken policies for more than a decade. Moreover, I have received additional information in just the past few days that raises new questions beyond those outlined in my speech last week.

It is my intention to address the Senate in some detail on this matter on Monday.

EFFICIENT USE BY STATES OF FEDERAL FUNDS FOR EDUCATION

Mr. MOSS. Mr. President, Hon. Calvin L. Rampton, Governor of Utah, serves as chairman of the Education Committee of the National Governors' Conference and as chairman of the Education Commission of the States.

In recent years, the States have been studying methods of making the most efficient use of the increased Federal support for education which Congress has voted. To present the current views of

the Governors on Federal funding of educational programs, Governor Rampton testified last April 23 before the Health, Education, and Welfare-Labor subcommittee of the House Committee on Appropriations. Because the question of effective Federal funding of authorized programs is one which concerns all Members of the Senate, I ask unanimous consent that Governor Rampton's remarks be printed in the RECORD.

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

STATEMENT BY THE HONORABLE CALVIN L. RAMPTON, GOVERNOR OF UTAH, CHAIRMAN, EDUCATION COMMITTEE, NATIONAL GOVERNORS' CONFERENCE CHAIRMAN, EDUCATION COMMISSION OF THE STATES, APRIL 23, 1968, BEFORE THE HEALTH, EDUCATION, AND WELFARE-LABOR SUBCOMMITTEE, HOUSE OF REPRESENTATIVES APPROPRIATIONS COMMITTEE

Mr. Chairman. I deeply appreciate the opportunity to appear before this committee in my capacities as Governor of the State of Utah, Chairman of the National Governors' Conference Education Committee, and Chairman of the Education Commission of the States.

One of the most serious difficulties experienced by school officials at all levels in making efficient use of federal funds has been the timing of the federal appropriation process, which has often caused grants of funds to be made after the start of the school year for which they are allocated and long after planning for the school year must be completed.

Because the federal funding cycle is based on a fiscal year which is not coordinated with the usual academic year, and because the Congress has often delayed in appropriating aid funds, federally supported education programs have experienced significant financial problems detrimental to program quality and effectiveness. School budgets have to be prepared 9 to 10 months ahead of federal funds, and frequently local commitments to spend occur six months ahead of funding.

Late funding is complicated by the fact that aid distribution formulas have been changed frequently and expiring programs often have not been extended until just before—or even after—they expired. Serious problems have resulted:

1. Inadequate utilization of increased federal support and interference with both federal-state coordination and state and local planning have developed.

2. Short-term authorizations and abrupt changes create uncertainties for education agencies; schools don't know whether to expect federal support at the same level—whether to accelerate, slow down, or stop.

3. Program quality and achievement of program objectives are adversely affected.

Late funding has accounted for by far the greatest number of complaints about federal aid programs for education. The President and his Administration, on the one hand, and the Congress, on the other, are to be commended for recognizing—and acting on—this very serious problem.

You are familiar with the report of the Task Force headed by Assistant Secretary-Comptroller James F. Kelly of the Department of Health, Education, and Welfare, entitled *Improving DHEW Support of Educational Programs*, which stated the problems involved in late funding clearly and recommended that appropriations for federal aid for elementary and secondary education be advanced by one year. I cannot improve on the Task Force's statement of the problem. I can only concur in its recommendation and express again my appreciation of

the fact that the President included funds for Title I of the Elementary and Secondary Education Act for fiscal year 1970 in his Budget for fiscal 1969.

You are also familiar with Report No. 1 of the House Special Subcommittee on Education, entitled *Study of the United States Office of Education*. This report, as you know, liberally cited testimony before the subcommittee to outline in great detail the dimensions of the late funding problem. You will recall, too, that the report of the Senate Labor and Public Welfare Committee on the Elementary and Secondary Education amendments of 1967 recommended provision for advance funding under the Act.

The response of the Congress to these reports, of course, was to authorize funds in advance for fiscal year 1970 under all Titles of the Elementary and Secondary Act.

I would like to call your attention to actions by two state-level organizations concerning advance funding. First, the Steering Committee of the Education Commission of the States, meeting in Boston last September, took note of the late funding problem and endorsed the principle of advance funding for all federal aid programs in education. The Steering Committee reiterated its endorsement of the principle while considering the subject of block grants for education at its December meeting in Hilton Head, South Carolina.

Second, the National Governors' Conference Education Committee, of which I am privileged to serve as chairman, at the Mid-Year Meeting on Federal-State Relations in Washington, D.C., February 28-March 1, made the following recommendation to the Conference:

That the National Governors' Conference commend the Congress and the Administration for providing for advance funding of educational aid programs under the Elementary and Secondary Education Amendments of 1967 and for requesting advance funding for fiscal year 1970 under Title I of the Elementary and Secondary Education Act and the proposed vocational and technical education legislation and higher education legislation of 1968.

However, in the firm belief that late funding has been one of the most severe problems for the states and local education authorities under all federal aid programs for education, the Committee recommends that the National Governors' Conference call upon the administration and the Congress to extend the principle of advance funding to all such programs, beginning with fiscal year 1970.

The report containing this recommendation was accepted by the full Conference.

I would like to add my endorsement to the many you have already received for the President's request for advance funding of Title I of the Elementary and Secondary Education Act in the amount of \$1.2 billion. However, I would like to stress that the amount requested and its limitation to Title I must be considered the bare minimum, in view of the educational and administrative problems involved.

Problems resulting from late and uncertain funding have occurred under all federal education programs and, more specifically, under programs authorized by all Titles of the Elementary and Secondary Education Act. It is true that Title I programs are of the most direct and immediate benefit to disadvantaged children. But we must remember that programs were authorized to assist and improve education, in most cases for the primary benefit of pupils and their schools in less fortunate areas and in other cases for all schools and pupils, under all Titles of the Act because the Congress and the Administration recognized that such programs were necessary. Late and uncertain funding erodes the effectiveness of all those programs, not just those under Title I.

The problem of inadequate funding of

federal programs of aid for education is more serious and vexing than late funding. Let me cite again the report of the Education Committee of the National Governors' Conference:

That we find the proposed funding of Title I of the Elementary and Secondary Education Act, which provides for the education of disadvantaged children for the two fiscal years ahead at the same level as for the current fiscal year, actually constitutes a reduction, given the increasing number of children needing this assistance, rising costs, and the special costs involved in meeting the educational needs of these children. Further, we recognize the budget strictures operating during the coming year. But we question the advisability of budget cuts which have the effect of denying educational opportunity, and we therefore recommend substantially increased funding of Title I of ESEA and restoration of funds for library resources and textbooks under Title II of ESEA and funds for equipment and remodeling under Title III of the National Defense Education Act to at least the levels of fiscal 1968.

The Congress, after exhaustive hearings and consideration by Education Subcommittees in both Houses and by the Conference Committee, authorized a grand total of \$4.45 billion for fiscal 1969 under all Titles of the Elementary and Secondary Education Act and \$4.78 billion for fiscal 1970.

In contrast, the budget request for those programs for fiscal 1969 is half the authorization, and the advance funding figure before you is limited to one program.

My point is that the American people—and particularly the millions of pupils in our schools—are the losers when their government establishes educational programs and, further, authorizes their funding in advance in order to make them most effective, only to reverse itself later, drastically reduce the scope of those programs, and limit the advance funding to only one of their number.

I am fully aware of the severe financial strictures under which the federal government must operate during the crucial year ahead. But I feel compelled to compare the government with a typical American family in the handling of its finances. The modern American family, I believe, recognizes the overriding value of education; recognizes further that youth, at whatever age, are ready for a certain level of education at only one time and that education must be available to them then or it will have lost forever its ability to benefit them. The modern American Family would only as its last resort scrimp on funds for education.

The federal government should look on the financial problem in the same way. Something as priceless as educational opportunity and educational quality should not be denied to our youth in the name of economizing except in a case of dire fiscal peril.

I would like to propose, therefore, two suggestions for your serious consideration. The first is to keep appropriations under the Elementary and Secondary Education Act for fiscal 1969 at least at their fiscal 1968 levels, adding a factor for growth in the number of young people we have to educate and for cost increases. The second is that, again applying the growth factor, you extend appropriations for all Titles of the Act where it is authorized to fiscal 1970.

You have within your competence the authority to make a forceful recommendation on one of the most vital issues of our time: the question whether the federal government will keep its commitment to the young people of our nation to assist with and improve their education. In full sympathy with the multitude of severe pressures upon you, I nevertheless urge you to make your decision a positive one. The generation of young Americans who are now in school will be forever in your debt if you do.

Thank you.

VIETNAM VIEWPOINT

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD an article which was prepared in October 1967, entitled "Vietnam Viewpoint," for Mountaineer Spirit, a West Virginia University campus publication.

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

VIETNAM VIEWPOINT

(By Senator Robert C. Byrd)

Many Americans feel that we should never have gotten embroiled so deeply in the war in South Vietnam. They feel that it was a civil war to begin with. There are other observers who take the view that our country should not be concerned to the point of sending fighting men into a situation which is of but little or no concern insofar as the security of our own Nation is involved. Still others feel that the South Vietnamese should do their own fighting and that, if they are unable to provide a lasting and stable government and are unwilling to make a determined stand and fight for their own freedom, we should not do it for them.

I cannot say that any or all of these arguments are entirely invalid. I do however, believe that, while it is too late to engage in polemics regarding whether or not we should have gotten involved so deeply in the first place in the war in Vietnam, we have to face up to that fact that we are very much involved, that our fighting men are there in great numbers, and that our national prestige, integrity, honor, and—to some degree—our own future security are on the line. Thus, it becomes a matter, with me, of supporting our American fighting men, of supporting the Commander-in-Chief (regardless of what his political party may be), and of standing firm in the hope that the Communists can be convinced that they cannot win a military victory and that they will consequently agree to some form of peaceful conclusion which will enable us to maintain our honor as a Nation, enable the South Vietnamese to support a government of their own choice as a free people, and insure that Communist aggression will not be rewarded.

I wish it were possible to close our eyes to the situation in Vietnam and bring our boys home, but this would be wishful thinking and, indeed, unrealistic thinking on our part. As to why this would be unrealistic and wishful thinking, I shall attempt to explain in the following way:

I. OUR NATIONAL COMMITMENTS TOWARDS VIETNAM

In 1954 President Eisenhower wrote to President Diem and assured him of American assistance in "developing and maintaining a strong, viable state, capable of resisting attempted subversion or aggression through military means."

In 1955 the United States Senate approved the resolution of ratification on the Southeast Asia Treaty by a vote of 82 to 1. That treaty provided, among other things, for the protection of any of the three non-Communist states coming out of former French Indo-China which might ask for protection. Since 1955, the Congress has, by its appropriations of money, lived up to the policies of the Southeast Asia Treaty by providing military and economic assistance.

In 1960 President Eisenhower again wrote to President Diem assuring him that, "For so long as our strength can be useful, the United States will assist Vietnam in the difficult yet hopeful struggle ahead."

In 1961 President Kennedy wrote to President Diem stating that our government was "prepared to help the Republic of Viet-

nam to protect its people and to protect its independence."

President Johnson has repeatedly reiterated these policies of assistance to South Vietnam. Moreover, in August of 1964, the Congress, by a combined vote of 504 to 2, expressed its support of the Chief Executive, "including the use of armed force" in whatever steps he might deem necessary to prevent aggression in Southeast Asia.

In fine, then, our Nation has made clear and binding commitments to support the South Vietnamese from aggression and subversion, and it cannot be controverted that such aggression and subversion has occurred and are continuing to the present time. A nation, like an individual, must live up to its commitments. Else, its word will not be accepted and honored, its future promises will be worthless, and its respect will be eroded in the eyes of both friend and foe.

II. THE UNITED STATES IS A WORLD POWER AND HAS IMPORTANT INTERESTS IN THE PACIFIC AND FAR EAST

South Vietnam is a link in the chain of Southeast Asia. Southeast Asia is strategically located, it being the gateway to the Pacific and Indian Oceans. It is flanked on the one side by the subcontinent of India and on the other by the Philippines, New Zealand, New Guinea, and Australia. It lies across the sea and air lanes separating western North America from Asia and Africa. Just to the South is Indonesia. Moreover, Southeast Asia is the rice bowl of the world; it is populated by 200 million people and is an area of vast and rich natural resources, including oil, tin, and rubber.

The United States is a world power. It has vital interests in the Pacific, and any takeover of Southeast Asia by the Communists would have a tremendously adverse impact upon our national interests. The future security of the United States would be endangered to some considerable degree.

If South Vietnam should fall, many astute observers believe that the dikes would have been broken and that Southeast Asia would go in time. As a matter of fact, the Communists have already indicated that Thailand is next on their list of subversion and aggression, and they are at the moment active in the northeast parts of that country.

In summation, then, I think it can be stated that the security of the United States is definitely involved in the outcome of the war in South Vietnam. There are, as I have already indicated, respectable viewpoints to the contrary, but I personally cannot agree with them.

III. THE WAR IN SOUTH VIETNAM IS A TEST OF THE ENDURANCE, STAMINA, WILL AND "STAYING POWER" OF THE UNITED STATES

Nikita Khrushchev, in 1961, referred to the war in South Vietnam as a "sacred war."

General Vo Nguyen Giap, top commander of the North Vietnamese military forces, has referred to South Vietnam as the "model of the national liberation movement of our time," and he has also stated that, if the United States can be defeated there, "it can be defeated everywhere in the world." The Peiping People's Daily, foremost Communist Chinese newspaper, has referred to the conflict as the "focal point of the international class struggle" and "the acid test for all political forces in the world."

Essentially, then, the war in Vietnam is a test of American endurance, determination, and will. To use the Communists' own words, it is the "acid test." If America should be defeated, or should withdraw, or should in any way renege on its commitments in South Vietnam, we could very well expect that war of so-called national liberation would crop up in other areas of Asia, as well as in Africa and Latin America. The Communists would have been given the green light; the United States would have been discredited before the world; our friends would no longer believe

us. The Communists would no longer fear us. We would not have bought peace. Instead, we would only have bought a little time in which to dig in on a new line somewhere else.

The war of "national liberation" is in reality an act of semi-concealed aggression. The technique used is that of infiltration of war materiel, assassins, saboteurs, and trained military personnel across national boundaries for the purpose of capitalizing upon dissident elements in the host country and bringing into being manufactured or imported revolution. The attempt is, of course, made, as it was in Vietnam, to convince the world that what is actually happening is simply civil war in which oppressed peoples are trying to overthrow their oppressor government.

There is ample evidence that the stage is being set for a repetition of such wars of national liberation elsewhere in the world as soon as the "model" war of national liberation can be successfully concluded by the Communists in South Vietnam.

Thus, while there is no question but that the United States has superior "firepower," the basic, fundamental question resolves itself into the simple one of whether or not we have "staying" power. Unless we have the latter, the former will be insufficient to enable the United States to prevail in the present struggle.

IV. MY DUTY AS I SEE IT

With the foregoing premises established, I feel that it is my duty as an American and as a Senator to uphold the hand of the Commander-in-Chief in his effort to fulfill the commitments of three Presidents toward South Vietnam. I do not support the Commander-in-Chief just because he happens to be of my own political faith. If he were a Republican President, I would feel it my duty to support him as my Commander-in-Chief when the Nation's security interests are involved. I have differed with my President on several occasions with respect to various and sundry domestic issues; and I shall probably continue to do so again, but I do believe that I can best support my country's welfare by supporting its leader where matters of national defense are concerned. He is the possessor of more information than am I, and I feel that I must place my trust in the Commander-in-Chief—the man who must make the fateful decisions in time of war.

There are those who take the view—and with apparently ample justification—that, if America stands its ground and the Communists are defeated in Vietnam, we will have prevented future similar wars, if not a general world war, which might be fought in areas more disadvantageous to our own fighting men than is Vietnam. I abhor the war, and I shrink at the thought of the vast cost—in life and in treasure—to our country and our people. Yet, if our efforts will indeed prevent our having to fight more costly wars elsewhere and eventually even closer to home, then it would seem that our Nation will have taken the right course.

V. THE WAR WILL BE WON OR LOST AT HOME

In the face of the so-called "peace" marches, demonstrations, and protests that have been occurring throughout the country in many of our major cities, I think it well to reflect long and soberly about their impact upon our national image, our national position, and our national destiny.

We should be wary of our statements and actions which may be interpreted by the Communists in Southeast Asia, in China, and the Soviet Union as evidence of timidity and weakness.

Nothing I say is intended to reflect in any way on the integrity, sincerity, and patriotism of responsible critics of the conduct of the war in Vietnam. The rights of constructive and responsible dissent, of legitimate free

speech and free assembly, are unquestioned. But draft card burners, and attempts to impede and harass the operations of the Defense Department and other government agencies, and efforts to intimidate public officials are distortions of First Amendment freedoms.

Such abuses of constitutional freedoms may indeed encourage the Communists to believe that the United States does not have the stomach to see the Vietnamese war through to the end. France did not lose the war with the fall of Dien Bien Phu. That war was lost in Paris. It was lost at home. There was not only disunity and lack of co-operation among the French generals in Vietnam; there was also disunity at home. The Communists feel that the appeasers in America will so undermine the war effort that the history of French failure will be repeated in an American failure.

We should take a lesson out of the book of history, and particularly should we view with the utmost seriousness that history as it was so painfully written in blood a little over a decade ago in the same part of the world where our own fighting men are today shedding their precious blood, for it is indelibly written upon those pages that France showed the most complete indifference toward her army. Even in the face of the incompetence of the French high command, but for the monstrous indifference of a nation, the French effort in Indo-China might have ended a victory, rather than defeat. At the bottom of it all there was faith, the will of a people, or its decline.

MIAMI AREA RECOGNIZED IN FOREFRONT OF AVIATION ACTIVITY IN THE UNITED STATES BY HON. ROBERT MURPHY, VICE CHAIRMAN OF CIVIL AERONAUTICS BOARD

Mr. SMATHERS. Mr. President, the Miami area's position in the forefront of aviation activity in the United States was recognized in a recent address by Hon. Robert T. Murphy, vice chairman of the Civil Aeronautics Board, before the National Airlines Management Club in Miami on May 2, 1968. Vice Chairman Murphy noted Miami International Airport's ranking as one of the busiest airline airports in the country and nearby Opa Locka Airport as one of the busiest general aviation airports in the country.

Citing a recent Federal Aviation Administration study of the increased passenger handling terminal area facilities required to accommodate the 19 million passengers expected in the area by 1980, Mr. Murphy traced the role of the Federal Government in developing the national airports system and commented on some of the difficult problems of funding present airport requirements if strangulation of these vital arteries of commerce is to be avoided in the future. With the expected increase in passenger and cargo traffic in new larger and faster aircraft, it is clear that major improvements in the ground facilities at major hub airports is required. In this connection, Mr. Murphy complimented the Dade County Port Commissioners on their vision and foresight in planning airport facilities to meet the needs of the future.

Vice Chairman Murphy's remarks in this regard are certainly topical. I ask unanimous consent that they be printed in the RECORD.

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

ADDRESS BY THE HONORABLE ROBERT T. MURPHY, VICE CHAIRMAN, CIVIL AERONAUTICS BOARD, BEFORE THE NATIONAL AIRLINES MANAGEMENT CLUB, MIAMI, FLA., MAY 2, 1968

It is a privilege for me to join the National Airlines Management Club dinner meeting this evening. I might add that it is a distinct pleasure to visit this State which, according to recent ads which we have been reading, has been transformed into an airline. Seriously, there is a great deal of truth to that Madison Avenue author's allegation since there is no other state in the Union which owes so much of its burgeoning growth and development to the availability of adequate air transportation as this great State of Florida—and the substantial contribution of National Airlines to that growth is a matter of historic fact in which you can take justifiable pride.

I always enjoy the opportunity of meeting and talking with men and women associated with the aviation industry and I generally find that I learn much more from these contacts than I can possibly impart. This group, I understand, encompasses employees representing all levels of your airline's functions from ticketing and reservations, ground handling, dispatch, etc., to planning and programming. No matter what our association with this industry may be, I am sure that we all share a sense of tremendous satisfaction in the great advances which aviation has made to date and the significant contributions it has made to the economy of this country, not only in terms of trade and commerce but also to the great American principle of the "pursuit of happiness." While the sociologists emphasize the fact that we are living in the cybernetic age with computers and black boxes taking over more and more of our work, we must never lose the sense of our personal value and the importance of our individual contribution to the dynamic industry with which we are fortunate to be associated. This is a public service business and much is demanded and much is expected of us. In addition to all the specialized skills which you are required to bring to your everyday work, you are expected to have a genuine concern for the safety and welfare of your customers and to exercise an unflinching sense of courtesy and interest in all your personal contacts with them. Millions of dollars worth of alluring advertising can go right down the drain if reservation or counter personnel or flight attendants, for example, do not constantly practice these virtues at all times. The fact of the matter is, however, that this is usually the case with the result that air travel has been and continues to be a pleasurable experience for almost all the users of air transportation. In my judgment, no other class of common carriers extends such uncommon courtesy to the common passenger as do our airlines.

Naturally, I am expected to treat of serious and grave problems on these excursions from Washington—as if you did not have enough to worry about already. But I thought it might be well to mention briefly this evening some of those which confront us as we look down the road to the great changes and tremendous traffic growth which will be upon us in the 70's. I need not emphasize that here in Miami we are in the midst of one of the fastest growing traffic centers in the world. Miami International Airport is ranked as one of the largest hubs in the country and Opa Locka is one of the busiest general aviation airports in the nation.

FAA has made a recent study of future airport requirements in the Miami area which is expected to account for nearly 19

million passengers in 1980. To meet this forecasted growth, FAA estimates that total air carrier terminal space in the Miami area must increase five times. Apron space for air carrier passenger aircraft must increase fourfold. Four times the present cargo building space and six times existing cargo apron space must be provided. These figures give some sense of the dimension of the problem confronting air transportation, not only here, but also at other major hub airports throughout the country. If the expeditious movement of people and goods at such an accelerated rate is to be accommodated we must begin now to do the necessary planning and to take the needed action to see that it is accomplished.

Today we have the safest and most efficient network of airports in the world but if traffic continues to grow at anticipated levels and the new and larger aircraft now on order or on the drawing boards are introduced into service within the next few years, a virtual strangulation of these vital air arteries of transportation could occur, particularly at major hub airports, unless action is substituted for talk before too long. The Federal Government has played an important role in the development of the existing national airport system under the Federal Airport Act. Basically, this has been a grants-in-aid program principally on a 50-50 matching fund basis limited in recent years to airport items directly related to safety such as runway and taxiway construction, land acquisition, runway lighting, etc., but excluding terminal buildings, parking lots, etc. Under this program over 2200 public airports have been improved or developed with the aid and assistance of Federal contributions which have totaled to date \$1.2 billion.

Although this program was launched in 1946 with the enthusiastic endorsement of Congress and the responsible Federal agencies, and contemplated and, indeed, authorized the appropriation of \$500 million over a period of seven years, the history of actual appropriations was very disappointing. Beginning in 1953 and for some few years thereafter efforts were made to reduce the amount of Federal support for airports to very inadequate levels—indeed, in one year there were actually no funds appropriated. This trend culminated in 1959-1960 with an official position by the administration that the time had come for the Federal Government to withdraw from the airport aid program entirely. This shortsighted and ill-advised policy was quickly corrected in 1961 principally through the zeal and efforts of Senator Mike Monroney, of Oklahoma, the Chairman of the Senate Aviation Subcommittee, who has probably done more for the development of airports in this country than any other single man in Government. Airport aid has continued on the grants-in-aid basis up to the present time. However, the sums presently authorized do not bear a real relationship to our future needs.

An indication of those requirements is found in the Fiscal Year 1968 program of the Federal Aviation Administration which is budgeted to provide \$70.2 million of matching funds for the improvement of 386 airports, but in reaching that budget figure the FAA had to process 778 requests for aid totaling \$339.3 million. It is important to bear in mind that none of those requests related to the essential and desperately needed terminal area facilities.

Increasing demands for additional airport development clearly demonstrate the desirability or need for a change in the present airport aid program. Some experts estimate a need for an additional \$3 billion investment by the end of 1973 and an additional \$3 billion by the end of 1975—a sum equal to the entire expenditure on airport development during this century. New York City

alone estimates it will require three-quarters of a billion dollars in the next 10 years; Chicago \$600 million. Los Angeles is planning a \$500 million airport expansion program and Dallas and Fort Worth are now demonstrating an impressive ability to work together on a new \$250 million airport—an airport that will embrace more than 18,000 acres.

We can clearly foresee, therefore, that vast improvements in the system will be required to prevent the frustrations of future airport congestion. No present airport is adequately equipped to accept the process the deluge of passengers that will debark from the Boeing 747's, the Lockheed air buses, stretched DC-8's or the commercial version of the C5-A's in the middle 70's. The problem is not just the technical one of building the needed facilities. The greater problem is funding those required improvements. While airways improvements are necessary, we can cope with the demands of the next four years in the air; however, the most challenging problem facing the Government and the industry today is that of ground facilities in all its multifaceted ramifications.

The Civil Aeronautics Board has no direct responsibility for the adequacy of airports. However, our Board has a vital interest in the problem because of its essential relationship to the economics and safety of the air transportation industry which the Board is charged by law to promote and regulate. As a consequence, we are giving careful attention to airport matters in our proceedings. For example, we are considering improved direct service for a number of cities, such as Milwaukee and Omaha, which would bypass the overcrowded connecting hubs through which such traffic has moved in the past. Improved service to the public and some lessening of traffic congestion may result from such cases. We are also looking into the need for new authorizations at such metropolitan area reliever airports as Islip and White Plains in the New York area. Similar issues are under study in a number of pending Board cases. Thus, we are very conscious of the present airport problem and are attempting to take such affirmative action as is within our jurisdiction.

As you probably know, the Department of Transportation and the Federal Aviation Administration are the instruments of the Federal Government to which are entrusted the whole question of airports as well as airways. The Federal Aviation Administration has done an outstanding job in this area of Federal responsibility and has the ability to bring to bear on this subject a tremendous background of experienced know-how. I believe there is a general recognition of the fact that the problem is not solely a local one but rather a matter of national responsibility to provide adequate means to serve the interstate and foreign commerce of the United States. State and local authorities can and should continue to perform the major part of the job of constructing and operating airports and finding the ways and means to do much of the financing. However, there must continue to be a central Federal responsibility for planning, encouraging, assisting and insuring the development of an adequate airport system to meet national requirements. It is a mistake to think of airports as simply local assets. They do not just benefit the airlines, the private and business pilots and the air travelers. Rather they vitally affect the prosperity, well-being and security of our whole national economy. Additionally, they play an indispensable role in national defense and are continually available to the military in times of national emergency. They are indivisible from the whole concept of air safety which takes on added importance as we move to larger aircraft carrying passenger loads in the range of 300-500 persons an aircraft.

Recognizing the importance and critical need for prompt action, Senator Monroney in August of last year initiated hearings before the Senate Aviation Subcommittee for the purpose of exploring the needs, problems and means necessary to insure the continued maintenance of an adequate national airport system. He issued an interim report in January of this year which reviewed the problem in depth, isolated the factors involved and analyzed the extremely complex problem to which I have previously alluded—namely that of funding the vast expenditures which will be required to modernize our airport facilities. The Committee has requested the executive branch to submit a plan for continued assistance to local communities and for funding the Federal share from user charges of a variable nature. A great deal of hard work has been devoted to this project on an accelerated basis and proposed legislation will be submitted to the Congress very shortly. Thereafter it is expected that the Congress will resume its examination of this subject with a view toward providing a sound program for continued Federal assistance on a meaningful basis.

From all that I have seen through personal visitations and all that I have studied in recent months there is every indication that the air transport industry as such is positioning itself to cope with the traffic problems of the 1970's. I doubt that any other single industry in America has devoted more time and attention to sound advance planning on a systems basis as has the aviation industry. Today it stands healthy and strong, ready to meet these new challenges. In 1967 it attained new all-time peaks of achievement in practically every aspect of its operations.

For example, in the calendar year 1967 the route carriers flew over 132 billion passengers for a total of almost 100 billion passenger-miles. The industry carried almost four billion ton-miles of freight and express and well over one billion ton-miles of mail. Moreover, total investment topped the \$6 billion mark for the first time and over-all operating revenues reached a record level of practically \$7 billion.

Although over-all transportation is dominated by automobile travel in the passenger field and by truck, rail, and water in the cargo field, it is significant that air transport continued to grow at a markedly higher rate than any other transport mode in both the passenger and cargo sectors. The vigorous growth in passenger traffic is continuing this year. Latest figures indicate that passenger traffic carried by the domestic scheduled airlines during the first quarter of 1968 increased 16.3 percent over the first quarter of 1967.

In terms of equipment to accommodate the substantial flows of new business the U.S. certificated air transport industry, comprising both the scheduled and supplemental carriers, is rapidly increasing its capacity and its capital investment. During 1967 the industry acquired 433 turbine-powered aircraft and retired 185 old aircraft, most of which were smaller, slower piston-powered units. As a result of this net addition of 248 aircraft, the number of aircraft in the airlines' fleet at the end of 1967 totaled 2,421.

As of December 31, 1967, the carriers had a total of 687 aircraft of various types on firm order, including 129 aircraft which can be used in all-cargo service. Continued future emphasis on developing short-haul air transportation is shown by the fact that 422 of the aircraft on order, or 61 percent of the total, are two- and three-engine turboprops and two-engine turboprops. For their long-haul passenger and cargo operations, the U.S. carriers have ordered 265

four-engine jets, including 89 B-747 jumbo jets. The latter are scheduled for first delivery in late 1969. In addition, as of December 31, 1967, the U.S. carriers have reserved delivery positions for 64 U.S. SST's and 38 Concorde supersonic aircraft.

In recent weeks, of course, we have had the beginning of substantial orders by some of our larger carriers for Douglas and Lockheed versions of the air bus. Certainly, there is no lag or gap between planning and action in this area. Insofar, then, as line-haul operations are concerned we are ready. Our greatest problem, as I have stated, is concentrated in the area of ground facilities, particularly at those 22 or more major hub airports which account for two-thirds of all passenger traffic in this country.

But the whole system cannot function efficiently or safely without the continued superior service of the 280,000 airline employees who are daily called upon to maintain the high standards which have made our air transportation industry the envy of all the world. New employees are being added at a rapid pace and last year some 35,000 men and women were added to the industry payroll. Employment today is double the figure of 10 years ago and this continued growth can be expected in the year ahead.

On the frequent occasions when I have been privileged to visit with airline people, to walk through the maintenance and overhaul shops, to poke through the reservations systems, to chat with management people behind their desks or around the board room table, I have never failed to be deeply impressed by the extra something which all seem to bring to bear on their individual tasks. Your personal contributions to the success and standing of this industry cannot be over-emphasized. I am confident that there is no other industry with higher standards of safety, efficiency and courtesy than those which presently exist in aviation. Yet during the next few years as we all suffer our way through the problems of growth and changing technology we must exert even greater efforts to maintain the excellence of the product for sale to the traveler and to the shipper. As air transportation becomes more and more of a routine part of the business and pleasure regime of the total population it is obvious that an improved service will redound to the financial betterment of the carriers.

In conclusion I would like to repeat what I have said so many times before—namely, that this country today has the finest air transportation system in the world. We are doing our best to improve upon it and at the same time maintain the economic health and vigor of all its components. The problems of the industry are really problems arising from our past prosperity, success and growth.

It is evident that we must plan ahead and be ready for the technological developments of the next few years. Our air carrier industry as well as all state and Federal agencies concerned with air transportation have historically demonstrated great ingenuity and ability in coping with the problems of this truly dynamic transportation medium. I have an abiding optimism that continued cooperative efforts will be forthcoming in the years ahead.

I have had the benefit of a briefing by the Dade County Port Authority and from all that I have seen and learned they are deserving of the highest compliment for their vision and foresight in executing sound plans to meet the needs of the tremendous traffic growth that will occur here. There are no local authorities in any other area of this country who are further ahead with such advance planning. Likewise, the impressive plans of National Airlines for facilities expansion here at Miami International Air-

port are indicative of the highest type of industry response to the public needs.

Once again I want to sincerely thank you for inviting me to participate with you in this dinner meeting. It has been a great pleasure.

SENATOR RANDOLPH CITES EFFORTS OF THE AMERICAN LEGION IN URGING ADOPTION OF RESOLUTION AUTHORIZING "NATIONAL EMPLOY THE OLDER WORKER WEEK"—PRAISES NATION'S EMPLOYERS WHO HAVE BEEN HIRING OLDER AND HANDICAPPED CITIZENS

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on Employment and Retirement Incomes of the Senate Special Committee on Aging, I recently introduced, with the cosponsorship of 12 other Senators, Senate Joint Resolution 158. This resolution would authorize the designation of the first full week in May of each year as "National Employ the Older Worker Week."

As I stated when introducing the resolution, the American Legion has set aside this same week to emphasize the merits

of employing older workers. Additionally, the Legion has adopted a resolution calling upon Congress to pass a measure similar to my proposal. They share the belief that the full strength and prestige of the Nation may be mustered in support of this annual observance.

While recognizing the importance of action by Congress in support of an annual observance, the American Legion has not waited for Congress to act but has proceeded on its own to observe a "National Employ the Older Worker Week." An example of this organization's activities to encourage and recognize the employment of older workers is its awarding of citations to employers throughout the Nation who have been outstanding in the hiring of older and handicapped workers. In the March 1968 issue of the American Legion magazine, there is an announcement that 61 employers have received American Legion citations for good employment practices during 1967. I ask unanimous consent that this article be printed in the RECORD.

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

LEGION HONORED 61 EMPLOYERS DURING 1967 FOR HIRING HANDICAPPED AND OLDER WORKERS

Sixty-one employers around the nation received Nat'l American Legion citations for good employment practices during 1967.

Twenty-nine were cited for their practices in hiring the handicapped, and 32 for their practices in hiring older workers. Coincidentally, 61 firms were also honored in 1965 and again in 1966.

National awards are made on the recommendation of a State or other Department organization of The American Legion which nominates employers each year for the National Hiring-The-Handicapped Award and the National Older-Worker Citation.

Awards are made by the Legion's Nat'l Economic Commission, whose intimacy with the job problems of handicapped and older veterans stimulated the granting of the annual citations.

Handicapped awards are usually made in connection with annual Employ the Handicapped Week (first full week in October), and represent part of the Legion's participation in the programs of the President's Committee on Employment of the Handicapped.

Older worker awards are usually made in conjunction with the Legion's Hire the Older Worker Week (first full week in May). Among those receiving awards in 1967 were commercial firms, government agencies, and educational institutions. Below is a list of all employers receiving National Legion awards for 1967.

State	Cited for employment of the handicapped	Cited for employment of older workers	State	Cited for employment of the handicapped	Cited for employment of older workers
Alabama	None	Dunnivant's, Inc., Huntsville.	Nevada	None	None
Alaska	Alaska Lumber & Pulp Co., Sitka.	U.S. Smelting, Refining & Mining Co., Fairbanks.	New Hampshire	do	Do.
Arizona	None	None	New Jersey	Electro-Minatures Corp., South Hackensack.	Artolier Corp., Garfield.
Arkansas	Ralston Purina Co., Northwest Arkansas Poultry Products Division Rogers.	Fox Manufacturing Co., Fort Smith.	New Mexico	Bureau of Reclamation, Navajo Indian irrigation project, Farmington.	Santa Fe Builders, Inc., Santa Fe.
California	Ampex Corp., Redwood City.	None	New York	None	Manpower, Inc., New York.
Colorado	Western Cine Service, Inc., Denver.	House of Gregory, Broomfield.	North Carolina	do	Beacon Manufacturing Co., Swannanoa.
Connecticut	Hershey Metal Products Corp., Ansonia.	Cheney Bros., Inc., Manchester.	North Dakota	do	None
Delaware	None	None	Ohio	Larsan Manufacturing Co., Newark.	McDowell-Wellman Engineering Co., Cleveland.
District of Columbia	do	Do.	Oklahoma	North American Aviation, Inc., Tulsa.	Montgomery Ward, Oklahoma City.
Florida	do	Do.	Oregon	Bonneville Power Administration, Portland.	Jones Refinishing, Klamath Falls.
Georgia	The Browning Co., Atlanta.	Spalding Knitting Mills, Griffin.	Pennsylvania	Sears, Roebuck & Co., Catalog Division, Philadelphia.	McGraw-Edison Co., Cannonsburg.
Hawaii	First National Bank of Hawaii, Honolulu.	Department of Personnel Services, State of Hawaii.	Rhode Island	Providence Post Office, Providence.	Wardwell Braiding Machine Co., Central Falls.
Idaho	None	None	South Carolina	None	None
Illinois	Principal Manufacturing Corp., Broadview.	Do.	South Dakota	Stamper Black Hills Gold & Jewelry Manufacturing Co., Rapid City.	Geo. A. Hormel & Co., Mitchell.
Indiana	None	George Koch Sons, Inc., Evansville.	Tennessee	None	None
Iowa	Glenwood State Hospital School, Glenwood.	Younker-Martin's Department Store, Sioux City.	Texas	1. R. G. LeTourneau, Inc., Longview. 2. Lubbock Manufacturing Co., Lubbock.	1. Southwest Wheel & Manufacturing Co., Dallas. 2. Dynelectron Corp., Pasadena.
Kansas	None	None	Utah	None	Zion Cooperative Mercantile Institution, Ogden.
Kentucky	Independent Box Makers, Inc., Louisville.	Southern Veneer Manufacturing Co., Louisville.	Vermont	1. Essex Publishing Co., Inc., Essex Junction. 2. Beecher Falls Manufacturing Co., Beecher Falls.	Mr. Douglas Burt, Waterville.
Louisiana	None	1. American Metal, Inc., New Orleans. 2. Lockheed Aircraft Service, Lake Charles.	Virginia	None	None
Maine	Portland Lithograph Co., Portland.	None	Washington	do	Do.
Maryland	None	E.J. Korvette, Inc., Rockville.	West Virginia	Shenandoah Downs Race Track, Charles Town.	Do.
Massachusetts	Wallace Manufacturing Co., Springfield.	Duplicon Co., Westboro.	Wisconsin	Helwig Carbon Products, Inc., Milwaukee.	National Presto Industries, Eau Claire.
Michigan	Davis Laboratory, Inc., Grand Rapids.	None	Wyoming	None	None
Minnesota	None	Fingerhut Manufacturing, Mora.			
Mississippi	do	None			
Missouri	do	Do.			
Montana	Typewriter Supply Co., Kalispell.	Boutelle Motor Co., Miles City.			
Nebraska	G & G Manufacturing Co., Omaha.	Orthopedic Hospital, Lincoln.			

RETIREMENT OF JUAN TRIPPE

Mr. SMATHERS. Mr. President, with mixed emotions I have read of the retirement of Juan Terry Trippe as chairman and chief executive officer of Pan American World Airways. It was 41 years ago, in the State of Florida, when Pan American Airways, the dream of Juan Trippe for several prior years, became an actuality. On a clear October day in 1927, the first Pan American tri-motor flew 90 miles from Key West to Havana, and a great institution was born.

We in Florida who have seen Pan American grow and prosper and who

have watched it spread American good will all over the world find it incredible that Pan Am is actually 41 years old and that Juan Trippe is actually stepping down.

That the airline will continue to prosper and grow is a certainty. Harold E. Gray, who has moved from president of Pan Am to chairman and chief executive, and Najeeb E. Halaby, who is Pan Am's new president, are brilliant, skilled, and well-trained executives. Mr. Gray was one of the first pilots contracted by Pan Am and has been with the organization 39 years; Mr. Halaby joined the company not quite 3 years ago after an

outstanding contribution to the Nation's aviation wealth as Administrator of the Federal Aviation Administration.

But many nostalgic strings still remain attached to the departure from the active scene of Juan Trippe. For those of us who would be saddened by such a development, let me give hasty reassurance, Mr. President, that Mr. Trippe will still be with us for an indefinite period, giving of his advice and his tremendous store of knowledge. He has agreed to remain with Pan Am as a director and as honorary chairman of the board.

Mr. President, the Washington Post

on May 9 published a warm and commendable editorial on the retirement of Mr. Trippe. I ask unanimous consent that it be printed in the RECORD.

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

JUAN TRIPPE STEPS DOWN

An era ended this week when Juan Trippe stepped down as the boss of Pan American World Airways. He was the last to yield power of that remarkable group of men who grasped the potential of the airplane more than 40 years ago and spent their lives seeing it was realized. In many ways, he was the most remarkable of that group which included the better-known Eddie Rickenbacker.

Mr. Trippe built Pan-Am from a 90-mile air link between Key West and Havana to a billion dollar corporation. His firsts in the aviation industry are legion. He won the first international air mail contract over that Gulf of Mexico link. He pioneered the use of the Flying Clippers. He opened up air transportation in Latin America and Asia.

It is worth recalling that 25 years ago Mr. Trippe told a New York audience that air transport could either become a luxury service only the rich could afford or a service that all could afford. He had a great deal to do with the industry's choice of the latter course.

EDITORS HIT LOBBY, REJECT WEAK GUN LAW

Mr. DODD. Mr. President, the basic issue of this debate on firearms controls, title IV of S. 917, is not the need for firearms controls, but how strong and workable and effective and inclusive those controls should be.

There seems general agreement that the existing firearms laws do not work. Under them, the Nation has become an armed camp. There are guns everywhere. Criminals, juveniles, the demented, the aged, and the blind have free access to them.

The sale of guns, mail order and across the counter, has taken on a carnival atmosphere.

Antitank guns are advertised for use against bears, cars, and trucks. A bunch of criminals took the dealer at his word, bought one, and blew open a Brink's safe in upstate New York. Teenagers in New Jersey used one to blow apart farm buildings.

Under the headline, "Long Hot Summer Special" is advertised a .45-caliber, 30-shot semiautomatic rifle—a copy of a machinegun—along with "riot guns" and other semiautomatic rifles:

Browning Belgique Auto, Caliber .32 rimless smokeless . . . One of these guns was carried by Mussolini and also by Heindrich Himmler as well as other WWII notables.

The rare "Baby Nagent," Fanatic Russian Secret Police agents used these rare revolvers to terrify and kill enemies of the State. These tools could tell many a bloody tale when being used during the purges of the 1930's. Guns have original Bolshevik markings.

The mail-order gun dealers have been doing this sort of advertising for years. Even in the face of stronger Federal regulation, which they fear and which they have been fighting, the advertising has improved only slightly.

The market is still glutted with ads

for foreign military surplus weapons. America is the world's dumping ground for used guns.

The current edition of the National Rifle Association's American Rifleman, May 1968, carries a two-color, full page advertisement inside the back cover offering for sale a total of 10 foreign-made, military-type pistols and eight foreign military rifles out of a total of 20 firearms offered in the advertisement. The same advertisement lists for sale at "bargain prices" 25 different types of "fine issue military rifle cartridges" and 22 of these items are for foreign-made rifles, mostly military.

The country is rebelling at this sort of thing. Public opinion polls show that. The mood of the country is for a strong law and effective law, one that would keep guns out of the hands of the people who should not have them.

Title IV of the omnibus crime bill, my firearms amendment, does not provide for strong regulation over shotguns and rifles. These provisions were eliminated from the title in committee.

Again, this action went against the public mood. Editorial response from across the Nation, large papers and small, demanded that rifles and shotguns be included in the law.

The public knows that when a criminal uses a shotgun or rifle to shoot you to death, you are just as dead as if he used a pistol or revolver.

Mr. President, here is a small sample of what the public thinks about rifles and shotguns not being included in title IV.

I ask unanimous consent that these editorial excerpts be included in the RECORD at this point.

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

[From the Little Rock (Ark.) Arkansas Gazette, Apr. 26, 1968]

PROSPECTS FOR A GUN CONTROL LAW

The nature of the uphill battle to enact an effective federal gun control bill was indicated by the narrow 9-to-7 margin by which the Senate Judiciary Committee finally has voted to clear the administration's omnibus anti-crime bill for floor debate . . .

The fact that the gun control issue cannot be isolated as a clear-cut conservative v. liberal issue in quite the way that the wiretap issue and proposed rebukes to the Supreme Court can be isolated is perhaps the subtlest tribute of all to the pressures exerted down through the years by the National Rifle Association and other components of the gun lobby, which, by common consent of the members of Congress, is by all odds the most abrasive and persistent of any lobby operating on Capitol Hill.

The bill now approved by the Senate Judiciary Committee—the principal feature of which would ban the uncontrolled mail-order sale of handguns—goes little beyond the original gun-control bill introduced almost five years ago by Senator Thomas J. Dodd of Connecticut and reintroduced each succeeding year with the same unavailing results. Senator Dodd has promised to lead the floor fight for inclusion of rifles and shotguns in the ban on mail-order sales, a goal that he first set out upon in the days following the assassination of President John F. Kennedy with a mail-order rifle in November, 1963. It will be interesting to see how far he gets this time, for we know only too well how far he didn't get the first time.

It will be interesting, for that matter, to see how far even the first step toward controlling handgun sales will get through the obfuscating haze of floor debate and, if it gets that far, in conference committee. The gun lobby, we can be sure, will be busy. By complete coincidence, an article by Richard Harris appearing in the April 13 issue of The New Yorker provides an admirable run-down on the machinations of the gun lobby during the 30 years since Congress last moved to curb the unrestrained sale and transportation of guns of all sizes. The New Yorker piece tells us all that we need to know about the gun lobby and possibly a little more that we, at least, would have liked to know about the Congress's susceptibility to the most blatant and unprincipled of pressure techniques.

[From the Providence (R.I.) Journal, Apr. 29, 1968]

The proposals sent to the Senate floor by the Judiciary Committee could have gone farther, particularly in respect to mail order shipments of rifles. . . .

The bill's failure to include mail order rifles and shotguns in the ban on interstate mail order sales of pistols and revolvers is regrettable. The mentally incompetent or emotionally unbalanced can do as much harm with a mail order rifle as with a pistol.

[From the Houston (Tex.) Chronicle, Apr. 26, 1968]

REGULATION OF GUN SALES NEEDED

The day after a sniper's bullet killed Martin Luther King, the Senate Judiciary Committee approved a watered-down gun-control amendment to the administration's anti-crime bill. It was the first time since 1938 that firearms legislation had been approved by a Congressional committee. The measure was reconsidered this week and again was approved by a 9 to 7 margin. Unfortunately, rifles and shotguns were excluded from its most important provisions . . .

The Senate not only should approve this measure, it also should put rifles and shotguns back under the bill's provisions as the bill originally was written.

[From the Trenton, N.J., Trentonian, Apr. 27, 1968]

GUN SALE RESTRICTIONS NOT STRINGENT ENOUGH

. . . The interstate ban on mail order sales—one of the most dangerous and irrational forms of business in the United States today—applies only to handguns.

The over-the-counter ban also applies to handguns only, which makes it extremely easy for residents of states such as New Jersey, which require licenses to buy firearms, to skip to neighboring states to buy their weapons.

Hopefully, when the bill gets to the floor of the Senate, it will be amended to include rifles and shotguns in these two key areas.

[From the Milwaukee (Wis.) Journal, Apr. 19, 1968]

WEAK GUN CONTROL PLAN INCHES ALONG IN CONGRESS

(Title IV). It would prohibit interstate shipment of handguns (pistols) to individuals, and over the counter sale of handguns, to individuals who don't live in the firearm dealer's state. The unseen interstate flow of mail order rifles and other firearms would continue without check.

[From the Garden City (N.Y.) Newsday, Apr. 26, 1968]

The Senate next week will debate a gun control bill that in reality is only a sop, not a solution, to one of America's most pressing problems. It is a sop because, while it would cover pistols and revolvers, the bill would not regulate the mail-order sale of shotguns and rifles.

[From the Huntsville (Ala.) Times, Apr. 22, 1968]

THE DILUTED GUN BILL

This tactic points up the potential of the watered-down bill. Once outside the closed doors of the Judiciary Committee and onto the exposed floor of the Senate, the measure could be amended to cover rifles and shotguns.

[From the New York Post, May 3, 1968]

THE LOADED GUN CONTROL BILL

Redrafting the limited gun control provisions . . . promises to occupy most of the Senate's time; the basic requirement is a ban on the mail-order shipment of rifles and shotguns.

The issues, despite a scurrilous campaign of misrepresentation by the National Rifle Assn., are not really complicated . . . Effective gun control is a legitimate exercise of law by government to protect public order.

[From the Atlanta (Ga.) Constitution, Apr. 23, 1968]

ESCALATION ON THE HOME FRONT

More than two-thirds of all Americans favor federal gun control legislation. Yet gun control bills, which have been studied by Congress for years, still languish in committee.

Lee Harvey Oswald bought the rifle that killed President Kennedy from a mail order house. There are clues suggesting the gun that killed Dr. Martin Luther King Jr. also was bought through the mails. Even mass-destruction weapons can be mail-ordered. This traffic also must be stopped.

A vast majority of the American public wants controls placed on the escalating traffic in firearms. Why does Congress hesitate?

[From the Charlotte (N.C.) Observer, Apr. 15, 1968]

DELAY OF LAW IS REAL GUN DANGER

. . . The only dangerous gun act Congress might be stampeded into is another year of delay in doing something about keeping guns out of the wrong hands. If it fails to adopt even the modest regulations approved by the Senate Judiciary Committee, a lot of voters ought to get very emotional about that act of legislative negligence . . .

[From the Springfield (Ill.) State Register Apr. 24, 1968]

. . . It is time Congress quit dilly-dallying around on the subject and approved the laws advocated by President Johnson. It would be only a small step toward solution of the crime problem, but it would save some lives . . .

[From the Minneapolis (Minn.) Star, Apr. 20, 1968]

WHY DELAY GUN CONTROL?

State-by-state control of the gun trade has proved inadequate. We need a federal law, and we need a much tougher law than is presently proposed. How many more assassinations and outbreaks of violence will be needed to convince Congress of this . . .

[From the Huntsville (Ala.) Times, Apr. 22, 1968]

THE DILUTED GUN BILL

The day after Dr. King was shot, the Senate Judiciary Committee . . . managed to approve a highly diluted version of the already mild administration gun-control bill sponsored by Sen. Thomas J. Dodd.

Approved by a vote of 9-7, the measure was tacked on to the Safe Streets and Crime Control Bill. It applies only to handguns. To win approval, sponsors had to scrap the ban on mail-order sales of rifles and shotguns as well. Dr. King and President Kennedy were slain with rifles.

. . . At the end of last week, some opponents were searching for ways to block even this limited step from reaching the Senate floor, contending the committee should vote once more.

This tactic points up the potential of the watered-down bill. Once outside the closed doors of the judiciary committee and onto the exposed floor of the Senate, the measure could be amended to cover rifles and shotguns . . .

A Gallup Poll last year found 73 per cent of the persons surveyed favored a law that would require registration of rifles and shotguns—a step that gun-control proponents would not dare propose in Congress at this point lest they kill all chance of enacting any legislation.

The eruption of the ghettos, one would think, should be the final straw. But it hasn't started a stampede for gun control.

That's because the battle for firearms control is a classic example of pressure-group politics thwarting what appears to be the will of the majority.

[From the Garden City (N.Y.) Newsday, Apr. 18, 1968]

The President has asked the Congress for a bill that would ban the mail-order sale of rifles and shotguns as well. We hope these weapons will be included in the amendment when it goes to the floor of the Senate. The anticrime bill will be incomplete unless it contains strong gun-control provisions.

[From the Minneapolis (Minn.) Tribune, Apr. 10, 1968]

Considering the tragedy of Memphis, the Senate Judiciary Committee picked a sadly appropriate day—Thursday—to reject a reasonable gun control bill.

The bill turned down by the Committee would not have denied sportsmen their rifles or shotguns. It would not have precluded weapons of self-defense for those who feel they must have them.

The bill simply would have prohibited the interstate mail-order sales of guns to individuals and over-the-counter sales of pistols and revolvers to nonresidents of a state. Now a weaker version concerning handguns has been approved. But that isn't enough.

[From the Washington (D.C.) Daily News, May 9, 1968]

. . . The gun bill's gun-control provision would outlaw mail-order sale of handguns (pistols and revolvers) and over-the-counter sale of handguns to minors and criminals. It would also ban importation of surplus military weapons.

Rifles and shotguns are home free. Madmen of the kind who shot President Kennedy and Dr. King and sniped at police during urban riots would find this bill no impediment to mail-ordering rifles.

Before passage, the Senate could put more teeth in this provision and still leave legitimate sportsmen no room for complaint.

[From the Garden City (N.Y.) Newsday, Apr. 26, 1968]

REGISTER ALL GUNS

The Senate next week will debate a gun control bill that in reality is only a sop, not a solution, to one of America's most pressing problems. It is a sop because, while it would cover pistols and revolvers, the bill would not regulate the mail-order sales of shotguns and rifles.

The Senate, thus far, seems willing to prohibit interstate mail-order sales of hand guns to individuals but has balked on the regulation of the sale of all firearms. This is partly the result of the skilled, powerful and persuasive gun lobby, led by the National Rifle Association and abetted by the manufacturers. They have dinned into the ears of Con-

gressmen that regulation would be an invasion of privacy. Isn't murder? Isn't armed robbery an invasion of privacy?

The Senate should resist the lobbyists and substitute a tougher bill that governs all firearms, and helps insure that few or none can get into the hands of criminals or the mentally ill. Had such a law been on the books, both John F. Kennedy and the Rev. Martin Luther King Jr. might be alive today. How many more tragedies must there be before Congress enacts a strong gun control law?

[From the Tampa (Fla.) Tribune, Apr. 26, 1968]

IMPROVE THE AIM

After five years of debate the Senate Judiciary Committee finally has made a move toward strengthening Federal control of firearms. The Committee's action hit the target but missed the bullseye.

The Committee agreed to include in President Johnson's Safe Streets bill provisions prohibiting interstate sale of concealable weapons like pistols.

But it completely ignored the President's pleas to do something about interstate and mail order sales of rifles and shotguns to individuals. In other words, it's all right to purchase a rifle which might be used later in a crime but not a pistol.

Inclusion of interstate controls on rifles and shotguns would have made the difference between a strong gun law and a weak one . . .

The Senate has an opportunity to perform in the national interest by amending the Judiciary Committee's measure to regulate sales of rifles and shotguns as well as pistols. The Senate then can score a bullseye.

[From the Harrisburg (Pa.) Patriot, Apr. 26, 1968]

. . . (Title IV) it has been so weakened that it is not worth passing.

What, after all, is the sense of enacting a measure which would ban the interstate mail order sale of handguns—pistols and revolvers—if no restrictions are placed on "long guns" as that inveterate front for the gun lobby, Republican Sen. Roman Hruska of Nebraska, working in tandem with Committee Chairman James O. Eastland (D-Miss.), insists?

TEENAGERS CHARGED IN ARSON AND LOOTING

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent to insert in the RECORD a news story from today's Washington Evening Star titled "Four Teenagers Charged in H Street Arson, Looting."

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

FOUR TEENAGERS CHARGED IN H STREET ARSON, LOOTING

Police yesterday arrested four teen-agers—one a girl—in connection with the burning and looting of a drugstore on riot-scarred H Street NE April 18.

An 11-year-old was arrested in connection with one of eight new fires reported last night.

A 14-year-old boy was charged with arson, and burglary and another 14-year-old, his 16-year-old brother and their 17-year-old sister with burglary in the April 18 ravaging of the reopened Standard Drug Co. store at 1115 H St. NE, police reported.

Heavily looted during the rioting April 5, the store had restocked and reopened a week later. The fire leveled the store, causing an estimated \$200,000 damage.

ONE SPOTTED DURING RIOT

Police said a hardware store merchant spotted one of the 14-year-olds with some merchandise from his store during the rioting, and quickly notified police. Capt. Robert S. Shuttleworth and Sgt. Charles Hershey of the 9th Precinct found the youth outside his home within a block of the burned drugstore, it was reported.

The youth had an aerosol paint can bearing the hardware store label, the police said. The boy ran into his house, followed by Shuttleworth and Hershey. In the basement of the home, they reported finding merchandise identified as having been looted from both the hardware and the drug stores. Three bicycles, two window fans, two electric heaters, several transistor radios and other items were included.

Investigation led to the arrests of the three other juveniles, who live in the same block as the 14-year-old, police reported.

ARSON ARRESTS NOW 22

District police report some 22 arson arrests stemming from fires during last month's rioting and since.

An 11-year-old boy suspected of setting a vacant warehouse on fire was apprehended last night as authorities added eight more cases to bring the number of suspected arson cases here to 27 since Monday.

None of last night's blazes caused injury or serious damage, fire officials said.

Members of the District Fire Department quickly extinguished all eight blazes, most of which they believe were set by juveniles. They were:

At 5:16 p.m., the side of a vacant house at 414 K St. NW, damage estimated at around \$1,000.

At 6:01 p.m., trash in the basement of an apartment house at 1328 Congress St. SE, minor damage.

At 6:08 p.m., trash in a vacant warehouse at 54 Hanover Place NW, minor damage. The 11-year-old boy was turned over to juvenile police authorities.

PARKED TAXI FIRED

At 6:28 p.m. a parked taxicab behind a warehouse in the 900 block of 9th Street NW, destroying the cab and causing minor damage to the warehouse back door. The arsonists also set two junked cars on fire near the warehouse about the same time. It was the third straight night that vandals had set fires in and around the same warehouse, used for storage by the Peerless Modern Furniture Co.

At 9:01 p.m., an already burned-out restaurant at 929 10th St. NW, where trash and debris was set on fire, minor damage.

At 10:26 p.m., three separate fires in and around a restaurant at 701 Rhode Island Ave. NW, about \$150 damage.

At 12:02 a.m. trash in a burned-out-building near 7th and L Streets NW, very little damage.

SHOTGUN BLAST REPORTED

At 12:17 a.m., plywood sheets were torn from the front of a liquor store at 328 Kentucky Ave. SE, a small fire was set inside the store which firemen quickly extinguished. Damage was minor. An elderly man who lives near the liquor store reportedly fired a shotgun blast at the youths from a far distance without apparently hitting any of them as they fled.

Earlier in the day, still another group of arsonists poured kerosene over the first and second floors of a vacant house at 1038 44th St. NE and set it afire at 2:31 p.m., destroying most of the interior of the home. District firemen were called back later in the evening to wet down smoldering debris.

Fire officials said that two or three other possible arson cases were reported during the daylight hours yesterday.

ABERNATHY OFFERS RATS TO CONGRESS

Mr. BYRD of West Virginia, Mr. President, a number of indications of what may be in store for the Nation's Capital in connection with the so-called Poor People's March have been given by various leaders of the demonstration in recent days.

I call attention to one report carried by United Press International in the News and Observer of Raleigh, N.C. on May 6, which was headlined, "Abernathy Offers Rats to Congress."

This account ties in with observations I have made on this floor recently to the effect that the problems of health and sanitation posed by the demonstration are of importance—for the poor people who will be brought here, for the poor people who already live here, and for the population of the metropolitan area.

In this newspaper article to which I have just referred, Dr. Ralph Abernathy the leader of the demonstration, is quoted as saying in Atlanta, Ga.—

We're bringing all our rats, our lice, our roaches, and we're going to dump all of them in Congress' front yard. . . .

I ask unanimous consent that the article from the Raleigh News and Observer be printed in the RECORD.

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

ABERNATHY OFFERS RATS TO CONGRESS

ATLANTA.—Marchers in the coming weeks' "Poor Peoples Campaign" to Washington are taking more than mules along their trek as symbols of poverty and the squalor that goes with it.

"We're bringing all our rats, our lice, our roaches," Dr. Ralph Abernathy, head of the Southern Christian Leadership Conference, said Sunday. "And we're going to dump all of them in Congress' front yard—and wait until Congress decides to do something about them."

Stepping in to lead the march for slain civil rights leader Dr. Martin Luther King, Jr., Abernathy warned his pastorate at West Hunter Street Baptist Church here that the shanty town being set up near the Capitol may stand there long enough to draw insect and animal infestation—if Congress does not move immediately to enact legislation to alleviate poverty.

"We want them to write a bill to give everybody a job—and to guarantee a guaranteed annual income for the old and disabled," the fiery civil rights leader said, as church walls echoed with "amens."

"Congress' job is to write the bills, mine is to raise the questions—and there will be no new business in the legislature until it takes care of its old business."

Abernathy said no permits had been taken out for the camping grounds in the capital city—and that none would be.

"We're not scared—and we may go to jail, but we're not afraid of being locked up, he said. "We're not asking anybody for any permits. We are building anywhere we want to."

Abernathy flew back to Marks, Mississippi Sunday afternoon to help recruiters beat the bushes for volunteer marchers in one of the nation's most poverty-ridden counties for volunteer marchers.

He expressed optimism about the progress of recruiting and the spirit of volunteers for the long trek to the nation's capital.

"We've been traveling a long time—about 350 years. It's been an uphill journey—but

we are willing to suffer—and we will get what we want."

The fiery Negro minister claimed he was not afraid of being assassinated.

"Don't worry about me if you pick up the paper and hear they've killed me. It will be God's will if it happens."

Abernathy said he will return to Atlanta Wednesday and give the city "a message." By Thursday some 2,000 marchers are expected to show up in the Georgia capital—where they will remain for several days before continuing their march to Washington.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is concluded.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the unfinished business be laid before the Senate.

The ACTING PRESIDENT pro tempore. The Chair lays before the Senate the unfinished business, which will be stated by title.

The BILL CLERK. S. 917, to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

The Senate resumed the consideration of the bill.

Mr. MANSFIELD. Mr. President, on behalf of my distinguished colleague [Mr. METCALF], I send to the desk an amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

On page 19, line 14, strike out "fifty" and insert in lieu thereof "twenty-five".

On page 20, line 13, strike out "fifty" and insert in lieu thereof "twenty-five".

Mr. MANSFIELD. Mr. President, the purpose of the amendment is to make grants applicable to cities under 50,000 in population, as is stated in the pending bill.

I should point out that so far the State of Montana is concerned, we have only two cities which would come within that category; namely, Billings and Great Falls. There are other cities which we think are of significant size such as Butte, Helena, Missoula, and others, which may approach close to the 25,000 mark.

My colleague and I will discuss this amendment in more detail on Monday next. We do not intend to ask for a vote on it today.

UNANIMOUS-CONSENT AGREEMENT

Mr. President, I ask unanimous consent that when the amendment becomes the pending business on Monday—and it will be, right after disposal of the treaties—that there be a time limitation of 1 hour on the amendment, the time to be equally divided between my distinguished colleague [Mr. METCALF], and the distinguished chairman of the committee, the Senator in charge of the bill,

the Senator from Arkansas [Mr. McCLELLAN].

The ACTING PRESIDENT pro tempore. Is there objection to the request of the Senator from Montana? The Chair hears none, and it is so ordered.

The unanimous-consent agreement was later reduced to writing, as follows:

Ordered, That effective on Monday, May 13, 1968 after the vote on two treaties (Ex. O, 90th Congress, first sess. and Ex. C, 90th Congress, second sess.), during the further consideration of an amendment (No. 746) by Senators MANSFIELD and METCALF to the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes, debate be limited to 1 hour, to be equally divided and controlled by the Senator from Montana [Mr. METCALF] and the Senator from Arkansas [Mr. McCLELLAN].

Mr. MANSFIELD. Mr. President, the Senator from Arkansas [Mr. McCLELLAN] is to be recognized at this time under the unanimous-consent agreement and, with his approval, and without his losing his right to the floor, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. McCLELLAN. Mr. President, in opening the debate on S. 917 last week, I said that lawlessness in America has our citizens fearful, terrorized, and outraged, and that they "demand and deserve relief from this scourge which today imperils our national security."

Mr. President, I did not overstate the case. This is confirmed by a flood of letters and telegrams that are pouring into my office from concerned citizens from practically every State in the Union, urging the adoption of a strong anticrime bill, and retain its provisions designed to restore law and order in America.

The reaction that has come to me from my remarks on May 7 here on the floor of the Senate regarding the threatened Poor People's March on Washington, clearly indicates to me that the decent citizens of this country are insisting that our Government cease tolerating lawlessness.

Strong sentiments supporting my position also have been expressed in the news columns and editorials.

Mr. President, the people of America are today looking to Congress for action. They are looking to it, Mr. President, as the last hope for meeting the crime crisis. We must not, we cannot, fail them in this hour of peril.

I have here with me today a sampling of the letters, telegrams, and comments to which I have referred. I would like to share the sentiments expressed in these communications and in these publications with my colleagues; but, Mr. President, before I make these insertions in the RECORD and comment upon them,

I would like first to call attention to a news item in the Washington Evening Star of yesterday.

The title of it is "He'll Be Tough, Abernathy Says." Then a subtitle on another page says, "'Won't Be Nice,' Abernathy Declares."

Mr. President, that is the leader of the march to Washington. That is the man who is the head of it, who came up here a week or two ago and was so nice to everybody. He is now making these statements in public addresses to the marchers who are coming with him.

Does that mean he is going to be nasty when he gets here? I do not know how one can draw any other conclusion. If the newspaper quoted him correctly, here is what he said: "I won't be violent."

Of course, they always couch it that way, knowing that what they are doing is calculated to incite to violence. "Oh, we are not going to be violent," but they know that everything they are doing, and the manner in which they are doing it, and the threats that the leaders are making, are calculated to incite to violence, and to arouse anger, and to arouse resentment, and to reflect upon the sovereignty of the Government of this great Nation—not coming in a peaceful attitude. "I am not going to be nice next time."

Here is what he said:

I won't be violent—but I'm going to tell them that time has run out.

Then he said:

I was in Washington last week, and I was nice, but I won't be nice the next time.

The next time is when he gets here on this march.

He spoke about the Reverend King. Somebody suggested that he go to King's grave and pay tribute and respect to his departed leader, and he answered and said:

I haven't got the time to go to his grave.

He said:

I served him when he was alive.

Then the newspaper says:

Abernathy, pointing out that King was a man with a dream, said that "I've got some dreams, too."

And he added that he plans to name a campsite to house the poor in Washington "Resurrection City, U.S.A."

The last I heard of it, they called it "City of Hope." He also referred to the fact:

I'm going to Washington to collect those 40 acres and that mule—and I want the interest, too.

He is referring to alleged promises made to his grandfathers in the time of slavery or at the time of emancipation.

Mr. President, I mention this because I gave information to the Senate a few days ago that the Senate Permanent Subcommittee on Investigation had received evidence with respect to things that were taking place and things that were being said in the nature of planning to take over the march and announcing to some of those who were coming here what would likely happen and what they would do when they got here.

They were talking about getting out from under the leadership of the Reverend Abernathy and controlling their own groups.

I mention this today because I have said many times, with respect to law enforcement in this country, that the tone is set at the top. If there is little concern, if there is complacency and indifference and lack of firm, positive, aggressive action in the fight on crime here in Washington—if that prevails, then that sets the stage for the climate throughout the Nation.

I say the same thing is true of a leader coming here who says to his followers: "That's the last time. This time we are going to make trouble. It is not going to be nice."

That sets the tone, the attitude, and the spirit. I hope it will not happen. I trust it will not occur. But I point this out, Mr. President, here in the Senate today, because apparently there is a lack of recognition and of cognizance on the part of some of our officials up here that these things can happen; and that under that type of leadership they are probable, and highly probable.

Sure, we hope they do not happen. The marchers are welcome to come, and every one should welcome them—to come in peace, to come and present their petitions, to show respect for the law, to show respect for their Government, and to urge and plead for the redress to which they think they are entitled.

Mr. President, I ask unanimous consent to have printed in the RECORD the article, entitled "He'll Be Tough, Abernathy Says," written by Ron Speer, and published in the Washington Evening Star of May 9, 1968.

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

HE'LL BE TOUGH, ABERNATHY SAYS—KING ONLY ROCKED BOAT, MARCH TOLD—
"WON'T BE NICE," ABERNATHY DECLARES

(By Ron Speer)

BIRMINGHAM, Ala.—The Rev. Ralph D. Abernathy, flexing his muscles as the head of the Southern Christian Leadership Conference, says he "won't be nice the next time I go to Washington."

The successor to the late Rev. Dr. Martin Luther King, Jr. as head of the civil rights organization said last night that he won't rely on violence when he leads the Poor Peoples Campaign into Washington.

"I won't be violent—but I'm going to tell them that time has run out," Abernathy said, wrapping up a day of Alabama marches on the Southern leg of the campaign.

"A STEP FARTHER"

"I was in Washington last week, and I was nice," Abernathy said. "But I won't be nice the next time."

Abernathy told about 1,000 Negroes in the Sixth Avenue Baptist Church that he plans "to go a step farther" than King.

"Under Dr. King, we were just going to rock the boat," Abernathy said. "The white people didn't know him, and they killed him."

"But under the leadership of Dr. Ralph Abernathy, I'm going to go a step farther."

"We're going to turn this nation upside down and rightside up," he said, "because we are sick and tired of poverty, and our babies dying in Mississippi, Alabama and Georgia."

"We're tired of them getting all the money," he added. "When my grandfather

was freed they promised him 40 acres and a mule.

"I'm going to Washington to collect those 40 acres and that mule—and I want the interest, too."

Abernathy, Dr. King's lieutenant since the SCLC was founded, said he turned down a request in Atlanta yesterday that he pay a visit to his former chief's grave.

"I haven't got the time to go to his grave," he said. "I served him when he was alive."

Abernathy, pointing out that King was a man with a dream, said that "I've got some dreams, too," and he added that he plans to name a campsite to house the poor in Washington "Resurrection City, U.S.A."

Abernathy said he would be in Boston today to kick off the Northeast leg of the campaign, but he called on the campaigners in Alabama to "make one more march before you go to Georgia."

"I think you folks ought to march through the 16th Street Baptist Church," he said, pointing out that five years ago four young Negro girls died there when the church was bombed.

REGROUP FOR GEORGIA

The campaigners, who were halted by authorities in Montgomery earlier yesterday when a march was ruled in violation of parade regulations, spent the evening in Birmingham listening to speeches and regrouping for the advance into Georgia today.

Children were fitted to used shoes donated to the campaign. Teen-age girls grabbed fresh frocks from a pile. And everyone searched for friendly residents willing to provide a bed for the night.

Campaigners also bowed their heads in a minute's silent prayer for Alabama Gov. Lurleen Wallace, who died Tuesday. And Hosea Williams, one of the SCLC leaders, chastised them for buying badges, buttons and books about Dr. King from "white people selling this stuff who hated Dr. King."

"A million dollars is being squandered for this stuff—and not a dime goes to the SCLC," said Williams, who is in charge of the upcoming activities in Atlanta.

INDIANAPOLIS RALLY

The first campaign contingent from the Midwest, including people from Milwaukee and St. Paul, arrived in Indianapolis by bus late last night after a rally in Chicago. Their plans called for a downtown rally in Indianapolis today.

About 400 travelers spent the night in Nashville, Tenn. About 300 of them rode air-conditioned buses from Marks, Miss., to Nashville yesterday.

Another group leaves from Marks today in a mule train, led by the Rev. Andrew Young, and SCLC leader and longtime associate of King.

About 400 marchers from Alabama and Mississippi plan to arrive in Atlanta by bus by noon today.

In Atlanta, plans call for a march to the Auburn Avenue home where King was born and the placing of a memorial plaque there.

TO HEAR MRS. KING

The group will gather this evening at Atlanta's plush new civic center where they will hear King's widow, Coretta, speak.

Also planned for the civic center gathering is a benefit performance by some of the top names in the recording business, an SCLC spokesman said, including Harry Belafonte and the Supremes.

Marchers in Nashville leave for Knoxville, Tenn., today. They plan then to go on to Danville, Va., and to Washington where they will build the shantytown, probably in a park location.

Mr. McCLELLAN, Mr. President, I do not believe, however just their cause, they are entitled to come here and say, "We are going to violate the law; we are

going to get what we want if it takes that to do it."

I do not believe that that represents or is indicative of the spirit of leadership necessary to guide and direct a following in the direction of peaceful challenge, in the direction of nonviolence.

I felt it my duty, Mr. President, to alert my Government and my colleagues to the information that I have. I did not answer, here on the floor of the Senate the other day—I did not think it was necessary—when someone suggested that I give the names to the Senate. Mr. President, the Senate is not a law-enforcement agency.

Those names, and the information with the names, had, previous to my remarks, been given to the proper source in this Government—the source and the authority that has the responsibility for getting the information to the Department of Justice. They have the information; it was given to them before I made my remarks.

But I make this statement today, Mr. President, to show that I am not unduly alarmed, and that many, many other people share my concern. If we are alert to these threats and if those in our Government who have the responsibility to enforce the laws will take a firm position and make a clear demonstration of their purpose to carry out that assurance, then violations of the law are unlikely to happen. But indifference toward these threats, indifference toward these promised intimidations and law violations, Mr. President, gives hope and lends encouragement, in my opinion, to those who may have in mind, when that march gets here, to take advantage of the situation and take advantage of the conditions that prevail here today, to cause trouble. There is great fear, Mr. President, that that is what may occur.

Mr. President, I ask unanimous consent to have printed in the RECORD the following items:

An article entitled "Country Needs the New Crime Control Bill," written by James J. Kilpatrick, and published in the Washington Sunday Star of May 5, 1968.

An editorial entitled "Great Day," published in the Richmond News-Leader of Tuesday, May 7, 1968, together with a letter transmitting that editorial to me.

An editorial entitled "Keeping the Balance True," published in the Washington Daily News of May 8, 1968.

An editorial entitled "Crime Bill Fantasies," published in the Washington Evening Star of April 30, 1968.

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

[From the Washington Sunday Star,
May 5, 1968]

COUNTRY NEEDS THE NEW CRIME-CONTROL BILL

(By James J. Kilpatrick)

For the next week or so, the United States Senate will be debating the crime-control bill just reported by the Judiciary Committee. This may not be a perfect bill. Reasonably minded men may disagree on some of its provisions. But the bill would take some useful strides toward attacking this nation's

most critical domestic problem; and it ought to pass.

The bill ought to pass, for one reason, simply as a legislative expression of the country's determination to restore law and order. America is slow to anger; but, unless I am badly mistaken, a sense of anger is building like a tidal wave across the nation.

The people are fed up with violence in their cities. They are fed up with bleeding-heart apologists for criminals who burn and steal. They are incensed at the spreading perversion of their Bill of Rights. They may not be constitutional experts, but they know something is dreadfully wrong in the country today. They want a balance restored; and they want it now.

By taking up the pending bill, the Senate is responding to a feeling that is growing everywhere—the feeling that it is high time for Congress to manifest concern for the law-abiding people of this land. We have heard about all we want to hear of what should be done for the looters—forgive them, provide them with housing, supply them with food, train them for jobs, mollify their poor bruised psyches, and turn our backs as they steal us blind. After all, we are told, "human rights count for more than property rights."

Nuts! The law-abiding citizen, wishing to walk safely on his streets by night, has a right to be protected from assault. That right has to be made secure. The unoffending property owner, paying taxes for police and fire protection, has a right to that protection. The great bulk of our city-dwelling Negroes especially have rights; they are the first and most pathetic victims of violence and crime.

The pending bill would attempt to undo some of the damage done to law enforcement by a string of excessively solicitous decisions from the U.S. Supreme Court. Taken one by one, and viewed in lofty abstraction, the decisions have a certain lawbook merit. Certainly, the right to counsel should be preserved; certainly, coerced confessions should be banned; beyond question, unreasonable police searches must be prevented.

Well and good. The practical effect of these cumulative decisions, however, has been to trap the police in legalistic nets. The Fourth, Fifth and Sixth Amendments have been converted into mere games that lawyers play. In the process, the cause of justice has not been enhanced; the cause of justice has been subverted.

The bill would do much to strengthen local law enforcement agencies. It would authorize the use of wiretaps and electronic devices for obtaining evidence in a few major fields of crime, but it would surround this authority with judicial safeguards against abuse. The bill would write some sensible modifications into the Supreme Court's sweeping rules as to counsel and confessions. Under Title IV, an effort would be made to curb the reckless sale of guns.

Critics of the measure denounce it as "an outright attack on the court." It is said that the bill would invite "a return to third-degree police practices." Such charges are specious nonsense. The Congress assuredly has authority, under the Constitution, to regulate the court's appellate jurisdiction. The founding fathers must have expected Congress to exercise that authority as a legislative check and balance upon judicial power. And while all men will agree that some grievous offenses were committed by overzealous police in the bad old days, some grievous offenses are being committed by criminals now.

What is needed, and what this bill seeks to do, is to put our priorities back in line—to put first things first. And for the law-abiding citizen, asking nothing more than a condition of order, the bill can't be passed too soon.

[From the Richmond (Va.) News Leader,
May 7, 1968]

GREAT DAY

For the better part of a generation, complaints have gone up about the permissive excesses of the Supreme Court. Under Article III, Section 2 of the Constitution, Congress has the power to limit the Court's appellate jurisdiction. Now, in the field of crime, two Senators quietly have undertaken to do just that.

When the Senate takes up the Administration's omnibus crime bill this week, a heated floor fight surely will develop over a nifty provision tacked onto the bill by Senators Sam Ervin of North Carolina and John McClellan of Arkansas. Their section would constrict the Court by placing certain issues out of the Court's reach, the way a prudent mother puts her favorite china on the top shelf so Junior can't get to it. The Ervin-McClellan provision has little chance on the Senate floor; practically everybody was astounded when its backers mustered enough votes in the Judiciary Committee to tack it onto the crime bill. But the mere fact that the provision made it to a floor debate, should put the Court on notice.

The Ervin-McClellan provision would do the following:

Reverse *Miranda v. Arizona*, wherein the Court held that confessions are inadmissible unless the suspect first has been warned of his rights. The Ervin-McClellan provision would make "voluntariness" the only criterion of the admissibility of a confession in Federal courts.

Reverse *United States v. Wade*, in which the Court said that suspects in police line-ups are entitled to counsel. Under the Ervin-McClellan provision, eyewitness identification of a defendant would be admissible in evidence in all Federal courts, no matter what the circumstances of the line-up might be.

Reverse *Mallory v. United States*, wherein the Court declared that no confessions would be admissible if they were given during an unreasonable delay between arrest and arraignment of defendants.

Deny the Federal courts jurisdiction to review State convictions in *habeas corpus* proceedings.

Deny the Supreme Court and all other Federal courts jurisdiction to overturn State court findings that confessions were voluntary or that line-up identifications were admissible.

Debate about these proposals will draw the battle lines between Congress and the Court. Congress has the power thus to restrict the Court's appellate jurisdiction. For the Founders wanted to guarantee that final authority in these matters remained close to the people, and no Federal branch is closer to the people than Congress. So Senators Ervin and McClellan are saying to the Court, in effect: "The people have had it with your fatuities about crime. It's time you started upholding the intent of the law as well as the letter of the law. And the intent of the law never was to have the citizenry live in terror while confessed crooks, bums, rapists, and thugs roam the land at will."

It took a lot of shouting, but at last two senators have heeded the call of the people to do something about Supreme Court decisions in the area of crime. The attempt may fail, but the threat of Congressional restriction of the Court's appellate jurisdiction may have almost as much effect as restriction itself. Now, if Congress would limit the Court's jurisdiction in apportionment, prayer, and integration cases, the great day of judicial sanity truly might arrive.

[From the Washington Daily News,
May 8, 1968]

KEEPING THE BALANCE TRUE

Title II of the omnibus crime control bill now before the Senate seeks to realize this

ideal stated by the late Supreme Court Justice Benjamin Cardozo:

"Justice, tho due to the accused, is also due to the accuser. The concept of fairness must not be strained until it is narrowed to a filament. We are to keep the balance true."

This controversial section of the bill amounts to a full-scale attack on recent Supreme Court decisions (*Mallory, Escobedo, Miranda, Wade*) which rule out confessions where a suspect hasn't been given immediate advice about his Constitutional right to silence, legal counsel during police interrogation, prompt arraignment. And which rule out eyewitness identification in court where the accused was denied counsel during a police lineup.

The record of the Senate Judiciary Committee is full of expert testimony that the practical result of these rulings has been to strain the concept of justice to a filament, hamstringing law enforcement and free confessed criminals—a number of them later convicted of similar crimes.

Some cases, in fact, have got so bogged down in procedural argument that the guilt or innocence of the accused never even was considered in court. This, say the champions of Title II, defeats the true ends of justice. And so it does.

Title II proposes return to the older rule of permitting the trial court to weigh the "totality of circumstances" in determining whether a defendant made a voluntary confession. The trial judge, taking into account all the accused's Constitutional rights, would determine if in that particular case the circumstances combined to indicate his confession was freely given or extorted. If extorted, the confession would be ruled out. If not, the jury could be instructed on the weight it deserved.

This, it seems to us, is common-sense law that opens a broader avenue to truth and justice than the hair-splitting rigidities of the recent Supreme Court rulings.

Other sections of Title II, however, are much less palatable. They would deny Federal appellate courts the right to review the admissibility of confessions or act on *habeas corpus* appeals from persons convicted by state courts. If only in the interest of consistency, it would seem that the greater discretion Title II would give to trial courts should encourage—rather than limit—review.

Whatever the outcome of the Constitutional argument, debate of Title II will have been worth Congress' time if it contributes even indirectly to modification of the rulings that have ignored Mr. Justice Cardozo's warning that society, as well as the accused, must be granted justice if the balance is to be kept true.

[From the Washington Evening Star,
Apr. 30, 1968]

CRIME BILL FANTASIES

As the Senate begins consideration of the new crime bill, the legislators, we are sure, will form their judgment on the basis of what the bill actually would do—not on the basis of the almost incredible misrepresentation of its provisions and purpose.

Those provisions of the bill which give effect to recommendations by the President and the Attorney General to strengthen local law enforcement agencies should of course be approved. There is no dispute about this.

We think the sections dealing with the use of wiretaps and electronic listening devices should also become law. It simply is not true to say or to suggest that these provisions would authorize the police to eavesdrop, for example, on bedroom conversations between husband and wife. This is absolute nonsense and the senators surely must know it. What is authorized is the use of these devices in the investigation of a few specified major crimes, murder, extortion, bribery, rape and robbery being among them. Installation of a wiretap or a bug would have to be authorized

and supervised by a court, and could be used only for a limited period of time.

If these devices are being used and are essential in national security cases, and the President and the Attorney General say they are, why should they not be used, subject to safeguards, in the case of other serious crimes?

The bill also contains provisions stripping the Supreme Court of jurisdiction to review certain decisions by state courts and significantly modifying rules governing the use of confessions as spelled out in the *Escobedo* and *Miranda* decisions.

These raise troublesome questions. Certain facts, however, should be kept in mind. One is that Congress has the power to control the court's review authority. For the Constitution says that the Supreme Court shall have appellate jurisdiction "with such exceptions, and under such regulations, as the Congress shall make." Language could hardly be clearer, and so the question here is one of wisdom rather than power.

The decisions in *Escobedo* and *Miranda*, relating to the use of confessions in criminal cases, were based on constitutional grounds. It is doubtful, therefore, that their impact can be altered by statute. A constitutional amendment may be necessary.

The senators, however, should not be bamboozled by the specious contention that these provisions could only have been conceived by the wicked men constituting a majority of the Judiciary Committee. The fact is that these were 5 to 4 decisions, which means that four members of the court thought the rulings were wrong and some of them said so in most vigorous language.

There is not the slightest basis for the charge that this bill is no better than a malicious attack on the Supreme Court. It is, in fact, a serious effort, based on extensive study and lengthy hearings, to improve the administration of criminal justice. There may be provisions that are unwise. But the measure as a whole deserves to be considered open-mindedly as a sincere effort to balance the scales which, in the judgment of many competent observers, have been tipped too far in favor of the criminal suspect and against the public's right to be protected from crime.

Mr. McCLELLAN. Mr. President, an article entitled "Nixon Hits Rise in Crime," written by Chalmers M. Roberts, and published in the *Washington Post* of May 9, 1968, reported a statement issued by Richard M. Nixon, one of the Republican candidates for the Presidency, in which he commented upon the crime situation in this country.

The article states:

Nixon strongly criticized Supreme Court decisions limiting interrogation of suspects and the use of confessions. He also called for legislation permitting use of wiretapping.

If the crime rate continues, he said, "the number of rapes and robberies and assaults and thefts" today will double by 1972, "a prospect America cannot accept."

I have repeatedly, Mr. President, here in the Senate and in public addresses, pointed out, if one were to project the present rate of increase in crime for another 5 years or 10 years, what the consequences are bound to be. I say here today that this trend must be stopped. America as we know it, our liberty, our freedom, and our security cannot possibly survive if it is not stopped.

Who is here today that believes any logical argument can be made that only title I of this bill is needed to stop the trend in crime? It will take 4 or 5 years, Mr. President, for these assistance pro-

visions to begin to show any real fruits, and longer before it can become really effective. I am for it, yes; but what is a \$400 million expenditure in the next 2 years? It will only be enough to initiate, in some communities in this Nation, the program of training and improvement that this title is designed to achieve.

In the meantime, Mr. President, if we continue to turn criminals loose as fast as we are today, they are going to outpace us. The crime rate will increase faster than our efforts will succeed by the use only of title I provisions.

The article continues:

"If we allow it to happen," said Nixon, "then the city jungle will cease to be a metaphor. It will become a barbaric reality, and the brutal society that now flourishes in the core cities of America will annex the affluent suburbs.

"This Nation will then be what it is fast becoming—an armed camp of 200 million Americans living in fear."

Mr. President, I ask unanimous consent that the entire article to which I have referred and from which I have been quoted be printed in the RECORD at this point.

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

NIXON HITS RISE IN CRIME—CITES LAWLESS SOCIETY IN POLICY PAPER

(By Chalmers M. Roberts)

Richard M. Nixon yesterday castigated the Johnson Administration for the massive increase in crime while it has been in office.

In a lengthy policy paper, the frontrunning Republican presidential candidate declared the United States to be a "lawless society" in which crime has skyrocketed 88 per cent in the last seven years while population was rising only 10 per cent.

Nixon strongly criticized Supreme Court decisions limiting interrogation of suspects and the use of confessions. He also called for legislation permitting use of wiretapping.

If the crime rate continues, he said, "the number of rapes and robberies and assaults and thefts" today will double by 1972, "a prospect America cannot accept."

"If we allow it to happen," said Nixon, "then the city jungle will cease to be a metaphor. It will become a barbaric reality, and the brutal society that now flourishes in the core cities of America will annex the affluent suburbs.

"This Nation will then be what it is fast becoming—an armed camp of 200 million Americans living in fear."

It was Nixon's first major position paper on the crime issue, which may well be the preeminent domestic concern of the presidential campaign. He has touched the crime question repeatedly in his stump appearances.

Nixon characterized as a "myth" for which the Johnson Administration "bears major responsibility" the idea that crime can be charged off to poverty.

"The role of poverty as a cause of the crime uprise in America," he said, "has been grossly exaggerated" and "we would not rid ourselves of the crime problem even if we succeeded overnight in lifting everyone above the poverty level."

The former Vice President charged that the Johnson Administration "seems to have neither an understanding of the crisis which confronts us nor a recognition of its severity. As a result, neither the leadership nor the necessary tools have been provided to date to enable society's peace forces to regain the upper hand over the criminal forces in this country."

At one point Nixon declared that "the forces of peace are in disorganized retreat" in Washington where since 1960 crime has increased by 100 per cent. The national capital, he said, "should be a model city as far as law enforcement is concerned—a national laboratory in which the latest in crime prevention and detection can be tested and the results reported to a waiting nation. The record, however, is otherwise."

The Nixon statement, entitled "Toward Freedom From Fear," was strongly critical of several Supreme Court decisions, especially those in the Miranda and Escobedo cases. He said those two decisions had the effect of "seriously ham-stringing the peace forces" in favor of the criminals.

He called for legislation to "redress the balance" and went on to say that if such legislation would not satisfy the Supreme Court then consideration should be given to amending the Constitution.

The two decisions lay down limitations on interrogation of suspects and the use of confessions. Nixon also criticized other decisions dealing with a prisoner's right to have a lawyer present during interrogations.

Nixon called for legislation permitting use of wiretapping under safeguards which he outlined. Here he was critical of President Johnson's opposition to the use of such devices.

In effect, Nixon was calling for approval of two highly controversial sections of the omnibus crime bill now before the Senate. One section would overturn some Court decisions while another section would authorize wiretapping under court order. Both are opposed by the Administration.

Nixon also called for block grants of Federal funds to the states for law enforcement assistance, a GOP proposal already approved by the House but opposed by the Administration which wants the money to go direct to the cities.

Other measures proposed by Nixon would make it a Federal crime to invest criminally-gained money in legitimate businesses, creation of a permanent Joint Congressional Committee on Organized Crime, more Federal personnel to fight crime and a GOP bill to jail witnesses who refuse to testify once they have been granted immunity.

Nixon said that he was not dealing in this statement with the "special problem" of urban riots but only with "the crisis of daily crime in America."

In downgrading the link between poverty and crime, Nixon said crime has increased about three times as fast as the national wealth.

"The success of criminals in this country," he said, "plays a far greater role in the rising crime rate than any consideration of poverty. Today, an estimated one-in-eight crimes result in conviction and punishment.

"If the conviction rate were doubled in this country, it would do more to eliminate crime in the future than a quadrupling of the funds for any governmental war on poverty. In short, crime creates crime—because crime rewards the criminal. And we will reduce crime as we reduce the profits of criminals."

Nixon added that another "attitude that must be discarded" is the "socially suicidal tendency—on the part of many public men—to excuse crime and sympathize with criminals because of past grievances the criminal may have against society. By now Americans, I believe, have learned the hard way that a society that is lenient and permissive for criminals is a society that is neither safe nor secure for innocent men and women."

Nixon also called for strengthening the Nation's police forces, which he called undermanned and underpaid, for use of more modern crime detection techniques for lifting bars to the sales of prison-made goods, for reforms in the Federal and state prison systems and for speedier disposition of criminal cases in the courts.

Mr. McCLELLAN. Mr. President, I observe in today's Washington Daily News an editorial commenting on Mr. Nixon's remarks.

The editorial is entitled "Straight Talk on Crime."

Among other things, the editorial states:

Republican Presidential candidate Richard M. Nixon has said some things that needed saying in outlining his position on how to halt the growing wave of criminal violence in the U.S.

Mr. President, I will show the justification in a moment for the Washington Daily News and its editors coming to the conclusion which they have announced in the editorial.

The editorial further states:

They amounted to this: The high price of leniency toward the lawless is a society in which the law-abiding live in fear—

That is true here in Washington today without any doubt.

I continue to read the editorial:

A fact all too apparent in many an American city already. The way to assure "safe streets" is to crack down. Prove to the criminal that crime doesn't pay.

Mr. President, I have said over and over that the way to have safe streets is to take the criminals off the streets, convict them of their crimes, and imprison them where they belong.

Another part of the editorial reads:

Tough talk. But it's the kind of talk millions of uneasy Americans will welcome. For crime in this election year is a major—possibly THE major—domestic issue.

I think the editorial is right. I think it is the major issue. And I regret that candidates for the presidential nomination from my own party have not made some similar statement to give assurance that they are cognizant of the conditions prevailing in America today and alert us, or inform us, of the fact that they, too, recognize this as one of the major, if not the major, issues confronting the American people.

In my judgment, it is a danger of the first order to the internal security of our country at this very hour.

Mr. President, I ask unanimous consent that the editorial from which I have read be printed at this point in the RECORD.

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

[From the Washington Daily News, May 10, 1968]

STRAIGHT TALK ON CRIME

Republican Presidential candidate Richard M. Nixon has said some things that needed saying in outlining his position on how to halt the growing wave of criminal violence in the U.S.

They amounted to this: The high price of leniency toward the lawless is a society in which the law-abiding live in fear—A fact all too apparent in many an American city already. The way to assure "safe streets" is to crack down. Prove to the criminal that crime doesn't pay.

The role of poverty, he said, has been "grossly exaggerated" as a cause of crime. And so it has. It is, no doubt, a contributing factor. But millions of decent, law-abiding Americans of limited means give the lie to

the argument that poverty and crime are synonymous.

Mr. Nixon contends doubling the rate of convictions "would do more to eliminate crime in the future than a quadrupling of the funds for any Government war on poverty." Without indorsing that ratio or belittling anti-poverty efforts, we heartily agree that crime is more likely to be deterred by the prospect of certain punishment than of Government aid.

Mr. Nixon advocated legislation—or Constitutional amendment, if necessary—to remove Supreme Court restrictions on confessions. He called for wiretapping to fight organized crime. Provisions to these ends are contained in the omnibus crime bill now before the Senate.

He called for prison reforms, for Federal aid to states for law enforcement, for better trained and equipped local police. Failure to act promptly and decisively now to end growing lawlessness will, he warned, bring this end: "This nation will then be what it is fast becoming—an armed camp of 200 million Americans living in fear."

Tough talk. But it's the kind of talk millions of uneasy Americans will welcome. For crime in this election year is a major—possibly THE major—domestic issue.

Candidate Nixon, of course, blamed the Johnson Administration for much of the crime rise. And within hours after Mr. Nixon released his White Paper, President Johnson made public a letter to Senate Majority Leader Mansfield urging prompt action on the omnibus crime bill. "The mugger and the murderer will not wait—neither must we," said the President.

But for the national disgrace of widespread crime there is blame enough to go around among the courts and Congress, the ins and the outs of politics. What's more important is that the politicians of both parties have got the word that the people want crime stopped.

Mr. McCLELLAN, Mr. President, I am in receipt of 22 telegrams from Washington businessmen located in the downtown area of our city urging the President and others in authority to announce that law and order will be upheld in the Nation's Capital by whatever means that are required.

These telegrams constitute substantial proof upon which the editors of the Washington Daily News might well have based the editorial which I have just had printed in the RECORD.

All one has to do is to pick up a daily newspaper and read of crime after crime occurring in the city.

Last night the District of Columbia increased the number of police officers on the streets in certain areas of the city by 20 percent. In my judgment, that is not an adequate increase. Perhaps that is all they can possibly do at this time. However, this wave of lawlessness must be stopped. And if it takes more personnel and more force to do it, more personnel and more force must be provided.

Mr. President, 3 or 4 days ago I received a call from a schoolteacher in my State, Arkansas. She wanted to bring a senior school class to Washington sometime this month. I believe that it was about the 20th of the month.

She asked: "Is what we read in the papers about our Capital true? Is it safe for me to bring these youngsters up there on a tour?"

What could I answer? What could the present Presiding Officer answer if he were called today and asked that question in view of the impending march and

the atmosphere that prevails here and the crime rate on the streets of Washington today?

I thought twice. I thought three times. And I said, "I cannot answer today. I cannot tell you not to come. I cannot be sure. But I will not tell you to come. Call me back a few days from now, and let us see what has developed."

What can one say? Look at the corridors in the Capitol today at this season of the year. Compare it to previous years. The corridors of this beautiful Capitol Building are almost free from tourists compared to the usual number that are here at this season of the year. Why? It is because of the crime that exists in the Nation's Capital.

Mr. President, I received these 22 telegrams this morning from businessmen of downtown Washington. The telegrams all read alike. I shall read one of the telegrams and then ask unanimous consent to have the other telegrams printed in the RECORD.

The first telegram reads:

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN McCLELLAN,
Senate Office Building,
Washington, D.C.

In the interest of the entire community I as a downtown Washington businessman strongly urge that the President, or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

ROBERT SCHWARTZ,
Discount Wholesalers.

Mr. President, I ask unanimous consent that the other telegrams to which I have referred may be printed at this point in the RECORD.

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

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In an attempt to insure peace and tranquility in the downtown area, I as a downtown Washington merchant, recommend that the President or some other high authority of his choosing make it known publicly that law and order will be upheld in the Nation's Capital by whatever means required and that such necessary steps be taken at once.

ERNEST BURK INC.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I, as a downtown Washington businessman strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

W. GREENBERG.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interests of the entire community I, as a downtown Washington businessman

strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

GLENN MUSIC & AUDIO CO.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I, as a downtown Washington businessman, strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

JAMES M. GISRIEL.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I as a downtown Washington businessman strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now, not after incidents happen.

LYN ART SHOP.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I as a downtown Washington businessman strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

MILLERS FURS, INC.,
P. MILLER and M. MILLER.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I as a downtown Washington businessman strongly urge that Federal troops be employed into the Nation's Capital immediately in order to maintain law and order before the upcoming poor people's march on Washington. Action now would prevent a recurrence of last month's disorders.

COHEN'S, INC.,
JAMES FREEDMAN.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community we as a downtown Washington business firm strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required, and that appropriate enforcement measures be taken now.

WILLIAM J. GALLERY & CO.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community, as

owners of a downtown Washington business, we strongly urge that immediate measures be taken to assure that law and order will be maintained so that property damage can be kept to a minimum and that the public may walk the streets in safety. We hope that the mistakes made the fourth and fifth of April will not be repeated.

W. H. LOWDERMILK & Co.,
ARTHUR J. AND BETSEY N. McSHINE.

WASHINGTON, D.C.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I as a downtown Washington businessman strongly urge that the President or other high authorities immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

J. D., INC.

WASHINGTON, D.C.,
May 9, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I as a downtown Washington businessman strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in Nation's Capital by whatever means required, and that appropriate enforcement measures be taken now.

RANDOLPH GARFIELD,
WILLIAM ROSENDOF FURS,
General Manager.

WASHINGTON, D.C.,
May 9, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community as a downtown Washington businessman I strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital whatever means required and that appropriate enforcement measures be taken now.

EDWARD C. RITZ,
RITZ CAMERA CENTERS, INC.

WASHINGTON, D.C., May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I as a downtown Washington businessman strongly urge that the President or any other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

IRVING J. HEINEY,
MAYFIELD SHOPS.

WASHINGTON, D.C., May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community and as Washington business establishment we strongly urge that the President or other high authority immediately take appropriate enforcement measures and announce that law and order will be upheld in the Nation's Capital.

JORDAN PIANOS, INC.

WASHINGTON, D.C., May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community, and as president of this institution, I strongly

urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital, by whatever means required and that appropriate enforcement measures be taken now.

LLOYD F. CAREY,
President, Prudential Building Association.

WASHINGTON, D.C., May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I, as a downtown Washington business man strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital, by whatever means required, and that appropriate enforcement measures be taken now.

EARL CAMPBELL,
CAMPBELL MUSIC CO., INC.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I as a downtown Washington businessman strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

BRYANT R. BAKER,
Vice President of Harris & Ewing.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I as a downtown Washington businessman strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

GEO. W. SPIER, INC.,
JACK ROSENBERG,
President.

WASHINGTON, D.C.,
May 10, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

In the interest of the entire community I as a downtown Washington businessman strongly urge that the President or other high authority immediately make frequent public announcements that law and order will be upheld in the Nation's Capital by whatever means required and that appropriate enforcement measures be taken now.

SNYDER & LITTLE,
OTIS D. MURPHY.

Mr. McCLELLAN. Mr. President, that is a sad commentary on the Nation's Capital. Why does it exist?

We have alibied, excused, condoned, and apologized too much in this country to the law violator. It cannot continue that way. There has got to be a turning back of these forces and elements that are destroying our society and creating a climate of fear and horror in the hearts and minds of law-abiding and decent citizens of our country.

Has the Senate the courage to do it? Are we going to pass title I only of the pending bill and say, "Oh, we have fixed everything. We have spent some more

money. We are going to train some more policemen."

How much will \$400 million in 3 years' time divided among the 50 States of the Nation get done? It is a start. I am not ridiculing the idea or the approach. I am going to support it. I have supported it from the time the President sent it up here. However, I say it is a start, but only a small start. It will not get the job done.

I do not care how much money we spend, how high a salary we pay a police officer, how much equipment we give a police officer, or whatever else we do, if the courts are going to turn the criminals loose on technicalities they have to search for and devise, technicalities that never existed in our jurisprudence until this court got so sophisticated that it could find technicalities in the Constitution that have been overlooked by all jurists that have preceded them down to this age, we will never put a stop to this sweeping crime wave that is upon us.

Mr. President, the tone is set at the top and the country is looking for some corrections at the top, as well as for more money to train policemen and supply these policemen with more equipment at the local level.

Mr. President, I have a letter from the North Washington Council of Citizens Association, addressed to me, dated May 9, reading as follows:

DEAR SENATOR McCLELLAN: The North Washington Council of Citizens Association, in regular meeting, May 9, 1968, went on record strongly opposing any occupation of Federal lands in Washington, D.C., and strongly urges that such a permit be denied for occupation of such lands.

With best wishes and thanks for your support in this matter.

It is signed "North Washington Council of Citizens Association, Salina Moore Foster, secretary-treasurer."

Mr. President, from across the Nation, I have received many letters from people who are concerned. These letters come from people in all walks of life. I hold in my hand approximately 39 letters that have been selected from the hundreds and hundreds I have received. They are from people in some 17 States, and they are from a cross-section of the Nation. I read a portion of a letter from Pasadena, Calif.:

The feeling here seems quite universal that the Supreme Court is getting entirely out of its proper function, and is making the enforcement of the laws more and more difficult.

I do think that many of the rulings of the Court in these recent years ought to be repealed.

Keep up the good work!

I have another letter from the District of Columbia:

Many citizens are perturbed and aware of the many decisions of the Supreme Court rulings of 5 to 4 decisions. Each Judge must use different text books of laws. Their decisions should be unanimous the same as a jury in courts, then they can abide with the inscription of the Supreme Court. "Equal justice under law."

Mr. President, it is not wrong to criticize the Supreme Court. Some people seem to have the idea that if you say

anything about the Supreme Court, you are desecrating something that is sacred. Certainly, it is sacred, but What about Congress? what about the Presidency? We are free to criticize Congress. We are free to criticize actions of the administrative branch of Government. But, when we say something about the Supreme Court, we are jumped on as though the Court is sacrosanct. I do not believe so. I do not believe the Constitution constituted the Supreme Court as the god of the universe or of this Nation. I believe the Supreme Court can be criticized, and it justly deserves to be criticized.

If the majority of the Court has the right to do what they are doing, not only to criticize, but also condemn and reverse their predecessors and the precedents that their predecessors set, for a hundred years or more during the life of this Government, why should they be immune and protected from honest criticism and constructive criticism by those who believe they are doing wrong and making erroneous judgments?

Here is a letter from Baltimore, Md.:

It is with great interest that I follow your crime control bill, as my wife, children and I feel that the Supreme Court and others have too long coddled the criminal element. We believe that there are no longer laws for the majority but for the minority—the criminal.

Confessions are an absolute essential in preparing criminal cases and with the necessity of the presence of an attorney this is an almost impossible feat. Too many cases are going unsolved because of the handcuffs placed on law enforcement officers. I doubt if many innocent people confess to crimes they did not commit.

You have my support and I am sure the support of many other citizens. Please continue your endeavors and do not succumb to the "do-gooders" who know so little about the true situation!

Of course, Mr. President, no one wants the third degree. No one wants coerced confessions. But who can judge it best—the Supreme Court, which sits in its citadel in Washington, or the trial court who tried the case and heard the witnesses, and a jury of the defendant's peers, who listened to his testimony? Who can judge best?

Here is a letter from Boston, Mass.:

Much of the rising tide of crime can, I think, rightfully be ascribed to opinions handed down by the present Supreme Court.

Here is a letter from Columbus, Ohio:

Unless our law enforcement officers have their powers returned to them and the courts enforce criminal convictions, we will revert to gangster and criminal rule.

Mr. President, I shall not read any more letters. There are many of them, but this is an example. I ask unanimous consent that the letters be printed at this point in the RECORD.

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

COLUMBUS, OHIO,
May 4, 1968.

Senator JOHN L. McCLELLAN,
Senate Building,
Washington, D.C.

DEAR SIR: It was a pleasure to read that we have Senators in Washington, D.C. who are not afraid to voice their opinions such as you personally have done in accusing the U.S. Supreme Court of coddling criminals.

Unless our law enforcement officers have their powers returned to them and the courts enforce criminal convictions, we will revert to gangster and criminal rule.

Again my support goes to you and your Senators who have the courage to do something about self confessed murders and rapists that the Supreme Court is disposed to turn loose.

Yours for Justice for All

P. J. FAISTL.

COLUMBUS, OHIO,
May 3, 1968.

Senator JOHN McCLELLAN,
Senate Office Building,
Washington, D.C.

DEAR SIR: I want to write in support of your contention that the Supreme Court has imperiled public safety while providing protection for criminals.

In talking to dozens of persons I have not found one who is not greatly disturbed and angered by the permissiveness shown in our courts, following the lead of the Supreme Court.

I cannot believe that the great men who frame the Constitution ever meant for it to be used as a loophole through which criminals could crawl to freedom from punishment for their crimes.

As long as the courts shield criminals we need not wonder why the crime rate continues to rise—it is being encouraged to do so.

Sincerely yours,

Mrs. JEAN THORNBURG.

MAY 2, 1968.

HON. JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.

DEAR SIR: I have just read with great interest about your firm stand against the coddling of criminals by the Supreme Court.

For sometime, my feelings and those of many of my friends have been in accord with you.

Since you are in a position to do something about this situation and we are not, I urge you sincerely to use your strongest forces to get this "Omnibus" bill passed as quickly as possible.

Very truly yours,

BLAIR A. WHYTE.

BUTLER, PA.,
May 4, 1968.

Senator JOHN J. McCLELLAN,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR: In a recent news story in our local newspaper we noted that you are sponsoring legislation to offset or cancel out some of the unbelievable decisions of our supreme court. Some of their decisions protecting the criminal element, stopping prayers in schools, protecting purveyors of obscenity etc. etc. are really difficult for an ordinary citizen to agree with or understand.

I am sure if a vote could be taken a great majority of the people would agree with you and support legislation to reverse many of their decisions.

With best wishes for success,

Sincerely yours,

Mr. & Mrs. JOHN C. BRADRIK.

LOS ANGELES, CALIF.,
May 3 1968.

Senator JOHN L. McCLELLAN,
Senate Building,
Washington, D.C.

DEAR SENATOR McCLELLAN: Let me congratulate you on your fine stand against these astounding decisions of our Supreme Court, which are all, without exception, made in the best interests of the criminal and completely against the interests of the law enforcement agencies and the law abiding citizen.

I do not believe that anything within the history of our country has ever been as detrimental to the interests of justice and the welfare of our nation as these warped decisions of the Supreme Court.

Respectfully yours,

ANDREW L. STONE.

INGLEWOOD, CALIF.,
May 3, 1968.

Senator JOHN McCLELLAN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR McCLELLAN: Thank you for supporting Title II of the Anti-Crime Bill. We need Protection from criminals whether in the streets or on the Supreme Court.

Sincerely,

Mrs. PHYLLIS HUNT.

BURBANK, CALIF.,
May 2, 1968.

Mr. JOHN L. McCLELLAN,
U.S. Senator,
Washington, D.C.

DEAR SENATOR McCLELLAN: I have just read the article in the Los Angeles Times of this date regarding your demand for a crack-down on the rulings of the Supreme Court. It is about time that someone is trying to do something about the decisions, or perhaps the interpretations of our laws, that they have made.

I am sure that all of the citizens of our country shall be eternally grateful to you if you succeed in your efforts. I do know that ever since the Miranda vs. Arizona case, crime in the United States has been on the increase and has become an hourly and daily worry to people who do try to obey all of the laws. The Supreme Court is amending our constitution without the consent of Congress.

Their decisions have handcuffed the state and city courts and the police until they are so confused that they just do not know what to do. Every day in the papers one can read where some criminal has been released because of the rulings of the Supreme Court and it is about time a stop is put to all of this.

A person does not dare to even take a walk in their own neighborhood in the evenings or anytime of the day without some worry if they will ever get home again safely. A fine state of affairs to be going on in our cities, wouldn't you say?

I have even read many times in the papers that policemen have said "what is the use of arresting anyone when they will just be released anyway" and it is very true.

Please keep up your work and you will become the most beloved man in our country, I'm sure. Doesn't it take an act of congress to amend our constitution?

To change the subject: What is to be done about characters like Stokely Carmichael and Rap Brown? It was printed in a daily paper in Santa Monica and was on the Chan. 5 newscast by Mr. George Putnam that Carmichael was in Washington during the riots after the death of Martin Luther King and that he was waving a gun around and telling people to burn everything down, etc. I thought a bill had been passed that would prevent anyone from going from state to state stirring up the people. Cannot something be done about these two to put a stop to this sort of thing or will they be able to carry out their schemes and cause a revolution before something is done about them? And right in Washington too. It was also said by Mr. Putnam that they have only about 50 followers but about 5,000 newsmen followers.

I never thought that I would live to see the day when things that are happening in our country would be allowed to go on. How long is it going to last? I cannot see where the Attorney General or the Justice Dept. are doing anything.

Most respectfully,

Mrs. MYRNA SCHLUETER.

BOSTON, MASS.,
May 4, 1968.

HON. JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR McCLELLAN: I have read with interest the account of an interview with you that is given in the current issue of U.S. News & World Report. I wish that there were more Senators like you in Congress. The report of your Committee on riot control will, I believe, be much nearer the truth and much more effective than the recent one by the Kerner Committee which places responsibility on the great majority of decent, law-abiding citizens for the crimes of the minority.

I am very much interested in the crime-control bill for which you are working. The Washington Post, as you know, had some vicious editorials opposing the measure. I'm enclosing copy of a letter that I sent the Post regarding the measure. Of course they won't use it, as it is diametrically opposed to their position. Among the many reasons the Post gives for opposing the measure is that it would overturn the Supreme Court opinions in the Mallory and Miranda cases. To me this is an outstanding reason for supporting the measure. Much of the rising tide of crime can, I think, rightfully be ascribed to opinions handed down by the present Supreme Court. My feelings with regard to such opinions are expressed in the lines on "Nine Ancient Harpies," copy of which I enclose.

I shall write to my Senators and do what I can to support your crime control measure. As I am a delegate to the Maine State Republican Convention that meets in Bangor on the 10th of this month, I may be able to secure some support for the bill there.

Sincerely yours,

ETHEL M. JOHNSON.

To the Editor,
The Washington Post.

SIR: Your lead editorial in today's Washington Post on the Crime Control Bill now before the Senate Judiciary Committee makes me feel it is a measure that all who believe in the protection of law-abiding citizens, who deplore the coddling of criminals and desire to check the rapidly expanding crime wave in this country should support. If it does not more than over-throw the outrageous disgusting and vicious Mallory and Miranda decisions it deserves enactment.

Let it not be forgotten that Mallory was a confessed and convicted rapist; that the Justices of the U.S. Supreme Court ordered his release on a mere technicality. They admitted there was no question as to his guilt. But he had been held a little longer between arrest and arraignment than the Justices approved. (The law specified no time limit. It merely said "reasonable"). And of course the creature committed another rape. And the Justices and all who approve their decision share in the guilt for that crime.

Let it also be remembered that in the Miranda case a confessed and convicted kidnapper and rapist was ordered released by the Supreme Court Justices, not because they believed him innocent, but because he was not provided with a lawyer, or advised that he could be when he made his confession. Of course he committed another kidnapping and rape. Again, I say that all who approve of that opinion have a share in the guilt.

I believe that coddling criminals is a major factor in increasing crime.

E. McLEAN JOHNSON.

GREEN BAY, WIS.,
May 2, 1968.

Senator JOHN McCLELLAN,
Senate Office Building,
Washington, D.C.:

Thank you for speaking out against unbelievable coddling of major criminals by our

courts. I know 95 percent of us back you as does our leader and major domo of the Green Bay Packers Vince Lombardi. Am mailing you his recent speech keep up the good fight thankfully.

G. W. SEILER.

PASADENA, CALIF.,
May 3, 1968.

Senator JOHN H. McCLELLAN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: The feeling here seems quite universal that the supreme court is getting entirely out of its proper function, and is making the enforcement of the laws more and more difficult.

I do think that many of the rulings of the court in these recent years ought to be repealed.

Keep up the good work!
Yours truly,

T. W. MEDEARIS.

DISTRICT OF COLUMBIA,
May 9, 1968.

HON. JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR McCLELLAN: The Anacostia Citizens Association supports your comments published in the Washington Star newspaper May 2, 1968. "Prompt Passage of Crime Bill."

Many citizens are perturbed and aware of the many decisions of the Supreme Court rulings of 5 to 4 decisions. Each Judge must use different text books of laws. Their decisions should be unanimous, the same as a jury in courts, then they can abide with the inscription of the Supreme Court. "Equal justice under law."

Congress and Senate should take immediate action prohibiting demonstrators for use of our Nation's Capital as a model city for demonstrators, which we believe is communist inspired. The visitors will have a fear to visit our Capital City. We oppose any camp site in the Anacostia area, which is a residential area, as mentioned in the news media.

The "Poor People's Campaign" must be wealthy to travel, they can use the money to help the poor. I have heard their remarks on television urging the poor class of negroes in Mississippi to march in Washington and it would not cost them a penny, one woman refused. I believe they would be stranded in Washington and would be at the mercy of the welfare. This is the purpose of the "Poor People's March."

I do believe we need the National Guard in Washington during the summer to preserve law and order. The teenagers should be handled as adults for felony offenses.

The white people are moving rapidly out of Washington for lack of protection, windows are being broken in private homes by rock throwers.

Sincerely yours,

CHARLES J. PIPER,
President, Anacostia Citizens Association.
P.S.—I forgot to mention that business establishments are moving out of the District of Columbia.

[From the Washington (D.C.) Star, Sept. 11, 1963]

MARCH COST TO D.C. PUT AT \$163,794

Demonstrators who marched on Washington for jobs and freedom August 28 cost the city \$163,794, Senator Byrd, Democrat of West Virginia, disclosed yesterday.

The Senator, who heads an Appropriations Subcommittee due to consider the District budget next week, released a breakdown of expenses of the march in seven departments.

Earlier, he said marchers themselves should contribute to unusual expenses imposed on the city by the demonstration. The burden should not be met by local taxpayers, he said.

But the Senator had no comment on how the actual costs should be divided except to say that the issue would be aired at budget hearings.

The item is the kind often noted by District Commissioners to show that many municipal services are demanded simply because this is the Nation's Capital, rather than a Metropolitan center.

The Byrd tally showed that the fire department spent \$15,901; corrections, \$3,145; sanitary engineering, \$18,731; highways, \$11,357; police, \$99,250; health, \$13,369, and the National Guard, \$2,041.

The \$163,794 total did not include \$5,000 for box lunches for police.

More than a dozen officers became ill after eating sandwiches and salads furnished in boxes during the march. The District may not pay for the spoiled food.

BALTIMORE, MD.,
May 6, 1968.

HON. JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR McCLELLAN: It is with great interest that I follow your crime control bill, as my wife, children and I feel that the Supreme Court and others have too long coddled the criminal element. We believe that there are no longer laws for the majority but for the minority—the criminal.

Confessions are an absolute essential in preparing criminal cases and with the necessity of the presence of an attorney this is an almost impossible feat. Too many cases are going unsolved because of the handcuffs placed on law enforcement officers. I doubt if may innocent people confess to crimes they did not commit.

You have my support and I am sure the support of many other citizens. Please continue your endeavors and do not succumb to the "do-gooders" who know so little about the true situation!

Respectfully,

ROBERT L. LARKIN.

Mr. McCLELLAN. Mr. President, the majority of the letters that I have referred to up to now have pertained to crime.

Now, with respect to the march on Washington and the rioting that has occurred, I read a telegram, dated May 8, from Washington, D.C.; and I wish to comment on this.

We have in this country among our Negro people some of the finest, some of the most patriotic, some of the most loyal citizens, who share today the fear that others are expressing, who share the shame that we feel when we see these outrageous riots and acts of lawlessness running rampant throughout our cities—the plundering, the burning, the pillaging, and the murdering. They do not agree with it; they want it stopped. The best element of the Negro race in this country today want these things stopped. They want law and order. They, too, want protection.

Mr. President, I hold in my hand a telegram addressed to me, dated May 8, reading as follows:

I am colored, and I would like to be proud of my background, but I cannot be proud of the "going ons as such." Please help my people not be ruled by these militants. I will pray for you and your future.

Mr. President, we are not fighting a race issue here. We are trying to protect all races alike, trying to protect them from those who want to destroy our society, from those who, in the name of civil liberties and human rights some-

times go out and violate the law and commit the depredations which are taking from us the very liberties we cherish and which we intend to protect.

I have a telegram from Silver Spring, Md., which reads:

Bravo. We support you. Hope you can do something before it is too late.

It is signed by a man and his wife. Yesterday, I was visited in my office by a manufacturer from Arkansas who has business operations in Arkansas and Oklahoma. He told me that they have 325 jobs open, starting at a wage of \$1.89 an hour, and they cannot get them filled.

Here is a wire from Atlanta, Ga., which reads as follows:

Reference so called poor man's march we have 100 jobs paying from \$1.80 to \$2.80 per hour going begging for lack of employees. If you can single out up to 100 men that want to work call me collect and I'll furnish details.

TOM C. CAMPBELL,
Southern Iron & Equipment Co.

Mr. President (Mr. MUSKIE in the chair), I have another telegram saying practically the same thing. They say, "We have jobs but we have nobody to fill them."

Mr. President, I know that in some areas there are no jobs. However, in some areas where some of these marchers are coming from there are jobs, and they could fill those jobs.

Here is a letter dated May 7 which states:

Telling the "poor marchers" they will be eligible for regular welfare payments as soon as they step foot on District soil, is like paying "worthless people to become more worthless."

Of course, if they come here they must be fed and taken care of. It is being said, "Come to Washington. Arrive in Washington one night, and we will get you on relief the next morning."

Mr. President, a lot of folks do not want to work. They want to live on a dole. Certainly, they are going to take advantage of an invitation like that. They would be foolish if they did not. I do not think they are that stupid; at least, many of them are not.

Mr. President, I shall read further from the letter addressed to me under date of May 7, 1968:

Why aren't these people looking for jobs? According to U.S. News & World Report, page 87, "Now it's help wanted as jobs go begging."

Mr. President, that is what I have said here, as illustrated by the telegrams and other information that has come to me. It is true that there are places where there are no jobs and people are unemployed. But a march on Washington is not the answer.

Bills are pending and appropriations may be made, but they are not going to satisfy. What are the demands? The demands are for guaranteed wages and many other things. We had a civil rights bill and everyone thought that would satisfy, but has it? No; it has not; and neither will this.

Mr. President, here is another telegram.

Previous incident looters were informed of whereabouts of police with their own crew of walkie-talkies. What would happen if 100,000 peaceful assembly descended on the Capitol or White House and decided to non-violent.

Here is another from Washington, D.C.:

If the President of the United States and the Attorney General do not deem it essential to do something to protect people and property in this area, I can only trust in God that this protection be taken care of by the Congress.

Again, of course, Congress has no executive power to go out and enforce the law, but we can urge that the executive branch, which has that responsibility, take every means to protect people from the viciousness of crime.

Here is a telegram from Rome, Ga.:

Hit harder. Stop civil rights. Poor people Communist coalition. Americans feel deserted. Only Congress remains. Don't be intimidated. Back broken workers resent parasites. Supreme Court on side of criminals.

Mr. President, I ask unanimous consent that the telegrams and letters to which I have referred be printed in the RECORD.

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

RIOTS—JOBS
GRANADA HILLS, CALIF.,
May 7, 1968.

Senator JOHN L. McCLELLAN,
Washington, D.C.

DEAR SENATOR McCLELLAN: This morning Paul Harvey on his newscast over KABC Radio stated "The McClellan Committee has evidence the poor peoples march on Washington is to create a riot." Senator Jennings Randolph (Dem.) told the U.S. Senate on May 2: "There are strong evidence of Communist planning and participation in the forthcoming demonstrations in our nation's Capital." The informed citizen saw David Dellinger standing at the side of Mr. Abernathy, Sen. Randolph points out in U.S. News & World Report "This anti-American propagandist has publicly announced that he is a Communist . . . a non-Soviet Communist." President Johnson said on May 3: "We are concerned . . . We have made extensive plans, and preparations." What plans may, we be so bold as to ask? . . . like giving "The thousands of 'poor marchers' who are expected to descend on Washington, welfare payments as soon as they enter the District of Columbia. All the marchers have to say to welfare officials is that it is their intention to stay in the nation's capitol", their leaders have already told Congress "they will stay until their demands are met."

Telling the "poor marchers" they will be eligible for regular welfare payments as soon as they step foot on District soil, is like paying "worthless people to become more worthless."

Why aren't these people looking for jobs? According to U.S. News & W. Report, p. 87 "Now It's Help Wanted As Jobs Go Begging" skilled and unskilled jobs go begging, now some body is lying, and it is not U.S. World & News Report. This Poor Peoples March should not be permitted to enter the District of Columbia. One has to listen to Broadcast from Castro Cuba to get the picture of who and whom has, and is running this "poor peoples march" . . . no doubt the Committee files of the senate are bulging with evidence.

Sincerely,

Mrs. JAMES J. O'CONNOR.

SAN FRANCISCO, CALIF.,
May 5, 1968.

HON. GEORGE MURPHY,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MURPHY: It is a sad state of affairs when there is more concern for the "rights" of criminals than the rights of the law-abiding citizen. I strongly urge your support of the crime control bill.

Our legislators should not be unaware of the fact that the majority of voters do not take the time or trouble to obtain publicity for their cause. They merely wait to show their displeasure at the polls if they are not satisfied in the manner our government is run. The vociferous but misguided "do-gooders" get all the attention and thus frequently cause Congress to lose sight of the fact that they are in the minority.

I feel that since voters can do nothing directly about appointments to the Supreme Court, you will find they intend to vent their anger against their elected representatives. On this crime control bill, and any other legislation which would help return this country to sanity, you should anticipate the desires of the vast majority of the silent voting public.

Yours very truly,

ROBERT J. RE.

FLORENCE, ALA.,
May 8, 1968.

Senator McCLELLAN,
Washington, D.C.:

Previous incident looters were informed of whereabouts of police with their own crew of walkie-talkies. What would happen if 100,000 peaceful assembly descended on the Capitol or White House and decided to non-violent.

WALTER FUQUA.

WASHINGTON, D.C.,
May 8, 1968.

Senator JOHN L. McCLELLAN,
U.S. Senate,
Washington, D.C.

SIR: Let me thank you for the statement you made on the floor of the Senate yesterday alerting the officials of the U.S. Government of the District Government with regard to the impending danger which could, and may, come to the people of this area as the result of the so-called "Poor People's March".

If the President of the United States and the Attorney General do not deem it essential to do something to protect people and property in this area, I can only trust in God that this protection be taken care of by the Congress.

I now find it unwise to attend Church services on Wednesday evenings as I had previously done. I am hoping we will return to normalcy again—with the right leadership.

I am sure that I express the sentiments of most of the white women of this area.

Sincerely,

Mrs. CARRIE B. WEST.

NORMANDY, MO.,
May 9, 1968.

HON. JOHN L. McCLELLAN,
U.S. Senate,
Washington, D.C.

MY DEAR SENATOR McCLELLAN: We urgently beg you and your colleagues to stop that march on our National Capitol. It can only end in disaster.

Mr. and Mrs. WILLIAM J. SANFORD.

BETHESDA, MD.,
May 7, 1968.

Senator JOHN McCLELLAN,
Senate Office Building,
Washington, D.C.:

We support you 100 percent. Its about time somebody spoke up. Can we help?

Mr. and Mrs. A. LISS.

HIGHLAND, MD.,
May 8, 1968.

Senator JOHN McCLELLAN,
Senate Office Building,
Washington, D.C.:

May God give you strength to follow your convictions as expressed yesterday. Civil rights in the true meaning is, meant by our forefathers, equality for all.

PAUL R. SMITH.

FULTON, MD.,
May 8, 1968.

Senator JOHN McCLELLAN,
Senate Office Building,
Washington, D.C.:

My admiration to a statesman of your caliber. Please consider me as a dedicated follower of yours. May God direct you and help our sick Nation to evaluate this situation with wisdom.

MARGARET A. HYDE.

LITTLE ROCK, ARK.,
May 8, 1968.

Senator JOHN McCLELLAN,
Senate Office Building,
Washington, D.C.:

Our heartfelt congratulations to you for putting our Federal administration on notice for its responsibility to us as citizens regarding the Poor Peoples Campaign.

JIM LEWIS.

VIENNA, VA.,
May 8, 1968.

DEAR SENATOR McCLELLAN: The copy of my letter to Senator Dirksen discloses my feelings concerning the planned "Communist Invasion of Washington"—the pseudo "Poor People's March."

All Americans appreciate your efforts to prevent this Communist victory. Keep up your good work.

Sincerely,

GEORGE W. DRESS.

M. A. HYDE & ASSOCIATES, INC.,
May 8, 1968.

Senator JOHN McCLELLAN,
Senate Office Building,
Washington, D.C.:

I agree unequivocally with your position as to civil rights and want you to know that I regret I am not a constituent of yours from Arkansas. May the grace of God produce more statesmen like you in our country. You have my admiration and respect.

M. A. HYDE, President.

St. LOUIS, MO.,
May 4, 1968.

Senator JOHN D. McCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I hope you will read these clippings for they express the feelings of so many people these days. I think crime and riots come ahead of the Vietnam war for it is so uncalled for in a supposedly civilized country.

Just why do our law makers want to make it all so easy for such people to continue on their way of crime. Do they really believe by letting them have the go sign will stop it?

Mr. Johnson mentioned in his speech about Congress blackmail. What does he think the Negro is doing? Surely, Communists must be trying to take America down to where Greece and Rome were when they fell—our country is well on its way for it is not humanly possible to meet every demand the Negro wants these days. Nor should it be that way.

The money spent on that poor people's march could do a lot toward fixing their homes and getting them jobs. I'd quit my job tomorrow if the Gov't will guarantee me \$3,000. I don't make that much now and too I'm 65 yrs. old.

I have never voted a Republican ticket but I am so disgusted with my party the shape they have gotten our country in that

I do intend going Republican. I heard an X Air Force Col. say the same thing. If people stay out of trouble, they won't tangle with police—is my theory.

Respectfully,

Mrs. ELLEN GRAY.

POOR PEOPLE'S MARCH CAN BACKFIRE

The probability is that pressure tactics practiced by the Poor People's Campaign led by Rev. Ralph Abernathy will boomerang.

Congressmen predictably will refuse to take action under the "militant non-violence" planned by Mr. Abernathy and company.

Legislators normally would be in a frame of mind to vote billions of new aid for the poor, following the report of the President's Advisory Commission on Civil Disorders.

But to threaten to disrupt the nation's capital if they don't capitulate to the demands of the poor can only anger members of Congress and hurt the cause of the needy.

Among the demands to date are: A guaranteed annual income, millions of new jobs, more housing, extending the minimum wage to another 20 million persons and free food stamps.

The vanguard of the march gave members of the President's Cabinet other demands. They handed Secretary of Agriculture Orville L. Freeman four pages of orders and told Attorney General Ramsey Clark to step up enforcement on antisegregation laws.

It is doubtful that the spectacle of thousands of American poor marching on Washington would have been planned if succeeding Democratic Administrations hadn't told them, in effect, that the government owes them a living.

The government doesn't owe them a living. It owes them an opportunity to get a good education, and an equal chance to get a job and make a living.

Those who are making the demands aren't apparently offering anything in return for the billions they hope to extricate from Congress. It is a straight power play. No government can endure if it submits to blackmail or abdicates its authority to an angry mob.

The great pity is that without the pressure tactics, it is probable that many federal programs benefitting the poor would be approved.

It is a disservice to those living in poverty to carry out this pressure campaign that can anger Congress and delay help for those who are in need.

There is little doubt that upon reading of the riot act, such force as is necessary, including the right to shoot to kill, may be used to disperse a hostile force.

All civil rights may lawfully be suspended in times of civil disorder, including the writ of habeas corpus. A person may be held without charge until the emergency has passed, which determination is in the sole discretion of the Governor and may not be overruled by a court. The Governor may order the troops not to yield the prisoners and ignore the court.

The writ of habeas corpus was not suspended in either Washington or Baltimore recently as President Lincoln suspended it during the early Civil War riots.

It is possible that a "shoot to kill" order may legally be issued as against an armed and menacing mob. However, it is extremely doubtful if such an order to shoot with intent to kill is legal in the case of an individual theft. A shot fired with intent to stop a felony is legal. If the firing of such shot is necessary, and it incidentally and accidentally kills, no blame attaches, but the shot may not be aimed to kill. On the other hand, it is doubtful if a mayor has the legal right to order a policeman not to shoot if such force is necessary to stop a felonious crime.

It is equally specious for a Mayor to declare that life is more important than property, because the theft involves not the property, but the crime against the peace and dignity of the state—at least theoretically.

Thus, a Mayor instructing police not to shoot to prevent a crime is constricting the operation of the law as certainly as a Mayor who orders a policeman to shoot to kill is extending it. Risk of death is a part of the risk of stealing.

But, as Abraham Lincoln pointed out in his first inaugural address, those who would break the law have the option, for he who was sworn to uphold the law has none but to enforce it.

To compare property and life is ridiculous. If life is more valuable than property, it is by way of an offer of the Mayor to turn over the usually excellent furniture in city hall to any applicant earnest enough to threaten suicide if he doesn't get it. Should the Mayor turn it over, it would be illegal, since he doesn't own it.

By the same token, it is illegal for him to order a policeman not to shoot to protect a merchant's property, because the Mayor does not have the constitutional right to sacrifice any person's private property to a thief.

To fail to protect a citizen's private property is in effect to make him pay a heavy tax because a Mayor has illegally withdrawn from him the equal protection of the law.

Further, if life is so much more valuable than property, it follows that the lives of lawful firemen should not be risked putting out the fires started by unlawful rioters. Actually, grandiose reminders that life is more valuable than property are totally unnecessary. That truth is made adequately clear several times a year when they carry a murdered policeman's coffin out of the cathedral.

PASS McCLELLAN'S ANTICRIME BILL

One of the key provisions of the federal crime control bill, sponsored by Senator John L. McClellan of Arkansas, would make confessions admissible as evidence in criminal trials when voluntarily given.

If enacted into law, this provision would nullify a series of United States Supreme Court rulings that have given increasing protection to criminals and greatly restricted police ability to obtain vital evidence.

Senator McClellan cited particularly the high court's decision in the Miranda case which barred use of confessions unless a suspect was advised of his right to have a lawyer.

As matters now stand it is virtually impossible for police to obtain a confession in many cases because of the multitude of restrictions placed upon them by the Supreme Court.

The disastrous effect on law enforcement can be visualized when it is recognized that prosecutors in the past have relied upon confessions to obtain guilty verdicts in about 70 per cent of all convictions.

Under the permissive doctrines of the Supreme Court, succeeding Democrat Attorneys General and the society-is-to-blame thesis, crime had risen 62 per cent from 1960 to 1967. It jumped another 16 per cent in the first nine months of last year.

Senator McClellan is not exaggerating when he says the mounting crime rate "borders on open rebellion and insurrection."

In St. Louis we are witnessing a virtual daily blood bath of wanton killings and slaying in perpetration of robberies (mostly by boys in their teens in recent days).

So why should we follow the dictates of the Supreme Court that everything should be done to insure that the suspect will shut up like a clam to police?

If a confession is voluntarily given, why should it be thrown out because the confessor wasn't told he could have a lawyer?

Another provision of Sen. McClellan's bill would legalize court supervised wiretapping and electronic surveillance by law enforcement officials.

The present Attorney General Ramsey Clark would limit use of wiretaps and electronic bugs to national security cases.

If Clark's proposal were followed, this would mean the fight against organized crime would suffer a death blow.

New York's crusading district attorney Frank Hogan has told a Senate Committee that without wiretaps and electronic devices it would have been impossible to convict the "Murder, Inc." gang and other notorious racketeers he sent to prison.

So why should we listen to young Mr. Clark who has demonstrated he is more interested in expounding his sociological views on crime than enforcing the law?

The more we read of 16-, 17- and 18-year-old boys shooting and killing people, the more we are convinced that some restrictions on the sale of firearms, as proposed by Senator McClellan's measure, are necessary. We hear of these young men holding up stores and shooting victims almost every day. Where are they getting all the weapons and ammunition?

Maybe it is impossible to keep minors from getting guns, but at least the attempt should be made.

There is virtually unanimous support of the crime bill's other major provision—federal grants to improve local police forces.

This is the best anti-crime measure to be offered in many years. It could strike a major blow at the permissive, let-them-kill-and-rob doctrines that have convinced many criminals—crime actually does pay.

It could be the turning point in the war on crime—a war that continues to be lost by eggheads who know everything except how to enforce and administer the law.

BALTIMORE, Md., May 8, 1968.

HON. JOHN L. McCLELLAN,
U.S. Senate.

DEAR SENATOR: Congratulations on your courageous words in describing the Shanteytown storm troopers.

Even though fewer in number the hard corps remaining Bonus Marchers caused trouble in 1932. A hostile group whose leaders opposes the struggle for our existence in Vietnam could cause more havoc in Washington than the Tet offensive did in Vietnam.

Please use your influence to persuade the marchers to stay in their homes where they belong as long as they obey laws.

Sincerely,

RALPH J. HOPKINS.

P.S.—A recent presidential candidate spoke of the gravity of crises. How grave must crises be to have a semilemergency passed to prevent chaos?

SOUTHERN IRON & EQUIPMENT Co.,
CHAMBLEE, Ga., May 8, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.:

Reference so called poor man's march we have 100 jobs paying from \$1.80 to \$2.80 per hour going begging for lack of employees. If you can single out up to 100 men that want to work, call me collect and I'll furnish details.

TOM C. CAMPBELL.

NORTH WASHINGTON COUNCIL OF
CITIZENS' ASSOCIATION,
Washington, D.C., May 9, 1968.

Senator JOHN L. McCLELLAN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR McCLELLAN: The North Washington Council of Citizens Associations in regular meeting May 8, 1968 went on record strongly opposing any occupation of Federal Lands in Washington, D.C. and strongly urges that such a permit be denied for occupation of such lands.

With best wishes and thanks for your support in this matter we are,

Yours sincerely,

SELINA MOORE FOSTER,
Secretary-Treasurer.

KOKOMO, IND.,

May 3, 1968.

DEAR SENATOR: I agree entirely with your effort to pass a crime control bill to curtail Supreme Court coddling of criminals. How stupid to not let confessions (voluntary) be admitted as evidence! Let's give a few thoughts to victims instead of criminals! More power to you, sir.

Sincerely,

HELEN J. MILLER.

P.S.—Thought you might need encouragement.

CANTON, MO.,

May 2, 1968.

DEAR SENATOR McCLELLAN: How I wish we had a great many more Senators such as you, sir!

We are all so sick, tired, and most concerned over the goings on of the Supreme Court! What a terrible thing it is they have done by giving the criminals all the "rights" while the victims are made to feel they are the "guilty" ones!

I pray God you are given the strength to make your constituents see it is high time Congress get busy and force the Supreme Court to stop playing around with our Constitution, or soon our land will have no law at all!

The Court has so tied the hands of all police that criminals know they can rob, rape, even commit murder and get by with it! Then the Court has the ignorance to say they can't figure out why crime is on the rampage all over the nation! Personally, I think we need an all new Supreme Court!

Please God your crime control bill, to supersede the several Supreme Court decisions will pass! The time is now to get our country back to law and order.

Sincerely,

Mrs. EDGAR ORF.

BIG SPRING, TEX.,

May 3, 1968.

Senator JOHN McCLELLAN,
Washington, D.C.

DEAR SENATOR: You are due more than just congratulations for introducing and pushing for passage of a crime control bill that would supersede several controversial Supreme Court decisions. Those opponents surely are pro-communist.

Congress is supposed to make our laws, not the Supreme Court. (Fight em). Good luck.

Congress should have guts enough to stand up for our country. I thank you.

I am sincerely,

L. H. LITTLE.

SANTA BARBARA, CALIF.,

May 6, 1968.

Senator JOHN McCLELLAN,
The Senate,
Washington, D.C.

DEAR SENATOR McCLELLAN: Thank God you are going to do something about the outrageous decisions of the Supreme Court. The words court, judge, and justice are a mockery when applied to that body of men. What a merry time the criminal can now enjoy, knowing the court will go to any lengths to protect his rights! What about the victims, the police?

I wish you every success in this undertaking and I applaud your efforts. If all the people who think as I do would write, you would be assured of tremendous approval.

Praying a blessing on your undertaking, I remain

Sincerely and gratefully yours,

FRANCES A. CAMPILLO.

PONCA CITY, OKLA.

Senator JOHN L. McCLELLAN,
Washington D.C.

DEAR SIR: In this clipping from a recent newspaper which many read; I am sending you a few, that I have saved for some time

to let you know how we the people of America feel about the members of the Supreme Court & their "rank" decisions.

How long will the Congress of the United States stand idly by and let such as Earl Warren who "championed" that atheist woman in the school episode, and who did not want "In God We Trust" on the wall of the office of the Court, tell the people of United States anything.

I suppose, if we had not been so involved in war so long that Congress would have done some thing about the Court taking over their business, sooner.

I copied an item that was written some time ago. What Justice Millard Caldwell stated—"I must tell you the Supreme Court of U.S. not 'subject' to election by the people—nor their will, has tortured the plain language of the Constitution and to the extent has destroyed the rule of law; and substituted in its stead the rule of man. The Court exhibiting its contempt for the Constitution asserting its power to over rule long recognized principles and reading into the Constitution new and alien ideas, that has spawned mistrust.

Will you please Senator let other members read these few of clippings I've saved and do something about them.

Signed "The Mothers of Okla." Friday May 3, 1968.

Mrs. T. O. YOUNKMAN.

WHOM THE GODS WOULD DESTROY

(By Morrie Ryskind)

"Whom the Gods would destroy, they first make mad," is a warning that comes from the ancients.

Partly, I am influenced by having just finished Lyman A. Garber's "Of Men, and Not of Law" (Devin-Adair: \$3.95) which details, in layman's language, some of the weirdo decisions the boys have arrived at.

In 1831, Stephen Girard, a Philadelphian, died, leaving his fortune to found a school for poor, white orphan boys. In 1957, the Court ruled he had been discriminatory and that the school must be open to all.

Try that one on for size. Suppose Girard, looking into the future, had left his money for poor, orphaned Negro lads? Would the Court have repudiated his will as discriminatory? Any bets?

The Mallory Case of Washington, D.C., is another lulu. Mallory was arrested for rape and convicted, and the conviction upheld by the District Court of Appeals. But 7½ hours had elapsed between questioning and the time of his confession and arraignment. On that time basis alone, the Supreme Court freed him, though never at any point did Mallory's attorneys contend he was innocent or that duress had been used to get the confession.

Ironically Mallory after release, went to Philadelphia and broke into a house to commit the same crime. This time he forgot to hold out for the requisite 7½ hours and is now languishing in a Pennsylvania prison.

There are many other instances in the book. But my paper brings me the Court's latest 5 to 4 decision, upholding an Arizona school teacher's refusal to sign a state loyalty oath which would subject to prosecution for perjury any one who signed and remained or became a Communist Party member. I realize it's a great victory—but for whom?

And here's how Congressman Richard L. Roudebush of Indiana sums up another situation which can be laid to the Court's insatiable craving—'noted by Frankfurter in his later years—to rule on everything: "Loathe some persons reciting filthy poetry are permitted on college campuses with immunity. Yet the childhood prayer, 'God is great, God is good, And we thank Him for our food,' is forbidden to grade-schoolers."

Carried to its logical conclusion, the Court's ban would do away with Thanksgiving observances at the school—and even

with the famous Day itself. Oh, well, I'll miss the turkey and cranberry sauce, but LBJ has asked us all to pull in our belts.

During the Middle Ages, the obvious fore-runners of the Court took up similar matters, such as deciding on whether 14 angels could sit on the point of a needle at the same time. I forget just how it came out, but I am certain the Lord abided by the result.

With no disrespect, however, I suggest it is high time for that decision to be reviewed, and that the Warren Court take a new look at it. Such obviously crowded ghetto conditions should not be tolerated, for surely even the lowliest angel is entitled to have his own needle to sit on.

What Heaven undoubtedly needs is some Urban Renewal, and I think the Great Society might well offer to pay half the costs. Another couple of billions for foreign aid wouldn't hurt us, and we could make it clear that the Heavenly Host would not have to give up its policy of non-alignment in accepting our help.

Now I'm all for separation of church and state, but I'm blanked if I can see that a non-denominational childhood prayer—especially one that any youngster is free to abstain from—violates anybody's rights or subverts the Constitution.

But, say the devout atheists, a child that does not participate feels "different" and suffers traumatic injuries. To which any Judge with even a modicum of common sense might well have replied, "Enough, Buster! Go peddle your papers elsewhere."

But not this collection of ritualistic liberals, who swallow camels without blinking but strain at gnats.

The prayer amendment is greatly popular with the people. Dr. Gallup a few years ago recorded that over eighty per cent of the people were dissatisfied with the ruling of the Court.

Shortly after the initial ruling was handed down, no less than 49 out of 50 state Governors came out in favor of an amendment calculated to vitiate the fanaticism of the Court.

But the amendment, somehow, never got started. Why? Because the liberal ideology is implicitly anti-religious and explicitly secular. It is sad to contemplate that neither the professional political community, nor the mass of the people, nor 98 per cent of the Governors of the United States, have the power to domesticate the Supreme Court when the liberal ideology is on its side.

HOOVER BLASTS WARREN GROUP, LUTHER KING WASHINGTON.—FBI Director J. Edgar Hoover has blasted the Warren Commission as "unfair and unjust" and called Dr. Martin Luther King Jr., "the most notorious liar in the country."

Hoover balled over on these and other matters, including lenient "bleeding heart judges," in a lengthy interview Wednesday with a group of women reporters.

He angrily charged the Warren Commission with "a classic example of Monday morning quarterbacking" in discussing its report on the assassination of President John F. Kennedy.

The commission, headed by Chief Justice Earl Warren, has said the FBI failed to notify the Secret Service that the assassin, Lee Harvey Oswald, was in Dallas last November 22, the day Kennedy was slain.

In New York City alone, Hoover complained 7,000 persons would have to be taken out of circulation every time a president makes a public appearance if it were deemed necessary to remove "every individual who might threaten the safety of the President."

However, the FBI director said, his office is turning over to the Secret Service the names of "thousands of beatniks, crackpots and kooks."

Hoover appeared before the commission last May 14 and told newsmen after testi-

fying the panel was doing "a very thorough job." He said it had "even gone beyond what a reasonable man would have expected" in accumulating evidence.

Wednesday he said there is "not a scintilla" of jealousy between the FBI and the Secret Service, which is charged by law with protecting presidents.

Efforts to reach the members of the Warren Commission, some of whom are traveling abroad, were not successful.

Hoover let fly his blast at Dr. King, head of the Southern Christian Leadership Conference in discussing civil rights. He called the Negro integrationist who recently was named winner of the Nobel Peace Prize a liar for advising Negroes not to report any civil rights violations to the Albany, Ga., FBI office because the staff members were all Southerners.

When he asked King to make an appointment so he could prove that four of the five men were born in the North. Hoover said King would not make the appointment.

The FBI director went off the record for further comments about the minister.

An aide to King said that he was vacationing in the Bahamas and would have nothing to say until later today at the earliest.

In discussing civil rights with the women reporters, Hoover described as a "scandalous thing to do" the suspension by a McComb, Miss., judge of the sentences of nine men convicted of bombing and burning a church. He said the men were not young, as claimed, but ranged in age from 30 to 44.

"Great progress" is being made, Hoover said, in solving the slaying of three civil rights workers near Philadelphia, Miss.

But, he said, "around Philadelphia, Miss., law enforcement is practically nil and many times sheriffs and deputies participate in crime."

There is police participation in crime also in several Midwestern cities, Hoover said. He advanced that as one reason for his opposition to a national police force.

"If they (local police) could write to a central clearing house for information you can imagine what harm they would do," Hoover said.

WHEN CONGRESS SURRENDERS

Underlying the current confused and disgruntled attitude in Congress and among many of the nation's more militant liberals is a belated recognition of a trend of events for which they have only themselves to blame.

We harbor little sympathy for the complainers. We have long resisted national policies, in Congress and out, that seemed to us to prestage the effective destruction of representative Government.

What is it we are hearing from Washington today?

That PRESIDENT JOHNSON has exceeded his authority and is waging a growing war in Vietnam in which it was not the intent of Congress to indulge;

That VICE PRESIDENT HUBERT HUMPHREY is parading around Asia promising hundreds of millions in aid loans which only Congress can, and hasn't, pledged;

That the U.S. SUPREME COURT has escaped its judicial bonds and has taken over the job of legislating;

That in its "one man, one vote" edict, the Court has usurped the authority of both Congress and the individual States;

That the EXECUTIVE BRANCH generally is performing tasks and assuming powers that have never been granted it.

What is the symptom of these belated walls?

Simply, that over the past 30 years the Congress at the unrelentless urging of those of "liberal" philosophy, has surrendered its authority to the Executive!

If Congress is unhappy about Vietnam, and if Congress is displeased with the free-

dom the Executive has taken in doing just about as it pleases, at home and abroad, who on earth does Congress have to blame but itself for defaulting on its constitutional authority over the years?

If the liberals are disengaged with Mr. JOHNSON, if they now feel the PRESIDENT has become all too powerful and that the EXECUTIVE needs to be hobbled to prevent unpleasant future events, who is it but the liberals who hounded Congress for years to give more power and more authority to the EXECUTIVE?

The fact is that the singing of the blues the American people are hearing today is little more than a ballad about chickens coming home to roost.

We think it is long past the time when the damage to representative Government that has been done, can be undone. We do not believe that it is too late, however, to call a fast halt to complete surrender to the EXECUTIVE.

It is high time the liberals join the rank and file of Americans and started electing to Congress men who will heed the Constitution and do not believe the people are too dumb to know good from bad.

BYRNES CALLS VOTING RIGHTS BILL "TERRIBLE"—EX-JUSTICE BELIEVES COURT USURPING POWERS OF CONGRESS, HITS DECISIONS

COLUMBIA, S.C.—Former U.S. Supreme Court Justice James F. Byrnes said Saturday the court is invading the field of legislation, usurping the powers of Congress and changing the Constitution improperly.

Byrnes, also a former member of the House and Senate, an "assistant President" to Franklin D. Roosevelt and Former U.S. secretary of state and governor of South Carolina, reaches his 86th birthday Sunday.

Busy in retirement administering a fund he set up to provide college scholarships for orphans, Byrnes aired his views on some of the issues of the day.

He called the pending voting rights bill, supported by President Johnson, "terrible." He said the eventual ruling on this bill will test how far the Supreme Court is willing to go "in attempting to dictate the policies of the government."

Here are some of the questions put to him and his answers:

Q.—As a former justice, what is your feeling about the trend of Supreme Court decisions in the field of civil rights, reapportionment and anti-Communism?

A.—The trend of the court which gives me most concern is the disposition of a majority of the court to legislate instead of interpret the laws of the Congress and the Constitution. In the 1954 decision in the school cases, the court went a long way.

They first found they were unable to agree upon a decision of the five cases that were pending. They asked for a reargument, which showed there was serious disagreement among the members of the court. However, when rendered, the decision was unanimous. It was based not upon law precedence, but upon the writings of several liberal thinkers, and was based upon physiological argument, I recall that there was a note, "See Myrdal."

I read Myrdal's book, in which he was very critical of the United States government and I regarded it as unfortunate that so important a decision could be based not upon legal precedent, but upon the views of an extreme liberal in Sweden.

(Karl Gunnar Myrdal, Swedish economist and politician, conducted an investigation on American Negroes for the Carnegie Corporation and in 1943 published "An American Dilemma: The Negro Problem and Modern Democracy.")

Q.—What about reapportionment?

A.—The reapportionment decisions go further than anything else that I can recall in invading what has always been regarded under the constitution as the rights of the states.

COMPROMISE WITH JUSTICE

(By Andrew Tully)

WASHINGTON.—That mixture of hyperthyroidism and expediency which characterizes deliberations in the nuthouse known as the Supreme Court has been served up to the citizenry again in the Court's refusal to make retroactive its tough new guidelines on confessions. In effect, the 7 to 2 majority has held that the passage of time wipes out an injustice.

A week earlier, to the dismay of many prosecutors and cops, the Court had ruled by 5 to 4 that henceforth a person must be advised immediately upon being taken into custody of his right to remain silent and have a lawyer. This made sense because it reaffirmed the Constitutional guarantee against self-incrimination, although its gist will be a ruddy nuisance to the poor cop trying to convict a career criminal who knows all the legal ropes.

But now the court has backed away from that ruling by deciding that those curbs on interrogation would apply only to citizens whose trials begin after the Court imposed the guidelines. Whatever the merits of his case, a person who was convicted by a confession he charges was coerced will have no further legal recourse if his case has been closed.

The majority's reason for this curious reasoning is explained in the opinion written by Chief Justice Earl Warren, and it is a frightening one. It is that making the new guidelines retroactive "would seriously disrupt the administration of our criminal laws." In other words, it would be an inconvenience to the law enforcement bureaucracy.

This is sheer, idiotic discriminatory expediency. There are some valid arguments that the Court error in its guidelines decision, but if that decision applies to one case it should in basic fairness apply to all cases. As Justice Hugo L. Black and William Douglas noted in their dissent, there is "no reason for discriminating" against prisoners whose direct appeals were "of the same vintage" of the test case considered by the Court.

Admittedly, retroactivity would have caused law enforcement officials considerable inconvenience. But the new ruling, to put it blandly, is of considerable inconvenience to prisoners whose confessions were beaten out of them with rubber hoses. Besides, the Court has ruled that the new guidelines now constitute the law of the land.

The tragic thing about this latest decision is not that it is the most restrictive application of a Constitutional doctrine ever imposed by the Supreme Court, although that is bad enough. After all, it would seem to go without saying that anyone in prison as a result of a trial in which a Constitutional right had been violated should be released and/or retried.

But what lends the ruling an ugly aspect is the impression that it was calculated to take some of the sting out of the earlier guidelines decision. In the new ruling, the Court seemed to be trying to placate those lawmen who had denounced the guidelines as putting an end to all police questioning. Laws should not be written to please anyone, even a policeman, or to suit any administrative convenience, but to protect the rights of the citizenry. This latest abortion smacks too much of a political deal in some untidy back room.

Indeed, neither the liberal nor the conservative bloc on the Court seems to be overstocked with common sense. Dissenting from the earlier guidelines ruling, Justice M. Harlan accused the majority of "dangerous experimentation" in the midst of an alarming national crime wave, it is hard to understand what the number of murders and rapes committed annually in this Republic has to do with any discussion of the protection of even the most malignant wrongdoer against the abuse of due process.

NOT DEMOCRACY

One of the sillier aspects of the U.S. Supreme Court's ruling on reapportionment of legislatures is its contravention of the Constitution.

Instead of upholding the Constitution, the court's rulings tend to upset it.

Now don't get confused. The states themselves, through their legislatures, should reapportion according to their own Constitutions. But the U.S. Constitution specifically guarantees—until Earl Warren started twisting things around—against Federal interference. States didn't, so the court did. This, of course, simply proves that when action is needed, someone is going to step in if a power vacuum exists.

This nation is not a democracy, and wasn't intended to be a democracy.

It does follow the version of democratic government known as a Republic.

Specifically, the Constitution provides in Article IV, Section 4:

"The United States shall guarantee to every State of this Union a Republican Form of Government."

How Earl Warren and his colleagues can find in view of that any basis for their personal theories that one man should have one vote is difficult to see. Legalistic jargon and baloney can confuse us, but don't change the truth.

As Sen. Margaret Chase Smith explained it in a recent comment:

"A democracy is a truly representative government in which the supreme power is retained by the people and exercised by them. So is a republic. But a republic, such as ours, is a restricted and limited democracy.

"The basic distinction between democracy and republic is in the degree of majority rule. Majority rule is unrestricted in a (pure) democracy while it is restricted in a republic.

"The Bill of Rights part of our Constitution places definite limitations on the power of the representatives of the people. They are denied the power to abridge our freedom of speech, right of assembly, press, trial by jury, against unreasonable searches and seizures, and individual rights—regardless of how much the majority might be opposed to such individual rights. Under a pure or true democracy, there is no protection of such individual rights against the rule of the majority."

The U.S. Senate in which each state has only two senators regardless of population is in itself proof of the republic theory as opposed to the pure democracy in which a ruthless majority could destroy the minority.

Even though a majority of your neighbors oppose your views, you have a right to express them as long as the Bill of Rights prevails.

Now that the Supreme Court has decided to re-write the Constitution it is supposed to defend, it is well for every citizen to determine he will defend the Constitution since the court won't.

Go back and re-read that part quoted from Article IV:

"The United States shall guarantee to every State of this Union a Republican Form of Government."

And after you read it, remember: While you may be in the majority at the moment, you and your group might later turn up in the minority. If unrestricted democracy by then prevails, your very life could be forfeit for your beliefs. It has happened and is happening in some countries today. Only in our republic would your rights prevail.

ENCOURAGING U.S. COMMUNISTS

(By Henry J. Taylor)

While our men die in Viet Nam the Communist party now organizes openly in the United States. What's the Viet Nam War all about, anyway?

If we're divided here it's not our people's

fault. Our policy has our country as mixed up as a platoon of midgets going over Niagara Falls in a barrel.

We draft our youth and ask them to lay down their lives 9,000 miles from home to block the Communist conspiracy. Beyond Viet Nam, our forces are spread in 30 other countries. Every nickel of every American worker's Federal income tax, and more, is eaten by the Department of Defense—thanks to the Sino-Soviet menace.

Economically, our people are told we should supply the Reds many things they need, as if the way to defeat Communism is to help it to succeed. Psychologically, we're told that the Kremlin cabal isn't too bad, after all. Washington leads us to forget that the arguments and differences between Moscow and Peking are basically concerned with the problem of which is the best way to bury the free world and erect a Red world. And to top this off, on the legal front, the Supreme Court mixes up for us its own special of the confusions.

The Supreme Court seems determined to legislate as well as adjudicate, so that its decisions have the effect of being new laws by the court's nine men instead of enactments by the people's Representatives in Congress. As one result, the court's continued twisting of the Constitution and the statutes is making a shambles of our legal protections. The end product of its process can only strengthen our enemies and weaken our country. This is the reverse of the supposed goals of judicious lawmaking.

What has happened to the Smith Act? As the Communist party organizes openly, just remember the Smith Act has never been repealed. This 1940 law made it a crime to teach and advocate the violent overthrow of the government, and the Communist party here has been officially found to be a Moscow-controlled subversive apparatus.

NUDIST MAGAZINE GETS COURT PROTECTION

WASHINGTON.—Danish nudist magazines, some clearly intended for homosexual consumption, won protection in the Supreme Court Monday from seizure and destruction by the federal government.

Ruling summarily, the court cited a decision of last term in which it gave clearance to various "girlie" magazines and certain erotic literature.

Brief, unsigned decisions in two cases reversed holdings by the U.S. Circuit Court in Richmond that the nudist magazines were obscene and could be banned.

McCLELLAN SAYS SUPREME COURT HELPS CRIMINALS

WASHINGTON.—Sen. John L. McClellan, pushing for Senate passage of a crime control bill that would supersede several controversial Supreme Court decisions, has accused the high court of coddling criminals.

The Arkansas Democrat said a majority of the court has taken it on itself to amend the Constitution and:

"We have to decide if we have the courage to do something about these self-confessed murderers and rapists that the Supreme Court is disposed to turn loose."

McClellan, in opening debate on the omnibus bill Wednesday, laid heavy emphasis on the section that would make confessions admissible as evidence in criminal trials if voluntarily given.

He called this a vital part of the legislation, but opponents hope to muster the votes to strike it from the bill.

CROSSROADS REPORT

DEAR EDITOR: Mr. Chief Justice Warren is quoted in the papers as saying no nation can survive unless its people are safe in their homes and in their business.

And, of course, wanting the country to survive is what has led Mr. Warren's Court

to come to the aid of killers, rapists, and robbers whose safety is threatened.

Because, after all, criminals are people. So they must be safe in their homes or hide-outs from nosy policemen, and Congress is fixing to see that in their marauding business they are also safe from customers with guns.

D. E. SCOTT.

CROSSROADS, U.S.A.

THE WAYWARD COURT

It was a very appropriate item you published last Sunday by Mr. D. R. Matuszak entitled, "Rule of Law Degenerates," in your letters columns.

I did not get to read what Dean Peterson of the T.U. law school had to say in upholding the U.S. Supreme Court. But I do feel that court under Chief Justice Earl Warren has gone astray of many of its important decisions.

It seems to admit its lack of guidance in many instances in its decision of *Jacobellis vs. Ohio*, 378 U.S. 202. "Smut Peddlers," in the 1965 October Reader's Digest, indicates that it has been off base too often. The question is, what do we do? I think we need to broaden and strengthen the theory of checks and balances so as to include our high courts—the ones that do not now get checked. We should all be made accountable—even high courts.

JOHN W. PORTER, JR.,
County Judge.

MUSKOGEE.

FORT WORTH, TEX.,
May 4, 1968.

HON. JOHN L. MCCLELLAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Thank God somebody in the Senate has the courage to call attention to the flagrant disservice of the so-called Supreme Court.

What can you expect of a group of whom the majority are not trained or experienced jurists?

Aren't all judges supposed to uphold law and order and support the agencies set up to uphold the law?

The few of you forthright of our duly elected in the Congress are all that stand between disaster and turn toward the protection of Life and Property and the solvency of our Nation. If our present twenty-cent dollar can not be maintained and improved, we can't expect to make progress.

You don't call a plumber when you need an appendix operation or a Warren when you need constructive judicial opinions.

Glad to note there is one Representative in the House who evidently supports your sound and opportune position concerning the so-called "Court of Last Resort", and I am enclosing my reply to his communication.

With highest regards.

Sincerely,

W. P. BOMAR.

FORT WORTH, TEX.,
May 4, 1968.

HON. JOHN R. RARICK,
House of Representatives,
Washington, D.C.

DEAR MR. RARICK: I have noted your most opportune letter of April 29 to start a definite movement to curb the Supreme Court in their consistent actions to not only misinterpret the Constitution of the United States, but to interfere with law enforcement.

This so-called "Court of Last Resort" has only a minimum of jurists. The majority are so-called lawyers of little training or experience. The junior members of any creditable law firm are more competent and better trained than are the political appointees, who should be made up of only top flight

jurists with a number of years experience on our Appellate Courts.

An accurate check of the records of those now serving on the Supreme Court will prove the above conclusion. When you need an appendix operation, you don't call a plumber.

It takes too long on the bench to train inexperienced from other fields of endeavor. Senator McClellan is to be commended for his comments on this subject.

Sincerely,

W. P. BOMAR.

PORT GIBSON, MISS.,
May 2, 1968.

Senator JOHN L. MCCLELLAN,
Washington, D.C.

DEAR SENATOR: I guess you are the first man to go after the Supreme Court about codding Crime. I certainly hope you will do your best about this.

I would also like to know from you why it is that after Carmichael and Brown have been found guilty and fined and they are turned loose and they keep preaching hate—I just cannot understand it. Abernathy said if nothing is done for them—they will burn the cities—I think he should be jailed—also this march should be stopped before it gets to Washington. Johnson is the cause of this—he got up and said we shall overcome. Please do what you can—I believe this country is gone or soon will be.

P. H. WHARTON.

WICHITA, KANS.,
May 3, 1968.

HON. JOHN L. MCCLELLAN.

DEAR SIR: It has been a great concern to me that our Supreme Court has given the criminal such immunity, and in this way encouraging criminal acts of every kind.

In my opinion this recent action of the Supreme Court is unconstitutional and must be stopped in order to protect our citizens from this unprecedented crime wave.

I wholeheartedly endorse your action—this matter.

Sincerely,

RALPH L. _____,

SEPULVEDA, CALIFORNIA,
May 3, 1968.

I heartily applaud your stand!! May Congress exert its powers and restrict the Supreme Court which has damaged this nation while seeking to protect the rights of criminals while the innocent suffer. I shall watch for the success of your effort.

Mrs. HOWARD T. BYLES.

DEAR SIR: Thank you for your bill and for fighting for a crime control bill that would supersede severe controversial Supreme Court decisions that has coddled criminals. Who can I write or what can I do to help. I believe the criminal has more rights and protection than we the law abiding taxpayer doesn't get.

C. O. HILL.

FORT WORTH, TEX.

Senator McClellan: I, as one of the great many, am in consent with any crime control bill. You, indeed, are very right about Supreme Court decisions. In talking to dozens or other people I find that they too are in agreement with us.

I shall express my views to my own senators too.

God grant us a new Supreme Court!

Mrs. ROGER STOCKTON.

Mr. McClellan. Here is a telegram from St. Louis, Mo.:

MY DEAR SENATOR MCCLELLAN: We urgently beg you and colleagues to stop that march on national capital. It can only end in disaster.

Mr. President, I say to you frankly that these matters have to be squared. I want to do everything here with every

courtesy and consideration that can possibly be given. I am deeply concerned. The way I feel about this matter I would be derelict in my duty if I failed to urge with all my strength that this bill, substantially as now written, be enacted into law.

Mr. President, here is an editorial that appeared in the St. Louis Globe-Democrat. I did not refer to this editorial when I made reference to the other editorials. I ask unanimous consent that this editorial entitled "Why Not Reverse Miranda?" be printed in the RECORD.

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

WHY NOT REVERSE MIRANDA?

Many police departments for years preceding the United States Supreme Court ruling in the Miranda case routinely advised criminal suspects of their right to counsel and to remain silent.

But under what constitutional authority does the United States Supreme Court presume to say not only that such instructions shall be mandatory but, beyond that, the failure to give them shall be grounds for throwing out voluntary confessions?

What makes the performance of the Supreme Court majority curious is that its rulings have consistently expanded the protections of those accused of breaking the law while crime continues to break all records.

In effect, the Supreme Court Miranda ruling has made the solving of many crimes a great deal more difficult, if not impossible.

Now the high court has extended the Miranda decision to cover cases involving investigations by the Internal Revenue Service.

This should provide new incentive in Congress to approve the bill of Senator John L. McClellan of Arkansas that would undo the restrictions placed on police by the Miranda decree.

Mr. McClellan. Mr. President, I am aware of the fact that the Supreme Court just 3 or 4 days ago handed down another decision, the Mathis decision. One member of the Court who was on the side of the majority, the father of our present Attorney General, the distinguished Associate Justice Tom Clark, has retired from the Court and his replacement, as I recall, did not participate in the decision, so that instead of having a 5-to-4 decision, the decision handed down was 5 to 3, and it reaffirmed the Miranda case. They have the power to do that as of now.

However, Mr. President, will they not reconsider at some future time? Will they forever persist in maintaining that five members of the Court are right and that some 28 to 30 judges in the past were wrong when the same issue came before them? What we have today in the Miranda case is an opinion of five judges, in effect, overruling the decision and the wisdom of some 28 or 30 judges in the past, their predecessors who had passed on the identical issue. Is it too much to ask them to proceed with caution; to stop, look, and listen? Is it too much to say, in view of what is happening across America today, "Are you not making a mistake?"

I propose to have printed in the RECORD before the day is over a chart which shows the spiraling rate of crime since some of these liberal decisions have been made. For anyone to try to argue that the decisions have no influence and no impact is a sad mistake.

Mr. President, as I left my apartment building this morning, the letter which I hold in my hand was in my box. It is addressed "To Whom It May Concern," and it is dated May 1, 1968. The letter is from the Business & Professional Association of Far Northeast, Washington, D.C. I shall not take time to read it now, but I ask unanimous consent that the letter and the accompanying documents with the letter be printed in the RECORD at this point.

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

BUSINESS & PROFESSIONAL
ASSOCIATION OF FAR NORTHEAST,
Washington, D.C., May 1, 1968.

To Whom It May Concern:

Merchants, professional men and citizens of far East Washington are attempting to alert the city government to the problem of civil unrest which has reached proportions that require crash programs to prevent collapse of orderly government based upon respect for law and decency. The more recently displayed attitude of government seems to be a tacit admission of lack of either will or ability to stem the headlong descent of this city into chaos.

We advocate a program designed to:

1. Bring back a stern and unyielding enforcement of laws, and the protection of human and civil rights.
2. Control of known criminals and law-breakers who are returned to the community.
3. Dramatically increase police force immediately and/or return of military forces to the city.
4. Offer favorable tax treatment of merchants operating in inner city depressed riot-torn areas.
5. Offer riot risks, vandalism insurance of merchants provided by U.S. government.
6. Personal injury, income interruption insurance on all citizens who are victims of criminal action in the streets at government expense.
7. Extensive community provisions for education, housing, employment and social development through massive government action; sponsored by the Congress.

These decisions are outlined in greater detail in the pages which follow, including several position papers which have been approved by the Far East Business Group.

We believe that a statement of policy on the attitude of the city government towards the problems outlined is due immediately.

WILLIAM K. COLLINS,
President.

POSITION OF THE FAR NORTH EAST BUSINESSMEN PRESENTED BY PRESIDENT APRIL 30, 1968

The rapid deterioration of the Washington Community's regime of law and order has penetrated to the far North East, South East area. The conversion of this once happy and prosperous peaceful community into a haven for criminals, arsonists, thieves and robbers has been brought into sharp focus by the recent civil unrest. But we must face the fact squarely, that the gradual emasculation of the police department, the tolerance of miscreants in our neighborhood, the winking at vandalism, hoodlumism and lawlessness has progressed for some time.

Throughout the city for long, and more recently now in our neighborhood, the forces of law and order retreat while the retrograde forces of society advance. Our storekeepers are robbed, looted, burglarized and burned. Others are threatened, intimidated and blackmalled.

Our citizens dare not walk the streets after sundown. Human rights are under equally as much jeopardy as property rights. Citizen and merchant alike, far East Washington, like the old inner city is under siege by forces

which will convert this city into an absolute jungle of social chaos.

The old guard of far East Washington has long fought the conditions which could foster an age of evil and despair. Our long term policies for housing, employment and representation in city government remain continuously either unanswered or treated with tokenism. The continuing neglect of the city east of the river has now brought us to an impasse where we must either be remembered by the city government or set up our own vigilantes and defend ourselves against lawlessness and danger in our own way.

If we are now pressed to the extent that extraordinary measures must be taken to insure our very survival, we must draw as closely together as humanly possible. All factors of minor consequence which can divide us must be eradicated by common consent. We cannot in this hour of grave peril afford the luxury of bickering over petty details. Rather we must address ourselves to the problems at hand by presenting a solid, unbroken front to the rest of the world. We must make it crystal clear that there are certain principles which must be adhered to without exception. I would suggest that they be the following:

1. There shall be stern unyielding deference shown to law and order. Within the climate so created there must be substantial, responsible and immediate attention to the destructive social patterns which produce civil unrest.
2. There shall be insistence upon a high regard for human rights. The repeated foisting of convicted criminals upon an innocent community by the courts must be vigorously protested and restrained. The resultant demoralizing effect upon the police department of the constant re-appearance of known criminals on the streets is intolerable by our citizenry. Judges who seem to be completely out of touch with reality should be pointed out and dismissed by the people. They harm us greatly.
3. There must be regard for property rights and protection of them by the police. If the police force is too small, it should be dramatically increased in number, and immediately. If this is not possible, the military should be brought back to support the police throughout the city, and for an indefinite period. The vandalism of our schools, stores, business places and homes must be halted abruptly and unequivocally.

We should make known these demands in letters to the mayor, the council, the senate and house district committees, first by direct mail and then in an open letter printed in the Post and Star newspapers. We should put the light of public opinion upon all government officials who are derelict, careless and indifferent to their responsibilities. (Perhaps their salaries should be the first to be cut when they fail and the taxpayers are literally burned and looted off of the tax rolls). We should finance the legal aid, the public announcements and the entire assault upon worthless government officials who insist upon being ostriches with heads in the sand.

What should be our program?

For the community we advocate:

1. Advocacy of the development of school complexes in which provision is made for children from birth to maturity.
2. Immediate preparation of every existing school for 12 month use. Air conditioned and well staffed. Designed to keep children busy.
3. Job training, subsidized education of the unskilled, provision of jobs for all unemployed people. Abolition of welfare and unemployment compensation except in special deserving cases, as the job training program advances.
4. Personal interest (care and assistance) in individuals released into the community by the courts and parole boards.
5. Establishment of a Police Athletic League. Prepare for matching funds, etc., by merchants.

6. Establish liaison with ministerial alliance to press these programs forward.

For the Business Man We Advocate:

1. Favorable tax treatment of all ghetto or inner city entrepreneurs to encourage such businesses.
2. Riot risk insurance on all business (and private residential) establishments provided at very low cost by an agency of the U.S.
3. Casualty insurance for all personal injuries (hospitalization, out-patient treatment), insurance against loss of income due to injuries or business equipment damages provided at very low cost by an agency of the U.S.
4. Subsidization of on job training programs in inner city (and other) businesses, so that proprietors may hire persons of low competence without the need to pay minimum wages which are excessive for the abilities displayed.

POSITION PAPER NATHAN ROBIN, APRIL 30, 1968

According to the Washington Post of April 14, 1968 the chronological report of events indicates an astounding lack of decisiveness and availability on the part of Safety Director Murphy. As report states Murphy was spending a great deal of time at the Washington Hilton, where the *President Had Been Scheduled To Attend A Dinner* and again when not available (according to his version) was out chasing youngsters who had looted a liquor store. When available and asked for directions his answer was "Use your own judgment".

Why wasn't 14th and U area blocked off and traffic stopped when trouble first started?

Why wasn't a safety lane available for fire engines and police cars?

Why weren't plans set up to utilize community leaders?

Why wasn't communication established with many of the younger element by using Viet Nam veterans whom these youngsters admire?

Why Murphy's delay of six hours before calling all policemen back to duty, when news of Dr. King's shooting was announced?

Why the 24 hours delay before the military arrival?

Why was school closed early?

Why wasn't curfew put into effect at earlier hour for children?

Why was Title 4 Section 175 of the D.C. Code (1967 Edition) which makes it a crime for any policeman or anyone else to assent to the escape of anyone committing any unlawful act so criminally disregarded?

Why not set up warden system (similar to Second World War) to patrol streets. Wardens to be composed of civic leaders and responsible citizens, young and old plus war veterans?

It is apparent that recent police appointees (including Murphy) lack field experience and this must therefore be a factor, to consider in the future safety of D.C. and its citizens.

Why are the few trouble makers allowed to sway so many, when a majority of our citizens are hungering for law-abiding leadership? Why do our leaders not speak out illustrating how heavily our advantages outweigh our disadvantages? And let us be sure that our speakers have *persuasive ability* and can *communicate*. The use of loud speaker trucks, radio, television, newspaper, school discussions, civic meetings is a must. We should drown out and out-talk the agitators using every day of every week to keep our lines of communication open.

STATEMENT OF NORTHEAST BUSINESSMEN DIRECTED TO THE MAYOR, AS APPROVED ON APRIL 24, 1968

We have heard and read that the handling of the rioting within the Washington area was excellent, that the police are to be congratulated for their restraint and that the unrest was eventually put down without a

shot having been fired. We are told that, wisely, human life was revered above property loss and only a minimum number of lives were lost.

To us it seems that the loss which was sustained over the week-end by the Government of the United States has been horrifying especially in terms of the loss of prestige and power of our law enforcement agencies. By mutual agreement of government authorities, there was a waiver of police power in favor of the law of the jungle. Property rights went unprotected; the police were compelled to supervise and witness systematic looting and arson.

We are convinced that large numbers of people were encouraged to loot and burn when convinced that the restraint of the police was guaranteed. The extent to which the destruction spread undoubtedly could be traced to the lack of ability or will of the police to contain the snowballing nature of the disorder.

We would like to pose the following ideas for your consideration:

1. Through many wars America has been willing to sacrifice the lives of her sons to produce this fine country. But today lest one arsonist or looter die at the hands of law enforcement agencies, this same fine America is being destroyed as surely as if war itself destroyed it.

2. Since America is a nation of laws, not one single law can be flaunted or broken without our entire legal fabric being torn and rent asunder. If we tolerate arson, murder and vandalism in our city without stern punishment, we ask for its continuation and the further extension of lawlessness.

3. Long term policies of education, housing and employment will end the causes of rioting. But short term measures of unyielding and stern enforcement of laws today must be instituted; or no America will be left for long term policies.

We therefore urge the maintenance of the military in our city indefinitely; and in the meanwhile a complete re-evaluation of our posture in the defense of our duly constituted government. Some basic assurance of property rights at this time is the only approach to the restoration of the shattered confidence of our business and professional people.

BUSINESS & PROFESSIONAL
ASSOCIATION OF FAR NORTHEAST,
Washington, D.C., May 25, 1968.

MAYOR WALTER E. WASHINGTON,
District Building,
Washington, D.C.

DEAR MAYOR WASHINGTON: A group of business and professional men of far North East Washington, whose names are attached for your information, met on April 24th to discuss the difficulties which beset this community and themselves. Out of this meeting has come the statement which follows this letter.

The gravity of the situation is such that we wish to appeal for a dialogue between a panel of District Officials and ourselves. For the panel we would suggest that in addition to yourself it should include Mr. Patrick Murphy, Mrs. Ruth Bates Harris, and Chief John B. Layton.

We would urge that this meeting be held as quickly as possible. Many of our members are being threatened and blackmailed. The overall situation is an intolerable one and demands an exchange of feeling between these men and women and your offices.

May we suggest an evening meeting either in our North East area or at the District Building at the earliest possible time.

Very truly yours,
WILLIAM K. COLLINS, *President.*

STATEMENT OF ED BOORSTEIN, APRIL 24, 1968—
AN OPEN LETTER TO BUSINESSMEN OF WASHINGTON'S "INNER CITY" (AFTER THE RIOT)

Businessmen: Some of the burners and looters were our dissatisfied customers try-

ing desperately to get our attention. Judging from the response of our business community . . . *we are still not listening!*

Tellin' it like it is—it don't matter if you ain't takin' advantage of them . . . if they think you are!

We must be scrupulously fair and we must communicate to our public so they will understand we are fair.

Our communication must be people-to-people, shirt-sleeve, no-big-words, down-to-earth.

Our communication must be talk between equals—and it must start now!

Businessmen: I propose two concrete programs of communication:

1. Frequent, scheduled "town meetings" between neighborhood people and representatives of chain and small stores to talk, to air grievances, to correct false impressions, to learn from one another.

2. Expand the "town meetings" idea to "town meeting" telethons. Visualize a panel of representatives of the credit merchants, and small neighborhood stores answering questions put to them by their customers on live TV. The telethon must be live to be believable.

I believe we can reverse the anti-business feelings of inner city residents if we do right and communicate right!

BONANZA CLEANERS.
ED BOORSTEIN.

Mr. McCLELLAN. Mr. President, in the box attached to the documents was a handwritten memorandum on scraps of yellow note paper and here is what it says:

Law abiding citizens suffer the consequences of the so-called "do-gooder" courts. We must take a stand now by telling the lawbreaker when he crosses the line he will suffer the consequences.

Then he says further—and this is an illustration. Listen:

Evidently here is a man with a record of 17 serious charges, the 18th offense robbery—released on the street the very day—the police feel a great sense of futility for as soon as they get a criminal out of circulation the courts put him back into circulation.

This is what it further says:

If someone was conspiring to destroy our great society, certainly there would be no better way than to destroy the morale of our police and also release criminals as fast as the police lock them up. I recommend a graduated bail, to increase in ratio to the number of crimes committed and the seriousness of certain crimes. The criminal must pay his penalty to society instead of the law.

Mr. President, in another note attached, this is from a Mr. Martin Robbin, left in my box:

I am not sure that copies of these letters were forwarded to you, so am taking liberty of having desk clerk place them in your box. These are my only remaining copies so may I impose on you by asking to have photostat copies made and sent to me at the Colonnade Apartments.

Mr. President, these I have to withdraw temporarily so that copies can be made. But for the record, these are the things that are causing these dangerous conditions and causing the American people to be frightened, to be terrified, and to live in fear.

Do not tell the victim of crime that there is no need for hysteria. Some like to call it hysteria when someone gets up and tries to point out what is happening to our country and the dangers that are threatening it. Tell that to the victims

and watch them "smile" and "agree." Of course they will not.

As we try to pass this crime bill, we are thinking of who may be future victims of the criminal element.

There is great concern about the rights of criminals, but who today, Mr. President, are concerned in trying to do something about the rights of victims—and the next victim?

Who will be the next victim?

Will it be you, Mr. President, or me?

Will it be our loved ones, or someone else?

Mr. President, let me close on a humorous note.

A few days ago, an editorial was published in one of our State papers, dated May 5, entitled, "Problems of the March."

It reads:

The Rev. Abernathy is trying to carry on the poor people's march . . . getting the people to make the trip.

I understand that is true, Mr. President, that inducements have been made to put them on welfare the minute they get here, to feed and clothe them, and as testified to or as reported to us by the lady from HEW here in Washington, that some of them will even be entitled to \$100 in cash as soon as they get here because they will plead they are destitute.

Thus, it has taken some inducements to get these people to come. Mr. Abernathy is having some trouble.

The editorial is meant to be in humorous vein. Here is an account of what might have happened when one of Mr. Abernathy's recruiters knocked on the door of a home in a poor Negro neighborhood in the South:

[From the Little Rock (Ark.) Democrat,
May 5, 1968]

PROBLEMS OF THE MARCH

Rev. Ralph D. Abernathy is trying to carry on with the Poor People's March on Washington that was the dream of Martin Luther King before he was killed in Memphis. Abernathy wants thousands of poor Negroes and whites to go to Washington this month and live in tents and temporary shacks until the federal government agrees to give a guaranteed annual wage to every person in the country and create more government jobs.

Abernathy is having trouble getting people to make the trip. Here's an account of what might have happened when one of his recruiters knocked on the door of a home in a poor Negro neighborhood in the South:

Aide: I'm working for the Poor People's March. We want 3,000 poor people to come to Washington with us to get more federal money for the poor. Will you go?

Woman of the house: To Washington? Lord, no. With all the muggings and knifings they have had up there. I hear that it's not safe to be on the streets after dark.

Aide: We'll protect you and we'll provide you with a place to live and food to eat.

Woman: What would I do after I got there?

Aide: Demonstrate, sit-in, create confusion, march on the Capitol, block traffic, try to embarrass the congressmen.

Woman: Why would I want to do that?

Aide: To convince the President that he was going to have to come up with \$10 billion to give us a guaranteed annual income and other things we want.

Woman: Seems to me like the President's got enough trouble these days. And there sure isn't enough money for everything, with the war going on. Anyway, I couldn't go. I can't take my kids out of school.

Aide: We've made arrangements for the children to go to school up there.

Woman: In those Washington schools?

Why, I don't want my children to go to those schools. They don't have hardly any white kids in them. Down here, we've got integrated schools and my kids sit right alongside the kids from the best homes in town. Besides, I don't have money enough for a trip like that. How would I get there?

Aide: Brother Abernathy wants us to ride in farm wagons, pulled by mules.

Woman: A wagon? Mules? Why it's 1,000 miles from here to Washington. Get off my porch man, I may be poor but I'm not crazy!

[Laughter.]

Mr. McCLELLAN. Mr. President, as debate on this bill progresses, I intend to have more to say. I feel this issue is the major issue before the country today. I feel that a failure of the Senate to measure up—and when I say “measure up,” I mean do more than has been recommended by the administration in the way of just spending moneys and trying to develop a system here where we can train better policemen and have them better equipped. As worthy as that is, and as strongly as I support it again, I point out that the fruition of these benefits will not come in time to curb the spiraling rate of crime as it is today.

Mr. President, I close with this thought: The thing that is most wrong with law enforcement in America today, and particularly in the Nation's Capital, is lack of it.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Geisler, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session,

The ACTING PRESIDENT pro tempore laid before the Senate a message from the President of the United States submitting the nomination of Edwin M. Zimmerman, of California, to be an Assistant Attorney General, which was referred to the Committee on the Judiciary.

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1967

The Senate resumed the consideration of the bill (S. 917) to assist State and local governments in reducing the incidence of crime, to increase the effectiveness, fairness, and coordination of law enforcement and criminal justice systems at all levels of government, and for other purposes.

Mr. CASE. Mr. President, I urge the Senate to reject title II of the pending bill. For us to approve it would be not only a drastic setback in the development of standards of criminal justice but a serious rupture in the fabric of federalism which has worn so well for the Nation.

Non-Americans often have difficulty understanding our complicated system of State and Federal powers, some unique to the Federal level, others unique to the States, and still others shared by both. So too with our system of dual courts, State and Federal, again with both separate and concurrent jurisdiction. Yet this seeming welter of divided

and limited executive, legislative, and judicial responsibilities has produced a government that, on the whole, has proved remarkably durable and effective in meeting the needs of the country. And it has done so, I believe, not in spite of the dispersion of responsibility but, rather, because of it. The constitutional design established by the Founding Fathers has allowed for regional and local differences at the same time that it provides certain basic rights and protections for all. And the kingpin of the whole structure lies in the constitutional provision:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding—Article VI.

Title II would pull that pin in the field of criminal justice. It would undo, by way of statute, not by constitutional amendment, some of the major rulings of the Supreme Court in recent years involving the constitutional rights of individuals suspected of crime.

Several of the provisions in title II are patently unconstitutional; others are open to most serious objection on grounds of law and public policy. The record is already replete with the testimony of legal scholars and many of our most distinguished members of the bar in this regard.

The general point that I would like to emphasize is that in attempting to deny the Federal courts jurisdiction over claims of infringement of Federal rights, the title would permit a return to barbarities and injustices that for many, many decades went unchecked by some State courts. It would leave individual defendants literally helpless and without recourse, for example, by denying them the right of Federal habeas corpus.

Lest it be argued that I am talking of a day long past, I point out that it was only 30 years ago that the case of *Brown v. Mississippi*, 297 U.S. 278 1935 page 281, was decided.

In this case convictions of murder rested solely upon confessions shown to have been extorted by officers of the State by torture. There was no dispute as to the facts upon this point. They were set out in a dissenting opinion in the State court, and I quote:

The crime with which these defendants, all ignorant negroes, are charged, was discovered about one o'clock p.m. on Friday, March 30, 1934. On that night one Dial, a deputy sheriff, accompanied by others, came to the home of Ellington, one of the defendants, and requested him to accompany them to the house of the deceased, and there a number of white men were gathered, who began to accuse the defendant of the crime. Upon his denial they seized him, and with the participation of the deputy they hanged him by a rope to the limb of a tree, and having let him down, they hung him again, and when he was let down the second time, and he still protested his innocence, he was tied to a tree and whipped, and still declining to accede to the demands that he confess, he was finally released and he returned with some difficulty to his home, suffering intense pain and agony. The record of the testimony shows that the signs of the rope on his neck were plainly visible during the so-called trial. A day or two thereafter

the said deputy, accompanied by another, returned to the home of the said defendant and arrested him, and departed with the prisoner towards the jail in an adjoining county, but went by a route which led into the State of Alabama; and while on the way, in that State, the deputy stopped and again severely whipped the defendant, declaring that he would continue the whipping until he confessed, and the defendant then agreed to confess to such a statement as the deputy would dictate, and he did so, after which he was delivered to jail.

The other two defendants, Ed Brown and Henry Shields, were also arrested and taken to the same jail. On Sunday night, April 1, 1934, the same deputy, accompanied by a number of white men, one of whom was also an officer, and by the jailer, came to the jail, and the two last named defendants were made to strip and they were laid over chairs and their backs were cut to pieces with a leather strap with buckles on it, and they were likewise made by the said deputy definitely to understand that the whipping would be continued unless and until they confessed, and not only confessed, but confessed in every matter of detail as demanded by those present; and in this manner the defendants confessed the crime, and as the whippings progressed and were repeated, they changed or adjusted their confession in all particulars of detail so as to conform to the demands of their torturers. When the confessions had been obtained in the exact form and contents as desired by them, they left with the parting admonition and warning that, if the defendants changed their story at any time in any respect from that last stated, the perpetrators of the outrage would administer the same or equally effective treatment.

Further details of the brutal treatment to which these helpless prisoners were subjected need not be pursued. It is sufficient to say that in pertinent respects the transcript reads more like pages torn from some medieval account, than a record made within the confines of a modern civilization which aspires to an enlightened constitutional government.

Yet the State court refused to arrest the judgment and to order a new trial on the following grounds:

(1) that immunity from self-incrimination is not essential to due process of law, and (2) that the failure of the trial court to exclude the confessions after the introduction of evidence showing their incompetency, in the absence of a request for such exclusion, did not deprive the defendants of life or liberty without due process of law; and that even if the trial court had erroneously overruled a motion to exclude the confessions, the ruling would have been mere error reversible on appeal, but not a violation of constitutional right.

An extreme case. Perhaps so. No doubt in the years since then the standards of justice have improved. But as Erwin N. Griswold, then dean of the Harvard Law School, pointed out in an excellent article entitled, “The Long View,” which appeared in the *American Bar Association Journal* of November 1965:

But many other cases, perhaps less shocking but still painfully bad, have come before the Supreme Court in the past thirty years, one might even say in ever-increasing numbers. These cases involve confessions obtained through violence, deception or psychological coercion, or through ignorance; convictions obtained through illegally obtained evidence; cases of biased juries and judges; cases in which convictions were based on evidence known by the prosecuting officer to be perjured; and a host of other cases involving actions violating the spirit and the letter of the Federal Constitution, which

forbids, in substance, the unprincipled use of governmental power.

Does this mean that the Federal judiciary must take over the administration of criminal law in the United States? Of course not. That is and should remain primarily the responsibility of State courts.

But it does indicate, I believe, why the answer does not lie in attempting to strip the Federal judiciary of power to redress violations of Federal rights when State courts fail to enforce the Federal Constitution.

Rather the answer lies in encouraging, indeed requiring, the States to exercise greater responsibility in providing post-conviction procedures and remedies for alleged violations of Federal rights.

In a most thoughtful and illuminating address to the Conference of Chief Justices in August 1964, Mr. Justice Brennan got to the essence of the matter. Said he:

The modern problems of the consistency of state action with the Constitution are of a different order from those of even twenty-five years ago. Now implicated are the various constitutional guarantees designed to protect individual freedom from repressive governmental action. Of course, the federal system's diffusion of governmental power has the purpose of securing individual freedom. But this is not all the Constitution provides to secure that end. There are also explicit provisions to prevent government, state or federal, from frustrating the great design. I do not think there can be any challenge to the proposition that the ultimate protection of individual freedom is found in court enforcement of these constitutional guarantees.

Speaking of the scope of Federal court power in the domain of state criminal justice, Justice Brennan went on:

... What these (recent decisions) suggest is simply that if the States afford prisoners as full and fair an opportunity—on direct or collateral review—to raise and prosecute their federal constitutional claims as federal habeas corpus affords, then the federal habeas corpus courts will have no need to intervene in the supervision of state criminal justice, and the area of overlap will disappear.

The Justice rightly concluded:

... My concern is not with the precise contours of an adequate state post-conviction procedure, but with the fundamental principle "that upon the state courts, equally with the courts of the Union, rests the obligation to guard, enforce and protect every right granted or secured by the Constitution of the United States." If the States shoulder this burden, and undertake to make the responsibility for the vindication of our most cherished rights their own in this difficult area of criminal justice, the frictions and irritants that presently exist in some measure between the state and federal courts will rapidly disappear. Of this I am confident. Let me emphasize once more, however, that the possibilities for a healthy state-federal relationship in the criminal field now repose very largely in the States themselves; the Court has probably made its contribution. The future depends upon the States' acceptance of the opportunity offered in the recent federal decisions.

I ask unanimous consent that at this point in the RECORD there be printed the article by Dean Griswold and the address by Mr. Justice Brennan.

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

THE LONG VIEW

(NOTE.—The Supreme Court's recent decisions in the field of the administration of criminal justice, Dean Griswold asserts, takes on an attractive hue when examined in the perspective of our constitutional development—the long view. He suggests that the federal courts have been compelled to step into these areas because of the failure of the states to discharge their primary responsibility for a system of criminal justice that protects all rights—both state and federal—at all stages of a proceeding. He points out six areas in which the states must move forward with plans and solutions.)

(By Erwin N. Griswold, Dean of the Harvard Law School)

It was the older Oliver Wendell Holmes who wrote: "Age, like distance, lends a double charm." In this, he was borrowing from Diogenes Laertius, who, some 1,800 years ago, said that "The mountains too, at a distance, appear airy masses and smooth, but seen near at hand they are rough." It is perhaps a far cry from mountains to Supreme Court decisions, but there may be something to the analogy. Things sometimes look better when, instead of focusing on immediate problems, we take the long view. Recent Supreme Court decisions may seem rough when examined close at hand. When viewed in perspective, over a longer range in time, they may take on a more attractive hue.

I have no special background for the task I am undertaking. I can by no means match the qualifications that Justice Brennan brought last year when he addressed the Conference of Chief Justices on "Some Aspects of Federalism."¹ For Justice Brennan spoke with the perspective of seven years as a judge of state courts, both trial and supreme, followed by eight years as a Justice of the Supreme Court of the United States. His address was a remarkable one—well worthy of the acclaim it has received.

The theme of Justice Brennan's address can be well illustrated by a passage that appears in the record of the trial of Billie Sol Estes and is quoted in the concurring opinion of Chief Justice Warren in that case.² In response to a motion to exclude television from the trial of that case, based on a claim under the Federal Constitution, the trial judge said:

"This case is not being tried under the Federal Constitution. This defendant has been brought into this court under state laws, under the State Constitution. . . .

"I took an oath to uphold this constitution; not the Federal Constitution but the state constitution; and I am going to do my best to do that as long as I preside on this court. . . ."

One can respect the sincerity of this judge, but not his perspective, not his understanding of his place in the long view of history. I suspect that there is more of this view to be found in some of our state courts than comes to light, or than we like to recognize. And surely friction between state courts and federal courts is bound to be found while this point of view continues. I venture the thought that the place where full awareness of the requirements of the Federal Constitution should be clearly recognized and expressed is now in the state courts, instead of leaving this task, as has so often happened, to the various ranks of the federal judiciary.

As Justice Brennan said in his address: "If the states shoulder this burden, and undertake to make this responsibility for the vindication of our most cherished rights their own in this most cherished area of criminal justice, the frictions and irritants that presently exist in some measure between the state and federal courts will rapidly disappear."

¹ 39 N.Y.U. L. REV. 945 (1964).

² *Estes v. Texas*, 381 U.S. 532, 566 (1965).

In saying this, I do not want to ignore the fact that some things have recently been found in the Federal Constitution that were not previously known to be there. And more frequently, I think, some things that were rather clearly there, but which have long been overlooked or disregarded, have been given the attention and effect which they should have if our Constitution is to be a truly meaningful document. However new these developments may be, though, they can be more readily accepted if we consider them in the perspective of history rather than simply as isolated events.

II

We take pride in the administration of justice in this country, and rightly so. But it has not always been on the level that it has reached now, and we should hardly be surprised if the present level is not the final one. In each instance, as the level has been raised, those who then were administering justice have been troubled. It is not easy to accept new things, especially when the impetus comes from elsewhere.

Let us look, for example, at the well-known trial of William Penn, less than 300 years ago. It was not until the aftermath of that case that the independence of the jury was first established. In Penn's trial itself the court directed the jury to find him guilty. When they proved reluctant, the judge told them:

"I will have a positive verdict or you shall starve for it. . . . Till now I never understood the reason of the policy and jurisprudence of the Spaniards, in suffering the inquisition among them: And certainly it will never be well with us, till something like the Spanish inquisition be in England."³

Fortunately, Penn was released on habeas corpus, as were the members of the jury. And thus by this novel and somewhat painful event was the level of British justice, and of our justice, raised.

Throughout history the judges who have been known as great judges have been innovators. They have not only made new phrases; they have made new law. Often, there was much grumbling at the time; but in the perspective of history it becomes clear that they have helped to bring our law up to new levels. These are levels of which we soon become proud once we become accustomed to them and the newness of the new standard wears off. One thinks of Lord Mansfield in England, and of Chief Justice Sharswood and Judge Rufin in the United States. More recently, we have had such men as Judge, Chief Judge and Justice Cardozo, Chief Justice Vanderbilt (who was surely an innovator and reformer), not to mention any of the living, such as Justice Walter V. Schaefer of the Illinois Supreme Court and Chief Justice Roger J. Traynor of the Supreme Court of California, and Lord Denning in England, who—along with many others—are making their clear imprint on our law.

I like to think of a story told about one of the great innovating judges of the last century. Chief Justice Doe of New Hampshire. One time when he was sitting as a trial judge, New Hampshire still had the rule that the defendant in a criminal case could not testify, even in his own behalf. At that time, we are told, "it was very common for counsel representing the accused to complain bitterly to the jury of the fact that their clients' lips were sealed; and to assert that, if they could only have the privilege of testifying, they could satisfactorily explain all incriminating circumstances. Judge Doe had probably got very tired of hearing this sort of talk in cases where there was no reasonable doubt of guilt. One day, when a

³ Trial of William Penn and William Mead, 6 Howell's State Trials 951 (1670), as edited in 2 CHAFEE, DOCUMENTS ON FUNDAMENTAL HUMAN RIGHTS 306 (1951).

lawyer opening for the defense was making these stereotyped assertions, he was suddenly interrupted from the Bench. 'Mr. —, you may put your clients on the stand.' 'What, your Honor?' 'You will be permitted to call your clients in your own behalf.' The learned counsel, gradually recovering from his astonishment, turned and whispered to his junior: 'Well, John, we shall have to put the rascals on, and the result will be conviction.'"⁴

Thus was the law of New Hampshire changed, later caught up with by a statute the legislature had too long delayed in passing. I have no doubt that there was much grumbling at the bar at the time, but here again in the long view of history, we can see that the level was raised, that a step upward was taken to the place we have attained today.

But, you say, Penn's case was 300 years ago, and Chief Justice Doe lived in the middle of the last century; these events were important in bringing us where we are today, but we don't need any more uplift. Let me refer to a case which happened in the fourth decade of the present century, less than thirty years ago. Three men were charged with murder. It appeared that after arrest one was hanged from a tree and told he would hang there until he confessed; he still bore the marks of the rope on his neck at the trial. As to the other defendants, I now quote from the opinion of the two dissenting judges in the state court, on evidence that was not disputed.⁵ These two defendants "... were made to strip and they were laid over chairs and their backs were cut to pieces with a leather strap with buckles on it, and they were likewise made by the said deputy definitely to understand that the whipping would be continued unless and until they confessed, and not only confessed, but confessed in every matter of detail as demanded by those present; and in this manner the defendants confessed the crime, and as the whippings progressed or were repeated, they changed or adjusted their confessions in all particulars of detail so as to conform to the demands of their torturers."

Why should this case ever have had to go to the Supreme Court of the United States? But, it is said, that was nearly thirty years ago. Standards of justice have improved in the intervening years. I trust that that is so; indeed, I know that, generally speaking, that is true. But many other cases, perhaps less shocking but still painfully bad, have come before the Supreme Court in the past thirty years, one might even say in ever-increasing numbers. These cases involve confessions obtained through violence, deception or psychological coercion, or through ignorance; convictions obtained through illegally obtained evidence; cases of biased juries and judges; cases in which convictions were based on evidence known by the prosecuting officer to be perjured; and a host of other cases involving actions violating the spirit and the letter of the Federal Constitution, which forbids, in substance, the unprincipled use of governmental power.

Is it not clear, in the long view of history, that the time has come for us to bring ourselves up to a new level in the administration of criminal justice in this country, and that the Supreme Court is obeying not only the mandate of the Constitution but also the natural progress of history in taking steps to bring us to a higher level? The process may be painful in individual cases. There is an

understandable reluctance to have to adjust to new standards. But the process can be better understood and more readily accepted when it is more widely recognized that the concern of the Supreme Court has been directed primarily toward the long view and the long-range goals and ideals embodied in the Constitution, while the natural and understandable concern of its critics has been focused more often on the short-range application of old principles and more immediate concerns.

The viewpoint I seek to express to you is not merely an academic one. It has been well put by the former President of the American Bar Association, Lewis F. Powell, Jr., in one of his notable speeches. Speaking before the New York State Bar Association, Mr. Powell said:

"The right to a fair trial, with all that this term implies, is one of our most cherished rights. We have welcomed the increased concern by law enforcement agencies and the courts alike in safeguarding fair trial. Many of the decisions of the Supreme Court which are criticized today are likely, in the perspective of history, to be viewed as significant milestones in the ageless struggle to protect the individual from arbitrary or oppressive government."⁶

Many courts in this country have been very slow to take the long view, to accept the process by which we raise our standards, or, as I once said in another connection, to join in "the long struggle by which we have made ourselves civilized." Had the states, through their courts and their legislative and executive departments, in the past clearly recognized their responsibilities and carried them out, it would have been far less necessary for the United States Supreme Court to intervene. And if, today, the states will accept their great responsibilities in this area and will join with the Supreme Court in taking a long view of our standards in criminal law, in practice as well as in theory, intervention by the federal courts and friction between state and federal power will, in the future, be largely obviated.

III

But I am not content to rest here. I want more. I want to urge that the long view of history also requires that the states—through their judiciary and Bar—initiate and support the search for the further improvement in criminal procedure and procedures that will raise our standards further and will help us more perfectly to realize the ideals that have developed in our history and are set forth in state and federal constitutions.

The function of the judiciary is not only to administer the law as it is. That is too narrow a view. The role of the judge is, of course, circumscribed. But it need not be—wholly passive. A number of years ago Judge Harold R. Medina made a notable address that strikes the right note. It is entitled "Judges as Leaders in Improving the Administration of Justice."⁷ In it he said:

"The people of America love their judges; they honor and revere them; and they look to their judges for leadership in the improvement of the administration of justice."

But, he observed, often it is the judges who most resist the developments that are needed. He declared:

"As a student in law school, I got the impression that whenever any much needed reform in judicial procedure was under consideration, the judges made up the tail end of the procession, liberally sprinkling sand in the machinery in an endeavor to continue in the old ways, however archaic or outmoded they might be."

⁶ Powell, *An Urgent Need: More Effective Criminal Justice*, 51 A.B.A.J. 437, 439 (1965).

⁷ 36 J. AM. JUD. Soc'y 6 (1952).

Judge Medina also pointed out many honorable exceptions to this tendency. He named Chief Justice Vanderbilt, to whom I have already referred; and he mentioned, too, Judge John J. Parker, Judge Charles E. Clark, Judge Ira W. Jayne of the Circuit Court of Michigan in Detroit, who pioneered with pretrial procedures, and Judge James M. Douglas of Missouri, who did so much to secure the adoption of a new method for the selection of judges in that state.

Of course, the judges are not alone responsible for bringing about the needed changes. Much of the work must be done by legislators, by the executive branch of the government and, above all, by practicing lawyers, often working as members of bar association committees. We know how much devoted work of this sort is done; and it must continue to be done by individual lawyers. But in many cases they need the aid and support of the judiciary. They need the benefit of the experience of the judges; and they need, at crucial points, the support of the judges, through testimony and otherwise, before the legislative committees that have these matters under consideration. The problems were discussed well in Judge Charles D. Breitler's Cardozo Lecture earlier this year, "The Law-makers."

IV

Although this is not an exhaustive list, there are six problems I should like to outline briefly as ones that remain to be solved and that must be solved if we are to remain in progress with the long stream of history.

1. Prearrest and pretrial conduct of law enforcement agencies. This is the first and perhaps most important area for investigation and development. As my colleague of last year, Professor Yale Kamisar, has said, we now do a fairly good job in the mansion house—that is, in the actual trial of criminal cases—but conduct in the gate house sometimes leaves something to be desired. This area is surely a difficult one, and it is devoid of simple solutions and quick answers. Among other things, we are dealing with changing conceptions in society and the judiciary as to what our long-range conceptions of "fair trial" and "due process" really are. Here, as Professor Paul A. Freund has said, we are ordinarily dealing not as much with "a clash of right and wrong as a conflict between right and right"⁸ Where there is much to be said on both sides, great difficulty is involved, and sometimes, understandably, disagreements may develop.

Recently two major efforts have been launched to bring more clarity to our understanding of this area. One of these is by the Special Committee on Minimum Standards for the Administration of Criminal Justice, established by the American Bar Association under the able leadership of Chief Judge J. Edward Lumbard of the United States Court of Appeals for the Second Circuit. The focus is not solely on prearrest and pretrial procedures, but these problems will be covered. This great effort to survey the standards of the administration of criminal justice cannot help but shed light all along the line.

A second group, sponsored by the American Law Institute, is endeavoring to draft a Model Code of Pre-Arrest Procedure. Professor James Vorenberg of the Harvard Law School is the reporter for the project; he is assisted by Professors Paul M. Bator and Charles Fried of the Harvard faculty and by Dean Edward F. Barrett, Jr., of the Law School of the University of California at Davis, as associate reporters. They have already prepared a preliminary draft that has been submitted to their advisers. This is a large group, including law enforcement officers as well as lawyers and judges. This code will attempt to deal with the specific procedures to be followed by law enforcement

⁴ JEREMIAH SMITH, MEMOIR OF HONORABLE CHARLES DOE 15-16 (1897), quoted in Reid, *The Reformer and the Precisian: A Study in Judicial Attitudes*, 12 J. LEGAL ED. 157, 162, fn. 21 (1959).

⁵ This opinion was quoted by the United States Supreme Court. *Brown v. Mississippi*, 297 U.S. 278, 281, 282 (1936).

⁸ Freund, *Constitutional Dilemmas*, 45 B.U.L. REV. 13, 22 (1965).

agencies during the successive periods of investigation, interrogation, arrest and arraignment.

Apart from these efforts, there are several, perhaps obvious, steps that can be taken by the states or state courts to mitigate the uncertainties in the criminal process. Many states, for example, have moved forward to meet the new demands for counsel which have finally been made requisite by the decision in *Gideon v. Wainwright*, 372 U.S. 335 (1963). But a number of states are lagging; and in other states the old procedures may not prove adequate to meet current conditions. The greater problems of securing competent counsel and of securing counsel before trial are now before us; let the means of securing more counsel and more competent counsel are subjects that defy generalization and simple formulas. Few states as yet provide counsel at all in postconviction proceedings.

Just as demanding, it seems to me, is the need for broad police reform. We—both the Bar and the judiciary—must assume the responsibility to help improve the police systems of the states. Police work is an exceedingly difficult task in modern society. Policemen must be better educated and better paid. The police should have more instruction in their duties and the conduct in which they may or may not legally engage. This instruction should be made available in much more systematic form than is apparently attempted today in most states. There should be police academies with substantial programs, and appropriate instruction in these academies should be made a prerequisite for appointment to the police and for promotion.

This task should be done by the states, on state initiative. The failure of the states to meet this responsibility will only further detract from an effective system for the administration of criminal justice and from a workable system of federalism.

2. Prejudicial publicity at and before trials. We are beginning to make some progress with this troublesome question, too long neglected or ignored in this country. We should all welcome, it seems to me, the decision of the Supreme Court in barring television from the courtroom, at least in the circumstances present in the case before the Court. Recently the Columbia Broadcasting System has announced some rules for its own guidance in the matter of publicity before trials. This is gratifying not only for the awareness it shows of the great problems in this area, but for the willingness of this important agency to take definite steps to meet the problems.

A considerable part of the difficulty in this field comes from improper conduct of lawyers and of persons for whom lawyers have special responsibility, such as police officers and sheriffs. Much too much talking has been done by all of these people in the past—announcements about confessions, prior criminal records and so on. When it is clearly established that no lawyer may talk to the press about these matters before trial and that police officers, sheriffs and other court officials should be subject to a discipline that will keep them from discussing these matters, we shall have made significant progress in our effort to reach a higher standard of criminal justice.

As the Supreme Court of New Jersey has so clearly demonstrated,⁹ there is much that courts can do about this problem through decision and court rule. It is time that the courts accepted the responsibility that is clearly theirs in this important area.

3. Bail in criminal cases. This is another area requiring careful re-examination, where the courts themselves have a large measure of available power. It has long been the practice in this country to release prisoners only on the posting of relatively large bail, often

with extremely difficult conditions, such as a requirement that the bond be secured by unencumbered real estate worth several times the amount of the bail. The result has been a substantial discrimination against the poor in the administration of our criminal justice.

One consequence of this practice was pointed out recently by Dean A. Kenneth Pye of the Georgetown University Law Center, who said in an address delivered before the National Conference on Law and Poverty:

"Thus a poor defendant, destined to receive probation, on occasion would be advised by his lawyer that if he demanded a jury trial and was acquitted, he would probably serve six weeks in jail in pretrial confinement, but that if he waived his jury trial and pleaded guilty, he would probably be freed that afternoon. One must wonder what such a defendant must have thought of the value of his constitutional rights to bail and to a jury trial when he was incarcerated during the period in which he was presumed to be innocent and was released after he was found guilty."

Studies on the bail problem have been conducted recently in New York, Washington and elsewhere, under the auspices of the Vera Foundation and others. The results are already interesting and informative. This is a matter which should be looked into carefully by courts in all parts of the country. Leadership to this end might well be provided by the supreme court of each of the states.

4. Pretrial discovery in criminal cases. Here is another matter that should be carefully examined, and where courts undoubtedly have considerable measure of residual power. We now have extensive discovery and pretrial proceedings in the federal courts and in many state courts in civil proceedings. In civil cases we have largely abandoned the sporting or game theory of justice, and we have developed procedures designed to elicit the truth. But we have not generally extended these procedures to criminal cases. It is time that the courts re-examined this problem. It is a difficult area, filled with inertia. As Chief Justice Traynor has said: "The most cogent arguments for change encounter resistance."¹⁰

Of course, there are problems just as there were in working out discovery in civil cases. But state judges, state legislators and others should apply themselves to resolving these problems. They should not let them go by default, as has been the case in so many states in the past.

Here again I should like to quote from the address of Dean Pye to which I have referred. Speaking with respect to the federal courts in the District of Columbia, he said:

"Present procedure requires that an indigent must file a motion supported by affidavits in which he states the names and addresses of the witnesses sought to be called and the testimony he seeks to elicit from them in order to require the attendance of the witnesses at trial. The rule requires that the motion must be served on the United States Attorney, thus granting effective discovery to the Government at a time when the Government is not required to reveal the identity of any of its witnesses nor their expected testimony to the defendant."

5. A defendant's prior criminal convictions. The man with a prior criminal record in this country is far more at the mercy of the authorities—police and judicial—than seems to me to be warranted. He may have learned his lesson and have gone straight as an arrow since his release. But he is an immediate suspect for future arrest. And if he is arrested and put on trial, he has two almost

hopeless alternatives in many states. He can take the stand and deny his participation in the crime now charged. If he does this, his prior conviction can often be shown to impeach his testimony, in which case he is very likely to be convicted. Or he can refuse to take the stand, resting on his constitutional privilege, in which case he is also very likely to be convicted. Ought we not, even with persons who have once offended against society, undertake to develop procedures which will seek as far as possible to bring out the truth about the crime now charged, not some prior crime?

We accept much self-deception on this. We say that the evidence of the prior convictions is admissible only to impeach the defendant's testimony, and not as evidence of the prior crimes themselves. Juries are solemnly instructed to this effect. Is there anyone who doubts what the effect of this evidence in fact is on the jury? If we know so clearly what we are actually doing, why do we pretend that we are not doing what we clearly are doing? This problem was discussed ably by Dean Wigmore many years ago.¹¹ Yet very little has been done about it. Here again I fear that the states have yielded to inertia. It is such inertia that eventually leads to federal intervention. There is a good way for the states to avoid this intervention, and that is to take action themselves.

In Pennsylvania some progress has been made on this question. And the Uniform Rules of Evidence, less broadly, provide that if the accused does not offer evidence to support his own credibility, the prosecution will not be allowed to prove past criminal acts, arrests or convictions to impeach the defendant as a witness. It is time that the states took action here to provide a rule which, in the words of Professor McCormick, furnishes a "more just, humane, and expedient solution than the prevailing practice."¹²

6. Postconviction remedies. It is here that much of the friction between state and federal courts has developed. It is here, I suggest, that state courts and other state official bodies should take and exercise a greater responsibility.

The guiding principle of these remedies in the federal courts and in many state courts is that no defendant should be imprisoned or put to death without a complete hearing on his allegations of a denial of his constitutional rights, even though objection might validly be made to the timeliness of the accused's assertion of these rights. If the states wish to retain their control over these questions, they must provide a comprehensive and simple method of procedure for convicted persons. Postconviction relief is a sort of "reinsurance", as Justice Frankfurter termed it, enabling us to make sure that a sentence was not procured under circumstances that offend "the fundamental conceptions of justice which lie at the base of our civil and political institutions."¹³

Though several states have enacted comprehensive procedures for postconviction review, most states have failed to take adequate action. In terms of the long view, the solution to the problems in this area lies not in limiting federal postconviction powers to redress alleged violations of federal rights, but in expanding and clarifying the rights, and remedies available under state law. Simply put, if the states would adopt postconviction remedies as comprehensive as that of the federal remedy, removing in the process all recalcitrant technicalities and doctrines of waiver of constitutional rights, then the federal courts would have little need to intervene in state supervision of its criminal process.

With such a state remedy, the exhaustion

⁹ 1 WIGMORE, EVIDENCE § 194 (1940).

¹⁰ MCCORMICK, EVIDENCE 94 (1954).

¹¹ TAYLOR v. ALABAMA, 335 U.S. 252, 272 (1948) (concurring opinion).

⁹ State v. Van Duyne, 43 N.J. 369, 204 A. 2d 841 (1964).

¹⁰ Traynor, *Ground Lost and Found in Criminal Discovery*, 39 N.Y.U. L. Rev. 228 (1964).

doctrine could come into effective operation. I am sure the federal courts would like it better. And I should think that the state courts would welcome this expansion of their procedures and that many salutary developments in the administration of criminal law might develop.

This state remedy would require a complete record, supported by written opinions that fully discuss the grounds for the decision and the basis for decision on disputed facts. Here, too, provision should be made for counsel for the defendant. This will help to insure complete fairness in the proceeding, as well as the orderly and adequate presentation of all the relevant facts and arguments.

A number of states have already adopted the approach and wording of the federal general habeas corpus statute, in order to insure that state remedies extend as far as the federal one does. Several other states have adopted the quite adequate postconviction procedure statute that first appeared in Illinois. A third alternative is the Uniform Post-Conviction Procedure Act, approved by the American Law Institute in 1955. Although this was adopted by only one state—Arkansas—and was repealed there, it seems to represent a balanced compromise between the broad federal approach and the somewhat narrower approach of the Illinois statute.

This reform need not necessarily be done by statute. A number of states have proceeded through supreme court rule or rule of criminal procedure. It can also be done by expanding the traditional state habeas corpus remedy. Clearly, there is great room here for state courts to move ahead. When such remedies are provided by the states, they should be construed and applied broadly by the state courts in order that they provide a truly adequate remedy and meet the objective of assuring a completely fair administration of criminal justice. When this is done, intervention by the federal courts will wither away.

v

I have tried to put before you the long view of developments in the field of the administration of criminal justice in this country. When this view is taken, recent decisions of the Supreme Court fall into better perspective, and we see them as part of the continuous process by which we build up and maintain our standards for the administration of criminal justice.

It is now sixty years since William Howard Taft said that "the administration of the criminal law [in the United States] is a disgrace to our civilization."¹⁴ He repeated that statement several times, even after he had become Chief Justice. It is also sixty years this summer since Dean Pound made his memorable address before the American Bar Association on "The Causes of the Popular Dissatisfaction with the Administration of Justice". We have made some progress since that time, but is it not clear that in the long view that progress was called for and needed?

The general responsibility for the administration of criminal law surely rests with the states. Having that responsibility, the states should exercise it fully and meticulously at all stages of the process, recognizing that they are as much required to apply and enforce the Federal Constitution as are the federal courts. Although this responsibility is shared by all branches of the state government, and by lawyers and citizens generally, the state judiciaries and Bars have a peculiar responsibility to see that the states themselves perform all of their functions in this area, and perform them in such a way that no question or complaint can fairly be

made of a violation of the Federal Constitution.

When we take the long view, it becomes clearer that the progress we have made under the leadership of the United States Supreme Court should be accepted—indeed welcomed—and that we should all work toward continued improvement. I have suggested a number of topics that require further consideration. There are others. Let us all join together, and get on with the task.

SOME ASPECTS OF FEDERALISM

(By William J. Brennan, Jr., Associate Justice of the U.S. Supreme Court)

(NOTE.—This article is the text of an address delivered before the Conference of Chief Justices. The Conference was held in New York on August 7, 1964.)

It is in no perfunctory fashion that I owe my pleasure at the honor of addressing this distinguished Conference. A few of my acquaintances have professed to see something foolhardy in the appearance of a member of the Supreme Court of the United States before the assembled Chief Justices of the States. One wag said it reminded him of Daniel's venture into the lion's den. Another, with his eye on a certain proposed constitutional amendment, suggested that my brethren in Washington had sent me here to scout out the opposition that is scheduled to take over our jobs.

It seems to me that such notions of conflict and of fundamental difference of aims between your courts and the Supreme Court of the United States have been grossly and unfortunately exaggerated. The time has come, I think, to recognize fully that, while our functions are different and while our decisions must sometimes disagree, we are nevertheless all engaged in administering the law of the same nation. Our common denominator is that we both work under the pressure of an unceasing, inexorable demand for decision of cases churned up out of real life by the legal system, and involving deeply felt interests of real life litigants. There is no justification for the view that we are headed in opposite directions, and that the only legal bond between us is the subjugating one of the supremacy clause.

Indeed, I indulge the presumption that your invitation to me to address you today emphasizes the things that our respective tribunals have in common, rather than the things that divide us. In a sense, I myself am one of those things that our courts have in common. Of the sixteen years that I have spent on the bench, exactly half have been on the United States Supreme Court and the other half on the courts of the State of New Jersey, four of them as a justice of the state supreme court. With this background, I should be in a position to cast light on the respective roles of the state and federal supreme courts, and on the differences, interrelationships, and occasional disagreements between these tribunals. More important, I should be able to do this in a way that will emphasize the basic consensus we share, rather than our superficial disagreements. That is, at any rate, what I shall try to do today. And if at times I seem to be dwelling primarily on our differences, my purpose will be only that of fostering a better understanding of those differences and thus of emphasizing the unifying causes that underlie them.

My own personal reaction upon moving from Trenton to Washington was one of considerable astonishment at learning how different the work of the two courts really is. The work of each has a character, a difficulty, and a complexity of its own, and none of these has its exact counterpart in the other. But I was not alone in discovering that my state court experience hardly prepared me for what was to come. When Justice Holmes came to the Court from the Supreme Judicial Court of Massachusetts, he wrote Pollock

that he found it to be "an adventure into the unknown." And when Justice Cardozo came from the New York Court of Appeals, he said: "Whether the new field of usefulness is greater, I don't know. Perhaps the larger opportunity was where I have been."

The fact is that the high state court and the Supreme Court of the United States play necessarily different roles in our judicial system. There is, of course, an area in which their functions overlap; federal courts decide questions of state law, and state courts ones of federal law. But each tribunal is supreme in its own field, and in the final analysis neither can do the other's job. This distinction between the roles of the two courts is a necessary consequence of our federal form of government. That form is the keystone of our scheme for achieving liberty through law. This idea for diffusing the power of government originated with the Framers, and my brethren and I know perhaps better than anyone else how right John Quincy Adams was when he said that our federal form of government had given us "the most complicated government on the face of the globe."¹ We all know that the Constitution allocates powers between national and state governments in only the most general terms. The general idea is that federal authority operates in areas where a uniform and national standard should obtain, leaving to the States the major governmental responsibility for most of the activities within their borders. State powers, Madison said, "extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."² Our federal form of government, therefore, necessarily imposes upon state courts the duty of rendering the final decision on the overwhelming majority of the controversies in this country which end up as cases in court. Certainly applicable to state courts are Marshall's words that "the judicial department comes home in its effects to every man's fireside, it passes upon his property, his reputation, his life, his all."

But our federal structure also necessarily means that some cases involving state law will also involve federal law and, hence, will present a problem of reconciling state and federal authority. If we are to have an ordered society, if as a nation we are to meet problems that arise, solve them, and go on to grappling with new ones, some institution must have the authority to pronounce the final word on these questions, just as you have that authority for your respective States on questions of state law. Our system assigns to the Supreme Court of the United States the final word in declaring the meaning of the federal constitution and, hence, under the supremacy clause, the final word in resolving these federal-state issues. It is a duty which the very first Congress, in one of its very first laws, the Judiciary Act of 1789, directed the Court to assume. Of course, the state courts also have a duty to decide issues of federal law that are raised in cases before them. As our Court has said, the obligation rests "upon the State courts, equally with the courts of the Union, . . . to guard, enforce, and protect every right granted or secured by the Constitution of the United States. . . ." ³ Indeed, state courts have often been notably perceptive and forthright, and have led the way for the federal courts. I know that my own opinions in such important and controversial areas as reapportionment, obscenity, the first amendment's guarantees of freedom of religion, the rights of criminal suspects, and the application to the States of the fifth

¹ Adams, *The Jubilee of the Constitution* 115 (Colman ed. 1839).

² *The Federalist* No. 45, at 313 (Cooke ed. 1961).

³ *Robb v. Connolly*, 111 U.S. 624, 637 (1883).

¹⁴ Taft, *The Administration of Criminal Law*, 15 *YALE L.J.* 1, 11 (1905).

amendment's privilege against self-incrimination, have drawn much from trail-blazing state court opinions in these areas. Some state courts, however, have taken a different approach; they have seemed reluctant to test state authority against the federal constitution, apparently feeling that the pronouncement that federal law prevails over state law is not for a state court to make. For the United States Supreme Court, in these cases of federal-state issues that are so often not only important but also controversial and emotion-laden, there is no such easy way out—in President Truman's words, "The buck stops here." Resolution of these conflicts between state and federal authority has been said to be the most essential of the tasks entrusted to our Court. Holmes once said: "I do not think the United States would come to an end if we lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several States."⁴

This basic difference between the two high courts, in function if not in jurisdiction, is one reason why the transition from Trenton to Washington was not easy for me. My state court responsibility, while it included jurisdiction over federal questions and federal-state conflicts, was inevitably colored by the fact that I was, after all, a state judge. My federal court responsibility, on the other hand, demands a national perspective—although, of course, a national perspective which recognizes the fundamental proposition that, as our Court has said, "the preservation of the States, and the maintenance of their governments, are as much within the design and care of the Constitution as the preservation of the Union and the maintenance of the national government."⁵ The inevitable change in perspective may be illustrated by examples from my own judicial experience. As a state supreme court judge, I wrote an opinion taking the view that state power to enjoin picketing was not displaced by the National Labor Relations Act in the case of an interstate business doing a dollar volume less than the minimum set by the National Labor Relations Board for the exercise of its jurisdiction.⁶ Not long after taking my present seat, however, I joined in holding that despite the Board's declining to exercise its jurisdiction in such cases, Congress had completely displaced state power to deal with such matters.⁷ Again, on the state supreme court I wrote that a grand jury witness who refused to answer questions on the ground that he feared a federal prosecution was guilty of criminal contempt.⁸ Yet only this Term I wrote that the fifth amendment's privilege against self-incrimination applied to the States and that Connecticut could not adjudge in contempt a witness who properly asserted the federal privilege,⁹ and I joined in another decision, handed down the same day, holding that the privilege was properly asserted when based on the possibility of federal prosecution.¹⁰

It would be quite erroneous to assume that the new responsibility invariably entails expanding federal judicial power at the expense of the States; just as often, my new role as prescribed by federal law is narrower than my former one as a state judge. Thus, on the state supreme court I dissented with all the vigor I could command from a hold-

ing that an accused facing a trial for murder was not entitled to pretrial discovery of his own confession.¹¹ But I can see that our Court was correct in refusing to review a holding of the Third Circuit Court of Appeals that, however desirable pretrial discovery in criminal cases may be, the fourteenth amendment does not command the States to have it.¹² Again, on the New Jersey court I joined in a dissent on double-jeopardy grounds in a case involving successive prosecutions for what was essentially the same criminal act;¹³ a few years ago, however, I wrote for my present Court that if one prosecution was brought by the federal government and the other by a State, the double jeopardy provision of the fifth amendment was not offended, because an act made criminal by both national and state sovereignties is an offense against both and may be punished by each.¹⁴ It may well be that, from the point of view of the harassed defendant, the prosecutions are successive prosecutions for the same act, and the fact that separate sovereignties brought them should be irrelevant. But different treatment of the two cases was compelled, as I thought, by our concept of federalism. To the demands of federalism had to give way my views as a state judge in the New Jersey case that nothing can be more repugnant than successive trials and punishments for the same criminal act.

I could multiply examples of these seeming inconsistencies, which are, of course, not inconsistencies at all. They show only that the roles of the state supreme court justice and the United States Supreme Court Justice in dealing with the same problems, indeed the same cases, are functionally different. On one hand, while the state as well as the federal justice has jurisdiction to apply federal law in determining the validity of an exercise of state authority, the federal justice may see the demands of that law in a different light, as in the picketing case, and respond differently to the need for its creative interpretation to keep it abreast of great changes in our society, as in the self-incrimination cases. On the other hand, the federal justice is also subject to the limitations of federal law, and thus, as in the criminal discovery and double jeopardy cases, must decline to enter at all into the broad domain governed exclusively by state law.

These substantive differences between the functions of the two courts are accompanied by a difference in climate; the winds of criticism and controversy that swirl around the Court in Washington are generally of a higher velocity than those blowing in state capitals—and the temperature is hotter. Throughout our history, Supreme Court decisions upholding federal over state authority have been met with expressions of dismay. Perhaps Yale's Professor Black does not overstate in saying that, although the Supreme Court is expressly required by law finally to decide these contests, yet "nothing arouses greater occasional resentment, than the fact that the states must be subjected, as a last resort, to the requirements of the national Constitution and laws. Nothing could be more obvious, and nothing raises this occasional resentment to higher pitches of fury, than the fact that, in the real world this must mean that the actions of the states have to be submitted to control and possible invalidation by some national tribunal. Nothing could be more obvious, and nothing could inspire resentment to shriller tones of invective, than the fact that, again in the

real world, the national Constitution and laws to which the states must be subjected can be nothing else than the national Constitution and laws as interpreted by the national tribunal entrusted with this task of supervision, even though that interpretation may in some particular case not be the one arrived at, or even passionately held, by the dominant interest in the affected states."¹⁵

I admit that as a newcomer from a state court, I found that the high decibel level of the debate which followed some of our decisions was indeed disconcerting. But, however bothersome it may be to the judges whose decisions are under fire, free and vigorous debate over judicial decisions is not only inevitable in our society; it is also essential to our freedom and well-being. Courts are organs of government, and with us, as Madison said "the people, not the government, possess the absolute sovereignty."¹⁶ "If we advert to the nature of Republican Government," he also said, "we shall find that the censorial power is in the people over the Government, and not in the Government over the people."¹⁷ Free public discussion of the stewardship of public officials, including judges, is thus a fundamental principle of the form of government to which Madison referred. Judicial decisions should no more escape public scrutiny than legislative or executive decisions. Judges themselves lead the way in their unsparring criticism of one another's work. Every member of our Court at one time or another has taken his colleagues to task for "amending the Constitution" or "usurping" the powers of Congress or of the States. Seen in its proper context, critical examination of the work of the courts is simply another example of—to quote from our opinion this Term in the *New York Times* libel case—our "profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials."¹⁸ Judicial decisions, especially those of the Supreme Court of the United States, are often decisions on "public issues" of the first moment in our society. As de Tocqueville said, "scarcely any political question arises in the United States that is not resolved, sooner or later, into a judicial question."¹⁹

The Solicitor General has made the point well with reference to litigation in the United States Supreme Court:

"The central qualities of Supreme Court litigation arise . . . out of the peculiarly American principle of constitutional adjudication. The real contest is not so much between individuals and business corporations as between institutions and ways of life; and in reaching decisions this fact is consciously recognized. Throughout American history the prime examples have been the contests between State and federal authority and the definitions of the powers of the Executive and Legislative Branches, but familiarity does not lessen the intensity of the contest and new aspects are always arising. Through constitutional adjudication we have developed the extraordinary but very useful habit of casting social, economic, philosophical and political questions in the form of actions at law and suits in equity, and in this way important aspects of a large proportion of the most fundamental issues of our times ultimately go before the Supreme Court for judicial de-

¹⁵ Black, *The People and the Court* 120-21 (1960).

¹⁶ Report on The Virginia Resolutions, in 4 Elliot's Debates on the Federal Constitution 569 (2d ed. 1876).

¹⁷ 4 Annals of Congress 934 (1794).

¹⁸ *New York Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

¹⁹ 1 Tocqueville, *Democracy in America* 280 (Knopf ed. 1948).

⁴ Holmes, *Speeches* 102 (1934).

⁵ *Texas v. White*, 74 U.S. (7 Wall.) 700, 725 (1868).

⁶ *Busch & Sons, Inc. v. Retail Union*, 15 N.J. 226-233-34, 104 A. 2d 448, 452 (1954) (dictum).

⁷ *Guss v. Utah Labor Relations Bd.*, 353 U.S. 1, 8 (1956).

⁸ *In re Pillo*, 11 N.J. 8, 16, 93 A. 2d 176, 180 (1952).

⁹ *Mallory v. Hogan*, 378 U.S. 1 (1964).

¹⁰ *Murphy v. Waterfront Comm'n*, 378 U.S. 52 (1964).

¹¹ *State v. Tune*, 13 N.J. 203, 227, 98 A. 2d 881, 894 (1953).

¹² *Tune v. New Jersey*, 230 F.2d 883, 890 (3d Cir.), cert. denied, 351 U.S. 987 (1956).

¹³ *State v. Hoag*, 21 N.J. 496, 506, 122 A.2d 628, 639 (1956).

¹⁴ *Abbate v. United States*, 359 U.S. 187, 193 (1958).

termination. They are the issues upon which the community, consciously or unconsciously, is most deeply divided. They arouse the deepest emotions. Their resolution—one way or the other—often writes our future history."²⁰

Of course, when we speak of criticism as the lifeblood of an open society, we think particularly of comment based on knowledge, not ignorance; on fact, not misrepresentation; on respect, not fear; on confidence, not suspicion. Criticism which is falsely premised, hostile, erosive and destructive hardly serves noble ends. Even the imperturbable Holmes was moved, in an address delivered in this City over fifty years ago, to protest:

"Doubts are expressed that go to our very being. Not only are we told that when Marshall pronounced an Act of Congress unconstitutional he usurped a power that the Constitution did not give, but we are told that we are the representatives of a class—a tool of the money power. I get letters, not always anonymous, intimating that we are corrupt. Well, gentlemen, I admit that it makes my heart ache. It is very painful, when one spends all the energies of one's soul in trying to do good work, with no thought but that of solving a problem according to the rules by which one is bound, to know that many see sinister motives and would be glad of evidence that one was consciously bad. But we must take such things philosophically and try to see what we can learn from hatred and distrust and whether behind them there may not be some germ of inarticulate truth."²¹

It seems to me that the organized bar and the law schools have a special responsibility with respect to criticism of the courts, federal and state. Judges of this country, unlike judges even in England, have recognized the critically important function of professional criticism of the work of the courts. As Bentham said, "the law is not made by judge alone, but by judge and company." This means that, as one observer has said,

"We take our judicial law not merely from nine men but from a profession—with all that implies in intellectual disciplines and in standards rooted in tradition. The role that the profession as a whole plays by subjecting the Court's work to informed criticism and appraisal and by producing disinterested scholarship—can be plainly, sometimes spectacularly, traced in the development of all branches of our law. The process of law making is not arrested nor is it characterized by the decision of any single case. It lives by testing and enlarging ideas, and it is forever rethinking last year's case and projecting future, as yet unformed cases."

Lawyer-like, professional comment upon judicial work can be an invaluable aid to the public's better understanding of the values at stake. Professor Sutherland put it this way only the other day at the St. Paul ceremonies dedicating the plaque to the late Dean Pound: "What I urge is our careful thought for the professional quality of that criticism, lest we encourage citizens generally to carp at our judges in the spirit of political warfare."

This does not mean, of course, that lawyers should feel obliged to defend the decisions of our Court, or any court, when they disagree with them. They are certainly free to criticize, and indeed have a professional duty to do so. I suggest only that they also have a duty to make their criticism as informed as possible—to base it upon an accurate report of a court's decisions and opinions, and to correct those whose attacks are founded upon exaggerated and distorted notions of what a court has done. To take a specific and current example, lawyers as well as laymen are fully entitled to voice their disagreement with our Court's recent decisions concerning prayer in the public schools. But when such criticism departs completely

from what the Court actually held and said in those cases, and accuses the Court of having decreed the removal of all vestiges of religion from our public life—of chaplains from the armed services, opening prayers from legislative sessions, "In God We Trust" from the coins—when the criticism is directed at this wholly distorted version of the Court's decisions, I suggest that it is irresponsible criticism. And I suggest that lawyers, with their training in analysis of court opinions and their ability to report accurately on what the court did and said, have a professional obligation to deter such unwarranted attacks on judicial institutions—to make sure that their own criticism of the decisions is based on an accurate statement of the court's actions, and to correct others whose criticism is not so based. A lawyer is hardly faithful to his obligation to uphold the law when he disparagingly misrepresents what the law is, or when he stands idly by while others do so.

Controversies over constitutional limits upon state powers have been with us from our national beginnings; we settle one only to have another emerge of different mien. Only when they make the form of cases and controversies is judicial cognizance of them required, but in a real sense the calendar of the Supreme Court at any time is a fairly reliable mirror of the issues with which our society is struggling at that time. Within the memory of all of us a great constitutional battle was fought over that interpretation of the due process clause which struck down efforts by the States to effect changes in society through regulation of social and economic matters. That battle resulted in victory for legislative freedom to deal with such matters. Justice Brandeis doubtless would have seen the outcome as proof of his insistence that the Court "bows to the lessons of experience and the force of better reasoning."²² Only last Term eight members of the Court joined in an opinion which, in sustaining a state statute regulating the business of debt adjusting, said:

"The doctrine that prevailed . . . —that due process authorizes courts to hold laws unconstitutional when they believe the legislature has acted unwisely—has long since been discarded. We have returned to the original constitutional proposition that courts do not substitute their social and economic beliefs for the judgment of legislative bodies, who are elected to pass laws. . . . We refuse to sit as a 'superlegislature' to weigh the wisdom of legislation, and we emphatically refuse to go back to the time when courts used the Due Process Clause 'to strike down state laws, regulatory of business and industrial conditions, because they may be unwise, improvident, or out of harmony with a particular school of thought.'"²³

Of course that battle was fought simultaneously with the struggle over federal authority, asserted primarily under the commerce clause, to displace or limit state authority to regulate in the social and economic fields. The result of this struggle sustained federal power, but in many respects also expanded state power. Only last Term the Court reaffirmed the principles that uphold state statutes in the absence of a conflict between the federal and state regulatory schemes, or of an unambiguously expressed congressional decision to pre-empt the field.²⁴ In addition, state powers to tax interstate businesses have been sustained with respect to many forms of taxes,²⁵ and state taxes upon federal

contractors have been held not to impose unconstitutional burdens upon the national government.²⁶

It is therefore fair to say, I think, that constitutional adjudication now leaves the States the widest latitude to deal with the dynamics of social and economic change in seeking to satisfy their needs and further their progress. Moreover, in all the areas of strictly local concern, the federal courts are required these days to defer to holdings of the state courts to a degree quite unknown before *Eric v. Tompkins*, and even in the area of choice-of-law rules, where competing state interests in a conflicts-of-law case present aspects of the national interest in interstate harmony, our Court no longer suggests that the Constitution dictates the solution. State courts have considerable latitude to experiment with the development of viable rules.

The modern problems of the consistency of state action with the Constitution are of a different order from those of even twenty-five years ago. Now implicated are the various constitutional guarantees designed to protect individual freedom from repressive governmental action. Of course, the federal system's diffusion of governmental power has the purpose of securing individual freedom. But this is not all the Constitution provides to secure that end. There are also explicit provisions to prevent government, state or federal, from frustrating the great design. I do not think there can be any challenge to the proposition that the ultimate protection of individual freedom is found in court enforcement of these constitutional guarantees. This principle is perhaps most strikingly illustrated by the reapportionment cases. Freedom of a State's citizens to experiment with their own economic and social programs is hardly meaningful if the political processes by which such programs must be achieved are controlled by only some of the people. The ideal is government of all the people, by all the people, and for all the people. In the field of legislative apportionment, the constitutional guarantee that each citizen will have an equal voice in his government is found in the equal protection clause. Our decisions in the reapportionment cases have enforced this guarantee, and the result should be, not the return of discredited judicial intrusion into the field of political judgment, but a more effective operation of the processes by which political judgments are reached.

Similarly, our decisions in the racial discrimination cases have applied the equal protection clause to prevent states from discriminating against citizens because of the color of their skins. Equal protection of the laws means equal protection today, whatever else the phrase may have meant in other times. The Supreme Court of the United States cannot escape its responsibility for the ultimate definition and application of that guarantee. In the same area of responsibility falls, I think, the series of decisions extending some of the guarantees of the first eight amendments to the States. The Bill of Rights is the primary source of expressed information as to what is meant by constitutional liberty. Its safeguards secure the climate which the law of freedom needs in order to exist. It is true that they were added to the Constitution to operate solely against federal power.²⁷ But the fourteenth amendment was added in 1868 in response to a demand for national protection against abuses of state power. Did that amendment extend the protections of the first eight amendments against state power? At least ten Justices have believed so, including members of the present Court. But the view which has so far prevailed stops short of that. This view

²² *Burnet v. Coronado Oil & Gas Co.*, 285 U.S. 393, 407-08 (1931) (dissenting opinion).

²³ *Ferguson v. Skrupa*, 372 U.S. 726, 730-32 (1962).

²⁴ *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 141-52 (1962).

²⁵ *General Motors Corp. v. Washington*, 377 U.S. 436 (1964); *Northwestern States Portland Cement Co. v. Minnesota*, 358 U.S. 450 (1958); *Railway Express Agency, Inc. v. Virginia*, 358 U.S. 434 (1958).

²⁶ *United States v. Boyd*, 375 U.S. 808 (1963); *United States v. Detroit*, 355 U.S. 466 (1957); *United States v. Muskegon*, 355 U.S. 484 (1957).

²⁷ *Barron v. Baltimore*, 32 U.S. (7 Pet.) 243, 247 (1833).

²⁰ Cox, *The Nature of Supreme Court Litigation*, 9 Fed. B. News 247 (1962).

²¹ Holmes, *Speeches* 99 (1934).

is that "it is possible that some of the personal rights safeguarded by the first eight amendments against National action may also be safeguarded against state action, because a denial of them would be a denial of due process of law."²⁸ This is not a new view. It dates at least from 1897,²⁹ and was given explicit expression by the Court in 1908.³⁰ Before I came to the Court in 1956, application of this test had extended the guarantees of the first and fourth amendments and the just compensation clause of the fifth amendment;³¹ during my tenure, the fifth amendment's privilege against self-incrimination,³² the eighth amendment's prohibition of cruel and unusual punishments,³³ and the sixth amendment's guarantee of the assistance of counsel for an accused in a criminal prosecution³⁴ have been extended. We have also held that the States may not use the fruits of an illegal search and seizure to convict of crime.³⁵

The common thread of these holdings—none arrived at until after a long series of decisions grappling with the pros and cons of the issues—has been the conclusion that the guarantees in question are essential to the preservation and furtherance of the constitutional structure of government for a free society. I am aware that some of these decisions have aroused the concern of state judges, particularly insofar as they may affect the processes of state criminal procedure. It cannot be denied that the decisions do restrict the latitude of choice open to the states in this area. But that is a price which must be paid for recognition and enforcement of guarantees deemed to have a place among "those fundamental principles of liberty and justice which lie at the base of all our civil and political institutions . . ."³⁶ The genius of the Constitution resides not in any static meaning that it had in a world that is dead and gone, but in its adaptability to interpretations of its great principles that cope with today's problems and today's needs. As Mr. Justice Schaefer of Illinois said in his Holmes Lecture at Harvard a few years ago,

"Considerations of federalism of course remain important. But in the world today they must be measured against the competing demands arising out of the relation of the United States to the rest of the world. The quality of a nation's civilization can be largely measured by the methods it uses in the enforcement of its criminal law. That measurement is not taken merely in retrospect by social historians of the future. It is taken from day to day by the peoples of the world, and to them the criminal procedure sanctioned by any of our states is the procedure sanctioned by the United States."³⁷

The Court has also held that the guarantees made applicable to the States under the fourteenth amendment are to be enforced against the States according to the same standards that govern their application to the federal government. I appreciate that there's still a job to be done of pricking out federal standards in some of these areas—that of illegal search and seizure, for example. Even some prison inmates are impatient with us on this score. Here is a letter I re-

ceived a short time ago from a state prisoner:

"Dear Justice Brennan:

"Composing this letter leave me in the throes of trying to prepare my case for a hearing in the United States Supreme Court, without the information that are necessarily needed for research work, especially cases on illegally search and seizure, also Arrested without a warrant; and coerced confessions.

"Sir, I request the opinion of honorable Justice Brennan: 9,000 words opinion dealing with standards of probable cause necessary to get a warrant of arrest or to make an arrest without a warrant."

Apropos of prisoners, this may be a good place to touch on the question of the federal habeas corpus remedy. I know of the concern of state judges with the contours of that remedy. I would remind you that Congress had no thought of requiring state prisoners to seek relief in state courts when enacting that statute in 1867. On the contrary, Congress contemplated that the single forum for redress of their federal claims was a federal court. The requirement of exhaustion of state remedies was judicially fashioned by the Supreme Court of the United States as wholly appropriate under our federal form of government; thereafter, Congress adopted the principle by amendment of the statute. I would suggest, also, that when a State provides no remedy, and the prisoner obtains federal habeas relief, as Mr. Justice Frankfurter said, "It is a baseless fear, a bogeyman, to worry lest State convictions be upset by allowing district courts to entertain applications for habeas corpus on behalf of prisoners under State sentence. Insofar as this jurisdiction enables federal district courts to entertain claims that State Supreme Courts have denied rights guaranteed by the United States Constitution, it is not a case of a lower court sitting in judgment on a higher court. It is merely one aspect of respecting the Supremacy Clause of the Constitution whereby federal law is higher than State law. It is for the Congress to designate the member in the hierarchy of the federal judiciary to express the higher law. The fact that Congress has authorized district courts to be the organ of the higher law rather than a Court of Appeals, or exclusively . . . [The Supreme] Court, does not mean that it allows a lower court to overrule a higher court. It merely expresses the choice of Congress how the superior authority of federal law should be asserted."³⁸

Rather than as an unwarranted federal encroachment upon state domains, the federal habeas corpus jurisdiction should be taken by the States as an opportunity to fashion state remedies as good or better for the disposition of the federal claims of state prisoners. Herein, I suggest, lies the true significance of *Fay v. Noia*³⁹ and *Townsend v. Sain*.⁴⁰ In articulating standards to govern the availability of the federal remedy and the propriety of the federal district court's holding a trial *de novo* of the facts underlying a constitutional claim, our Court has attempted to clarify the scope of federal court power in the domain of state criminal justice. Such a clarification should point the way for the States to take, if they would, to minimize unwanted federal intrusions into that domain. What these decisions suggest is simply that if the States afford prisoners as full and fair an opportunity—on direct or collateral review—to raise and prosecute their federal constitutional claims as federal habeas corpus affords, then the federal habeas corpus courts will have no need to intervene in the supervision of state criminal justice, and the area of overlap will disappear.

May I venture to suggest, very roughly,

³⁸ *Brown v. Allen*, 344 U.S. 443, 510 (1953) (separate opinion).

³⁹ 372 U.S. 293 (1963).

⁴⁰ 372 U.S. 391 (1963).

some essential elements of a state post-conviction procedure which, under the principles expounded in *Fay v. Noia* and *Townsend v. Sain*, would be adequate to make the exercise of federal habeas corpus jurisdiction unnecessary. They are, I think, at least six. *First*, such a procedure must be swift and simple. Prison inmates are typically unlearned in the law and without legal assistance. A procedure designed for the vindication of their rights must therefore be free from the intricacies and pitfalls of pleading and practice which sometimes characterize civil litigation. *Second*, an adequate state post-conviction procedure must be comprehensive. It must afford the prisoner an opportunity to raise all his federal constitutional claims, not merely those which may be termed "jurisdictional." Our Court long ago abandoned the "jurisdictional" touchstone—which had become fictional anyway. If state post-conviction remedies are not so broad as federal, many constitutional claims will be forced into the federal courts. *Third*, after *Fay v. Noia* it seems clear that there is no place for rigid and technical doctrines of forfeiture, waiver, or default in a system of post-conviction remedies. In the absence of some deliberate bypassing or flouting of orderly procedures by a state prisoner, he is entitled to a determination of the merits of a substantial federal constitutional claim. *Fourth*, if the determination of such a claim involves the resolution of contested factual issues, a full fact hearing must be held. Let me again emphasize the possibilities here for a fruitful interplay between the state and federal courts. If the States afford an adequate evidentiary hearing where necessary, the federal courts on habeas corpus will not be required to hold a fact hearing and, in the ordinary case, will not. But if no such state hearing is held, necessarily the obligation devolves upon the federal courts to make their own factual determinations. *Fifth*, an adequate post-conviction procedure must include the compilation of a full record. Absent such a record, the federal habeas corpus court is necessarily left in the dark as to the sufficiency of the state proceedings in the particular case. *Sixth*, the adequacy of post-conviction procedures would be greatly enhanced by a practice of deciding cases with full opinions. Summary dispositions of state collateral proceedings offer the federal habeas corpus judge little clue to the ground of decision—whether, for example, the denial of relief rested on a procedural obstacle—or to the manner in which the contested factual issues, if any, were resolved.

I trust you will understand that the foregoing points are meant only as suggestions. My concern is not with the precise contours of an adequate state post-conviction procedure, but with the fundamental principle "that upon the state courts, equally with the courts of the Union, rests the obligation to guard, enforce and protect every right granted or secured by the Constitution of the United States." If the States shoulder this burden, and undertake to make the responsibility for the vindication of our most cherished rights their own in this difficult area of criminal justice, the frictions and irritants that presently exist in some measure between the state and federal courts will rapidly disappear. Of this I am confident. Let me emphasize once more, however, that the possibilities for a healthy state-federal relationship in the criminal field now repose very largely in the States themselves; the Court has probably made its contribution. The future depends upon the States' acceptance of the opportunity offered in the recent federal decisions.

It is surely time that I conclude. My theme has been that while federalism inevitably puts a different cast on a case for state supreme court justice and a United States Supreme Court justice, the fundamental obligation to administer federal law rests on

²⁸ *Twining v. New Jersey*, 211 U.S. 78, 99 (1908).

²⁹ *Chicago B. & Q. R.R. v. Chicago*, 166 U.S. 226 (1896).

³⁰ *Twining v. New Jersey*, 211 U.S. 78 (1908).

³¹ *See Malloy v. Hogan*, 378 U.S. 1, 4-5 (1964).

³² *Malloy v. Hogan*, supra note 31.

³³ *Robinson v. California*, 370 U.S. 660, 666-67 (1961).

³⁴ *Gideon v. Wainwright*, 372 U.S. 335 (1962).

³⁵ *Mapp v. Ohio*, 367 U.S. 643, 655 (1960).

³⁶ *Hurtado v. California*, 110 U.S. 516, 535 (1883).

³⁷ *Schaefer, Federalism and State Criminal Procedure*, 70 Harv. L. Rev. 1, 26 (1956).

both courts, and it is the identity of underlying purpose rather than the difference in particular results that is basic. The state courts, in addition, have exclusive jurisdiction over questions of state law—a responsibility of no less gravity than our ultimate authority over federal law. Cardozo said, "The persuasion that one's own infallibility is a myth leads by easy stages and with somewhat greater satisfaction to a refusal to ascribe infallibility to others." Both of us know that in the areas of our respective ultimate responsibilities, neither of us, in Justice Jackson's phrase, is final because we are infallible; we are infallible only because, in our respective areas, we are final. There are other things we have in common. All of us do our work in a world dominated by great and swift change, and law must move with change. It is axiomatic that, as Huntington Cairns has said, "law, to be effective, must conform to the world in which it finds itself. That world is given; law does not make it."⁴¹ In but two decades, since the end of World War II, the world and this Nation have witnessed a remarkable transformation. The unity of the human family is becoming more distinct on the horizon of human events. The gradual civilization of all people instead of the former civilization of only the elite, the rise of mass education and mass media of communication, the formation of new thought structures due to scientific advances and social evolution—all these phenomena hasten that day. Our own Nation has shrunk its distances to hours, its population is becoming primarily urban and suburban and religiously pluralistic, its technology has spurred an economy capable of fantastic prodigies of production, and we have become leader of a world with a host of new countries which are ready to follow but also quick to reject the path that we take. Our political, industrial, agricultural and cultural differences cannot stop the process which is making us a more united nation. More intense than ever before is the pursuit, in John P. Roche's phrase, "The Quest for the Dream."

We must remember these rapid changes when alarm is expressed that constitutional change is coming too fast and going too far. For, in today's world, what our constitutional fundamentals meant to the wisdom of other times cannot be their measure to the vision of our time. You and I are committed to the constitutional ideal of libertarian dignity protected through law. Crises at hand and in prospect are creating, and will create, more and more threats to the achievement of that ideal—more and more collisions of the individual with his government. The need for judicial vigilance in the service of that ideal was never greater. It has become the business of all of us to protect fundamental constitutional rights threatened today in ways not possibly envisaged by the Framers. Both of us are destined to labor earnestly in that endeavor—we hope with wisdom—to reconcile the complex realities of our time with the necessary principles of a free people. We have in common, of course, that, like other human beings responsible for other human institutions, we are on the dubious waves of error tossed. But in performing our respective tasks in cases where both of our courts function, there can be no reason for contest, not even for petty quarrel. For—and I should like to close with the words of Professor Sutherland—"the soul of a government of laws is the judicial function, and that function can only exist if adjudication is understood by our people generally to be—as it is—the essentially disinterested, rational and deliberate element in our democracy."⁴²

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. HRUSKA. Mr. President, when the administration proposed its safe streets bill, there was only one subject that was treated in the measure. That subject had to do with a system of grants-in-aid from the Department of Justice, under the Attorney General, to municipalities and States for the purpose of strengthening their law enforcement agencies.

That bill was passed by the House of Representatives last summer and sent to the Senate. As passed by the House, it contained, among other modifications, one fundamental change, which was later deleted by the Senate Committee on the Judiciary by a vote of 8 to 7. That was the amendment known as the "block grant" amendment. The House of Representatives apparently felt quite strongly about it, for it was added to the House bill by an overwhelming vote.

I, too, feel quite strongly about it, and the bulk of my comments will be directed toward amendment No. 715, which would reinstate the block grant provisions in the measure which is now before the Senate with some additional improvements and refinements.

When the matter of law-enforcement assistance came before our Judiciary Committee, consideration was given at once to enlarging its scope to take in other phases of law-enforcement assistance beyond the matter of direct grants to local and State law-enforcement agencies.

This was done by including three additional titles. Title I is the law-enforcement assistance title. Title II undertakes to deal with rules of admissibility of evidence and procedure in criminal prosecutions which, it was felt by the committee, were necessary to clarify a series of Supreme Court decisions. Title III has to do with the so-called wiretapping and electronic surveillance provisions. It would enable law-enforcement agencies to engage in wiretapping and electronic surveillance activities under a system of strict court supervision and under a system of accounting to the courts for the results of the activities pursuant to court orders. Title IV provides for the control of firearms sales.

There is a fundamental difference of opinion as to how to enact a measure which will be workable, acceptable, and enforceable for the purposes at hand.

The major purpose, of course, is to keep firearms out of the hands of the wrong people in an effort to reduce their misuse and, by reason of that, to reduce the rise of crime.

In my remarks this afternoon, I propose to discuss the provisions of title I, the law-enforcement assistance portion of S. 917.

This title creates a system of direct grants in aid to State and local law-enforcement agencies. This was the subject of the original crime control bill submitted to Congress. However, as I have already indicated, the Senate Ju-

diciary Committee revised it substantially and expanded its scope.

The purpose of the grants provided in title I is to encourage and assist grantees to improve and expand their law-enforcement capabilities.

The bill undertakes to accomplish its objective by creating a Law Enforcement Assistance Administration, and by providing grants to State and local law-enforcement agencies for planning and executing programs for more effective law enforcement.

Part A of title I establishes a three-member Law Enforcement Assistance Administration. The members of the Administration are appointed by the President and confirmed by the Senate. The duties of the Administration would be to administer the act under the general authority of the Attorney General. Through the board, applications for grants would be received and processed. It would make grants, allocate the available funds and supervise their expenditure.

Part B provides for planning grants to encourage States and units of local government and combinations of States and local units to prepare and adopt comprehensive law enforcement plans.

Under part C, law enforcement or "action grants" would be made to carry out such plans. Included in the purposes of such grants would be methods, devices, facilities, and equipment for public protection; recruitment and training of enforcement personnel; public education to encourage crime prevention and respect for the law; construction of facilities; establishment and training of special enforcement units to combat organized crime and for the detection and control of riots and other violent disorders.

Part C also authorizes use of Federal matching funds to compensate local police personnel. However, the compensation is limited to one-third of any grant, and not more than 50 percent of any pay raise granted to such personnel by State or local funds. Such a limitation does not apply to compensation of personnel either conducting or undergoing training programs.

Part D provides for the establishment of an Institute of Law Enforcement and Criminal Justice. This agency would be authorized to make grants for research, demonstration, special projects and to conduct continuing studies of the causes of crime, evaluation of correctional procedures and similar activities.

Included in part D is authorization for the Federal Bureau of Investigation to establish and conduct training programs for State and local law enforcement personnel at the National FBI Academy at Quantico, Va. The Bureau also is authorized to assist in conducting local and regional training programs at the request of State or local law enforcement agencies.

Appropriations authorized are \$100,-111,000 for fiscal years 1968 and 1969 and \$300 million for fiscal year 1970. Although the authorizations do not go beyond fiscal 1970, the Attorney General has testified that additional money would be needed. He estimated that the program will reach a level of about \$1 billion a year within a very short time.

Mr. President, I agree and support the general objectives, level of funding and

⁴¹ Cairns, *Law and Its Premises* 10 (1962).

⁴² Address by Arthur E. Sutherland, St. Paul Minn., June 17, 1964.

priorities established in title I. It lacks, however, certain basic provisions which are necessary to assure the improvement and strengthening of law enforcement throughout the Nation and to prevent Federal domination and control of State and local law enforcement. In an effort to improve the pending bill, I intend to support Senator DIRKSEN's amendment to provide a system of block grants and to submit two amendments of my own concerning the administration of title I. One amendment is intended to provide that the administration of the program is by a body independent of the Attorney General or the Department of Justice. The other amendment would remove the authority to use grant funds for personnel salaries, except during periods of training, and as to the personnel conducting the course of training and the personnel undergoing the training.

Mr. SCOTT. Mr. President, will the distinguished Senator from Nebraska yield?

Mr. HRUSKA. I yield.

Mr. SCOTT. Mr. President, I commend the Senator for his long-time interest in this most complicated subject, for the time which he has devoted to the committee hearings, for the proposals he has made, and for the presentation he is making during the Senate's consideration of this bill.

I should like to say to the Senator that I very strongly concur in the feeling that he has with regard to the necessity for the use of block grants rather than the diversion of these funds into hundreds or perhaps even thousands of local communities. I would rather be able to keep a spotlight on 50 States than to have to find thousands of flashlights to explore the money in myriad communities. I believe that a balanced and effective Federal-State partnership can result from the approach which he and the distinguished senior Senator from Illinois [Mr. DIRKSEN] proposed to undertake. I supported this position in committee; I support it now.

I feel the same way about the payment of salaries, other than for training and research purposes, of police officials in the local communities. I believe our police forces are underpaid in great part in much of the country. I have favored an increase in the salaries of the police and firemen, but I do not believe the Federal Government should subsidize the police forces of this country.

I do not believe we should attempt to set up a national police system. I believe that the way to avoid that is to avoid committing ourselves in this bill to getting the famous camel's nose under the tent one more time, to again run the risk of doing something from which we cannot extricate ourselves, and that is a commitment to pay local salaries for what is fundamentally a local responsibility. The apprehension of criminals, in my judgment, will always be basically a local responsibility. There are, of course, areas where oversight extends through the various levels of government and ends up, finally, with the Federal Government, but only within the functions of training, research, guidelines, patterns, and general contribution to the maintenance of order within the Federal

area of responsibility, such as interstate violation of the law, and so forth.

So I again thank the Senator for his statements, for what he has said in the committee, and for what he has said about the gun bill.

As the Senator is well aware, I have taken in committee a position on gun control which differs in some degree from his, in an effort to get a bill reported. But I would respectfully suggest that the Senator take a look at my own proposal, which is more or less of a median proposal, lying between the Dodd bill and the Hruska bill.

I have not said I would not support the proposal of the Senator from Nebraska. I should like to, if I possibly can. I should like him to look at my own suggestions in this matter. I know how truly concerned he is for the maintenance of law and order, and this extends to every part of this measure. Such votes as we may have cast in committee were cast by all of us in a desire to get this bill out where it could be seen, debated, and decided.

So I continue to have an open mind on title IV of the bill.

Regarding title II, I have some concern with respect to the habeas corpus provision. However, I have no concern whatever on that portion of title II which seeks to clarify the rights of individuals and the role of trial judge and jury treated in the Miranda and the Escobedo decisions. I have been told that in this respect we may be running into a constitutional question. To that I answer, "So did the Supreme Court." They decided these matters by a 5-to-4 vote, which I find regrettable in constitutional questions. Therefore, what five men decided once may later be changed by four men plus one, or with perhaps one heart-beat away or one mindwave away from a change in what the Supreme Court determines to be the Constitution of the land. As lawyers, we know that they have the last guess. They have—if we wish to be more polite about it—the last best judgment.

What is the Constitution, other than what these nine men finally say it is? I wish it were not always so. But I believe that if Congress says to the Supreme Court, as it may be constituted at any given time, "This, in our view, is an exercise of our constitutional responsibility; we want confessions to be truly voluntary; we want that voluntariness to be safeguarded; but we also want to be entirely certain that the rights of the victims are as highly regarded as the rights of the criminals; we want at least to be convinced that every opportunity and resource for the prevention of crime is provided which is consistent not only with the rights of the accused, but with the rights of the victims and the legitimate responsibilities of the authorities." We also want to serve notice on the courts of this land that confessions can be handled better than they have been handled in some of the court decisions.

I say this with great respect, as a lawyer. I do not know why these nine men are any better judges, in the last analysis, of what is the Constitution of the United States than are the two bodies of the National Legislature.

For these reasons and for others—I will say more in a speech of my own on this subject next week—I am supporting, generally, what the distinguished Senator from Nebraska has said; and I am most grateful to him for his courtesy in yielding to me at this time.

Mr. HRUSKA. Mr. President, I am most happy to accommodate the Senator from Pennsylvania. I thank him for the kind and generous remarks he has made about the analysis of the pending bill in which I am engaged.

In all fairness, we must say that there is room for division of opinion as to how the various issues in the pending bill should be dealt with.

In the matter of the control of firearms sales, for example, I know of no committee exercise in which I have been engaged in which I have met a more constructive attitude than that displayed by the Senator from Pennsylvania—always helpful, always seeking to improve any proposal under consideration.

With reference to the Senator's remarks on the Miranda and Escobedo cases, he will recall, from his reading of the opinion in the Miranda case, that the Supreme Court invited congressional consideration—invited action by Congress on this subject—in an effort to try to make progress in this very difficult field.

For centuries, the voluntary confession has been treated as the highest form of evidence. But the great difficulty is to determine when it is voluntary and when it is coerced.

In the light of the Court's invitation, we have proceeded, and we are trying to make progress.

It is very gratifying to realize that the Senator is also supporting block grants and the elimination of provisions which authorize payment of personnel salaries from Federal funds. As I shall explain in greater detail later, both matters contain great merit, from the standpoint of trying to reach a solid basis for the proposed legislation. It is indeed heartening to have the support of the Senator from Pennsylvania, in the light of his experience, maturity and the constructive attitude which he maintains. I thank him for his support.

Mr. SCOTT. I appreciate the Senator's kind words. I particularly appreciate his having pointed out that the Supreme Court has invited Congress to do better. The Supreme Court has said, as the Senator has pointed out:

Escobedo and Miranda are the best we can do in the present state of the law as we see it.

But the legislative body has a function, a right, and an invitation to clarify and to fortify the law in these very important areas.

I thank the Senator.

Mr. HRUSKA. It was observed not too many days ago by a former colleague in the Senate, Richard Nixon, that while there are many areas in which legislative action may be taken to improve the administration of criminal justice one of the best and therapeutic methods that could be used would be to double the conviction rate, not for the sake of convicting, but for the sake of convicting guilty parties.

In the bill we find an effort directed to that end. I know that is what the Senator from Pennsylvania has always stood for, and I know he agrees with me that never was there a time when this type measure was more urgently needed than now.

Mr. SCOTT. I agree with the Senator.
Mr. HRUSKA. I thank the Senator.

LAW ENFORCEMENT IS PRIMARILY A LOCAL RESPONSIBILITY

It is a truism that law enforcement is primarily a local responsibility. The Federal Government activities in this field are minute compared to the overall task. Out of approximately 400,000 full-time law-enforcement personnel in the United States, only 23,000 are Federal officers and about a third of the latter are assigned to duties other than actual law-enforcement activities. There are over 40,000 law-enforcement agencies, yet only about 50 of them are Federal.

Of the 425,000 inmates in custody in penal and correctional institutions, only 20,000 are under Federal supervision.

Local responsibility for law enforcement is a fundamental premise of our constitutional structure. It is vital and substantial and is a part of our heritage of liberty.

President Johnson, in his February 1968 message to Congress on crime, had this very thing in mind when he stated:

The Federal Government must never assume the role of the Nation's policeman. True, the Federal Government has certain direct law enforcement responsibilities. But these are carefully limited to such matters as treason, espionage, counterfeiting, tax evasion and certain interstate crimes.

Crime is essentially a local matter. Police operations—if they are to be effective and responsible—must likewise remain basically local. This is the fundamental premise of our constitutional structure and of our heritage of liberty.

The existing pattern of law enforcement makes it clear that local governments must play the primary role in any effective program to combat crime.

Mr. President (Mr. Moss in the chair), responsibility for an activity and control of the money which is needed to discharge that responsibility cannot and should not be separated. If control of the funds is put at the national level, in effect, the responsibility will also be transferred there. This is the danger posed by the direct grant system approved by the Judiciary Committee, whereby funds would be transmitted from the Office of the Attorney General to individual municipalities and law-enforcement agencies.

Experience has shown us how a direct grant program leads to Federal usurpation of control. At the present time, there are over 500 Federal aid programs being allocated specifically for thousands of State and local programs. All applicants are required to comply with numerous Federal regulations. Each time an application is approved, the grant is conditioned upon further compliance with additional Federal dictates. Federal administrators have power to exercise the use, not only of Federal funds under their custody but they also direct and, in effect, control State and local funds since they have the power to grant or deny, to approve or disapprove projects.

Such control has proven detrimental in many situations. It would be disastrous, however, if applied to the Nation's local police forces. Yet this is what is contemplated under the pattern of administration provided for in title I, as approved by the Committee on the Judiciary and as is pending here today. Direct grants to large municipalities from the Department of Justice would lead to Federal control and restrictions. It would tend to cause eventual domination by the Federal Government. This would be a first, major step to a national police force.

The threat to individual liberty would become immediate and real. Law-enforcement agencies are potential threat to individual liberty. They are that at the very best. That threat, however, is best minimized by keeping law-enforcement powers diffused in line with historic constitutional divisions of power.

How can the Federal Government assist the States and local governments in improving their law-enforcement capabilities without threatening our liberty? It can be done through a system of block grants. Law-enforcement respect is a local responsibility. Let us leave the responsibility there by giving control of the funds to the States.

LAW-ENFORCEMENT ASSISTANCE MUST BE COORDINATED AND IT MUST BE FLEXIBLE

Mr. President, this Nation has over 40,000 local jurisdictions and 3,000 counties, in addition to the 50 States, the District of Columbia, Puerto Rico, and the Virgin Islands. Within these political jurisdictions, responsibilities overlap. The governmental unit that has responsibility for police work may not have responsibility for the courts. The corrections system may be the responsibility of a third jurisdiction. Yet all three of these elements are within the definition of law enforcement and are items designated for assistance under title I. To be effective, there must be a reasonable system of coordination of State and local jurisdictions.

In addition, the law-enforcement agencies around the Nation suffer from different problems. What is a priority subject in a large city is not necessarily priority in an agricultural county. The court system may be progressive but police equipment may be deficient. There must be a way of investigating and evaluating the needs and there must be a way of establishing realistic priorities within the many governmental jurisdictions.

The immediate practical problem with the administration of title I, as proposed by the Committee on the Judiciary is that it fails in the critical areas of coordination and flexibility. It proposes duplication, fragmentation, delay and confusion.

Present Federal grant-in-aid programs are deficient in these respects. It is becoming increasingly clear that too many Federal programs are failures because of the overlapping administration, the competition among agencies, and the lack of a constructive overview of what the Federal Government is doing in the area of financial assistance.

This problem was voiced by John Gardner, then Secretary of Health, Education, and Welfare, when he testified last fall before the Senate Subcommittee

on Intergovernmental Relations. Mr. Gardner said:

In almost every domestic program, we are encountering crises of organization. Coordination among federal agencies leaves much to be desired. Communications between the various levels of government—federal, state, local—is casual and ineffective.

The President's coordinator for Federal-State relations, Farris Bryant, former Governor of Florida, recently stated to a panel of Governors:

There are too many specific, categorical-grant programs.

BLOCK GRANTS

Mr. President, Congress should not make additional mistakes of this kind. There is an alternative which is workable. The alternative is a "block grant" approach, whereby each State would establish coordinated, comprehensive State plans through State planning agencies. Upon administration approval of the State plan, money would be allocated to the State agency for disbursement pursuant to the approved plan.

Coordination among various levels and phases of State and local activity is essential to effective law enforcement. There are many interrelated activities in any given situation which must be tied together for an intelligent, unified and comprehensive effort to be made.

Mr. President, the scope, the magnitude, the diversity of situations and the problems facing law enforcement in America, demand the flexibility so necessary for success.

In this connection, let us consider these particulars:

I

Title I contains authorization for substantial grant funds. Four hundred million dollars are provided for the first 2 fiscal years. And, according to testimony of the Attorney General, it could rise to a level of \$1 billion per year within a very short time. This is a substantial amount of money, far too substantial to be under the jurisdiction of and to be allotted and transmitted subject to the discretionary judgment of any one man as provided now in the bill.

II

Applicants will be many in number. Three hundred and thirty-one cities in America have populations of over 50,000. Add 50 States, the District of Columbia, Puerto Rico, and combinations of States or localities, and the list becomes a formidable one. An amendment is pending before the Senate which would remove the minimum 50,000 population for any of the grantees that would be eligible to receive funds under the bill.

Of course, if that amendment prevails, as I believe it will and should, then the number of potential grantees becomes immensely greater.

III

Each application will be structured to meet different needs, priorities, conditions, circumstances, peculiarities, and background.

IV

Law enforcement, as defined in title I and in reality, is a very broad, comprehensive area. Law enforcement and criminal justice agencies do not exist in isola-

tion. They are part of a larger system. A very large system, the parts of which are interrelated to a great degree.

v

Law enforcement is defined in section 601(a) of the title as meaning "all activities pertaining to crime prevention or reduction and enforcement of the criminal law." Let us consider what this means. It includes all facets of detection and investigation of crime, apprehension of suspects, prosecution, trial, sentencing, imprisonment, facilities for imprisonment, correction, and rehabilitation. It also covers facilities for reform, probation, parole, and so forth. Some of these activities are within the jurisdiction of a city, or a county, or a State. Some, in fact, are handled by special subdivisions formed under State legislation.

vi

Each applicant city is a creature of its State constitution and legislature. Each has widely varying attributes, powers, and duties. Assignments and responsibilities are wide-ranging, residing in a large number of units, divisions, departments or agencies within the municipality. While such units are intensely interrelated, there is no single official or agency within a municipality with overall authority or direction.

vii

Against this background, the bill seeks to place processing of grant applications in the hands of a Federal agency in the Nation's Capital. That agency is to negotiate and contract with individual cities or combinations thereof with respect to intricate, complicated, and often unique governmental activities.

viii

The Federal Government does not have the qualified personnel to do the job. It can try to recruit personnel from among the several States, however, but this would be at the expense of depriving the States of much-needed talent in this field. Even if such talent could be obtained, unless it were obtained from each and every one of the 50 States, it would still mean that those recruited and serving in the Federal agency would not be sufficiently familiar with the numerous and multifarious factors inherent in each applicant's history, needs, capabilities, and powers to meet the needs of effective law enforcement.

It becomes apparent, when we study these factors, that the law enforcement assistance program will fall upon the same rocks that have destroyed the effectiveness of many other grant-in-aid programs. A three-member administration, working under the Attorney General, subject to his authority, will not be able to properly evaluate all of the applications with a view toward all of the variable local conditions.

Mr. President, yesterday, a statement was made by Richard M. Nixon, a one-time colleague in the Senate, formerly a Member of the House, later to serve 8 years as Vice President of the United States and as President of the Senate, on the subject of crime, entitled "Toward Freedom From Fear." This is a penetrating discussion of many of the fundamentals on the very subject with which we are dealing at the present time. I

should like to read a pertinent part of it in the RECORD which has to do with the block grant amendment, the substance of which is included in amendment No. 715 as introduced by the senior Senator from Illinois:

Today, there are more than 420,000 people involved in police work employed by 40,000 separate agencies. Many of these 40,000 agencies are tiny and inefficient municipal departments wholly inadequate to the tasks assigned them. Consolidation of many of these departments and their merger into citywide or metropolitanwide forces would give the peace forces a jurisdictional range and a level of strength more commensurate with the criminal forces—which ignore state lines, let alone the lines that divide tiny municipalities.

The Federal Government can play a leading role as well in furthering this objective of consolidating and reducing the number while improving the quality of law enforcement agencies in this country.

To do so, however, it will have to shift its emphasis from direct grants to local governments, to block grants to the states. The former approach puts the Federal Government squarely into what must and should remain a local function—law enforcement. Direct grants for local police departments could bring domination and control and the door could be opened to the possibility of a Federal police force—a prospect we should avoid. Secondly, the block grant approach to the states will enable them to determine the priorities in the allocation of resources; and that, too, is as it should be. Third, this approach would strengthen the statewide police forces which are, by and large, efficient and professional organizations.

It would also enable the state to strengthen its own investigative and crime laboratory facilities, its intelligence, and records centers—which could be put at the disposal of local police. By providing the assistance to the states, we would strengthen law enforcement at a level at which it could deal more effectively with a criminal community that possesses a mobility and strength undreamed of a few years ago.

Mr. President, we have here the judgment and declaration of policy by one who is experienced in this field, who has been a student of government and a participant of government in the legislative as well as the executive offices for a long time. His comments go to the heart of the matter.

Mr. President, because block grants would leave the responsibility of law enforcement and the control of the funds with the State governments, the program would also contain the coordination and flexibility required. State planning agencies would be able to establish coordinated, comprehensive State plans and establish priorities governing law enforcement agencies and the systems of courts and correctional, as well as penal, institutions. This is best accomplished at the State level.

State plans would be designed and created by persons with an expertise in all aspects of law enforcement in their States and municipalities. They would have firsthand, at-home understanding, information, know-how, and "feel" for conditions, needs, and priorities.

The amendment which the senior Senator from Illinois has submitted and I have gladly cosponsored with some other colleagues has built-in safeguards to allay the fears of some people that city-State rivalries would prevent the cities from getting funds under a State oriented system. It is expressly provided

that 75 percent of the action grant funds and 40 percent of the planning funds received by the States must go to local agencies if there is a local need. In addition, if a State fails to set up a planning authority within a reasonable time, the Law Enforcement Assistance Administration is authorized to deal directly with local government organizations until such a State plan is perfected.

A true block grant is one made to a unit of government for a broad functional area with the decision as to its exact application left to the recipient.

While the proposed amendment is not a pure block grant in this definition, nevertheless, it is a method by which the potential of Federal control and domination is greatly minimized. This is most desirable for sound government in our system of federalism in America. It is especially urgent in law enforcement.

In addition to minimizing potential control and domination by Federal authorities, it provides a means whereby more efficient and more coordinated methods of enforcing the law can be achieved.

INDEPENDENT ADMINISTRATION OF TITLE I

Another major proposition I should like to advance has to do with a subject on which I shall offer an amendment during the course of the consideration of S. 917. It has to do with the independent administration of title I.

As originally approved by the Criminal Laws and Procedures Subcommittee, the three-member board which would administer title I was to be located within the Department of Justice, was to be independent of the control and supervision of the Attorney General.

The Attorney General is indeed the chief law enforcement officer of the Federal Government, but he is not the chief law enforcement officer of the States and cities of this Nation. He should not be. It is the fervent hope of this Senator that there will never be any enactment which would confer upon him a position of chief law-enforcement officer of State, municipal, and Federal law-enforcement machinery as well.

The distinguished Director of the Federal Bureau of Investigation had the following to say on this subject. I quote Mr. Hoover to this effect:

America has no place for, nor does it need, a national police force. It should be abundantly clear by now that in a democracy such as ours effective law enforcement is basically a local responsibility. In the great area of self-government reserved for states, counties and cities, the enforcement of the laws is not only their duty but also their right.

No single individual should possess the powers and the influence which would be accorded him under title I as it now reads. That power and that influence should be exercised by an administrative body independent of the head of the Department of Justice.

Let me make as clear as I can, Mr. President, that in proposing this amendment and in advocating and urging its adoption by approval of the Senate, there is not the slightest intimation, nor is there the slightest thought, in the mind of the Senator from Nebraska of disrespect for the office of Attorney General or anyone who occupies that great office. As one who was admitted to the

bar for the practice of law 38 years ago, I have had instilled in me the greatest respect for all of the institutions of Government, and in particular the institutions which devote themselves to the administration of justice. This respect is extended without limitation of the person who at any time holds the high office and the honored office of the Attorney General of the United States.

I want to make very, very clear that in proposing and advocating this amendment, it is for the purpose of adhering to those principles which make for sound government, which make for a government that will be effective, and in keeping with the constitutional structure which has been set up for us, and by which, I hope, we shall always continue to be governed.

The subcommittee bill provided for the establishment of such an independent body. It is the three-member administration appointed by the President with the advice and consent of the Senate. The subcommittee bill provided:

In the exercise of its function, powers and duties, the Administration shall be independent of the Attorney General and other offices and officers of the Department of Justice.

This language should be reinserted in the bill by proper amendment. I shall offer an amendment for that purpose, and call it up for consideration, debate, and disposition by the Senate.

FEDERALLY SUPPORTED POLICE SALARIES

Another major point in title I has to do with the payment of certain funds which are appropriated under it to support the pay of various municipal, State, or county law-enforcement personnel.

Title I now allows Federal funds to be used to support the salaries of local law-enforcement officers. Up to one-third of any grant may be used to pay up to one-half of salary increases. This is a modified version of the original administration suggestion that up to one-third of each grant be used for police salaries; but the inherent dangers are the same.

I have discussed the dangers of Federal control that flow from the use of a direct-grant system. They apply consistently when the object of that grant is police salaries. In effect, "He who pays the piper calls the tune."

Once salary support is granted, it will be virtually impossible to withdraw it. Most Government programs seem difficult to terminate, regardless of how temporary they were thought to be. However, withdrawing salary payments, in effect, cutting a policeman's salary, would be impossible. This provision would create a permanent dependence by local police on the Federal Treasury.

Mr. President, I should like to illustrate this point by calling attention to the fact that there are about 400,000 law-enforcement officers in the United States. Let us engage in a very simple problem in arithmetic.

Suppose there is an average increase of \$100 per month given to each of those 400,000 officers. That would mean, under this bill, that the Federal Government would pay \$50 a month to each of them; and by the simple process of multiplication, we come out with a sum which ap-

proximates one quarter of a billion dollars each year, or \$250 million, for one increase of \$100 a month, average, for 400,000 officers.

This would be the cost of the first increase for the first year. Once that type of financial help is given, it would be difficult, if not impossible, to extricate the Federal Government from the necessity of continuing such financial assistance on a permanent basis.

The objection lies not only in the money involved, but in the fact that the longer any such practice were indulged in, the greater potential for Federal domination and control to be exerted. The possibility would be present that "unless certain things are done in certain ways in your jurisdiction, Mr. Police Chief, we will see whether we cannot take steps to reduce the payroll that is necessary for you to be able to pay your officers and your men."

This is a crass way of putting it. I do not know that those particular words would be used, nor that they would be put so bluntly. But the potential is there, and we should not discount it, because far too many times we have been disappointed in that confidence which comes from saying, "It cannot happen here." In instance after instance, we have seen situations develop in various parts of the country which men have said could not happen. Such things actually do occur, as all of us know.

No one is more aware than I of the problems of low salaries that plague police departments around the country. As a former chairman of the board of commissioners of my State's metropolitan community of Omaha, one of my responsibilities was the establishing of budgets for the police constabulary of that community; so I have had some experience in considerations of that kind.

However, on the basis of that experience as well as on the basis of knowledge of State and local government in general, in my very deliberate judgment the committee approach is neither wise nor fair. It would not have equal application or provide equal benefits to all law enforcement officials. In fact, most of the Nation's 400,000 police officers would not be eligible because under the committee bill only local jurisdictions or groups of local jurisdictions with populations of more than 50,000 would be eligible to apply for grant aid. Thus, those smaller jurisdictions, some 80 percent of the Nation's total with 58 percent of the population, would not be eligible for grant assistance.

Again I point out that we have pending an amendment which will modify that 50,000 minimum, and it is my hope that it will be agreed to by the Senate. But even so, who is to say that the officers of city A, which meets the population standard could receive Federal salary supplements whereas the officers of city B, perhaps an adjoining community whose population requirements do not meet the test, or whose city government does not grant an increase in salaries, could not qualify?

The unfairness of the administration

proposal becomes crystal clear when it is considered that not all large cities and policemen will be beneficiaries of Federal law enforcement grants. This is so because there is simply not enough Federal money to go around. Thus, city C which perhaps got its application in early or whose political leadership was in favor with the Department of Justice, or that part of it which would act upon these applications, received a grant and salary support, while city D with the same needs, the same crime problems, and same low pay scales was left out because its application was tardy or considered not in compliance with contemporary Federal notions on what a good application should contain. Or, Mr. President, if the funds have become depleted by the time that application comes along for consideration, then, of course, the application would have to be denied. What could be more manifestly unfair?

We know that this is the situation in many of the grant-in-aid programs that are in existence now. Certainly the program for constructing sewer systems and water systems in municipalities is one of the sore points. The municipalities were urged to submit their applications; they were urged to try to improve their communities; they were urged to put in these much needed facilities and utilities; and then, after months and months of struggling with paperwork and trying to process the applications, all of a sudden the program lost all of its momentum because there were no more Federal funds available.

Mr. President, another objection to Federal support of police salaries should be considered. The Federal funds administered under the law-enforcement-assistance provision, while not relieving the local governments of their financial responsibility, will allow them to reallocate their resources—that is, if the allocations from Federal funds are devoted to those activities and those needs other than salaries. Then they would have, by reason of that fact, additional funds which they can devote toward the payment of salaries.

Possible beneficiaries of such a budgetary shift would be the policemen themselves. This factor was one relied on by the House committee when the administration's salary support provision was deleted.

It is my intention to offer an amendment to strike this feature from the pending bill.

With the adoption of the block grants and the deletion of the salaries-payment provision, as well as the constitution of the three-member administration as an independent body, it will be a better bill that will evolve. It can well become the vehicle for substantial, enduring improvement of State and local law enforcement. Without these changes, there is great danger that it will prove a vehicle for Federal control and domination, whether it is exercised in good faith or not, that could eventually develop into a Federal police state. This is a result which I would greatly deplore and will stoutly resist.

Mr. President, I again express and de-

clare my support of the pending bill and its priority and its funding, subject, however, to the adoption of the amendments that have been submitted in substantial identity with the form they now have. It is my hope that they will prevail.

Mr. President, I ask unanimous consent to have printed at this point in the RECORD a brief summary of the major provisions of the Dirksen block grant amendment, No. 715.

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

MAJOR PROVISIONS OF DIRKSEN BLOCK GRANT AMENDMENT (AMENDMENT 715 TO S. 917)

The Dirksen amendment to the Omnibus Crime Control and Safe Streets bill would reinstate, with some modifications, the block grant features of H.R. 5037, the House-passed Law Enforcement and Criminal Justice Act of 1967.

PLANNING GRANTS

Amendment 715 would strike the provision of Part B of Title I of S. 917 and would substitute new language. The amendment would authorize the Law Enforcement Administration (LEA) to make grants for the preparation, development and revision of comprehensive state law enforcement plans.

Grants would be used by the states to establish and maintain State planning agencies. These agencies would be representative of state and local law enforcement agencies and the general public.

The State planning agencies would develop comprehensive state plans according to standards outlined in the law (the same criteria which are now in the House bill), to define, develop and correlate law enforcement programs and projects at the state and local level and establish priorities for the improvement of law enforcement throughout the state.

At least 40 percent of the Federal financial assistance made available for planning must be granted to local governments so that they can assist in the development of the comprehensive plans.

The federal share of the costs of activities under this Part would be 90 percent (the Senate bill provides 80 percent).

Applications for state planning grants must be made within six months after enactment.

Funds appropriated each fiscal year for state planning grants would be allocated so that each participating state would receive at least \$100,000. The balance of available funds would be distributed among the states according to their respective populations.

The 50,000 population limitation on eligible applicants for planning grants contained in the Senate bill would be eliminated.

LAW ENFORCEMENT (ACTION) GRANTS

The LEA would be authorized to make grants to States having approved comprehensive plans. These grants would be made for six purposes. Amendment 715 makes no change in the six standards for action grants which are now contained in section 303 of the Senate bill. These include: public protection; recruiting and training of law enforcement personnel; public education relating to crime prevention; construction of buildings and other physical facilities; the organization, education and training of special units to combat organized crime; and special assistance to prevent, detect and control riots.

To be eligible to receive action grants a state must have on file an approved state plan (updated each year) which conforms to the standards set forth in the Act. These standards are very similar to the House bill. A state plan must:

1. provide that at least 75 percent (The House provision is 50 percent) of the action grant funds allocated for any fiscal year be made available to local governments;

2. adequately take into account the needs and requests of the local governments;

3. incorporate innovations and advanced techniques;

4. provide for effective utilization of existing facilities and encourage local governments to combine services, facilities and equipment;

5. provide for research and development;

6. provide for appropriate review procedures disapproving local applications for grants assistance;

7. demonstrate a willingness to assume the costs of improvements funded by federal assistance after a reasonable length of time;

8. provide technical assistance to local governments;

and other requirements of an administrative and fiscal control nature.

If any portion of the 75 percent set aside for local governments is not utilized by them within a reasonable time, the funds would revert to the state for its use.

If a state does not submit an application for planning assistance within six months after enactment of the Act, and if it does not file a plan within six months after approval of the planning grant, then units of local government may apply directly to LEA for assistance. But if direct applications are made by local governments to LEA, the chief executive of the state would be given 60 days to comment on the application to the LEA.

Of the funds appropriated for Part C grants (Action grants) 85 percent of the total shall go to the states according to their respective populations. The balance shall be allocated as the LEA may see fit.

The amendment would retain the provisions of section 304 of the Senate bill in which special emphasis would be given to programs and projects dealing with the prevention, detection and control of organized crime and riots. Also, until August 31, 1968, assistance would be available to states and local governments without reference to the planning requirements of section 303 of the Amendment.

Mr. HRUSKA. Mr. President, I also ask unanimous consent that there be printed at this point in the RECORD a section-by-section analysis of amendment No. 715.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF AMENDMENT No. 715

This is an analysis of Amendment 715, offered by Senator Dirksen as amendment to S. 917 on May 3, 1968.

The purpose of this amendment is to substitute a modified system of "block grants" for the "direct grant" provisions of Parts B and C of Title I of S. 917, as reported from the Senate Judiciary Committee on April 29, 1968.

PLANNING GRANTS

Amendment 715 would modify Part B of Title I by striking Sections 202, 203 and 204 on page 19 of the bill. Section 201 on page 19 would be unchanged. The amendment would substitute four new sections for those struck.

Section 202: Amendment 715 would add a new Section 202 to Part B of Title I. This section provides that the Law Enforcement Administration would make grants to states for the establishment and operation of state law enforcement planning agencies for the preparation, development and revision of state plans required under Section 303 of the amendment. Any state desiring to make application to the Law Enforcement Administration for such a grant would have to do so within six months after the date of enactment.

If a state planning agency were in existence prior to the enactment of this act, plan-

ning grants could be made for the continued operation of the agency so long as applications for such grants were made within six months after enactment of the act.

Section 203 (a): This new subsection of Amendment 715 would provide that planning grants made under Part B shall be utilized by the states to establish and maintain state planning agencies. A new agency could be created by the chief executive of the state or an existing agency so designated. The requirements of the applicable laws of the state would govern the creation or designation of the planning agency by the chief executive.

It is the intention of the subsection that state planning agencies shall be representative of state law enforcement agencies and of the units of local government within the state. It is not the intention of this subsection that the planning agency be limited to the above identified groups. Certainly, representatives of the public at large should be included.

Section 203(b): This new section would require the state planning agencies to develop in accordance with Part C comprehensive statewide plans for the improvement of law enforcement throughout the states. Further, the agencies would define, develop, and correlate programs and projects for the states and units of general local government in the states or combinations of states or units for improvement in law enforcement. Finally, the state planning agencies would establish priorities for the improvement in law enforcement throughout the states. It is the intention of this provision to set forth the general objectives for the activities of state planning agencies. This provision is similar to Section 102(b) of H.R. 5037, as it passed the House of Representatives, except that language in subparagraph 1 of the House bill "to carry out new and innovative approaches" has been struck. This language was eliminated because it is intended that the state planning agency should carry out its activities as set forth in this subsection even if its work and programs may not necessarily be "new" and "innovative." Of critical importance is the requirement that the state planning agencies establish priorities for the improvement of law enforcement in their respective states. It is felt that the state agency, with its close proximity to the activities and problems of state and local law enforcement and yet free from day to day operating burdens, is best suited to make these fundamental determinations.

Section 203 (c): This paragraph provides that the State Planning agency shall make necessary arrangements to provide that at least 40 percent of all federal grant funds to the agency for planning activities and support will be made available to units of local government or combinations of such units to allow them to participate in the formulation of required comprehensive state plans. The allocation to the local governments would be made for each fiscal year in which the state received federal financial assistance.

The subsection also provides that should the local governments not require the full 40 percent, the unused portion would be available by the state agency from time to time on dates during the fiscal year as the Administration may fix for use by the agency to pursue its planning activities.

It is intended that this provision be implemented in such a way that a reasonable time be fixed for units of local government to participate to make their intentions known to the state agency. As to the requirement for available funds, if federal grant assistance becomes available on the first of the fiscal year, the Law Enforcement Assistance Administration might reasonably require that the state agency accept applications for a minimum of three months from local governments and normally not longer than six months. If there is not sufficient interest by the local governments, then the state

agency would have use of the uncalled for funds during a significant portion of the remaining fiscal year.

Section 204: Section 204 authorizes federal payments not to exceed 90 percent for the expenses of the establishment and operation of state planning agencies including the preparation, development and revisions of state plans. The same federal share would be available to units of general local government which receives direct grants from the Law Enforcement Assistance Administration under the provisions of Section 305 of the Amendment.

The same ceiling would apply to the allocation of federal funds by state planning agencies to units of local government under the provisions of Section 203 (c).

The 90 percent ceiling of Amendment 715 is the same as the comparable provision of S. 917 as sent to Congress by the Administration and of the House-passed bill. S. 917 as reported from committee contains an 80 percent ceiling for this purpose.

Section 205: Section 205 provides that funds appropriated for planning grants shall be allocated by the Law Enforcement Assistance Administration among states for use by state planning agencies or units of general local government. \$100,000 shall be allocated to each participating state per fiscal year. The balance of available funds under this part shall be allocated among the states according to their relative populations.

It is intended that should a state fail to apply for or receive grants under this part, units of local government within the non-participating state could receive federal planning assistance up to the amounts that would otherwise be allocated to the state if it were participating.

LAW ENFORCEMENT (ACTION) GRANTS

Elimination of Section 302(a): On page 4, line 5, of Amendment 715, this contained language which would have the effect of striking Section 302(a) of S. 917 as reported from the Senate Judiciary Committee on April 29, 1968. New language would be inserted in lieu thereof. Under the committee bill provision, the Administration is authorized to make grants to states, units of general local government, and combinations of states and units of local government for the improvement and strengthening of law enforcement. There is a proviso that no unit of local government having a population of less than 50,000 persons would be eligible to apply for a grant.

Amendment 715 would strike this language and insert thereof authority for the Administration to make grants to states having comprehensive plans approved under the provisions of the amendment.

It is intended that federal grant assistance be channeled through state agencies for expenditures pursuant to the state comprehensive law enforcement plans. The population requirement or "not less than 50,000 persons" as a requirement of eligibility for participation by units of local government or combinations of such units would be eliminated. Also, except as otherwise provided in the amendment, state agencies would channel federal assistance to local governments within the respective jurisdictions.

Modification of Section 302(b): Amendment 715, on page 4, line 5 would strike the first two sentences of subsection 302(b) of S. 917 and substitute language authorizing the Administration to make grants having comprehensive state plans approved by it under the provisions of this part. The six standards under which grants may be made which are contained in the Senate committee bill would be unchanged by Amendment 715.

Elimination of Section 303 and 304: The provisions of Amendment 715 contained on lines 12 through 14 on page 4 would have the

effect of striking Sections 303 and 304 of the committee-reported bill. However, Section 304 would be reinstated as Section 307 of Amendment 715. In lieu of Section 303 of the committee bill, Amendment 715 would add five new sections, Sections 302 through 306.

Section 302: The new Section 302 of Amendment 715 would require any state desiring to participate in the action grant program to establish a state planning agency as described in Part B of the amendment and within six months after approval of a planning grant submit to the Administration a comprehensive plan formulated pursuant to Part B.

It is the intention of this provision to provide a reasonable time for state planning agencies to take advantage of the federal assistance provided under the provisions of Part B and Part C of Title I of the proposed legislation.

Section 303: The proposed Section 303 of Amendment 715 would authorize the Law Enforcement Assistance Administration to make grants to state planning agencies if the agencies have on file with the Administration an approved comprehensive state plan, not more than one year in age, which conforms to the purposes and requirements of Title I.

Section 303 sets forth 12 criteria to be included in the state comprehensive plan. These criteria are very similar to the provisions of Section 203 of H.R. 5037, as passed by the House of Representatives on August 9, 1967.

A significant change in the standards and requirements of Amendments 715 as opposed to the provisions of H.R. 5037 is to be found in Section 303(2). The House bill provides that 50 percent of all federal funds granted to the state planning agencies for any fiscal year will be available to units of general local government for the development and implementation of programs and projects for the improvement of law enforcement. Amendment 715 and a comparable provision in Section 303(2) provide that at least 75 percent of all federal funds granted to the state agency shall be made for the purposes described above. This higher figure is based on a recent Justice Department estimate which indicated that approximately 72 percent of the expenditures by state and local governments for law enforcement purposes were spent by units of local government. Also, information available from the Census Bureau indicates that the units of local government make about 80 percent of the expenditures for law enforcement. It appears that the 75 percent provision is reasonably close to the ratio of actual expenditures made by local governments to the total spent by states and local governments for this purpose.

Section 303 of Amendment 715 also provides that any unused portion of the funds available pursuant to paragraph 2 of the section in any state in any fiscal year not required by the units of general local government within the times fixed by the Administration shall revert to the state agency for the development and implementation of programs and projects in conformity with the approved state plan.

Section 304: Section 304 of Amendment 715 provides that state planning agencies shall receive applications for assistance from the units of general local government when state agency determines that an application is in accordance with the purposes stated in Section 301 and is in conformance with existing state plans, the state agency is authorized to disburse funds to the applicant.

It is the intention of this section to make clear that final authority as to the expenditure of funds available to the states under the provisions of Title I shall be exercised by the state planning agencies so long as this authority is exercised in conformance with the state comprehensive plans and the requirements of this title.

Section 305: The proposed Section 305 of Amendment 715 requires that if a state fails

to make application for a grant to establish a planning agency within six months after the date of enactment of this act or if a state fails to file a comprehensive plan within six months after the approval of a planning grant, the Law Enforcement Assistance Administration may make grants directly to units of general local government or combinations of such units under the provisions of Parts B and C of Title I. This provision enables cities and other localities in a non-participating state to make direct applications to the Law Enforcement Assistance Administration for grant assistance.

Section 305 contains a proviso that if direct applications are made by units of general local government, the applicant must certify that a copy of the application has been submitted to the chief executive of the state for review and comment. The chief executive shall have not more than 60 days from date of receipt to submit to the Administration in writing an evaluation of the proposed project. The evaluation shall include comments on the relationship of the application to other pending applications and to existing or proposed state law enforcement plans. If an application is submitted by a combination of units of general local government located in more than one state, the application must be submitted to the chief executives of each state in which the combination of units is located.

No grant under Section 305 shall be in an amount in excess of 60 percent of the cost of the project or program.

Section 306: Funds appropriated for grants under Part C for any fiscal year shall be allocated by the Law Enforcement Assistance Administration among the states for use by the state planning agencies or units of general local government. Of the funds appropriated for purposes of Part B, 85 percent shall be allocated among the states according to their respective populations. The remaining 15 percent shall be allocated as the Law Enforcement Assistance Administration may determine. Grants could be made by the Administration either to states or units of general local government or combinations of either.

Any funds granted under the provisions of Section 306 of Amendment 915 would be subject to the limitation contained in Section 515(b) of Title I of S. 917 as reported from the Senate committee. This subsection sets a 12 percent limitation for each fiscal year on funds to be utilized within any one state except for purposes of Part D of the committee bill.

Section 307: As was indicated earlier, Section 307 is a restatement, without change, of Section 304 of the committee bill except that the requirements of Section 307 also apply to state planning agencies as well as the Law Enforcement Assistance Administration so that they too shall give special emphasis to programs and projects dealing with the prevention, detection, and control of organized crime and of riots and other violent civil disorders.

Repeal of Section 521: Amendment 715 would strike section 521 of S. 917, as reported from the Senate committee. This section requires units of general local government to submit copies of grant applications to the chief executive of the appropriate state. The chief executive would then have sixty days to submit an evaluation of the application in writing to the Law Enforcement Administration.

This provision of S. 917 is unnecessary if the other provisions of Amendment 715 are adopted.

Technical Changes: Amendment 715 also contains seven technical and conforming changes to Title I of S. 917.

TITLE I

Mr. TYDINGS. Mr. President, as we debate this bill, we should not lose sight

of its primary purpose—to provide assistance to hard-pressed State and local agencies to help them improve their administration of justice.

In spite of the focus of our debate, it is title I that law-enforcement agencies throughout the Nation are awaiting. It is title I which will bring advances in law-enforcement administration, technology, and efficiency.

We are all devoted to the concept of local control of law enforcement. It is a concept important to our freedom. But in this bill, in title I, we are stating a new reality: That the Federal Government has a role in providing assistance to local law enforcement.

It might be well at this point to look backward for a moment. For although this bill will be the first entrance of the Federal Government into this field on a large scale, it is not the beginning.

We took the first step in 1965, when we passed the Law Enforcement Assistance Act—LEAA. This first, small step created a local-State-Federal partnership in crime prevention and control. And notwithstanding its modest appropriations, the LEA program has been an ambitious one. It has encompassed all phases of the administration of criminal justice.

The urgency for further reform, further improvement and innovation in our police, court, and correctional institutions has been well documented by the two Presidential Crime Commissions. And this urgency has been recently endorsed—emphatically—by the report of the President's Advisory Commission on Civil Disorders.

These needs have been addressed during the past 3 years by one small program administered by the Department of Justice. The Office of Law Enforcement Assistance—OLEA—operating out of the Office of the Attorney General, has performed great service.

It is not sufficient to say merely that the OLEA has given 390 grants and contracts, providing \$19 million in direct Federal assistance to police, court, and correctional agencies. Those are the bare statistics with which we are familiar.

I think it strange, in this period when we are all so concerned with crime, that we have not paid more attention to this creative and successful program.

LEA has not been a giveaway. It has been very selective. And its administrators have turned down four times as many grants as they have made. Moreover, grant recipients have contributed, in funds and services, some \$10 million, or more than half the Federal expenditure of \$19 million.

These local contributions testify to local interest in, and determination to participate fully by bearing at least part of the financial burden. The LEAA has been a real partnership in which risk, as well as reward have been shared.

OLEA funds have supported significant work which has expanded our insights and broadened our knowledge about crime and crime control. Thanks to the OLEA we have a national survey of corrections, a survey of unreported crime, new applications of technology to law enforcement, and survey of police laboratories throughout the Nation.

These studies and surveys were im-

portant, since before the LEAA, our knowledge of what was happening in criminal justice was very sketchy. But they are far from the entire story. The OLEA has been responsible for projects by the score.

To encourage States to begin state-wide planning in law enforcement and criminal justice, the OLEA provided matching grants of up to \$25,000 to create State planning commissions. These State planning commissions, established now in 27 States, are charged with the responsibility for determining needs, and recommending improvement in their States' criminal justice system.

These commissions are interdisciplinary, and their work illustrates the fact that our institutions of criminal justice are interrelated and interdependent. What the OLEA has done is to launch a sweeping reexamination of criminal justice in more than half the States.

Before the LEAA, police training and selection standards have varied from State to State and city to city. They have been vague, and sometime nonexistent.

The LEAA provided a special grant program to help States establish State law enforcement standards and training commissions. They are now operating in 20 States, and are designing minimum standards for the selection and training of all law enforcement officers. These are especially needed in a profession being called upon for increasingly difficult services.

The law enforcement officer is an increasingly important man in our society; and we can no longer afford to have him selected virtually by lot, and trained by chance. His selection must be rational, his training modern. And this part of the OLEA program will, in the long run, contribute as much as any recent development to the nature and quality of police service.

But police training cannot begin and end in the stationhouse or the local police academy. As important as in-service training is, it cannot be a total substitute for education. Police in 1968 must have a college education. We now ask too much of them to be satisfied by little education.

They must be able to relate to people in an understanding and sophisticated way. They must be technologists, managers, scientists. We are demanding these skills, but are we really providing the means to acquire them?

The LEAA has assisted in establishing police science degree programs in 27 junior colleges, colleges, and universities throughout the Nation. Seventeen of these were established in States where such opportunities were totally lacking.

Formal college education will, in time, become a prerequisite for police service. The LEAA will have contributed to this.

In the meantime, less formal, but equally important training and education programs must be carried on by the police departments. Of all the current needs, none is more pressing than training in police-community relations.

I have said that police must be communicators. And communication is most needed in the urban ghettos. Under a special LEAA program, 34 major urban police departments, serving a sizable number of our citizens, have established

or are improving their police community relations programs.

These programs are being planned and operated by the police departments themselves. And for the record, police administrators have been most eager to do them. The Federal Government has spent for them less than one-half million dollars; and it has been well worth the money. But it is hardly enough.

Really, what we call police-community relations is crime prevention. If we can create broad cooperation between citizen and police, we can prevent crime.

But we know that crime control requires improvement, not only in police, but in the entire criminal justice system. And the LEAA has assisted the States in building new in-service training programs for correctional personnel. Today, 24 States are developing such programs with funds awarded by the OLEA.

Better training for correctional personnel will mean better administration of correctional institutions. It will also mean better probation and parole service—and the hope of reducing recidivism.

Other imaginative LEAA correctional programs have included:

Development of TV training films for correctional officers in South Carolina.

A collaborative university-penitentiary custodial staff training program in Buffalo.

Expansion of a 45-State program of training for correctional training officers and middle management personnel.

Establishment of a National Information Center and Clearinghouse for assistance in development of correctional training programs.

A demonstration training program in treatment of narcotics offenders in New York City.

A model community correctional program for adults in a California county.

A jail treatment program emphasizing education and community services in Florida.

Demonstration of the use of volunteers and subprofessionals in adult probation in Texas.

To encourage planning by police departments, the LEAA has established a special program of \$15,000 grants for medium-sized police departments to create planning and research units. Ten departments have operated such units, and its potential is very great.

Another LEAA special program providing training films and other materials to small departments has been enormously successful. So far 650 police agencies are now participating in the program, conducted in cooperation with the International Association of Chiefs of Police. And it has been a great improvement in the training of departments unable, in the past, to afford up-to-date programs.

Information—gathering, retrieval, and use—is perhaps the keystone of our times. Computers have enabled us to create and use data banks which dwarf human capacity. The science and technology program of the LEAA has encouraged law enforcement agencies to begin using computer technology.

Significantly, the largest single project support under the LEAA has been given to the National Crime Information

Center—the most advanced and ambitious crime data system ever developed in this country.

This is just one example of the OLEA's efforts to bring technological devices and techniques into the law enforcement profession. These efforts have demonstrated the need also to increase our education and training, lest our technology outstrip our ability to use it.

The 330 separate projects financed by this small pilot program have ranged from computer operations to random police patrol techniques—from community-based offender rehabilitation programs to police recruit and in-service training programs—from student prosecutor training to training in the prevention and control of civil disorders.

LEAA grants and contracts have been awarded to agencies in criminal justice in each of the 50 States, the District of Columbia, the Virgin Islands, Guam, and Puerto Rico. This program has affected every aspect of the criminal justice system.

It has not happened often in the history of Federal grant programs that a very small effort can have so great a benefit. This program has, in my judgment, shown clearly what can be done and what must be done to improve our criminal justice system.

The OLEA has—in an unusually creative way—shown that we can do better—that we can rationally uncover and examine our problems, fill gaps in our knowledge, devise new and workable techniques for dealing with law enforcement problems. In short, it has shown that with a real commitment, we can make our streets safe and protect the lives and property of our citizens.

The Law Enforcement Assistance Act served us well. It has provided a fine foundation for expanding Federal participation in a partnership with State and local governments to prevent and control crime and improve our criminal justice system.

I think that we in Congress can be proud of the Office of Law Enforcement Assistance.

TITLE II

Mr. President, in the past week, I have spoken at some length on three separate occasions in this Chamber regarding the provisions of title II of the crime bill, S. 917, which is now before the Senate. At those times—on Friday, May 3; Monday, May 6; and yesterday—I dealt with the provisions of title II which are intended to overrule the Supreme Court's decisions in the *Miranda* and *Mallory* cases, regarding rights of individuals during police interrogation, its decision in the *Wade* case, regarding rights in police lineup procedures, and the provision to abolish Supreme Court jurisdiction to review any State criminal case in which confession or eyewitness identifications were admitted in evidence. In my earlier remarks, I indicated the reasons why I believe these provisions are unwise and unconstitutional.

Today I want to discuss the final provision—and in some ways, the most disturbing and far-reaching provision—in title II. That provision would abolish habeas corpus review in any Federal court of a State criminal conviction.

This aspect of title II is an affront to both our Constitution and our history. This provision is clearly unconstitutional. It is nothing short of a blatant suspension of the writ of habeas corpus, against the clear command of the Constitution.

Article I, section 9, clause 2 of the Constitution states categorically:

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

Words cannot be more clear. There has been no invasion of our land. There is no rebellion. Where then is the justification for the suspension of the writ of habeas corpus that Congress now proposes?

I submit that there is no such justification, and that the attempt in title II to suspend the writ of habeas corpus will be declared unconstitutional as soon as it is tested in the courts. Title II is a blatant denial of an effective remedy for State prisoners suffering violations of their constitutional rights. Federal habeas corpus is the channel of ultimate resort through which State prisoners can vindicate their constitutional rights when all other recourse has failed and all State remedies have been exhausted. With the abolition of Federal habeas corpus for State prisoners, the sole Federal review of Federal claims by State prisoners will be appeal or certiorari to the Supreme Court, an inadequate and inappropriate remedy at best.

The highly deleterious impact of the habeas corpus provision of title II is even further compounded when it is taken in conjunction with the other provisions of the title abolishing the appellate jurisdiction of the Supreme Court with respect to issues involving the voluntariness of confessions or the conduct of lineups. Taken together, the provisions of title II mean that no Federal review whatsoever will be available to State defendants raising such issues, no matter how meritorious their Federal constitutional claims and no matter how outrageous the denial of their basic rights.

HISTORY OF HABEAS CORPUS—ENGLAND

At the outset, I would like to discuss in detail the origin and development of the writ of habeas corpus, both in English and American history.

The writ of habeas corpus—the Great Writ—is one of the ancient pillars of our Anglo-American civilization. It has played a central role in the development of our modern system of jurisprudence. From time out of mind, habeas corpus has been a writ of extraordinary prestige. Long antedating statute, its roots run deep in the genius of the common law, an instance of its use having been recorded as early as the 33d year of the reign of Edward I of England. Perhaps the most important writ known to English constitutional law, it has always afforded a swift and imperative remedy for cases of illegal restraint or confinement.

The writ of habeas corpus is inextricably bound up with the growth of fundamental rights and personal liberty in the United States. Throughout its history, it has proved a prompt and effective remedy for restraints that society deems to be intolerable. The use of habeas

corpus is based on the precept that government in a civilized society must always be accountable to the judiciary for a man's imprisonment. The writ requires the body of a person restrained of his liberty to be brought before the court, so that the lawfulness of the restraint may be determined. If the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release, no matter what the charge against him.

Blackstone called the writ of habeas corpus the most celebrated writ in English law. Blackstone explained the function of the writ in the following terms:

Of great importance to the public is the preservation of this personal liberty: for if once it were left in the power of any, the highest, magistrate to imprison arbitrarily whomever he or his officers thought proper, there would soon be an end of all other rights and immunities.

Holdsworth referred to habeas corpus as "the most effective weapon yet devised for the protection of the liberty of the subject." The privilege of the writ of habeas corpus was so precious to the Founding Fathers that they incorporated in the Constitution a guarantee that it could be suspended only in times of the gravest national emergency—times of rebellion or invasion, and even then only as the public safety required.

The writ of habeas corpus is nearly as old as the Magna Carta. Throughout English history it has been used to implement the fundamental guarantee of the Magna Carta that "no free man shall be taken or imprisoned except by the lawful judgment of his peers or by the law of the land," and that "to no one will we sell, to no one will we refuse or delay, right or justice." In its modern operation, the office of the writ is clearly guided by the spirit of these fundamental guarantees.

The earliest known instance of the use of any type of writ of habeas corpus is in the reign of Edward I—1272-1307. From that occasion until the end of the Tudor era, the writ was issued by a common law court to bring before it a witness or party in order to assert that court's jurisdiction, some times against the pretensions of a rival court. Consistent with that practice, the common law courts in Elizabethan days used habeas corpus as a method of resistance to the jurisdiction exercised by other royal tribunals. Thus, the common law courts issued writs of habeas corpus to question imprisonments ordered by the Chancery, the Court of Requests, the Admiralty, and the High Commission. But at that time the writ was not available to test the validity of commitments by the Crown's special command or by the whole Council.

A new chapter opened in the Stuart period. During the parliamentary struggle to limit the royal prerogative, John Selden and other counsel sought to employ the writ as a method of restoring the liberty of a man imprisoned by the executive without showing the cause of the commitment. This wider use of the writ, denied at first by the judges in *Darnel's* case, 1627, was declared valid by the *Petition of Right*.

Shortly thereafter a statute of Charles

I provided that if any person should be imprisoned by any court exercising a jurisdiction similar to that of the star chamber, or by the command of the King or of the Council, he should, on application to the judges of the King's Bench or Common Pleas, have a writ of habeas corpus; the jailer, under risk of being punished for contempt of court, was required to bring his prisoner before the court that had issued the writ with a certificate stating the true cause of his imprisonment. The court was authorized to examine the return within 3 days, "and thereupon do what to justice shall appertain either by delivery, bailing, or remaining the prisoner."

In the reign of Charles II, defects were discovered in this procedure, including doubt as to whether the courts could issue the writ during periods of vacation, and the inability of the courts to send their process to remote places. To cure these shortcomings, Parliament enacted the Habeas Corpus Act of 1679, which is regarded as the basic habeas corpus statute in the English history. It was supplemented by the Habeas Corpus Act of 1816, which applies to persons deprived of their liberty otherwise than on a criminal accusation.

HISTORY OF HABEAS CORPUS—AMERICA

When we study our own colonial period, we become aware of the heavy debt our own constitutional provision on habeas corpus owes to English history. Most of the colonial charters were granted before the Habeas Corpus Act of Charles II in 1679. Although the colonial charters were therefore silent with respect to habeas corpus, it is clear that the settlers carried with them to America the right to the common law writ. After 1679, the colonists received the benefit of the improvements made by the English statutes in the common law proceeding. Some of the Colonies—such as South Carolina—actually reenacted the English statute.

The American colonists were thoroughly familiar with the great struggles in which the writ of habeas corpus had been forged and used.

On the eve of the American Revolution, habeas corpus was used to bring about the release of a Negro slave in Sommersett's case, in which Lord Mansfield delivered his famous decision that a slave brought into England could not be held in bondage.

In 1763, John Wilkes was released on habeas corpus from the Tower of London, on the ground that, as a member of Parliament, he could not be imprisoned for writing his famous North Briton No. 45.

In Bushell's case in 1670, an entire jury had been sent to jail for disregarding the court's orders to convict William Penn of rioting—all that Penn had done was to hold a Quaker meeting in a London street. The jurymen sought habeas corpus and obtained their liberty. The court held that they could not be lawfully punished for reaching their own determination of the facts.

As these cases clearly indicate, the right to seek habeas corpus had been a strong defense for the exercise of basic rights in our society—the right of the Negro not to be enslaved, the privilege of

a legislator not to be arrested, and the right to trial by an impartial and uncoerced jury.

Aside from English law and practice, there are several other historical sources that illuminate the meaning of the habeas corpus provision in our Constitution.

During the proceedings of the Continental Congress, in the address to the people of Quebec in October 1774, the colonists attempted to persuade the French Canadians to join them, in opposition to England. One of the great rights declared in the address was "liberty of the person." As the address stated:

If a subject is seized and imprisoned, tho' by order of Government, he may, by virtue of this right, immediately obtain a writ, termed a Habeas Corpus, from a Judge, whose sworn duty it is to grant it, and thereupon procure any illegal restraint to be quickly enquired into and redressed.

The Articles of Confederation themselves were silent on the question. However, the Ordinance of 1787, for the government of the Northwest Territory specifically provided in an article described as "forever unalterable, unless by common consent," that—

The Inhabitants of the said territory, shall always be entitled to the benefits of the writ of habeas corpus.

Most of the early State constitutions adopted after the Declaration of Independence were silent on habeas corpus. The constitution of the State of North Carolina, however, contained an excellent provision, phrased as follows:

Every freeman restrained of his liberty is entitled to a remedy to enquire into the lawfulness thereof, and to remove the same, if unlawful; and such remedy ought not to be denied or delayed.

Other States followed the lead of North Carolina. In 1777, Georgia declared that "The principles of the Habeas Corpus Act" were part of its constitution; and that all persons were entitled to the benefit of the writ. The constitutions of Massachusetts, 1780, and New Hampshire, 1784, contained provisions guaranteeing the right to habeas corpus, and also draft with conditions necessary for its suspension.

Thus, the constitutions of five of the Original Thirteen Colonies contained specific provisions on habeas corpus. Although the constitutions of the remaining eight Colonies were silent on the point, their failure to mention habeas corpus did not mean that the writ was thought unimportant. Habeas corpus had been so long and solidly established in every Colony that its written assertion was considered unnecessary. The widespread support for the availability of the writ stands in sharp contrast to the urgency with which freedom of religion, speech, and other liberties—often impaired in colonial history—were prominently inserted in the constitutions.

In the U.S. Constitution, the sole provision on habeas corpus is contained in article II, section 9, clause 2, which provides that, and I repeat:

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

The Constitution assumes, without stating, that the writ of habeas corpus will ordinarily be available. It provides only for the suspension of the writ, and then only in the narrow range of circumstances dealing with national emergencies.

Statutory provisions for habeas corpus have been continuously on the national statute books since the first Judiciary Act of September 24, 1789. These statutes find their prototypes in the English Habeas Corpus Acts of 1679 and 1816. Under their provisions, every U.S. judge has the power, and in appropriate cases the duty, to issue the writ.

Although the constitutional provision prohibiting suspension of the writ of habeas corpus does not of itself confer jurisdiction on any court to issue the writ, decisions of the Supreme Court make clear that once Congress has granted jurisdiction to the Federal courts to issue the writ, the jurisdiction cannot be withdrawn except in cases of rebellion or invasion. Thus, in *United States v. Hayman*, 342 U.S. 205 (1952), in which the Court upheld the validity of the alternative method of collateral attack required under title 28, United States Code, section 2255 for Federal prisoners, the Court emphasized that nothing in the legislative history of section 2255 disclosed any purpose to infringe upon a prisoner's right of collateral attack upon his conviction through habeas corpus. The Court specifically held that the sole purpose of the section was to minimize the difficulties encountered in habeas corpus hearings by providing the same rights through an alternative and more convenient procedure, and that the section was not intended to operate—and in fact did not operate—to suspend the writ of habeas corpus.

Congress must, of course, legislatively create courts before the writ of habeas corpus can be employed. But having established Federal courts, Congress would be powerless to deny the privilege of the writ. Otherwise article I, section 9 of the Constitution would be reduced to a dead letter. The Constitution does not merely prohibit suspension of habeas corpus statutes, or of the writ, but of "the privilege of the writ," a privilege long antedating the codification and reforms embodied in the English statutes of the 17th century. In England, all the higher courts were open to applicants for the writ, and it is hardly supposable that, under the new government, founded on more liberal ideas and principles, any court would be, intentionally, closed to them.

CELEBRATED HABEAS CORPUS CASES

The significance of the writ of habeas corpus as the cornerstone of Anglo-American law is best revealed by analysis of the great legal cases that have involved the issuance of the writ.

In the case of James Sommersett, 1771, Lord Mansfield issued the writ to emancipate a Negro who had been a slave in Jamaica and who at the time of the judicial proceedings was in England

in the custody of his master. Lord Mansfield held that no law sanctioned slavery within England, and that therefore *Sommerset* should be set at liberty.

In 1798 the Irish court issued a writ of *habeas corpus* to bring before the court the notorious Irish rebel, Wolfe Tone, who had been captured as a military prisoner while participating as a French commissioned officer in an invasion of Ireland. Wolfe Tone claimed that he had been seized without authority of law and had been condemned to be hanged by an Irish court martial. The court allowed Wolfe Tone to test the legality of his military detention, but his application for the writ was denied.

In *ex parte O'Brien*, 1923, the British Court of Appeals, upon an application for writ of *habeas corpus*, entered an order restoring liberty to O'Brien, a representative of the Irish Republican Government, who had been arrested in England by order of the Home Secretary but without authority of law, and had been transported to prison in Ireland. The court issued the writ of *habeas corpus* in the following words:

It is quite possible, even probable, that the subject in this case is guilty of high treason; he is still entitled only to be deprived of his liberty by due process of law.

In the United States one of the most celebrated uses of the writ of *habeas corpus* was in *ex parte Milligan*, 1866. The writ in that case was issued to save the life of a civilian supporter of the secessionists who had been condemned to hang by a military commission shortly after the Civil War. The Supreme Court of the United States held that so long as the regular civil courts were open in the State of Indiana, there was no authority for a military commission to try a civilian. The Supreme Court held that Milligan was entitled to have the sentence of the military commission discharged, and to have his liberty restored.

It has not always been easy in our history to enforce the writ of *habeas corpus* in the United States in time of political crisis. During the War of 1812, Judge Hall of Louisiana issued a writ to bring before him one Louaillier, the editor of the Louisiana Courier, who had been placed under military arrest for criticizing Gen. Andrew Jackson. On direction of the general, the military authorities ignored the writ and escorted Judge Hall out of the city of New Orleans. At the end of the war, however, the judge returned to his court, found Andrew Jackson in contempt, and fined him \$1,000.

In *Corn Tassel's case* in 1830, when the Supreme Court issued its writ of error to review the death sentence of a State defendant, the Georgia authorities showed their sovereign contempt for the Court's authority by executing the defendant and thereby mooting his appeal.

Another famous example of defiance by military and political authorities of a writ of *habeas corpus* issued by a Federal court occurred in the case *ex parte Merryman*. At the outset of the Civil War, the military commander at Fort McHenry in Baltimore ignored a writ of *habeas corpus*, issued by Chief Justice Taney himself, to bring before the Court John Merryman, who had been charged

with various acts of treason and was being held in military custody. The military commander refused to comply with the writ, and President Lincoln declined to support the order of his Chief Justice.

In contrast to the Civil War era, complete respect for the writ of *habeas corpus* as a protector of civil liberty characterized American authority in the First and Second World Wars. The most famous case is *ex parte Quirin*, 1942. In that case, prisoners of war had been condemned to death by a military commission after being captured while entering the United States as enemy saboteurs. On an application for a writ of *habeas corpus* in the Supreme Court, it was held that the military commission had lawful jurisdiction over the saboteurs, and the writ was denied. Nevertheless, the case demonstrates how far *habeas corpus* procedure may be pursued even in time of war by a person who is a citizen of an enemy power and who is held in the United States as a prisoner of war.

In *ex parte Endo*, 1944, an American of Japanese descent secured her release on *habeas corpus* from the War Relocation Center, where thousands of Japanese Americans had been detained during World War II on the ground of their ancestry. The decision by the Supreme Court in this *habeas corpus* case was broad enough to invalidate the entire detention scheme and put an end to one of the darkest chapters in recent American history.

CURRENT PRACTICE IN HABEAS CORPUS

The contemporary practice in *habeas corpus* proceedings does not differ substantially from that in the past. Application for the writ must be made under oath. If the application shows that the relator is unlawfully confined under or by color of the authority of the Constitution or laws of the United States, then the judge is required to act. The only important qualification is that where the confinement is by an officer or employee of one of the 50 States, then, unless there are exceptional circumstances of peculiar urgency, the application must show that he has exhausted this remedy in the State courts before his application will be heard in the U.S. court.

When the judge is required to act, he may either issue the writ itself or issue what is called "a rule to show cause" why the writ should not issue. If the application of the prisoner and the return of the jailer show a disputed question of fact, that question must be resolved by testimony of witnesses examined in court or by deposition.

A prisoner is entitled, no matter how often his claim of release has been denied, to make as many fresh applications to as many new judges as he chooses. If, however, a judge has ordered the prisoner's release, the jailer has a right of appeal, and if an appropriate judicial order is entered, the prisoner can be kept in custody until the court of last resort has made a final determination.

The two areas in which the writ of *habeas corpus* has produced the most litigation in recent years are the areas of deportation proceedings and criminal convictions. The writ is available to test the validity of the detention of an alien under a Government order directing his

deportation. That is, the writ may be used to secure a judicial determination of the validity, both in law and in fact, of the deportation order. In the case of criminal convictions, the writ is available to test whether a prisoner who has been sentenced to and is serving a term of imprisonment was denied a fundamental constitutional right at the time of his trial, such as the right to the assistance of counsel, or the admission of a coerced confession.

THE 1867 STATUTE

In 1867, Congress made the Federal writ of *habeas corpus* available to all persons, including State prisoners, restrained of their liberty in violation of the Constitution or laws of the United States, and permitted inquiry into both the facts and the law of the detention. The 1867 act is now codified in section 2241 and the following sections of title 28 of the United States Code. Thus, in all cases in which a full and fair disposition of a Federal claim had not been reached in a State court, the Federal courts were made available on a general basis as an alternative forum through their *habeas corpus* jurisdiction to test the legality of the prisoner's confinement.

Much has been made in these debates of the fact that Congress waited until 1867 before granting *habeas corpus* jurisdiction to the Federal courts over State criminal convictions. The history of *habeas corpus* reveals, however, that long before 1867, and well before the *habeas corpus* suspension clause was written into article I of the Constitution, authority existed under the common law to issue the writ to remedy any kind of governmental restraint contrary to law.

At the time the Constitution was adopted, therefore, *habeas corpus* was available under the common law even to State prisoners. The act of 1867 merely broadened the common law writ by extending Federal *habeas corpus* to all State prisoners on a general basis. The reason for this significant statutory expansion of the writ by Congress was the grave political crisis facing the Nation after the Civil War. Congress passed the 1867 act in specific anticipation of possible Southern hostility to Reconstruction legislation. The act was intended to provide a liberal and rapid remedy for any Federal officer imprisoned by the States.

The 1867 statute was the last major statutory change in the Federal *habeas corpus* statute. For more than 100 years, therefore the writ has been generally available in the Federal courts to all State prisoners subjected to arbitrary or illegal detention.

EXPANDING SCOPE OF HABEAS CORPUS

Although the broad statutory *habeas corpus* jurisdiction of the Federal courts over State criminal convictions is now more than a century old, it is only relatively recently—within the past four decades—that the complexities of the *habeas corpus* jurisdiction have become abrasive in our federal system. There can be no doubt that Federal *habeas corpus* today is one of the most important post-conviction remedies available to State prisoners who claim that their trial was marred by a fatal constitutional defeat. Prof. Paul Freund has described the

existing Federal habeas corpus jurisdiction as dealing with "the clashing interests of public order and individual rights, of State authority and Federal oversight."

Why were the problems that now bristle in almost every aspect of Federal habeas corpus so long in emerging after the 1867 statute was enacted? The answer is simple, and it lies in the nature of the appellate jurisdiction of the Supreme Court and the doctrine of exhaustion of State remedies. In the first case decided by the Supreme Court under the 1867 statute, the Court held that the Federal writ of habeas corpus could not be issued unless the State prisoner had presented his Federal claims to the appropriate tribunal of his own State.

The effect of this division was virtually to eliminate Federal habeas corpus from State criminal convictions. A State defendant was required to pursue his State remedies through the highest State court. From that decision, he was required to seek review by the Supreme Court under what was known at that time as a writ of error, which was a method of appeal as of right, not the discretionary review that is available today. Once a State defendant had started up the ladder of State remedies, he would inevitably reach the U.S. Supreme Court. And, of course, no lower Federal court was likely to disagree with the decision of the Supreme Court. As a consequence, Federal habeas corpus for State prisoners was almost unknown.

In the early days of the 20th century, however, almost half a century after the enactment of the 1867 statute, Congress eliminated the requirement of mandatory review by writ of error in the Supreme Court, and substituted the discretionary remedy of review by writ of certiorari. Thereafter began a series of the now familiar Supreme Court orders, "certiorari denied." State prisoners were no longer able to obtain effective Federal review of their convictions.

The first modern case establishing the availability of Federal habeas corpus for State prisoners came shortly thereafter in Moore against Dempsey 1923, in which Justice Oliver Wendell Holmes delivered his classic opinion holding that mob domination of a criminal trial constituted a violation of the due process clause of the 14th amendment.

The defendants in that case had presented their Federal claims to the State courts of Arkansas. The State courts rejected the claims, and the Supreme Court denied certiorari. The defendants then filed what was then almost unheard of, a petition for a writ of habeas corpus in the District Court of Arkansas. The application was summarily dismissed by the district court. This time, however, the Supreme Court granted certiorari. In his revolutionary opinion, Justice Holmes established the modern conception of a fair trial guaranteed by the 14th amendment, and ordered the district court to inquire into the facts and to grant the writ of habeas corpus if the defendant's allegations were found to be true.

The most difficult problem in cases involving petitions for Federal habeas corpus filed by State prisoners has always been the adequacy of the State

court record of the conviction. In 1944, in *ex parte Hawk* the Supreme Court set out the following general rule governing habeas corpus hearings in the Federal district courts:

Where the state courts have considered and adjudicated the merits of . . . [the petitioner's] contentions, and this Court has either reviewed or declined to review the state court's decision, a federal court will not ordinarily re-examine upon writ of habeas corpus the question thus adjudicated. But where resort to state court remedies has failed to afford a full and fair adjudication of the federal contentions raised, either because the state affords no remedy, or because in the particular case the remedy afforded by state law proves in practice unavailable or seriously inadequate, a federal court should entertain his petition for habeas corpus.

In 1953, the Supreme Court handed down its famous decision in *Brown against Aiken*, in which the Court explained in greater detail the narrow range of cases in which hearings could be granted in Federal habeas corpus with respect to State criminal convictions. The case involved three petitions for habeas corpus from the State of North Carolina.

Two of the appeals involved the question of jury discrimination against Negro defendants. The third appeal involved a procedural question concerning the failure of the defendant to file an appeal within the required time limit, the appeal having been filed 1 day late. Eventually, all of the convictions were affirmed. The Supreme Court held specifically, however, that a Federal district judge sitting in habeas corpus was authorized to grant a new hearing on the merits of a State prisoner's claim, even though the State court had litigated the issue on the merits adversely to the petitioner, whenever there were "unusual circumstances" or "a vital flaw in the process of ascertaining the facts in the State court." So long as the defendant had received a full and fair hearing on his Federal claim in the State court, however, Federal habeas corpus would not be.

TOWNSEND AGAINST SAIN AND FAY AGAINST NOIA

This then is how the law stood until 1963, when the Supreme Court handed down the two decisions that are so seriously criticized by the proponents of title II—*Townsend against Sain* and *Fay against Noia*. I would like to examine these cases briefly and attempt to demonstrate that the decisions themselves represent a fair and reasonable accommodation between respect for State legal processes, and the right of an accused defendant to at least one full and fair hearing on his constitutional claims.

In *Townsend against Sain*, the defendant was convicted of murder and robbery in the courts of Illinois. He appealed to the Supreme Court, alleging that he had been convicted by the use of a coerced confession, but the Supreme Court denied certiorari. The defendant's application for habeas corpus relief in the State courts was denied, on the ground that his original conviction was *res judicata* on the issue of coercion. Petitioner then sought a writ of habeas corpus from the Federal district court, which

refused to grant a hearing, holding that the State court records were adequate to demonstrate that the defendant's confession had been voluntary.

The Supreme Court ordered the district court to hold a hearing on the issue. The Court laid down the following test to determine whether a State prisoner is entitled to a hearing on habeas corpus in a Federal court:

Where the facts are in dispute, the federal court in habeas corpus must hold an evidentiary hearing if the habeas applicant did not receive a full and fair evidentiary hearing in the state court, either at the time of the trial or in a collateral proceeding. In other words a federal evidentiary hearing is required unless the state-court trier of fact has after a full hearing reliably found the relevant facts.

What were the facts of the *Sain* case, that have caused so much furor and misunderstanding? In spite of the complicated procedural history of the case, the facts are quite simple. The defendant was a 19-year-old dope addict with a mentality barely above that of a moron. To relieve his narcotics withdrawal symptoms, the police, after his arrest, allowed a doctor to administer a shot of hyosine and phenobarbital. Hyosine, also called scopolamine, is known to most of us as "truth serum." The defendant contended that the State court, in determining the voluntariness of his confession, was not informed that hyosine was a truth serum, and that it was neither common nor proper to administer this drug to an addict suffering from withdrawal symptoms. The prosecution conceded there was no direct mention made of the identity of hyosine and truth serum. Does any of us honestly believe in these circumstances that the defendant received a full and fair hearing on his confession, or that a hearing in Federal habeas corpus was not fully justified?

I would also like to touch briefly on a second and related aspect of the Supreme Court's holding in *Townsend against Sain*. It is not enough, of course, that a defendant has received a full and fair hearing on the facts of his claim. The State trial court must also have applied the correct rule of law to govern the facts. As the Court stated:

Reconstruction [of the state court's findings] is not possible if it is unclear whether the state finder applied correct constitutional standards in disposing of the claim. Under such circumstances the Federal District Court cannot ascertain whether or not the state court found the law or the facts adversely to the petitioner's contentions. Since the decision may rest upon an error of law rather than an adverse determination of the facts, a hearing is compelled to ascertain the facts.

In *Fay against Noia*, the other recent decision of the Supreme Court heavily castigated by the proponents of title II, the problem before the Court was, what is to be done if a valid State procedural law prevents a defendant's constitutional claim from being litigated. *Noia* was convicted of murder with two accomplices. The accomplices appealed their convictions, but *Noia* did not. Years later the accomplices were successful in reversing their convictions on the ground that their confessions had been coerced. The State conceded that *Noia's* confession, too, had been coerced. The State argued, however,

that Noia had lost his chance for freedom because he had failed to take a timely appeal from his conviction.

Thus, a man languished in jail for years, convicted on a coerced confession but barred from freedom by the State's harsh procedural rules. Habeas corpus came to the rescue. The Supreme Court held that the writ was adequate to meet the urgent demand for liberty presented.

SIGNIFICANT CASES OF FEDERAL HABEAS CORPUS FROM STATE CONVICTIONS

The true function of the habeas corpus jurisdiction of the Federal courts is revealed most clearly by analysis of Supreme Court cases in which the writ has been issued for State defendants.

Take a case like Leyra against Denno, 1954.

In 1950, Camilo Leyra, a middle-aged bartender, was indicted and tried for first degree murder of his aged parents. Admitted in evidence against him were confessions made to a police psychiatrist and, soon thereafter, to others. On appeal from the death sentence, the New York Court of Appeals reversed, holding that the confession to the psychiatrist had been elicited by "torture of the mind." On the second trial, the other confessions were again admitted, and the death sentence was affirmed by the New York Court of Appeals, over the objection that the subsequent confessions flowed from and were infected by the first one.

The Supreme Court denied certiorari. Leyra sought habeas corpus in the Federal district court. Denial of the writ was affirmed by a divided second circuit. The Supreme Court granted certiorari, concluded that the subsequent confessions were likewise invalid, and reversed. New York then tried, convicted, and sentenced Leyra to death for a third time. But this time the New York Court of Appeals reversed the conviction and ordered the indictment dismissed, concluding that "the prosecution has produced not a single trustworthy bit of affirmative, independent evidence connecting the defendant with the crime."

On April 27, 1956, after 4 years, 8 months, and 30 days in the death house, Camilo Leyra was freed. Under title II, he would have been dead long since.

In discussing the circumstances surrounding the confession made by Leyra to the psychiatrist, Justice Black stated for the Supreme Court:

First, an already physically and emotionally exhausted suspect's ability to resist interrogation was broken to almost trance-like submission by use of the arts of a highly skilled psychiatrist. Then the confession petitioner began making to the psychiatrist was filled in and perfected by additional statements given in rapid succession to a police officer, a trusted friend, and two state prosecutors. We hold that use of confessions extracted in such a manner from a lone defendant unprotected by counsel is not consistent with due process of law as required by our Constitution.

Would the proponents of title II really have us deny the privilege of habeas corpus to defendants like Leyra?

Take a case like Mooney against Holohan, 1935. In that case, the Supreme Court held for the first time that the guarantees of the due process clause of the 14th amendment prohibited the conviction of a defendant on the basis of

perjured testimony knowingly used by the prosecution. Mooney had been convicted in California of murder in the first degree, on charges growing out of a bombing that killed nine people during a parade in San Francisco in 1916. He was originally sentenced to death, but the sentence was subsequently commuted to life imprisonment. Mooney's conviction was affirmed by the highest court of the State of California, and certiorari was denied by the Supreme Court.

There was considerable feeling that, because Mooney was a militant California labor leader, powerful antilabor forces took charge of the investigation and prosecution in a deliberate attempt to find, and if necessary, fabricate evidence connecting Mooney with the crime.

Subsequently, Mooney discovered evidence of blatant perjury by the State witnesses on whose testimony he had been convicted, and he filed a petition for habeas corpus in the Federal courts. The State of California did not dispute any of the facts alleged in Mooney's petition. The State simply filed a demurrer, alleging that the acts or omissions of a prosecutor at a trial could never, in and of themselves, amount to a denial of due process of law. The Supreme Court summarily rejected this astounding assertion by the State. In one of the great civil liberties opinions in the history of the Constitution, the Court held in unequivocal terms that—

The requirement of Due Process, in safeguarding the liberty of the citizen against deprivation through the action of the State, embodies the fundamental conceptions of justice which lie at the base of our civil and political institutions. It is a requirement that cannot be satisfied if a State has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a State to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by physical intimidation.

Do you believe that Mooney against Holohan is ancient history, and that today's prosecutors no longer knowingly and willfully use false or perjured testimony to obtain convictions? Take a case like Miller against Pate, decided only last year by the Supreme Court. The defendant Miller had been convicted of rape and murder. An important link in the chain of circumstantial evidence was a pair of stained underwear shorts. At the trial, the shorts were characterized as "blood-stained." In the context of the vicious and revolting crime with which Miller had been charged, the Supreme Court found that the emotional impact of the shorts on the jury was "incalculable." The prosecutor not only argued at length that the shorts were bloodstained but that the blood was of type "A," the same blood type as that of the murder victim. It was not until the habeas corpus proceedings in the Federal district court that it was established that the so-called bloodstains on the shorts were nothing more than paint, and that the prosecutor had known all along during the original trial that the stains were paint, not blood.

Again, I ask, would the proponents of

title II really have us deny the privilege of habeas corpus to defendants like Miller?

Take an older case, like Moore against Dempsey, 1923, which I have already mentioned briefly. The defendants in that case were five Negroes who were convicted of murder in the first degree and sentenced to death by the courts of the State of Arkansas. In their petition for habeas corpus, the defendants alleged that they had been hurried to conviction under the pressure of mob domination. The facts of the case showed that on a September evening in 1919, a number of Negroes had assembled in their church to consider the need to employ counsel to protect them against their landowners in the area. The Negroes were attacked and fired upon by a group of white men, and in the disturbance that followed, a white man was killed. The press report of the killing caused great excitement and agitation in the area. Bands of white men began to hunt and shoot down many Negroes. In the course of the violence, another white man was killed. The five defendants were arrested on the same day and were indicted for his murder. The Governor of the State appointed a committee of seven to inquire into the so-called insurrection, and the newspapers published daily inflammatory articles, alleging that the Negroes had banded together for the purpose of killing whites.

Shortly after the arrest of the defendants, a mob marched to the jail for the purpose of lynching them. The lynching was prevented by the presence of certain members of the committee of seven and other leading officials, who promised the mob that, if it would refrain from the lynching, the defendants would be found guilty and executed according to law.

The committee made good its promise by calling Negro witnesses and having them whipped and tortured until they would testify as desired. Two of these witnesses were relied upon by the State to prove the defendants' guilt at the trial. During the trial, the court and the neighborhood were thronged with a hostile crowd that threatened the most dangerous consequences to anyone who interfered with the desired result. The trial lasted three-quarters of an hour, and in less than 5 minutes the jury returned a verdict of first-degree murder. No juryman could have voted for an acquittal and continued to live in the county. No defendant, even if acquitted, could have escaped the mob outside the court.

In these circumstances, the Supreme Court held that the Federal district courts were open in habeas corpus to the State defendants, and the district court was ordered to inquire into the truth of the circumstances surrounding trial of the defendants. As the Court stated:

If the case is that the whole proceeding is a mask—and that counsel, jury and judge were swept to the fatal end by an irresistible wave of public passion, and that the State courts failed to correct the wrong—then neither perfection of the State's legal machinery nor the possibility that the trial court and counsel saw no other way of avoiding an immediate outbreak of the mob can prevent this Court from securing to the defendants their constitutional rights.

This parade of cases—all arising out of habeas corpus proceedings brought in the Federal courts by State prisoners—demonstrates beyond doubt the need to maintain the power of Federal courts as a forum to test the constitutionality of a prisoner's confinement in all cases where a full and fair hearing on his Federal claim has not been reached in a State court. For over a hundred years, the Federal courts have vindicated the basic constitutional rights of American citizens through habeas corpus proceedings, frequently after blatant denials of such rights have gone uncorrected in the State courts. Many of the great principles of American constitutional law have been established in such proceedings. To abolish this jurisdiction would destroy a century of progress in our legal system, and restore American criminal procedure to the "dark ages" of the early 1800's.

REMEDY BY APPEAL AND CERTIORARI

The proponents of title II are quick to argue that such blatant denials of fundamental rights as I have described are easily corrected by the Supreme Court through direct review by appeal or certiorari. These procedures, however, are grossly inadequate as a method of review by the Supreme Court for correcting constitutional errors. As methods of review in such cases, appeal and certiorari are subject to four serious infirmities.

In the first place, the procedures of appeal and certiorari at the present time are ineffective methods of Federal review of State decisions. As is well known, the appeal and certiorari procedures are largely and necessarily discretionary in the Supreme Court. The Supreme Court simply does not have the time nor the resources to consider thoroughly all of the appeals and petitions for certiorari that are filed with it. For example, in the 1966 term of the Supreme Court, the most recent year for which figures are available, a total of 3,356 cases was filed for consideration by the Court. Of this number, the Court accepted for review only 150 cases, or less than 5 percent of number of cases filed.

The second serious deficiency is that the Supreme Court as an institution is simply not in a position to serve as a court of errors and appeals for all cases arising in the State courts. The Supreme Court is primarily a court acting in the interest of the law at large—that is, in the interest of the exposition of the law, the clarification of the law, and the movement of the law. It cannot concern itself with the correction of error in particular cases, even though the error is deep-seated. The rules of the Court governing issuance of the writ of certiorari speak of such matters as the general importance of the case, a conflict of decisions by the lower Federal courts, or the failure to follow applicable Supreme Court precedents. The Justices of the Court have repeatedly emphasized in their public statements that the denial of certiorari is not an adjudication on the merits of the case, and that petitions for certiorari are denied time and again, even though the Justices have reason to feel that error has been committed.

The third serious deficiency is that the issue involved in the case is often not exposed on the record as the criminal case

comes from the State courts. This is obviously the case, for example, when the defendant discovers subsequent to trial that the prosecutor knowingly used perjured evidence. In the nature of things, these and other similar constitutional defects cannot be reviewed by the Supreme Court on direct appeal or certiorari from the criminal conviction. The virtue of the present procedure is that the Federal district court and the court of appeals have thoroughly canvassed the case before the Supreme Court is asked to pass on it. The opinions of these lower courts greatly aid the Supreme Court in determining whether to grant review.

The fourth serious deficiency is that post-conviction remedies in the State courts may not be available at all. Or, if they are all available, they may be too narrow to fully protect the fundamental rights of the defendant. Frequently, the record in such State proceedings is unclear. The defendants are indigent, and they frequently do not have the assistance of counsel. The records of the proceedings are often disjointed, and the transcripts are incomplete or ambiguous. Appellate review is unable to function in the face of such difficulties. What is needed is something in the nature of a fresh factfinding tribunal, a tribunal closer to the level of the trial itself than an appellate court.

Even at best, therefore, by making the procedures of appeal and certiorari the sole avenue for Federal review of State criminal convictions, the Supreme Court will be encouraged to accept for review many questionable cases on poor factual records, since this would be the Court's sole opportunity to pass on the Federal questions in the case. At worst, title II will deny to many State prisoners even one full and fair hearing on their constitutional claims.

By accepting title II, therefore, the Senate would be turning back the clock and taking away a basic safeguard of liberty that has stood the test of time for more than a century. Repeal of Federal habeas corpus jurisdiction would effectively destroy a fundamental component of our constitutional system, the ability of the Federal courts to review the actions of State courts. As Mr. Justice Oliver Wendell Holmes stated more than 50 years ago:

I do not think the United States would come to an end if we lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the several States.

ROLE OF THE DISTRICT COURT

Because of their number and their ability as trial courts to hold hearings and make findings, the Federal district courts are uniquely suited to review the disposition of Federal claims in State courts. This does not mean that Federal district courts can or should re-try the facts in every serious State case. As I have shown, the Supreme Court has held unequivocally under present law that State court findings of fact, arrived at after full and fair hearings, must be accepted by the Federal courts. A Federal habeas corpus hearing is not available merely to re-evaluate the evidence obtained at a full and fair State proceeding, or because a

Federal district judge may disagree with the State court's evaluation of such evidence. Federal habeas corpus is available only when the State trier of fact has not afforded the habeas applicant a full and fair hearing. The law recognizes the basic importance in our Federal system of allocating the primary factfinding responsibility to the State courts in cases involving State criminal proceedings.

At the same time, it preserves the important role of the Federal courts in providing a meaningful Federal review of Federal claims raised in State courts.

Although the habeas corpus jurisdiction of the Federal district courts is frequently cited as a source of potential friction and abrasion in our federal system, there is no reason for State judges to be offended at review of State decisions by a Federal district judge, rather than by the Supreme Court. In any event, the Federal habeas corpus jurisdiction is hardly analogous to appellate review. As Justice Frankfurter stated in 1953:

Insofar as this jurisdiction enables federal district courts to entertain claims that State Supreme Courts have denied rights guaranteed by the United States Constitution, it is not a case of a lower court sitting in judgment on a higher court. It is merely one aspect of respecting the Supremacy Clause of the Constitution whereby federal law is higher than State law.

Moreover, whenever a Federal district judge sets aside a judgment of conviction entered by a State court, the State is entitled to seek certiorari in the Supreme Court. In such circumstances, certiorari is usually granted. In fact, Federal district judges sitting in their habeas corpus jurisdiction may properly be regarded as sitting as delegates or masters for the Supreme Court.

INCREASE IN NUMBER OF HABEAS CORPUS PETITIONS

Much has been made in the report of the Judiciary Committee and the debate on the floor with respect to the increasing number of habeas corpus petitions that are being filed in Federal district courts by State prisoners. The significance of the figures quoted in the committee report can only be assessed in their proper perspective when it is realized that the number of Federal habeas corpus petitions occupies only a very small portion of the overall business of the Federal district courts. Equally important, the number of habeas corpus petitions that eventually are successful for the prisoners is extremely small—of the order of 1 percent. Almost 97 percent of the habeas corpus petitions are disposed of without a hearing and without any contest in the Federal district courts. In effect, the overwhelming majority of the petitions are disposed of on the basis of the State court proceedings. It cannot be said, therefore, that the Federal district judges spend even a substantial portion of their time reviewing the merits of State criminal convictions.

EXPANDING SCOPE OF DUE PROCESS

Even on the merits, however, the increasing number of Federal habeas corpus petitions filed by State prisoners does not reflect an abuse by the Federal courts of the writ. Rather, the increase

reflects the rapidly evolving concepts of fairness and due process of law in criminal cases.

It was not until the present century that the 14th amendment was held even to apply the fundamental provisions of the Bill of Rights to the States. More recently, further applications of the 14th amendment to State criminal proceedings have led the Supreme Court to find correspondingly more numerous occasions upon which Federal habeas corpus would lie for State prisoners. The fault, if any, does not lie in misuse of habeas corpus. Rather, it lies in the substantive principles of the criminal law. At bottom, therefore, it is the basic constitutional principles of fairness and due process that the proponents of title II now challenge.

It is clear that the propopents of title II have deep misgivings about the evolution of the criminal law. At bottom, the issue surrounding title II is whether we approve of the evolving and expanding standards of due process of law in criminal cases. It is no secret that these standards have been expanding. The expansion did not begin with *Miranda*, or *Wade*, or *Mallory*, or *Townsend* against *Sain*, or any of the other recent Supreme Court decisions that title II seeks explicitly to overrule. Nor did the expansion begin with the *Warren* court, or even the *Vinson* court, or the *Stone* court. It dates in fact from the court of *Charles Evans Hughes*.

The right to counsel, the exclusion of confessions which are not voluntary by increasingly strict standards, the refusal to permit the knowing use by a prosecutor of perjured testimony, the strict review of cases involving discriminatory jury selection, and the exclusion of illegally seized evidence—these have been the major developments of a generation of attention by the Supreme Court to the fairness of criminal trials. Perhaps more than any of the other provisions of title II, the habeas corpus provision reflects the distrust and dissatisfaction of its proponents with these expanding standards of fairness.

I submit, however, that it is by these standards that our democratic system of government must be judged. As Justice *Walter Schaefer* of the Supreme Court of Illinois eloquently stated more than a decade ago, the quality of our Nation's civilization can be measured largely by the methods it uses in the enforcement of its criminal law.

In these difficult times of massive violence and civil disorder, we must be especially vigilant that the needs of law enforcement are not exalted above the rights of the individual. Forty years ago, in his famous dissent in the *Olmstead* case, Justice *Brandeis* eloquently denounced the argument that the needs of law enforcement outweigh the rights of the individual. He said:

In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy. To declare that in the administration of the criminal law the end justifies the

means would bring terrible retribution. Against that pernicious doctrine, we must resolutely set our face.

NEED FOR FINALITY

The proponents of title II lay special emphasis on the asserted need for finality, for an end to litigation. That concept, like the function of precedent in our law, stems from the principle that in most matters it is more important that the applicable rule be settled than that it be settled right. But where personal liberty is involved, a democratic society employs a different arithmetic and insists that it is less important to reach an unshakable decision than to do justice. It is for this reason that, as Justice *Frankfurter* has put it:

The uniqueness of habeas corpus in the procedural armory of our law cannot be too often emphasized.

The writ of habeas corpus should be available whenever there clearly has been a fundamental miscarriage of justice for which no other adequate remedy is presently available. Beside executing its great object, which is the preservation of personal liberty and assurance against its wrongful deprivation, considerations of economy of judicial time and procedures, important as they undoubtedly are, become comparatively insignificant.

THE 1966 AMENDMENT

Title II is not the first occasion in the recent past in which the Senate has examined the desirability of amending the Federal laws relating to the writ of habeas corpus. On November 2, 1966, Congress enacted H.R. 5958, a bill amending the Federal habeas corpus jurisdiction and now codified in section 2254 of title 28 of the United States Code. Passage of this bill was preceded by carefully and lengthy consideration in the 84th, 85th, 86th, 88th, and 89th Congresses, but there has been no mention whatsoever of this bill by the proponents of title II, either in the report of the Judiciary Committee or in the floor debate.

H.R. 5958 had the unqualified support of the prestigious Judicial Conference of the United States. As stated in a letter from the Chairman of the Judicial Conference, the purpose of the legislation was "to prevent the abuse of the writ of habeas corpus by persons in custody under judgments of State courts in habeas corpus proceedings in Federal courts, and to expedite the disposition of non-meritorious and repetitious applications for the writ in Federal courts by State court prisoners."

The purposes of the 1966 legislation are set out in detail in Senate Report 1797 of the 89th Congress. Even the most cursory reading of that report makes clear that the 1966 act was a reasonable and constitutional response to the Supreme Court's decisions in *Fay* against *Noia* and *Townsend* against *Sain*.

The most striking aspect of the report is that the purposes set forth are almost precisely identical to the purposes now offered by the proponents of title II. Indeed, it seems clear that the proponents of title II are simply replaying the same arguments. But the Senate should not be misled. The arguments which supported the 1966 amendments cannot

justify the passage of title II. What a difference there is between the response of the 89th Congress and the response that we in the 90th Congress are asked to make by the proponents of title II.

The 1966 amendment was a logical and straightforward means of preventing abuses of the right of Federal habeas corpus by State prisoners. It eliminates frivolous and repetitive claims, while fully preserving the avenue of relief in appropriate cases. The 1966 amendment provides that when a prisoner has been denied release from custody after a Federal hearing on a writ of habeas corpus, a subsequent application for a writ need not be entertained by a Federal court unless it is predicated on a new factual ground. In addition, the court must be satisfied that the applicant did not deliberately withhold the information alleged to be new. The act also provided that a prior judgment of the Supreme Court on appeal or writ of certiorari will be conclusive as to all issues of fact and law that were actually adjudicated by the Supreme Court.

The 1966 amendment also gave extensive recognition to a State court's determination of a case. According to the amendment, the State court's determination must be presumed to be correct by a Federal court on habeas corpus, unless the State prisoner establishes one or more of a series of eight conditions. These conditions are:

First. That the merits of the factual dispute were not resolved in the State court hearing;

Second. That the factfinding procedure employed by the State court was not adequate to provide a full and fair hearing;

Third. That the material facts were not adequately developed at the State court hearing;

Fourth. That the State court lacked jurisdiction over the subject matter or over the person of the applicant in the State proceeding;

Fifth. That the applicant was an indigent and the State court, in deprivation of his constitutional rights, refused to appoint counsel to represent him in the State court proceeding;

Sixth. That the applicant did not receive a full, fair, and adequate hearing in the State court proceeding;

Seventh. That the effect of the State court proceeding is to deprive the applicant of his life or his liberty without due process of law; or

Eighth. That the record of the State court proceeding shows, where considered as a whole, that the factual determination in the State hearing is not fairly supported by the record.

The 1966 amendment was not a punitive weapon used to bludgeon the Supreme Court and the lower Federal courts. The 1966 amendment is a model of the reasonable exercise by the Congress of its power over the jurisdiction of the Federal courts in a manner entirely consistent with the Supreme Court's decisions in recent habeas corpus cases. Indeed, the eight limitations that I have enumerated are simply a codification by Congress of the holding by the Supreme Court in *Townsend* against *Sain*.

The 1966 amendments were a genuine attempt to balance the desirability of a speedy and efficient judicial process with the important interest of our citizens in assuring that State officials abide by the Constitution and laws of the United States.

The proposal in title II involves no such balancing. It clearly manifests the extreme view that Americans have no interest in providing a remedy for persons unlawfully held in State custody. It has long been the law that a State prisoner cannot obtain Federal habeas corpus unless he has exhausted all available State remedies, including State habeas corpus or coram nobis and review by the U.S. Supreme Court. Thus, the clear effect of title II is to suspend the only remedy—the only safeguard—against incarceration of our citizens in violation of the laws and Constitution of the United States.

The arguments for title II of S. 917 are the same arguments that were proposed for the 1966 amendment. There has been no showing by the sponsors of title II that the 1966 amendment is inadequate in any way, or that it does not fulfill the purpose for which it was enacted. Nor has there been any demonstration that these purposes will not be realized.

It is less than 2 years since the Congress acted upon the subject of Federal habeas corpus for State prisoners. By any reasonable standard, there has simply not been an adequate time in which to test the effect of the 1966 amendment. It seems highly likely that the major impact of the 1966 amendment will produce a sharp decrease in the number of habeas corpus petitions filed by State prisoners in the Federal courts. Without waiting for the evidence, however, the proponents of title II tell us that the Senate must scrap its earlier, well considered efforts to improve the Federal habeas corpus machinery. The ink is scarcely dry on the 1966 amendments. Yet, the proponents of title II suggest, in effect, that the 1966 amendments were wrongly enacted. There was ample opportunity in 1966 to ventilate any possible inadequacies of that proposal. Certainly, the sponsors of title II have proffered no new facts. Thus the factual basis on which they expect the Senate to act at this time remains a complete mystery. The burden is clearly upon the proponents of title II to demonstrate clearly and conclusively that the U.S. Senate, the House of Representatives, the Judicial Conference of the United States, and the many other distinguished organizations and citizens who supported the 1966 amendment were operating under a gross misapprehension as to the facts. No such demonstration has been made.

I submit that the Senate must give its earlier efforts, the 1966 habeas corpus amendment, a fair opportunity to prove its validity. By doing so the Senate will demonstrate to the Nation that we cherish our constitutional rights and will not deny the citizens of this country full and effective means of preserving those rights.

In matters touching the administration of State criminal law, the primary responsibility must reside in the States.

Only through a wise and cautious use of the flexible powers of the writ of Federal habeas corpus, however, can the Federal courts supply the oversight that is necessary to protect individual rights without undermining the responsibility of the States.

The 1966 habeas corpus amendment, together with the other provisions of existing law which prevent a State prisoner from using Federal habeas corpus until he has exhausted his other rights, make clear that Federal habeas corpus in 1968 is a remedy that is narrowly restricted to cases in which a substantial violation of Federal rights has taken place, and in which habeas corpus is the only avenue of protecting those rights. To remove this avenue would also violate the fundamental principles of our democratic system of government.

The habeas corpus jurisdiction of the Federal courts has served the highest traditions of Anglo-American law. Any attempt to circumvent the writ must be cautiously and skeptically viewed. As Justice Black has eloquently put it:

[I]t is never too late for courts in habeas corpus proceedings to look straight through procedural screens in order to prevent forfeiture of life or liberty in flagrant defiance of the Constitution. . . . Perhaps there is no more exalted judicial function.

I urge the Members of the Senate not to join in the dangerous and unwarranted assault on the Great Writ that is threatened by title II. I urge you to strike title II from S. 917.

Mr. PERCY. Mr. President, yesterday, at the close of business of the Senate, I submitted amendment No. 749 which proposes the addition to title I of the bill an authorization for Community Service Officer programs. The amendment is an adoption of the Community Service Officer Act of 1968 which was introduced yesterday in the House of Representatives by my able Republican colleague, Representative CHARLES GOODELL. As I noted yesterday in my brief remarks, this amendment is based on the recommendations of both the President's Commission on Law Enforcement and the Administration of Criminal Justice—the President's Crime Commission—and the National Advisory Commission on Civil Disorders—the Riot Commission.

In February 1967 the President's Crime Commission issued its report, "The Challenge of Crime in a Free Society." That distinguished Commission concluded:

Two striking facts that the UCR (Uniform Crime Reports of the Federal Bureau of Investigation) and every other examination of American crime disclosed are that most crimes, wherever they are committed, are committed by boys and young men, and that most crimes, by whomever they are committed, are committed in cities.

The finding of the Commission is the more significant when coupled with two sets of statistics on the victims of crime in our society. The report indicates that our nonwhite citizens are more frequently the victims of crime than the white citizen, and lead white citizens in victimization in all categories except that of larceny of over \$50 value—report, page 39. Beyond this categorization, the statistics reveal that in a comparison of victimization by income, the lowest income categories are most fre-

quently the victims of crime—report, page 39.

Thus, it seems clear, Mr. President, that as we move to improve the effectiveness of law enforcement in the Nation, we should pay particular attention to those areas and those segments of our society which are the most seriously affected by crime.

On March 1, 1968, the National Advisory Commission on Civil Disorders issued its report and said:

The conditions of life in the racial ghetto are strikingly different from those to which most Americans are accustomed—especially white, middle-class Americans.

Accordingly, the attitudes of inner-city dwellers on law enforcement and on the police who enforce the laws are different from what we would hope is the average American attitude.

A few statistics give evidence of the extent of the disaffection of the ghetto dweller for the police. A public attitude survey conducted at the request of the President's Crime Commission showed that 23 percent of all white people thought the police were doing an "excellent" job of law enforcement. Only 15 percent of nonwhites held that view. More startling, 63 percent of whites thought the police were "almost all honest," while only 30 percent of nonwhites held this opinion.

The ghetto citizen all too often views the police as representatives of an alien establishment, as enemy agents in their midst. They see the police as a force sent there essentially to contain them, sent to "keep them in line," to keep them from being a problem to white, middle-class society. The thought was expressed by one Harlem resident in the President's Crime Commission Task Force Report entitled "The Police":

Why in the hell—now this is more or less a colored neighborhood—why do we have so many white cops? As if we got to have somebody white standing over us. * * * Now if I go to a white neighborhood, I'm not going to see a lot of colored cops in no white neighborhood, standing guard over the white people. I'm not going to see that; and I know it, and I get sick and tired of seeing so many white cops, standing around—page 167.

The people of the ghetto fear and distrust the police. They see the police forcefully intervene when there is trouble—trouble of the kind that only the ghetto resident can really understand. As they see it, it is the police who take members of their society away to jails to await a white justice which they do not understand. Ghetto residents think of the policeman as "the man." And "the man", represents for many ghetto residents one of the worst elements of the system which operates to keep the black man down, a system that does not give a fair break to the black man.

If the effectiveness of our police in the ghettos of our cities is to be improved, we must provide a means through which a climate of understanding and trust can be established between police and the citizens, particularly the young citizens of the central cities. Programs must be undertaken that will enable our policemen to increase their understanding of the ghetto

and its citizens as well as increasing their services to them. At the same time, for the citizens of the ghetto to increase their understanding of the policeman and his job. Both of these distinguished Commissions strongly urged the community service officer program as one means of achieving these objectives.

The community service officer is a police assistant or police aide. He should be qualified in capability, motivation, and integrity for police assistance work, and be from the locality of the police unit with which he serves. He should be a representative member of the community he will serve in ethnic origin and economic status. He may lack formal requirements for regular police qualifications, such as a high school degree or a spotless arrest record.

His service should be geared to enable him to qualify for regular police status, in most cases.

As a part of the ghetto, the community service officer would have a measure of understanding of ghetto problems that could never be acquired by an outsider. He would be an agent for the people of the central city as much as for the police. He would provide a vital link—a bridge—for communication. He would help translate the concepts of one society to the other. While performing his basic tasks, he could provide the kinds of non-police services that police normally perform outside the ghetto, but rarely have the manpower to provide in the ghetto. This would, by the way, free regular policemen for the very demanding traditional police functions.

The uniformed or at least readily identifiable community service officer, while not possessing full law-enforcement powers or carrying arms, though frequently equipped with a 2-way radio link to police headquarters, would be available to assist precinct level line officers in their regular patrol and investigative work. They would work closely with other uniformed and nonuniformed police personnel to keep open valuable lines of communication to and from the ghetto communities. They would inform the officers with whom they work of the culture, attitudes, and institutions of the community. They would also inform the community of the attitudes and concerns of the police departments.

Community service officers, in addition to continuing their education with the aim of becoming full-fledged police officers, will make a significant contribution to a development of better police-community relations. Indeed, their very presence in the community will symbolize a quickening relationship between the police departments and the community.

The community service officer would be a transfer agent for municipal information to the ghetto community. He would enable a police department to refer citizen complaints, like violations of the housing code or the closing of a school playground to other governmental agencies. He would enable the police departments to handle more service calls, such as getting a homeowner into his locked house or getting a drunk off the street. He could seek to refer delinquent children to a social service agency.

A very important task he could undertake is working with juveniles who were in trouble and explain to parents why their children had been arrested. This juvenile work has been successfully undertaken in Richmond, Calif., where five neighborhood aides have been assigned to a juvenile unit. The Richmond project shows that the community service officer could be very effective in organizing community meetings to deal with problems within the community relating to the police. It is hoped that the community service officer would work with regular policemen in these projects so that the police officer will not be viewed as a more isolated person than he is considered today in many ghetto communities.

The CSO could also be trained to render emergency aid to the sick, the mentally ill, or the alcoholic. He could investigate certain minor thefts and loss of property. This investigative function currently is done by regular officers and is a tremendous drain of man-hours which could be more effectively used for patrol. Creating the CSO might do much to solve some of the manpower problems which prevail in many police departments, and allow the police to better serve the public. The community service officer program offers a rapid means of recruiting large numbers of well-qualified and experienced minority group personnel—it is an employment program as well as a police-augmentation program.

The community service officer could provide continuing assistance to families encountering domestic problems; a frequent, but often unrecognized job of our policemen. The CSO could become active in police athletic league activities, Boy Scout troops, and many other character development programs.

In short, there is almost no limit to the function that community service officers could perform with imaginative local programming. The young men reached under this program—many of whom could be returning servicemen—are a valuable source of energy which we can harness and direct into productive community service. We have seen the ugly harvest if this tremendous energy is not directed to creative, beneficial activity. The community service officer is one possible way to direct a valuable dynamic human resource to helping inner city residents in particular, and our society generally.

Mr. President, in an effort to develop this new kind of public servant, the CSO, we must be willing to experiment in recruitment. Conventional educational standards of police departments should be modified for these young officers. A high school diploma would not be a rigid prerequisite. Indeed, one of the objectives of this program is to help the community service officer further his education, and provision is made for education grants in this bill. Minor offense records might even be overlooked for candidates otherwise not qualified. In practice, this might even increase the credibility of the young officer among his peers. I know and have met with many fine young men in Chicago who would make an extremely able contribution in this work, and who would welcome the challenge and opportunity

the CSO program would afford them. I reiterate a warning of the Commission when I say that the recruitment of community service officers must complement, not replace, efforts to recruit more Negroes as police officers.

Mr. President, it is often said that the recommendations of the Riot Commission and the Crime Commission are in the main laudable, but that there is little that the Federal Government can do to respond to them. I submit that here is an area, and my amendment is a specific proposal to which we can respond. And I submit that if the Congress of the United States is to be viewed as a body which is willing to take positive steps to ease the problems of our ghettos, this is a proposal to which the Congress must respond.

Mr. President, I ask unanimous consent that my amendment, No. 749, be printed at this point in the RECORD.

There being no objection, the amendment, No. 749, was ordered to be printed in the RECORD, as follows:

On page 21, between lines 19 and 20, insert the following new subcategory:

"(7) The recruiting, organization, training and education of community service officers to serve with and assist local and State law enforcement agencies in the discharge of their duties through such activities as recruiting; improvement of police-community relations and grievance resolution mechanisms; community patrol activities; encouragement of neighborhood participation in crime prevention and public safety efforts; and other activities designed to improve police capabilities, public safety and the objectives of this section."

On page 22, on line 1 after the word "grant," insert: "The amount of any grant made under paragraph (7) of subsection (b) of this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant."

On page 22, on line 10 after the word "personnel" strike the period, insert a comma and "except 90 per centum of the compensation of community service officers may be paid from a grant."

On page 22, on line 12 after the word "compensation" strike the period, insert a comma and insert "except the compensation of community service officers shall not be included in this calculation."

On page 43, between lines 8 and 9, insert the following new definition:

"(L) 'Community service officer' means any citizen with the capacity, motivation, integrity, and stability to assist in or perform police work but who may not meet ordinary standards for employment as a regular police officer selected from the immediate locality of the police department of which he is to be a part, and meeting such other qualifications promulgated in regulations pursuant to section 501 as the administration may determine to be appropriate to further the purposes of section 301(b)(7) and this Act."

PROGRAM

Mr. BYRD of West Virginia. Mr. President, I remind Senators of the majority leader's statement pertaining to roll-call votes on Monday. There will definitely be two votes on the treaties which were discussed earlier today, and there may be additional rollcall votes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 10 A.M. MONDAY

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move in accordance with the order of yesterday, Thursday, May 9, 1968, that the Senate

stand in adjournment until 10 a.m. Monday next.

The motion was agreed to; and (at 2 o'clock and 55 minutes p.m.) the Senate adjourned until Monday, May 13, 1968, at 10 a.m.

NOMINATION

Executive nomination received by the Senate, May 10, 1968:

DEPARTMENT OF JUSTICE

Edwin M. Zimmerman, of California, to be an Assistant Attorney General, vice Donald Frank Turner.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 10, 1968:

COMMUNICATIONS SATELLITE CORP.

Frederic G. Donner, of New York, to be a member of the board of directors of the Communications Satellite Corp. until the date of the annual meeting of the corporation in 1971.

MISSISSIPPI RIVER COMMISSION

Maj. Gen. Clarence C. Haug, U.S. Army, to be a member of the Mississippi River Commission, under the provisions of section 2 of an act of Congress approved June 28, 1879 (21 Stat. 37; 33 U.S.C. 642).

EXTENSIONS OF REMARKS

VIETNAM VETERANS: THEY DESERVE OUR BEST

HON. CHARLES H. WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, May 10, 1968

Mr. CHARLES H. WILSON. Mr. Speaker, the April 30 edition of the Washington Evening Star gave brief coverage to an event which I believe merits wider recognition. This event, an appreciation night for veterans of the Vietnam war, was cosponsored by the Naval Reserve Public Affairs Company 5-4 of the District of Columbia and the Presidential Arms Hotel, 1320 G Street NW.

Some 50 Army, Navy, and Marine Corps veterans—all wounded men recuperating at Bethesda Naval Hospital—were entertained that evening by 30 young women from colleges and universities in the Washington area. These girls gave generously of their own time to bring joy into the lives of these disabled veterans. Also, the proprietor of the Presidential Arms kindly donated the facilities of his hotel for this worthy function.

When the men first arrived, the atmosphere was one of nervous quiet; but, by the end of the evening, their shyness was dissipated. Dinner and dancing bolstered morale while Willie Wood, former USC football star and now All-Pro defensive back with the NFL champion Green Bay Packers, added his personal words of appreciation for the veterans' sacrifices.

Some of the men present that evening will never walk again; some will have restricted use of their limbs; others must suffer physical impairment for the rest of their lives. That these young men are in the prime of life only makes their tragedies more poignant.

Today's overriding concern with the social unrest in America's cities should not cause us to lose sight of the problems facing young men now reentering civilian life after service in Vietnam. It is no easy process for these men to assimilate themselves back into our society after exposure to the horrors of war. Facing as they do the problems of finding a job, getting an education, obtaining adequate housing, these veterans need help from all of their fellow Americans.

And, to those men who must bear a disability, these problems are immeasurably compounded. These veterans have given of themselves for our sakes; we must make every effort to do the same for them.

But how do we demonstrate our appreciation of the sacrifices of these men? While appreciation dinners are praiseworthy and effective efforts, they are by no means a solution. We in Congress can—and should—pass legislation giving the veterans all the assistance they require in order to reenter civilian life with minimal stress, but more is needed.

What is needed is the personal touch. It is simple friendliness—to the veteran who moves next door, who applies for a job, who sits next to you on the plane or bus. These men have just spent 12 or more months in the most impersonal situation imaginable—that of war. What they miss more than anything else is the warmth of human contact. This is something each of us can supply.

RUMANIAN INDEPENDENCE

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, May 10, 1968

Mr. DINGELL. Mr. Speaker, the historic Independence Day of the Rumanian people is May 10. In recent months events have seemed to indicate that, even under Communist rule, the fiercely independent Rumanian people are evolving nationalist policies separately from Moscow leadership.

It would not be the first time. Having fought with the Russians to achieve independence from Turkey in 1878, Rumania found it necessary to fight with the Germans in 1940 to recapture territories which Soviet Russia had seized. The end of World War II, moreover, found Rumania on the side of the Allies. Throughout their national history the Rumanian people have been tough minded and independent and devoted to a policy of self-interest.

May 10 is the historic Independence Day of Rumania because on that day in 1866 the Provinces of Moldavia and Wallachia established rule under the first

Prince of Rumania; on that day in 1877 the principality of Rumania severed its ties with the Ottoman Empire; and on that day in 1881 the Rumanian people crowned their first King of Rumania. These were steps toward freedom and self-rule in the 19th century, although the establishment of kings would not be so regarded in this 20th century.

Rumanians have always cherished May 10 as the anniversary of happy and glorious events in their history. It remains for them a symbol of their perseverance, through good times and bad times, toward the ultimate ends of freedom and national well-being.

Mr. Speaker, I am sure that we in this country hope to see the people of Rumania progress toward these goals, and wish them well. We have welcomed many Rumanians to this country and count them and their descendants among our most valued citizens.

PFC. CHARLES H. TURNER

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, May 9, 1968

Mr. LONG of Maryland. Mr. Speaker, Pfc. Charles H. Turner, a fine young soldier from Maryland, was killed recently in Vietnam. I wish to commend his bravery and honor his memory by including the following article in the RECORD:

C. H. TURNER, JR., DIES IN VIETNAM—BALTIMORE SOLDIER HAD BEEN IN WAR ZONE ONLY 3 WEEKS

Army Pfc. Charles H. Turner, Jr., of Baltimore, who had been in South Vietnam only about three weeks, died May 2 of wounds received in combat, the Defense Department announced yesterday.

The 22-year-old infantryman was the husband of Mrs. Joyce Smith Turner, of the 800 block George Street, and the son of Mr. and Mrs. Charles H. Turner, of the 4300 block Ethland Avenue.

Private Turner, who left April 13 from California for the combat zone, told his wife in a recent letter that he "hated being there," according to his mother-in-law, Mrs. Marion Smith.

The dead soldier wrote that he found it "hot" in South Vietnam but did not disclose to relatives where he was stationed or what duty he was performing, Mrs. Smith said.

The father of a month-old son, Charles H.